share of the gross amount withdrawn from pension fund assets. FAR 31.205–6(o)(5) limits the allowable amount of contractor PRB transition costs for any fiscal year to the amount which would be assigned to that year using the amortization method described in Financial Accounting Standards Board Statement 106. This limitation is necessary because Government fiscal policy dictates that the past service cost element be amortized rather than immediately recognized.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities are awarded on a competitive, fixed-price basis and the cost principles do not apply.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 31 and 52

Government procurement.

Dated: December 7, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR parts 31 and 52 are amended as set forth below:

1. The authority citation for 48 CFR parts 31 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

2. Section 31.205–6 is amended by revising paragraph (o)(2); redesignating paragraphs (o)(3) through (o)(5) as (o)(4) through (o)(6) and adding a new paragraph (o)(3); and amending the newly designated paragraph (o)(5) by inserting the words "in paragraph (o)(2)(iii) of this section" after "benefits" to read as follows:

31.205–6 Compensation for personal services.

* * * * *

(o) * * *

(2) To be allowable, PRB costs must be reasonable and incurred pursuant to law, employer-employee agreement, or an established policy of the contractor. In addition, to be allowable, PRB costs must also be calculated in accordance with paragraphs (o)(2)(i), (ii), or (iii) of this section.

(i) *Cash basis.* Cost recognized as benefits when they are actually provided, must be paid to an insurer, provider, or other recipient for current year benefits or premiums.

(ii) *Terminal funding.* If a contractor elects a terminal-funded plan, it does not accrue PRB costs during the working lives of employees. Instead, it accrues and pays the entire PRB liability to an insurer or trustee in a lump sum upon the termination of employees (or upon conversion to such a terminal-funded plan) to establish and maintain a fund or reserve for the sole purpose of providing PRB to retirees. The lump sum is allowable if amortized over a period of 15 years.

(iii) *Accrual basis.* Accrual costing other than terminal funding must be measured and assigned according to Generally Accepted Accounting Principles and be paid to an insurer or trustee to establish and maintain a fund or reserve for the sole purpose of providing PRB to retirees. The accrual must also be calculated in accordance with generally accepted actuarial principles and practices as promulgated by the Actuarial Standards Board.

(3) To be allowable, costs must be funded by the time set for filing the Federal income tax return or any extension thereof. PRB costs assigned to the current year, but not funded or otherwise liquidated by the tax return time, shall not be allowable in any subsequent year.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.215–39 [Amended]

3. Section 52.215–39 is amended in the clause heading by revising the date to read "(FEB 1995)"; and in the second sentence of the clause by removing the reference "31.205–6(o)(5)" and inserting "31.205–6(o)(6)" in its place.

[FR Doc. 94–30647 Filed 12–27–94; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 32

[FAC 90–23; FAR Case 93–309; Item XXIII]

RIN 9000–AG12

Federal Acquisition Regulation; Advance Payment Reporting

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on an amendment to the Federal Acquisition Regulation (FAR) to remove an obsolete reporting requirement associated with advance payments under 10 U.S.C. 2307. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

EFFECTIVE DATE: February 27, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–23, FAR case 93–309 in correspondence.

SUPPLEMENTARY INFORMATION:

A. Background

FAR 50.203(b)(4) currently requires advance notice to Congress and a subsequent 60-day waiting period prior to obligating the Government under Public Law 85–804 for an amount in excess of $25 million. The advance notice to Congress requirement currently is imposed on advance payments under 10 U.S.C. 2307, by reference in FAR 32.402(a) to the requirement in 50.203(b)(4). Section 1322(a)(4) of the 1991 Defense Authorization Act (Public Law 101–510) deleted 10 U.S.C. 2307(d), which had contained the notification and waiting period requirements for advance payments made under the authority of 10 U.S.C. 2307. FAR 32.402(a) has been revised to delete the second sentence concerning the limitation on advance payments prescribed at 50.203(b)(4).

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comments is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90–23, FAR case 93–309), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the final rule does not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 32

Government procurement.

Dated: December 7, 1994.

Albert A. Vicchiolla,

Director,Office of Federal Acquisition Policy.

