

DEPARTMENT OF DEFENSE

GENERAL SERVICES
ADMINISTRATIONNATIONAL AERONAUTICS AND
SPACE ADMINISTRATION

48 CFR Part 52

[FAR Case 97-011]

RIN 9000-AH73

**Federal Acquisition Regulation;
Evidence of Shipment in Electronic
Data Interchange (EDI) Transactions**

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 facilitate the use of electronic data interchange (EDI) transactions and to streamline the payment process when supplies are purchased free on board (f.o.b.) destination with inspection and acceptance at origin. 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 March 30, 1998 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVR), 1800 F Street, NW, Room 4035, Washington, DC 20405. E-mail comments submitted over Internet should be addressed to: farcase.97-011@gsa.gov. Please cite FAR case 97-011 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 97-011.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule amends the clause at FAR 52.247-48 to eliminate the current barriers to full implementation of electronic data interchange (EDI) in certain contracts awarded on an f.o.b. destination basis. Presently, if a contract is awarded on an f.o.b. destination basis, and if transportation is accomplished by a common carrier, the contractor is required to provide, with the invoice, a signed copy of the commercial bill of lading indicating the carriers receipt of the supplies or to furnish the information electronically as evidence of shipment. Additionally, if transportation is accomplished by other than a common carrier or parcel post, the contractor is required to provide, with the invoice, a copy of the appropriate delivery document showing receipt at the destination specified in the contract. To eliminate current barriers to transmission of signed bills of lading, or other required delivery documentation through EDI, this rule eliminates any requirement for contractors to provide evidence of shipment. However, contractors will be required to retain, and to make available to the Government for review as necessary, the evidence of shipment documentation for a period of 4 years after contract completion.

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 applies to a limited number of EDI transactions, *e.g.*, when supplies are purchased f.o.b. destination, but inspection and acceptance will be at origin. Therefore, the rule is estimated to affect only a small number of entities, both large and small. For DoD, less than 1 percent (129) of all f.o.b. destination supply contracts over \$25,000 (14,664) are likely to be affected by this rule. Therefore, an Initial Regulatory Flexibility Analysis has 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 97-011), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*) is deemed to apply because the proposed rule contains

information collection requirements. It is estimated that the revision to the FAR clause at 52.247-48 will slightly increase, by 45 hours, to 74,795 hours, the annual paperwork burden associated with FAR Part 47 and related provisions and clauses approved by the Office of Management and Budget (OMB) under OMB Control Number 9000-0061.

List of Subjects in 48 CFR Part 52

Government procurement.

Dated: January 21, 1998.

Jeremy F. Olson,

Acting 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 52.247-48 is revised to read as follows:

52.247-48 F.o.b. Destination—Evidence of Shipment.

As prescribed in 47.305-4(c), insert the following clause:

F.O.B. Destination—Evidence of Shipment (Date)

(a) If this contract is awarded on a free on board (f.o.b.) destination basis, the Contractor—

(1) Shall not submit an invoice for payment until the supplies covered by the invoice have been shipped; and

(2) Shall retain, and make available to the Government for review as necessary, the following evidence of shipment documentation for a period of 4 years after completion of the contract:

(i) If transportation is accomplished by common carrier, a signed copy of the commercial bill of lading for the supplies covered by the Contractor's invoice, indicating the carrier's intent to ship the supplies to the destination specified in the contract.

(ii) If transportation is accomplished by parcel post, a copy of the certificate of mailing.

(iii) If transportation is accomplished by other than common carrier or parcel post, a copy of the delivery document showing receipt at the destination specified in the contract.

(b) The Contractor is not required to submit evidence of shipment documentation with its invoice.

(End of clause)

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