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Authority: 42 U.S.C. 7401-7671q.

Dated: June 7, 1995.

Valdas V. Adamkus,
Regional Administrator.

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3150

[WO-610-4110-02 1A]

RIN 1004-AC25

Onshore Oil and Gas Geophysical Exploration

AGENCY: Bureau of Land Management, Interior.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Bureau of Land Management gives notice of its intention to propose a rule to: Impose a fee to recover costs incurred for processing notices of intent to conduct onshore oil and gas geophysical exploration; and establish guidelines for charging fair market value for the use of Federal lands during onshore oil and gas geophysical exploration operations. The purpose of this notice is to solicit comments to help guide preparation of the proposed rule.

DATES: Comments on the advance notice of proposed rulemaking must be received by August 21, 1995. Comments postmarked after this date may not be considered in the preparation of the proposed rule.

ADDRESSES: Comments should be sent to: Director (140), Bureau of Land Management, Room 5555, 1849 C Street, N.W., Washington, D.C. 20240. Comments can also be sent to WO140@attmail.com. Please include "attn: AC25" and your name and return address in your internet message. Comments will be available for public review at the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Erick Kaarlela, Leader, Compliance Team, Bureau of Land Management, (202) 452-0340.

SUPPLEMENTARY INFORMATION: The rule will be proposed based on recommendations by the Office of the Inspector General (OIG) for the Department of the Interior. The OIG recommended that the Bureau of Land

Management: (1) impose a \$500 fee to recover the costs of processing a notice of intent to conduct oil and gas geophysical exploration operations; and (2) establish and implement procedures for charging operators fair market value for use of Federal lands during onshore oil and gas geophysical exploration and seismic surveys.

Office of Management and Budget Circular No. A-25, as amended and supplemented, requires agencies to establish user charges based on sound management principles and, to the extent feasible, in accordance with commercial practices. The charges need not be limited to the recovery of costs; they may also produce net revenues to the Federal Government. The Federal Land Policy and Management Act (FLPMA) (43 U.S.C. 1701 *et seq.*) reaffirmed long-standing Congressional support of fair market value as a basis for fees. Section 102(a) of FLPMA (43 U.S.C. 1701(a)) states that it is the policy of the United States that the United States must receive fair market value for the use of the public lands and their resources unless otherwise provided for by statute. Section 304 of FLPMA (43 U.S.C. 1734) authorizes the Secretary to establish reasonable filing and service fees and reasonable charges.

This advance notice of proposed rulemaking presents only a general description of the actions being considered and includes no regulatory text.

The Bureau of Land Management currently charges no filing fee for notices of intent (NOI) for oil and gas geophysical exploration for lands outside of Alaska. Other Federal agencies, including the Forest Service, the Fish and Wildlife Service, and the Bureau of Indian Affairs, issue permits and charge fees for oil and gas geophysical exploration. Additionally, several State governments charge fees for geophysical exploration. Research has shown that BLM incurs costs per case estimated to range from \$450 to \$1,500 in processing and monitoring each NOI.

Most agencies base charges for conducting geophysical surveys on line miles of the seismic survey. However, some agencies use the number of shot holes or other criteria to calculate the charge and/or fee. Charges range from nothing up to about \$1,000 per line mile, with the average being a few hundred dollars per line mile.

In publishing this advance notice of intent to propose rulemaking, the Bureau of Land Management requests information and public comments on:

a. The effect of charging a \$500 fee to recover the cost of processing a notice

of intent to conduct onshore oil and gas geophysical exploration operations.

b. The effect of an additional charge for the use of the surface of Federal lands while conducting oil and gas geophysical surveys. (The additional charge would not apply to a Federal lessee conducting such activities on its own leases.)

c. The most appropriate method of determining the additional charge for surface use, including the following possibilities:

1. Whether the surface use charge should be based on a flat rate of \$200 per seismic line mile or fraction thereof;

2. Whether the surface use charge should be based on the size of the area affected by the survey, e.g., \$800 per section or square mile involved.

3. Whether the surface use charge options in 1. and 2., above, should be higher for those seismic methods involving more extensive surface disturbance.

The public is invited to raise any additional issues of concern related to the proposed processing fee and surface use charges for geophysical exploration operations, including any other factors that should be considered in determining the reasonableness of the proposed fee and charge.

The principal author of this advance notice of proposed rulemaking is Gloria Jean Austin of the of Fluids Group, Compliance Team, assisted by the staff of the Regulatory Management Team, Bureau of Land Management.

Dated: June 13, 1995.

Sylvia V. Baca,

Acting Assistant Secretary of the Interior.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 4, 12, 14, 15, 16, 31, 33, 36, 45, 46, 49, 52, and 53

[FAR Case 94-721]

RIN 9000-AG30

Federal Acquisition Regulation; Truth in Negotiations Act and Related Changes

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

ACTION: Extension of comment period and notice of public meeting.

SUMMARY: This public notice is issued to familiarize the public with the status of the rulemaking effort on FAR Case 94-721, Truth in Negotiations Act and Related Changes (TINA), which implements the Federal Acquisition Streamlining Act of 1994 (FASA), to extend the period for public comment, and to provide notice of a public meeting. The TINA drafting team has made some refinements to the proposed rule that was published in the January 6, 1995, **Federal Register**. The revised coverage has been mailed to the public commenters on FAR Case 94-721 and copies may be obtained by other interested parties.