Therefore, 48 CFR part 32 is amended as set forth below:

PART 32—CONTRACT FINANCING

1. The authority citation for 48 CFR part 32 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

32.402 [Amended]

2. Section 32.402(a) is amended by removing the second sentence.

[FR Doc. 94–30646 Filed 12–27–94; 8:45 am]
BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 34 and 52

[FAC 90–23; FAR Case 93–304; Item XXIV]

RIN 9000–AG11

Federal Acquisition Regulation; Defense Production Act Amendments

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comment.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule amending the Federal Acquisition Regulation (FAR) to add policy and procedures for testing and qualification of industrial resources developed under Title III, Defense Production Act Amendments of 1992 (Public Law 102–558). This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

DATES: *Effective Date:* December 28, 1994.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before February 27, 1995, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4035, Attn: Ms. Beverly Fayson, Washington, DC 20405.

Please cite FAC 90–23, FAR case 93–304 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501–3856 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAC 90–23, FAR case 93–304.

SUPPLEMENTARY INFORMATION:

A. Background

Title III of the Defense Production Act (DPA) of 1950 authorizes various forms of Government assistance to encourage expansion of production capacity and supply of industrial resources essential to national defense. The DPA Amendments of 1992 provide for the testing, qualification, and use of industrial resources manufactured or developed with assistance provided under Title III of the DPA. This interim rule expresses Government policy to pay for such testing, and provides definitions, procedures, and a contract clause to implement the policy.

B. Regulatory Flexibility Act

The addition of FAR Subpart 34.1 may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because small entities are sometimes asked to perform the qualification testing required under the rule.

An Initial Regulatory Flexibility Analysis has been prepared and is summarized as follows:

The change is required to implement amendments to the Defense Production Act of 1950 made by Public Law 102–558. This rule clarifies the Government policy to pay for testing of industrial resources manufactured or developed with assistance provided under Title III of the Defense Production Act. The rule will apply to any small entity that has Government contracts that require qualification testing under the Act. A reporting requirement is in the rule that requires contractors who perform this testing to provide the test results to the Government. The rule does not duplicate, overlap, or conflict with other existing Federal rules and there are no significant alternatives to it.

A copy of the IRFA may be obtained from the FAR Secretariat. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite FAR case 93–610 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) is deemed to apply because the final rule contains information collection requirements. Accordingly, a request for approval of a new information collection requirement concerning 9000–0133, Defense Production Act Amendments, was submitted to the Office of Management and Budget under 44 U.S.C. 3501, *et seq* and approved through September 30, 1997. Public comments concerning this request were invited through a subsequent **Federal Register** notice published at 59 FR 42823, August 19, 1994.

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because the Defense Production Act Amendments of 1992 (Pub. L. 102–558) require implementation by July 26, 1993. However, pursuant to Public Law 98–577 and Federal Acquisition Regulation 1.501, public comments received in response to this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Parts 34 and 52

Government procurement.

Dated: December 7, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR parts 34 and 52 are amended as set forth below:

1. The authority citation for 48 CFR parts 34 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 34—MAJOR SYSTEM ACQUISITION

2. The subpart heading "34.0—General" is added immediately above section 34.000.

3. Part 34 is amended by adding Subpart 34.1 to read as follows:

Subpart 34.1—Testing, Qualification and Use of Industrial Resources Developed Under Title III, Defense Production Act

Sec.

34.100 Scope of subpart.
34.101 Definitions.
34.102 Policy.
34.103 Testing and qualification.
34.104 Contract clause.

Subpart 34.1—Testing, Qualification and Use of Industrial Resources Developed Under Title III, Defense Production Act

§ 34.100 Scope of subpart.

This subpart prescribes policies and procedures for the testing, qualification, and use of industrial resources manufactured or developed with assistance provided under section 301, 302, or 303 of the Defense Production Act (50 U.S.C. App. 2091–2093). Title III of the Defense Production Act authorizes various forms of Government assistance to encourage expansion of production capacity and supply of industrial resources essential to national defense.

§ 34.101 Definitions.

Item of supply, for the purpose of this subpart, means any individual part, component, subassembly, assembly, or subsystem integral to a major system, and other property which may be replaced during the service life of the system. The term includes spare parts and replenishment parts, but does not include packaging or labeling associated with shipment or identification of an "item."

§ 34.102 Policy.

It is the policy of the Government, as required by section 126 of Public Law 102–558, to pay for any testing and qualification required for the use or incorporation of the industrial resources manufactured or developed with assistance provided under Title III of the Defense Production Act of 1950.

§ 34.103 Testing and qualification.

