

(b) For segment closings, pension plan terminations, or curtailment of benefits, whether or not this contract or the applicable subcontract is subject to Cost Accounting Standards (CAS), the adjustment amounts shall be the amounts measured, assigned, and allocated in accordance with 48 CFR 9904.413-50(c)(12). Notwithstanding the language in 48 CFR 9904.413-50(c)(12)(vi), which limits the numerator of the adjustment to CAS-covered contracts, for the purposes of the calculations under this paragraph, all contracts and subcontracts that are subject to Subpart 31.2 or for which cost or pricing data were submitted shall be treated as if they were subject to 48 CFR 9904.413 and shall be included in the numerator of the adjustment.

(c) For all other situations when assets revert to the Contractor, or such assets are constructively received by it for any reason, the Contractor shall, at the Government's option, make a refund or give a credit to the Government for its equitable share of the gross amount withdrawn. The Government's equitable share shall reflect the Government's participation in pension costs through those contracts for which cost or pricing data were submitted or which are subject to Subpart 31.2 of the Federal Acquisition Regulation (FAR).

(d) The Contractor shall include the substance of this clause in all subcontracts under this contract which meet the applicability requirements of FAR 15.804-8(e).

(End of clause)

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[FAR Case 96-023]

RIN 9000-AH69

Federal Acquisition Regulation; Clause Flowdown-Commercial Items

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 clarify requirements for the inclusion of FAR provisions and clauses in subcontracts for commercial items and commercial components. This regulatory action was not subject to Office of Management and

Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

DATES: Comments should be submitted on or before November 24, 1997 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405.

E-mail comments submitted over Internet should be addressed to: farcase.96-023@gsa.gov.

Please cite FAR case 96-023 in all correspondence related to this case.

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 Klein, Procurement Analyst, at (202) 501-3775. Please cite FAR case 96-023.

SUPPLEMENTARY INFORMATION:

A. Background

This rule proposes amendments to the clause at FAR 52.244-6, Subcontracts for Commercial Items and Commercial Components, to clarify that contractors are required to include, in subcontracts at any tier for commercial items or commercial components, the FAR clauses and provisions listed in the clause at FAR 52.244-6 and such other clauses and provisions as may be required by addenda, to the extent they are applicable or necessary to establish the reasonableness of prices under FAR Part 15.

B. Regulatory Flexibility Act

This 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 the rule only clarifies existing requirements regarding the inclusion of FAR provisions and clauses in subcontracts for commercial items and commercial components. 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 96-023), 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 Part 52

Government procurement.

Dated: September 18, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

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

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR Part 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).

2. Section 52.244-6 is amended by revising the clause date and paragraph (c) introductory text to read as follows:

52.244-6 Subcontracts for Commercial items and Commercial Components.

* * * * *

Subcontracts for Commercial Items and
Commercial Components (Date)

* * * * *

(c) Notwithstanding any other clause of this contract, the Contractor is not required to include any provision or clause, other than those listed below to the extent they are applicable (and other clauses as may be required by addenda to this paragraph to establish the reasonableness of prices under FAR Part 15) in a subcontract at any tier for commercial items or commercial components:

* * * * *

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

[FAR Case 97-010]

RIN 9000-AH71

Federal Acquisition Regulation; Taxes Associated With Divested Segments

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

ACTION: Proposed rule.