

price adjustment is not based on actual costs incurred).

**Item VI—OMB Circular No. A-133 (FAR Case 97-029)**

This final rule amends FAR 15.209 and the associated clause at 52.215-2, Audits and Records—Negotiation, Alternate II, to implement revisions to OMB Circular No. A-133. The circular has a new title, "Audits of States, Local Governments, and Non-Profit Organizations," and now addresses audits of State and local governments as well as audits of institutions of higher learning and other nonprofit organizations.

**Item VII—SIC Code and Size Standard Appeals (FAR Case 97-026)**

This final rule amends FAR Subpart 19.3 to conform to the Small Business Administration regulations at 13 CFR 121 and 134 pertaining to protest of an offeror's small business representation, and appeal of a contracting officer's standard industrial classification code designation and related small business size standard.

**Item VIII—Small Business Competitiveness Demonstration Program (FAR Case 97-305)**

This final rule amends FAR Subpart 19.10 to eliminate the termination date of the Small Business Competitiveness Demonstration Program, in accordance with Section 401 of the Small Business Reauthorization Act of 1997 (Public Law 105-135).

**Item IX—Special Disabled and Vietnam Era Veterans (FAR Case 95-602)**

This final rule amends FAR Subpart 22.13 and the clauses at 52.212-5, 52.222-35, and 52.222-37 to implement revised Department of Labor regulations regarding affirmative action for disabled veterans and veterans of the Vietnam era.

**Item X—Treatment of Caribbean Basin Country End Products (FAR Case 97-039)**

This final rule revises FAR 25.402(b) to extend the time period for treatment of Caribbean Basin country end products as eligible products under the Trade Agreements Act. The United States Trade Representative has directed that such treatment continue through September 30, 1998.

**Item XI—Administrative Changes to Cost Accounting Standards (CAS) Applicability (FAR Case 97-025)**

This final rule amends FAR 30.101 and the clauses at 52.230-1 and 52.230-5 to conform to changes made to the

Cost Accounting Standards (CAS) Board rules and regulations (FAR Appendix), pertaining to the applicability of CAS to negotiated contracts and subcontracts.

**Item XII—Changes in Contract Administration and Audit Cognizance (FAR Case 95-022)**

This final rule amends FAR Parts 31, 32, 42, 46, 47, and 52 to add policies and procedures for assigning and performing contract audit services, and to clarify the policy for assigning or delegating responsibility for establishing forward pricing and billing rates and final indirect cost rates.

**Item XIII—Limitation on Allowability of Compensation for Certain Contractor Personnel (FAR Case 97-303)**

This interim rule revises FAR 31.205-6(p) to implement Section 808 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85). Section 808 limits the allowable compensation costs for senior executives of contractors to the benchmark compensation amount determined applicable for each fiscal year by the Administrator for Federal Procurement Policy.

**Item XIV—Transfer of Assets Following a Business Combination (FAR Case 96-006)**

This final rule revises FAR 31.205-10(a)(5) and 31.205-52 to conform to changes made to the Cost Accounting Standards regarding the treatment of gains and losses attributable to tangible capital assets subsequent to business mergers or combinations.

**Item XV—Modular Contracting (FAR Case 96-605)**

This final rule amends FAR Part 39 to implement Section 5202 of the Information Technology Management Reform Act of 1996 (Public Law 104-106). Section 5202 encourages maximum practicable use of modular contracting for acquisition of major systems of information technology. Agencies may also use modular contracting to acquire non-major systems of information technology.

**Item XVI—Technical Amendments**

Amendments are being made at FAR 1.201-1(b)(2), 44.204(b), and 52.219-1(b)(2) and (b)(3) to update references and make editorial changes.

Dated: February 13, 1998.

**Edward C. Loeb,**

*Director, Federal Acquisition Policy Division.*

**Federal Acquisition Circular**

FAC 97-04

[Date]

Federal Acquisition Circular (FAC) 97-04 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 97-04 are effective April 24, 1998, except for Items VIII, X, XIII, and XVI, which are effective February 23, 1998.

Dated: February 11, 1998.

**Eleanor R. Spector,**

*Director, Defense Procurement.*

Dated: February 12, 1998.

**Ida M. Ustad,**

*Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration.*

Dated: February 12, 1998.

**Deidre A. Lee,**

*Associate Administrator for Procurement, National Aeronautics and Space Administration.*

[FR Doc. 98-4290 Filed 2-20-98; 8:45 am]

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**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 1, 4, 52, and 53**

[FAC 97-04; FAR Case 95-307; Item I]

RIN 9000-AH33

**Federal Acquisition Regulation; Use of Data Universal Numbering System as the Primary Contractor Identification**

**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 in the **Federal Register** at 61 FR 67412,

December 20, 1996, as Item III of Federal Acquisition Circular 90-43. This final rule amends the Federal Acquisition Regulation (FAR) to replace the Contractor Establishment Code (CEC) with the Data Universal Numbering System (DUNS) number as the means of identifying contractors in the Federal Procurement Data System (FPDS). 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.

