

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 42 and 52

[FAR Case 95-9]

RIN 9000-AG57

Federal Acquisition Regulation; Quick Contract Closeout Procedures

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the Federal Acquisition Regulation (FAR) to ensure maximum use of the quick-closeout procedure.

This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

DATES: Comments should be submitted on or before September 25, 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, Washington, DC 20405.

Please cite FAR case 95-9 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501-3775 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 FAR case 95-9.

SUPPLEMENTARY INFORMATION:

A. Background

In response to the recommendation of an Interagency Process Action Team sponsored by the Air Force, this proposed rule amends FAR 42.708, Quick-closeout procedure, the clause at 52.216-7, Allowable Cost and Payment, and the clause at 52.216-13, Allowable Cost and Payment—Facilities, to ease the restrictions and maximize the use of the quick-closeout procedure. The Councils propose to (1) revise FAR 42.708(a) by substituting the word "shall" for "may"; (2) raise the threshold in FAR 42.708(a)(2)(i) for total

unsettled indirect costs allocable to any one contract from \$500,000 to \$1 million; and (3) to revise FAR 42.708(a)(2)(ii) to permit the contracting officer to waive the 15 percent restriction based upon a risk assessment that considers contractor's accounting, estimating, and purchasing systems; other concerns of the cognizant contract auditors; and any other pertinent information. Paragraph (f) of the clause at 52.216-7 and paragraph (e) of the clause at 52.216-13 have also been revised to be consistent with the revisions to 42.708 as outlined above.

B. Regulatory Flexibility Act

The proposed rule is not expected to 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 nearly all contracts awarded to small business are awarded on the basis of a firm fixed price and settlement of indirect cost rates prior to contract closeout is therefore not an issue. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610 of the Act. Such comments must be submitted separately and should cite 5 U.S.C. 601, et seq. (FAR case 95-9), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed 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 42 and 52

Government procurement.

Dated: July 19, 1995.

C. Allen Olson,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR parts 42 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 42 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 42—CONTRACT ADMINISTRATION

2. Section 42.708 is amended in the introductory text of paragraph (a) by removing "may" and inserting "shall";

and by revising paragraph (a)(2) (i) and (ii) to read as follows:

42.708 Quick-closeout procedures.

(a) * * *

(2) * * *

(1) The total unsettled indirect cost to be allocated to any one contract does not exceed \$1,000,000; and

(ii) Unless otherwise provided in agency procedures, the cumulative unsettled indirect costs to be allocated to one or more contracts in a single fiscal year do not exceed 15 percent of the estimated, total unsettled indirect costs allocable to cost-type contracts for that fiscal year. The contracting officer may waive the 15 percent restriction based upon risk assessment that considers contractor's accounting, estimating, and purchasing systems; other concerns of the cognizant contract auditors; and any other pertinent information; and

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PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 52.216-7 is amended by revising the date in the clause heading; by revising paragraph (f); and by removing "(R 7-203.4(a) 1978 SEP)" "(R 7-203.4(b) 1979 MAR)", "(R 7-203.4(c)(4)(iv))", "(R 7-402.3 (a) and(c)(5)(iii))", "(R 7-605.5)", "(R 7-1909.4)", "(R 1-7.202-4)", "(R 1-7.203-9)", "(R 1-3.704-1 and -2)", "(R 1-7.402-3 (a) and (b) (1) and (3))", and "(R 1-7.403-9)" following "(End of clause)" to read as follows:

52.216-7 Allowable Cost and Payment.

* * * * *

ALLOWABLE COST AND PAYMENT (DATE)

* * * * *

(f) Quick-closeout procedures. Quick closeout procedures are applicable when the conditions in FAR 42.708(a) are satisfied.

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4. Section 52.216-13 is amended by revising the introductory paragraph, the date in the clause heading, and paragraph (e); and by removing "(R 7-702.10 1978 AUG)" following "(End of clause)" to read as follows:

52.216-13 Allowable Cost and Payment—Facilities.

As prescribed in 16.307(g), insert the following clause:

ALLOWABLE COST AND PAYMENT—FACILITIES (DATE)

* * * * *

(e) *Quick-closeout procedures.* Quick closeout procedures are applicable when the conditions in FAR 42.708(a) are satisfied.

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