

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 9, 15, 22, 35, 37, and 42

[FAC 97-18; FAR Case 2000-605; Item I]

RIN 9000-A180

Federal Acquisition Regulation; Rescission of Office of Federal Procurement Policy Letters

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to make editorial amendments that remove unnecessary cross-references to policy letters that were rescinded by the Office of Federal Procurement Policy (OFPP).

DATES: Effective Date: June 6, 2000.

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. Jeremy Olson, at (202) 501-0692. Please cite FAC 97-18, FAR case 2000-605.

SUPPLEMENTARY INFORMATION:

A. Background

OFPP published a notice in the Federal Register at 65 FR 16968, March 30, 2000, that rescinded 22 OFPP policy letters. The rescission of these 22 policy letters reflected OFPP's conclusion that the Federal Acquisition Regulation (FAR) contains the current policies. Any policies embodied in OFPP policy letters rescinded by the notice that are not reflected in the FAR either have been superseded by subsequent statutory changes or are otherwise no longer necessary. The OFPP Federal Register notice rescinded OFPP Policy Letters 77-2, 78-2, 78-3, 78-4, 79-1, 79-2, 80-3, 80-6, 80-8, 81-1, 81-2, 82-1, 83-1, 83-2, 83-3, 84-1, 85-1, 89-1, 91-2, 91-4, 92-5, and 95-1. Although the notice required no substantive FAR change, cross-references in the FAR to those rescinded policy letters are no longer necessary or appropriate. This

final rule makes editorial amendments to the FAR to remove those cross-references.

This rule was not subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule 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 Public Law 98-577, and publication for public comments is not required. However, the Council will consider comments from small entities concerning the affected FAR subparts 1, 9, 15, 22, 35, 37, and 42 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 97-18, FAR case 2000-605), 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 Parts 1, 9, 15, 22, 35, 37, and 42

Government procurement.

Dated: May 26, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 1, 9, 15, 22, 35, 37, and 42 as set forth below:

1. The authority citation for 48 CFR parts 1, 9, 15, 22, 35, 37, and 42 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. In section 1.103, revise paragraph (a) to read as follows:

1.103 Authority.

(a) The development of the FAR System is in accordance with the requirements of the Office of Federal Procurement Policy Act of 1974 (Pub. L. 93-400), as amended by Pub. L. 96-83.

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PART 9—CONTRACTOR QUALIFICATIONS

3. In section 9.500, revise paragraph (c) to read as follows:

9.500 Scope of subpart.

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(c) Implements section 8141 of the 1989 Department of Defense Appropriation Act, Pub. L. 100-463, 102 Stat. 2270-47 (1988).

PART 15—CONTRACTING BY NEGOTIATION

15.304 [Amended]

4. In section 15.304, amend paragraph (c)(3)(iv) by removing "(OFPP Policy Letter 92-5)".

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.1101 [Amended]

5. Amend section 22.1101 by removing the second, third, and fourth sentences.

PART 35—RESEARCH AND DEVELOPMENT CONTRACTING

35.000 [Amended]

6. Amend section 35.000 by removing paragraph (c).

PART 37—SERVICE CONTRACTING

7. Amend section 37.503 by revising paragraph (c) to read as follows:

37.503 Agency-head responsibilities.

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(c) Specific procedures are in place before contracting for services to ensure compliance with OFPP Policy Letter 92-1, Inherently Governmental Functions; and

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37.600 [Amended]

8. Amend section 37.600 by removing the last sentence.

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

42.002 [Amended]

9. Amend section 42.002 in paragraph (a) by removing the parenthetical at the end of the sentence.

42.1500 [Amended]

10. Amend section 42.1500 by removing the second sentence.

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