**EFFECTIVE DATE:** April 24, 1998.

**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. Victoria Moss, Procurement Analyst, at (202) 501-4764. Please cite FAC 97-04, FAR case 95-307.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

This final rule amends FAR Parts 4 and 52 to replace the CEC with the DUNS number as the means of identifying contractors in the FPDS. Federal agencies report data to the Federal Procurement Data Center, which collects, processes, and disseminates official statistical data on Federal contracting.

An interim rule was published in the **Federal Register** on December 20, 1996 (61 FR 67412). The final rule differs from the interim rule mainly (1) to reflect new Dun and Bradstreet procedures that accommodate offerors located overseas; and (2) to clarify that this requirement applies to commercial items by adding the DUNS requirement to the provision at FAR 52.212-1, Instructions to Offerors Commercial Items.

Public comments were received from two sources. The comments were considered in developing the final rule.

**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 the rule merely replaces the Contractor Establishment Code with the Data Universal Numbering System number to identify contractors in the Federal Procurement Data System.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act (Pub. L. 96-511) is deemed to apply because the final rule contains information collection requirements. The information collection aspects of this rule have been approved by the Office of Management and Budget and assigned Control No. 9000-0145.

**List of Subjects in 48 CFR Parts 1, 4, 52, and 53**

Government procurement.

Dated: February 13, 1998.

**Edward C. Loeb,**

*Director, Federal Acquisition Policy Division.*

**Interim Rule Adopted as Final With Changes**

Accordingly, the interim rule amending 48 CFR Parts 4, 52, and 53, which was published at 61 FR 67412, December 20, 1996, is adopted as a final rule with the following changes:

1. The authority citation for 48 CFR Parts 1, 4, 52, and 53 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 1—FEDERAL ACQUISITION REGULATIONS SYSTEM**

2. Section 1.106 is amended in the table following the introductory paragraph by adding the following entries:

**1.106 OMB approval under the Paperwork Reduction Act.**

FAR segment		OMB control No.
* * *		
4.602 .....		9000-0145
4.603 .....		9000-0145
* * *		
52.204-6 .....		9000-0145
* * *		

**PART 4—ADMINISTRATIVE MATTERS**

3. Section 4.603 is amended by revising paragraph (a) to read as follows:

**4.603 Solicitation provisions.**

(a)(1) The contracting officer shall insert the provision at 52.204-6, Data Universal Numbering System (DUNS) Number, in solicitations that are expected to result in a requirement for the generation of an SF 279, Federal Procurement Data System (FPDS)—Individual Contract Action Report (see 4.602(c)), or a similar agency form.

(2) For offerors located outside the United States, the contracting officer may modify paragraph (c) of the provision at 52.204-6 to provide the correct phone numbers for the Dun and Bradstreet offices in the areas from which offerors are anticipated to respond.

\* \* \* \* \*

**PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

4. Section 52.204-6 is amended by revising the section heading, provision heading and date; and the provision is amended by removing paragraph (a) and redesignating paragraphs (b), (c), and (d), as (a), (b), and (c), respectively; by revising newly designated paragraph (a), the third sentence of newly designated introductory paragraph (b), and newly designated paragraph (c) to read as follows:

**52.204-6 Data Universal Numbering System (DUNS) Number.**

\* \* \* \* \*

Data Universal Numbering System (DUNS) Number (Apr 1998)

(a) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" followed by the DUNS number that identifies the offeror's name and address exactly as stated in the offer. The DUNS number is a nine-digit number assigned by Dun and Bradstreet Information Services.

(b) \* \* \* For information on obtaining a DUNS number, the offeror, if located within the United States, should call Dun and Bradstreet at 1-800-333-0505. \* \* \*

\* \* \* \* \*

(c) Offerors located outside the United States may obtain the location and phone number of the local Dun and Bradstreet Information Services office from the Internet home page at <http://www.dnb.com/>. If an offeror is unable to locate a local service center, it may send an e-mail to Dun and Bradstreet at [globalinfo@mail.dnb.com](mailto:globalinfo@mail.dnb.com).

(End of provision)

5. Section 52.212-1 is amended by revising the provision date to read "(Apr 1998)" and adding paragraph (j) to the provision to read as follows:

**52.212-1 Instructions to Offerors—Commercial Items.**

\* \* \* \* \*

Instructions to Offerors—Commercial Items (Apr 1998)

\* \* \* \* \*

(j) *Data Universal Numbering System (DUNS) Number.* (Applies to offers exceeding \$25,000.) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" followed by the DUNS number that identifies the offeror's name and address. If the offeror does not have a DUNS number, it should contact