(a) Contractors receiving requests from a Title III project contractor for testing and qualification of a Title III industrial resource shall refer such requests to the contracting officer. The contracting officer shall evaluate the request in accordance with agency procedures to determine whether: (1) the Title III industrial resource is being or potentially may be used in the development or manufacture of a major system or item of supply; and (2) for major systems in production, remaining quantities to be acquired are sufficient to justify incurring the cost of testing and qualification. In evaluating this request, the contracting officer shall consult with the Defense Production Act Office, Title III Program, located at Wright Patterson Air Force Base, Ohio 45433–7739.

(b) If the determination at 34.103(a) is affirmative, the contracting officer shall modify the contract to require the contractor to test the Title III industrial resource for qualification.

(c) The Defense Production Act Office, Title III Program, shall provide to the contractor the industrial resource produced by the Title III project contractor in sufficient amounts to meet testing needs.

§ 34.104 Contract clause.

Insert the clause at 52.234–1, Industrial Resources Developed under Defense Production Act, Title III, in all contracts for major systems and items of supply.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 52.234–1 is added to read as follows:

52.234–1 Industrial Resources Developed Under Defense Production Act Title III.

As prescribed at 34.104, insert the following clause:

Industrial Resources Developed Under Defense Production Act Title III (Feb. 1995)

(a) *Definitions.*

Title III industrial resource means materials, services, processes, or manufacturing equipment (including the processes, technologies, and ancillary services for the use of such equipment) established or maintained under the authority of Title III, Defense Production Act (50 U.S.C. App. 2091–2093).

Title III project contractor means a Contractor that has received assistance for the development or manufacture of an industrial resource under 50 U.S.C. App. 2091–2093, Defense Production Act.

(b) The Contractor shall refer any request from a Title III project contractor for testing and qualification of a Title III industrial resource to the Contracting Officer.

(c) Upon the direction of the Contracting Officer, the Contractor shall test Title III industrial resources for qualification. The Contractor shall provide the test results to the Defense Production Act Office, Title III Program, located at Wright Patterson Air Force Base, Ohio 45433–7739.

(d) When the Contracting Officer modifies the contract to direct testing pursuant to this clause, the Government will provide the Title III industrial resource to be tested and will make an equitable adjustment in the contract for the costs of testing and qualification of the Title III industrial resource.

(e) The Contractor agrees to insert the substance of this clause, including paragraph (e), in every subcontract issued in performance of this contract.

(End of clause)

[FR Doc. 94–30645 Filed 12–27–94; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 35

[FAC 90–23; FAR Case 93–29; Item XXV]

RIN 9000–AF89

Federal Acquisition Regulation; Defense Technical Information Center

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) by removing guidance and address information that applies solely to DOD contractors for more appropriate insertion into the Defense FAR Supplement (DFARS). The language being removed provides Defense Technical Information Center (DTIC) address information, and instructs contractors to submit copies of scientific and technical reports resulting from DOD contracts to DTIC. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

EFFECTIVE DATE: February 27, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501–3856 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAC 90–23, FAR case 93–29.

SUPPLEMENTARY INFORMATION:

A. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comments is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90–23, FAR case 93–29), in correspondence.

B. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 35

Government procurement.

Dated: December 7, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR part 35 is amended as set forth below:

PART 35—RESEARCH AND DEVELOPMENT CONTRACTING

1. The authority citation for 48 CFR part 35 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 35.010 is amended by revising paragraph (b) to read as follows:

§ 35.010 Scientific and technical reports.

* * * * *

(b) Agencies should make R&D contract results available to other Government activities and the private sector. Contracting officers shall follow agency regulations regarding such matters as national security, protection of data, and new-technology dissemination policy. Reports should be sent to the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161. When agencies require that completed reports be covered by a report documentation page, Standard Form (SF) 298, Report Documentation Page, the contractor should submit a copy with the report.

[FR Doc. 94–30644 Filed 12–27–94; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 36 and 52

[FAC 90–23; FAR Case 90–62; Item XXVI]

RIN 9000–AE30

Federal Acquisition Regulation; Construction Contracting

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule which will add to the Federal Acquisition Regulation (FAR) a new clause, Preconstruction Conference, and a new solicitation provision, Site Visit (Construction). Prescriptions for the provision and clause are included in the FAR. Preconstruction Orientation is added and includes information previously in several other paragraphs in the proposed rule. The most significant change from the proposed rule is the deletion of Alternate III to the current clause, Specifications and Drawings for Construction. The proposed rule was published in the **Federal Register** at 56 FR 3954, January 31, 1991. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

EFFECTIVE DATE: February 27, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501–3856 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–23, FAR case 90–62.

