

**ACTION:** Final rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to remove a reference to the National Imagery and Mapping Agency (NIMA).

**EFFECTIVE DATE:** August 16, 1999.

**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 Mr. Jack O'Neill, Procurement Analyst, at (202) 501-3856. Please cite FAC 97-12, FAR case 98-023.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

This final rule amends FAR Part 36 to remove the reference to the National Imagery and Mapping Agency (NIMA) at FAR 36.601-4(a)(4). In accordance with Section 8101 of the National Defense Appropriations Act for Fiscal Year 1999 (Pub. L. 262), except for services critical to national security, NIMA must use the procedures in FAR Subpart 36.6 when using fiscal year 1999 funds to award contracts for mapping, charting, and geodesy activities, rather than the provisions in FAR Parts 13, 14, and 15. Therefore, although this is an annual appropriations requirement which affects NIMA only when using fiscal year 1999 funds, it is appropriate to remove the reference to NIMA as exemplifying the type of mapping services that must not be procured pursuant to FAR Subpart 36.6.

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.

**B. Regulatory Flexibility Act**

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Pub. L. 98-577, and publication for public comments is not required. However, the Councils will consider comments from small entities concerning the affected FAR subpart in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 97-12, FAR case 98-023), in correspondence.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information

collection requirements that 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 36**

Government procurement.

Dated: June 9, 1999.

**Edward C. Loeb,**

*Director, Federal Acquisition Policy Division.*

Therefore, DoD, GSA, and NASA amend 48 CFR part 36 as set forth below:

**PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS**

1. The authority citation for 48 CFR part 36 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).

**36.601-4 [Amended]**

2. Amend the fourth sentence of section 36.601-4(a)(4) by removing the words "such as those typically performed by the National Imagery and Mapping Agency".

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**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Part 39**

[FAC 97-12; FAR Case 98-306; Item VI]

RIN 9000-AI37

**Federal Acquisition Regulation; Restrictions on the Acquisition of Information Technology**

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

**ACTION:** Final rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to implement Division A, Section 101(h), Title VI, section 622 of the Omnibus Appropriations and Authorization Act for Fiscal Year 1999. **EFFECTIVE DATE:** June 17, 1999.

**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 97-12, FAR case 98-306.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

Division A, Section 101(h), Title VI, Section 622 of the Omnibus Appropriations and Authorization Act for Fiscal Year 1999 (Pub. L. 105-277) was effective upon its enactment on October 21, 1998. Section 622 provides that agencies may not use appropriated funds to acquire information technology that does not comply with FAR 39.106, unless the agency's Chief Information Officer (CIO) determines that noncompliance with 39.106 is necessary to the function and operation of the agency or the acquisition is required by a contract in effect before October 21, 1998. The CIO must send to the Office of Management and Budget any waivers granted.

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.

**B. Regulatory Flexibility Act**

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Pub. L. 98-577, and publication for public comments is not required. However, the Councils will consider comments from small entities concerning the affected FAR subpart in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 97-12, FAR case 98-306), in correspondence.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that 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 39**

Government procurement.

Dated: June 9, 1999.

**Edward C. Loeb,**

*Director, Federal Acquisition Policy Division.*

Therefore, DoD, GSA, and NASA amend 48 CFR part 39 as set forth below:

**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. Amend section 39.101 by designating the existing paragraph as “(b)”, and adding paragraph (a) to read as follows:

**39.101 Policy.**

(a) Division A, Section 101(h), Title VI, Section 622 of the Omnibus Appropriations and Authorization Act for Fiscal Year 1999 (Pub. L. 105-277) requires that agencies may not use appropriated funds to acquire information technology that does not comply with 39.106, unless the agency’s Chief Information Officer determines that noncompliance with 39.106 is necessary to the function and operation of the agency or the acquisition is required by a contract in effect before October 21, 1998. The Chief Information Officer must send to the Office of Management and Budget a copy of all waivers for forwarding to Congress.

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**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 1, 9, 12, 19, 22, 31, 42, 52, and 53**

[FAC 97-12; Item VII]

**Federal Acquisition Regulation; Technical Amendments**

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

**ACTION:** Technical amendments.

**SUMMARY:** This document makes amendments to the Federal Acquisition Regulation in order to update references and make editorial changes.

**EFFECTIVE DATE:** June 17, 1999.

**FOR FURTHER INFORMATION CONTACT:** The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501-4755.

**List of Subjects in 48 CFR Parts 1, 9, 12, 19, 22, 31, 42, 52, and 53**

Government procurement.

Dated: June 9, 1999.

**Edward C. Loeb,**

*Director, Federal Acquisition Policy Division.*

Therefore, DoD, GSA, and NASA amend 48 CFR parts 1, 9, 12, 19, 22, 31, 42, 52, and 53 as set forth below:

1. The authority citation for 48 CFR parts 1, 9, 12, 19, 22, 31, 42, 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. Amend section 1.106 in the table following the introductory paragraph by—

a. Removing the FAR segment entries at 28.106-1(e) and 28.106-1(n) and their corresponding OMB Control Numbers;

b. Revising the FAR segment entry “52.223-8” to read “52.223-9”;

c. At entry 52.228-2 by removing “and 9000-0119”;

e. At entry 52.228-16 by removing “and 9000-0119”; and

f. Adding entry 52.228-12 to read as follows:

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

FAR segment	OMB Control No.
* * * * *	
52.228-12 .....	9000-0135
* * * * *	

**PART 9—CONTRACTOR QUALIFICATIONS**

**9.505 [Amended]**

3. Amend section 9.505 in paragraph (b)(1) by removing “(as defined in 3.104-3)”.

**PART 12—ACQUISITION OF COMMERCIAL ITEMS 12.301 [Amended]**

4. Amend section 12.301 in the first sentence of paragraph (b)(3) by revising the parenthetical to read “(see Block 27, SF 1449)”.

**PART 19—SMALL BUSINESS PROGRAMS**

**19.803 [Amended]**

5. Amend section 19.803 by revising the parenthetical at the end of paragraph (c) to read “(but see 19.800(e)).”

**19.806 [Amended]**

6. Amend section 19.806 in the second sentence of paragraph (a) by removing the word “certified”.

**PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS**

7. Revise section 22.609 to read as follows:

**22.609 Regional jurisdictions of the Department of Labor, Wage and Hour Division.**

Geographic jurisdictions of the following regional offices of the DoL, Wage and Hour Division, are shown here, and contracting officers should contact them in all situations required by this subpart, unless otherwise specified:

(a) The Region I and Region II office located in New York, New York, has jurisdiction for Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Puerto Rico, Rhode Island, Vermont, and the Virgin Islands.

(b) The Region III office located in Philadelphia, Pennsylvania, has jurisdiction for Delaware, the District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia.

(c) The Region IV office located in Atlanta, Georgia, has jurisdiction for Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

(d) The Region V and Region VII office located in Chicago, Illinois, has jurisdiction for Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin.

(e) The Region VI and Region VIII office located in Dallas, Texas, has jurisdiction for Arkansas, Colorado, Louisiana, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, and Wyoming.

(f) The Region IX and Region X office located in San Francisco, California, has jurisdiction for Alaska, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, and Washington.

**PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES**

**31.205-6 [Amended]**

8. Amend section 31.205-6 in the second sentence of paragraph (o)(6) by removing the word “certified”.

**PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES**

**42.203 [Amended]**

9. Amend section 42.203 in the third sentence by removing “DCMC-AQBF” and adding “DCMCC-F”, and revising the ZIP code to read “22060-6221”.