DATES: *Comment Date:* Comments should be submitted to the FAR Secretariat at the address shown below on or before July 19, 1995.

Meeting Date: The meeting will be held at 2:00 p.m. on July 7, 1995.

ADDRESSES: A copy of the revised coverage may be obtained by calling the FAR Secretariat at 202-501-4755. Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405.

The public meeting will be held at: General Services Administration, National Capital Region Auditorium, 7th & D Streets, SW, Washington, DC 20407. Please cite FAR case 94-721 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Al Winston, Truth in Negotiations Act (TINA) Team Leader, at (703) 602-2119 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GSA Building, Washington, DC 20405 (202) 501-4755. Please cite FAR case 94-721.

SUPPLEMENTARY INFORMATION:

A. Background

On January 6, 1995, a proposed rule was published in the **Federal Register** (60 FR 2282). The proposed rule afforded the public a 60 day comment period. During that time, 40 organizations submitted more than 213 comments. A public meeting was also held on this rule on February 13, 1995. Based upon comments received, the TINA drafting team refined the coverage. Accordingly, a copy of revised coverage has been mailed to previous public commenters on FAR Case 94-721. The purpose of this notice is to advise the public generally of the availability of the revised coverage and enable other interested parties to obtain

a copy by contacting the FAR Secretariat.

B. Case Summary

FAR case 94-721 implements Sections 1201 through 1210 and Sections 1251 and 1252 of FASA. Highlights include making TINA requirements for civilian agencies substantially the same as those for the Department of Defense (increasing the threshold for submission of "cost or pricing data" to \$500,000 and adding penalties for defective pricing). Provisions are also included that increase the threshold for cost or pricing data submission every 5 years beginning October 1, 1995. New exceptions are added to the requirement for the submission of "cost or pricing data" for commercial items; approval levels for waivers are changed, and prohibitions are placed on acquiring "cost or pricing data" when an exception applies. The coverage includes a clear explanation of adequate price competition as required by the Act.

Also, FAR coverage has been included that addresses (1) "information other than cost or pricing data", (2) exemptions based on established catalog or market price, (3) inter-divisional transfers of commercial items at price, and (4) price competition when only one offer has been received.

The FAR language primarily modifies FAR Part 15, together with associated Part 52 clauses and Part 53 forms. However, some coverage addresses contract clauses where threshold changes are made in Part 14 pertaining to sealed bid contracting, and in Part 31 where the cost principle on material costs has been amended to address inter-divisional transfers of commercial items at price. Additional miscellaneous changes in Parts 4, 12, 15, 16, 31, 33, 36, 45, 46, 49, and 53 have also been included.

When a final rule is promulgated, it will also supersede the earlier FAR case 94-720 that was previously published as an interim rule in Federal Acquisition Circular (FAC) 90-22. FAR case 94-720 provided for an immediate increase of the threshold for "cost or pricing data" submission by contractors to civilian agencies to \$500,000. FAC 90-22 (FAR case 94-720) also removed the certification requirement of commercial pricing for parts or components for contractors doing business with civilian agencies.

C. Summary of Changes

The following are highlights of changes that have been made to the proposed rule as a result of the written comments received during the comment

period and other issues that were raised at the public hearing held on 13 February 1995:

- The coverage has been edited to improve readability.
- The hierarchical policy at FAR 15.802 has been clarified to ensure that it is consistent with TINA and FASA.
- Regulatory guidance implementing the catalog or market price exception to TINA has incorporated more flexible procedures (See FAR 52.215-41).
- The Standard Form (SF) 1412 is eliminated.
- Relational tests have been eliminated.
- Disclosure of lowest prices is no longer mandated.
- TINA-based postaward audit access is no longer required.
- Expanded guidance is provided on what constitutes substantial sales.
- Requirement for offerors to account for "end users" when addressing sales to the general public has been eliminated.
- Reference to GSA certifications for granting a prior exemption under FAR 15.804-1(c)(1)(ii)(B) is removed.
- Flexibility in requesting an exception to TINA is improved via a generic provision at FAR 52.215-41 that provides broad guidelines on the type of data that would be needed to qualify for a TINA exception.
- A "Commercial Item" definition cross-reference is given.
- A definition of "cost realism" has been added.
- Additional data requirements have been removed for qualification under the commercial item exception created by FASA (rebates, credits, warranties, and sales to resellers).
- Expanded guidance is provided on effective dates for certification of cost or pricing data.

E. Presentations at the Public Meeting

To allow the public to present its views on the refinements to this proposed rule, a public meeting will be held at the GSA National Capital Region Auditorium on July 7, 1995. Persons or organizations wishing to make presentations will be allowed 10 minutes to present their views, provided they notify the FAR Secretariat at (202) 501-4745 and provide an advance copy of their remarks not later than July 5, 1995.

Dated: June 13, 1995.

Edward C. Loeb,

Deputy Project Manager for the Implementation of the Federal Acquisition Streamlining Act.

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