SUPPLEMENTARY INFORMATION:

A. Background

Similar versions of the provision at 52.236–27 and the clause at 52.236–26 have been used by various military activities in fixed price construction contracts, and in contracts for dismantling, demolition, or removal of improvements. The Councils determined they would be beneficial to contractors and civilian and defense agencies.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the changes merely provide information to offerors and contractors concerning details of preconstruction conferences and site visits.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 36 and 52

Government procurement.

Dated: December 7, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR parts 36 and 52 are amended as set forth below:

1. The authority citation for 48 CFR parts 36 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

2. Section 36.212 is added to read as follows:

36.212 Preconstruction orientation.

(a) The contracting officer will inform the successful offeror of significant matters of interest, including—(1) statutory matters such as labor standards (subpart 22.4), and subcontracting plan requirements (subpart 19.7); and (2) other matters of significant interest, including who has authority to decide matters such as contractual, administrative (e.g., security, safety, and fire and environmental protection), and construction responsibilities.

(b) As appropriate, the contracting officer may issue an explanatory letter or conduct a preconstruction conference.

(c) If a preconstruction conference is to be held, the contracting officer shall—

(1) Conduct the conference prior to the start of construction at the work site;

(2) Notify the successful offeror of the date, time, and location of the conference (see 36.522); and

(3) Inform the successful offeror of the proposed agenda and any need for attendance by subcontractors.

§ 36.305 [Removed]

3. Section 36.305 is removed.

4. Sections 36.522 and 36.523 are added to read as follows:

§ 36.522 Preconstruction conference.

If the contracting officer determines it may be desirable to hold a preconstruction conference, the contracting officer shall insert a clause substantially the same as the clause at 52.236–26, Preconstruction Conference, in solicitations and fixed price contracts for construction or for dismantling, demolition or removal of improvements.

§ 36.523 Site visit.

The contracting officer shall insert a provision substantially the same as the provision at 52.236–27, Site Visit (Construction), in solicitations which include the clauses at 52.236–2, Differing Site Conditions, and 52.236–3, Site Investigations and Conditions Affecting the Work. Alternate I may be used when an organized site visit will be conducted.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Sections 52.236–26 and 52.236–27 are added to read as follows:

§ 52.236–26 Preconstruction Conference.

As prescribed in 36.522, insert the following clause:

Preconstruction Conference (Feb. 1995)

If the Contracting Officer decides to conduct a preconstruction conference, the successful offeror will be notified and will be required to attend. The Contracting Officer's notification will include specific details regarding the date, time, and location of the conference, any need for attendance by subcontractors, and information regarding the items to be discussed.

(End of clause)

§ 52.236–27 Site Visit (Construction).

As prescribed in 36.523, insert a provision substantially the same as the following:

Site Visit (Construction) (Feb. 1995)

(a) The clauses at 52.236–2, Differing Site Conditions, and 52.236–3, Site Investigations and Conditions Affecting the Work, will be included in any contract awarded as a result of this solicitation. Accordingly, offerors or quoters are urged and expected to inspect the site where the work will be performed.

(b) Site visits may be arranged during normal duty hours by contacting:

Name: _____

Address: _____

_____

Telephone: _____

(End of provision)

Alternate I (FEB 1995). If an organized site visit will be conducted, substitute a paragraph substantially the same as the following for paragraph (b) of the basic provision:

(b) An organized site visit has been scheduled for—

_____

(Insert date and time)

(c) Participants will meet at—

_____

(Insert location)

(End of provision)

[FR Doc. 94–30643 Filed 12–27–94; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 37

[FAC 90–23; FAR Case 91–106; Item XXVII]

RIN 9000–AF31

Federal Acquisition Regulation; Child Care Services

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comment.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule amending the Federal Acquisition Regulation (FAR) to add a definition of "child care services", and to require contracting officers to ensure that contracts for child care services include requirements for criminal history background checks of employees in accordance with 42 U.S.C. 13041. This regulatory action was not subject to Office of Management and Budget review under Executive Order 13866, dated September 30, 1993.

DATES: *Effective Date:* December 28, 1994.

Comment Date: Comments should be submitted to the FAR Secretariat on or before February 27, 1995, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW, Room 4037, Attn: Ms. Beverly Fayson, Washington, DC 20405.

Please cite FAC 90–23, FAR case 91–106 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Ms. Shirley Scott at (202) 501–0168 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–23, FAR case 91–106.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule implements Subtitle E, section 231 of the Crime Control Act of 1990 (Pub. L. 101–647), codified at 42 U.S.C. 13041, as amended by section 1094 of the Fiscal Year 1992 Defense Authorization Act (Pub. L. 102–190). The effective date for compliance with Pub. L. 101–647 was May 29, 1991. Pub. L. 102–190 was effective upon enactment on December 5, 1991.

