

## DEPARTMENT OF DEFENSE

GENERAL SERVICES  
ADMINISTRATIONNATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION

## 48 CFR Parts 39 and 52

[FAC 97-01; FAR Case 96-607; Item XVII]  
RIN 9000-AG90Federal Acquisition Regulation; Year  
2000 Compliance

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

**ACTION:** Interim rule adopted as final with changes.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to adopt as final, with changes, the interim rule published as Item XIV of Federal Acquisition Circular 90-45. The rule amends the Federal Acquisition Regulation (FAR) to increase awareness of Year 2000 procurement issues and to ensure that solicitations and contracts address Year 2000 issues. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

**DATES:** Effective October 21, 1997.

**FOR FURTHER INFORMATION CONTACT:** The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501-4755 for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, at (202) 501-1900. Please cite FAC 97-01, FAR case 96-607.

## SUPPLEMENTARY INFORMATION:

## A. Background

An interim rule was published on January 2, 1997 (61 FR 273). The interim rule is converted to a final rule with revisions. Revisions were made to the definition, "Year 2000 compliant", at FAR 39.002 to better convey the intent of the definition.

Twenty comments from five respondents were received during the public comment period. All comments were considered in the development of the final rule.

The final rule will provide needed coverage to ensure that information technology products to be acquired and used by Federal agencies after December 31, 1999, will be able to process date

related data into the next century. Solicitations and contracts should require Year 2000 compliant technology, or require that non-compliant information technology be upgraded to be compliant in a timely manner. The rule also recommends that agency solicitations describe existing information technology that will be used with the information technology to be acquired and identify whether the existing information technology is Year 2000 compliant. If proper date/time data is provided, the Year 2000 compliant information technology must be able to process the data accurately. If it cannot process proper date/time data accurately, its failure will not be excused because of the noncompliance of another information technology product. Agencies are expected to test for Year 2000 compliance. However, lack of testing does not excuse failure of the information technology to be Year 2000 compliant.

## 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 within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because this rule merely provides internal Government guidance regarding the development of contract requirements for the acquisition of information technology.

## 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 39 and  
52

Government procurement.

Dated: August 7, 1997.

**Edward C. Loeb,**

*Director, Federal Acquisition Policy Division.*

Interim Rule Adopted as Final With  
Changes

Accordingly, the interim rule amending 48 CFR Parts 39 and 52, which was published at 61 FR 273, January 2, 1997, is hereby adopted as final with the following change:

PART 39—ACQUISITION OF  
INFORMATION TECHNOLOGY

1. The authority citation for 48 CFR Part 39 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 39.002 is amended by revising the definition of "Year 2000 compliant" to read as follows:

## 39.002 Definitions.

\* \* \* \* \*

*Year 2000 compliant*, as used in this part, means, with respect to information technology, that the information technology accurately processes date/time data (including, but not limited to, calculating, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations, to the extent that other information technology, used in combination with the information technology being acquired, properly exchanges date/time data with it.

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## DEPARTMENT OF DEFENSE

GENERAL SERVICES  
ADMINISTRATIONNATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION

## 48 CFR Part 43

[FAC 97-01; FAR Case 96-606; Item XVIII]  
RIN 9000-AH44Federal Acquisition Regulation;  
Modification of Existing Contracts  
Under FASA and FARA

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

**ACTION:** Interim rule adopted as final.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to adopt as final, the interim rule published as Item VIII of Federal Acquisition Circular 90-44 on December 31, 1996. The rule amends the Federal Acquisition Regulation (FAR) to implement subsection 10002(e) of the Federal Acquisition Streamlining Act of 1994 and subsections 4402 (d) and (e) of the Clinger-Cohen Act of 1996. The rule authorizes, but does not require, contracting officers, if requested by the contractor, to modify existing