In part, section 231 of Pub. L. 101–647 requires that child care employees, hired to provide child care services at a facility operated by the Government or under contract with the Government, undergo a criminal history background check. The statute broadly defines "child care services" as child protective services (including the investigation of child abuse and neglect reports), social services, health and mental health care, child day care, education (whether or not directly involved in teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correctional, or treatment services. Subsequently, section 1094 of Pub. L. 102–190 amended 42 U.S.C. 13041 to provide for the provisional supervised employment of child care employees prior to the completion of the required criminal history background check and specified additional safety measures for Federal child care service facilities.

B. Regulatory Flexibility Act

This interim rule implements Subtitle E, Section 231 of the Crime Control Act of 1990, Pub. L. 101–647 (42 U.S.C. 13041), which may have a significant economic impact on a substantial

number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the Act requires child care employees hired under contract to undergo a criminal history background check. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and will be provided to the Chief Counsel for Advocacy for the Small Business Administration.

The IRFA is summarized as follows:

The rule applies to both large and small businesses and implements the statute by requiring contracting officers to ensure that Federal contracts for child care services include the requirement for criminal history background checks. It is impossible to accurately estimate the number of small businesses or employees that may be impacted because the statutory definition of child care services covers a broad range of services for which detailed award and personnel data is unavailable.

A copy of the IRFA may be obtained from the FAR Secretariat. Comments are invited. Comments from small entities concerning the affected FAR subpart will also be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601 *et seq.* (FAC 90–23, FAR Case 91–106), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501 *et seq.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that, pursuant to 41 U.S.C. 418b, urgent and compelling reasons exist to publish an interim rule having a significant impact on the public, prior to affording the public an opportunity to comment. However, public comments received in response to this interim rule will be considered in formulating the final rule. The rule is necessary because the effective date for compliance with Pub. L. 101–647 was May 19, 1991, while Pub. L. 102–190 was effective upon enactment on December 5, 1991.

List of Subjects in 48 CFR Part 37

Government procurement.

Dated: December 7, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR part 37 is amended as set forth below:

PART 37—SERVICE CONTRACTING

1. The authority citation for 48 CFR part 37 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 37.101 is amended by adding, in alphabetical order, the definition "Child care services" to read as follows:

37.101 Definitions.

Child care services means child protective services (including the investigation of child abuse and neglect reports), social services, health and mental health care, child (day) care, education (whether or not directly involved in teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correctional, or treatment services.

* * * * *

3. Section 37.103 is amended by adding paragraph (d) to read as follows:

37.103 Contracting officer responsibility.

* * * * *

(d) Ensure that contracts for child care services include requirements for criminal history background checks on employees who will perform child care services under the contract in accordance with 42 U.S.C. 13041, as amended, and agency procedures.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 42 and 52

[FAC 90–23; FAR Case 91–103; Item XXVIII]

RIN 9000–AF68

Federal Acquisition Regulation; Final Indirect Cost Agreements

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to amend the Federal Acquisition Regulation (FAR) to eliminate the requirements for contractors to execute a Certificate of Current Cost or Pricing Data in conjunction with final indirect cost agreements on facilities contracts and for auditors to obtain a certificate under auditor determination procedures for final indirect cost rates. This regulatory action was not subject to Office of Management and Budget review under Executive Order No. 12866 dated September 30, 1993.

EFFECTIVE DATE: February 27, 1995.

FOR FURTHER INFORMATION CONTACT: Mr Jeremy F. Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–23, FAR case 91–103 in correspondence.

SUPPLEMENTARY INFORMATION:

A. Background

Proposed amendments to FAR 42.705–2 and the clause at 52.216–13 were published in the **Federal Register** at 59 FR 14459, March 28, 1994, requesting comments. Three responses were received. Each supported the proposed rule. One commentator made a recommendation for additional revisions, which the Councils considered unnecessary. The Councils agreed to a final rule, with no change to the proposed rule previously published

B. Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities are awarded on a competitive, fixed-price basis and the requirements for certified cost or pricing data do not apply.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the revisions do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* Existing approvals of information collection requirements under OMB control numbers 9000–0013 and 9000–0069 correspond to this rule. The rule merely deletes a certificate requirement. Certifications are exempt under 5 CFR 1320.7(j)(1) from the requirement.