

material” and “Virgin material”, and paragraphs (b) and (e) to read as follows:

#### 52.211-5 Material Requirements.

As prescribed in 11.304, insert the following clause:

#### MATERIAL REQUIREMENTS (August 2000)

(a) \* \* \*

\* \* \* \* \*

*Recovered material* means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

\* \* \* \* \*

*Virgin material* means—

(1) Previously unused raw material, including previously unused copper, aluminum, lead, zinc, iron, other metal or metal ore; or

(2) Any undeveloped resource that is, or with new technology will become, a source of raw materials.

(b) Unless this contract otherwise requires virgin material or supplies composed of or manufactured from virgin material, the Contractor shall provide supplies that are new, reconditioned, or remanufactured, as defined in this clause.

\* \* \* \* \*

(e) Used, reconditioned, or remanufactured supplies, or unused former Government surplus property, may be used in contract performance if the Contractor has proposed the use of such supplies, and the Contracting Officer has authorized their use.  
(End of clause)

22. Amend section 52.212-5 by revising the date of the clause; by redesignating paragraphs (b)(16) through (b)(26) as (b)(17) through (b)(27), respectively; and by adding a new paragraph (b)(16) to read as follows:

#### 52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

\* \* \* \* \*

#### Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (August 2000)

\* \* \* \* \*

(b) \* \* \*

(16)(i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Products (42 U.S.C. 6962(c)(3)(A)(ii)).

(ii) Alternate I of 52.223-9 (42 U.S.C. 6962(i)(2)(C)).

\* \* \* \* \*

#### 52.223-4 [Amended]

23. Amend the introductory text of section 52.223-4 by revising the citation “23.405(a)” to read “23.406(a)”.

24. Revise the section heading and text of 52.223-9 to read as follows:

#### 52.223-9 Estimate of Percentage of Recovered Material Content for EPA-Designated Products.

As prescribed in 23.406(b), insert the following clause:

#### Estimate of Percentage of Recovered Material Content for EPA-Designated Products (August 2000)

(a) *Definitions.* As used in this clause—  
*Postconsumer material* means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Postconsumer material is a part of the broader category of “recovered material.”

*Recovered material* means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

(b) The Contractor, on completion of this contract, shall—

(1) Estimate the percentage of the total recovered material used in contract performance, including, if applicable, the percentage of postconsumer material content; and

(2) Submit this estimate to  
[Contracting Officer  
complete in accordance with agency  
procedures].  
(End of clause)

*Alternate I (August 2000).* As prescribed in 23.406(b), redesignate paragraph (b) of the basic clause as paragraph (c) and add the following paragraph (b) to the basic clause:

(b) The Contractor shall execute the following certification required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6962(i)(2)(C)):

#### Certification

I, \_\_\_\_\_ (name of certifier), am an officer or employee responsible for the performance of this contract and hereby certify that the percentage of recovered material content for EPA-designated products met the applicable contract specifications.

(Signature of the Officer or Employee)

(Typed Name of the Officer or Employee)

(Title)

(Name of Company, Firm, or Organization)

(Date)

(End of certification)

25. Revise section 52.223-10 to read as follows:

#### 52.223-10 Waste Reduction Program.

As prescribed in 23.705, insert the following clause:

#### Waste Reduction Program (August 2000)

(a) *Definitions.* As used in this clause—  
*Recycling* means the series of activities, including collection, separation, and processing, by which products or other materials are recovered from the solid waste stream for use in the form of raw materials

in the manufacture of products other than fuel for producing heat or power by combustion.

*Waste prevention* means any change in the design, manufacturing, purchase, or use of materials or products (including packaging) to reduce their amount or toxicity before they are discarded. Waste prevention also refers to the reuse of products or materials.

*Waste reduction* means preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products.

(b) Consistent with the requirements of Section 701 of Executive Order 13101, the Contractor shall establish a program to promote cost-effective waste reduction in all operations and facilities covered by this contract. The Contractor's programs shall comply with applicable Federal, State, and local requirements, specifically including Section 6002 of the Resource Conservation and Recovery Act (42 U.S.C. 6962, *et seq.*) and implementing regulations (40 CFR part 247).

(End of clause)

[FR Doc. 00-13819 Filed 6-1-00; 3:59 pm]

BILLING CODE 6820-EP-P

## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Part 4

[FAC 97-18; FAR Case 1999-615; Item IV]

RIN 9000-AI77

### Federal Acquisition Regulation; General Records Schedules

**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 (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to implement the revised National Archives and Records Administration General Records Schedule 3, Procurement, Supply, and Grants Records (NARA Schedule 3), dated December 15, 1998.

**DATES:** *Effective Date:* August 7, 2000.

*Applicability Date:* The FAR, as amended by this rule, is applicable to solicitations issued on or after August 7, 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 Ms. Linda K. Nelson, Procurement Analyst, at (202) 501-1900. Please cite FAC 97-18, FAR case 1999-615.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

The intent of the update was to align the FAR text with the revised NARA Schedule 3.

The rule—

- Amends FAR 4.705-2 and revises 4.805 to align the text with the new NARA Schedule 3;
- Revises and rearranges the table at FAR 4.805(b) to group similar types of contract instruments together (e.g., construction contracts and related case files, and unsuccessful offers and proposals); and
- Reorganizes and revises the FAR text for ease of use. The rule is written using plain language in accordance with the White House memorandum, Plain Language in Government Writing, dated June 1, 1999.

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 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 97-18, FAR case 1999-615), 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 4**

Government procurement.

Dated: May 26, 2000.

**Edward C. Loeb,**

*Director, Federal Acquisition Policy Division.*

Therefore, DoD, GSA, and NASA amend 48 CFR part 4 as set forth below:

**PART 4—ADMINISTRATIVE MATTERS**

1. The authority citation for 48 CFR part 4 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 4.705-2 by revising the section heading and paragraph (a) to read as follows:

**4.705-2 Construction contracts pay administration records.**

(a) Payroll sheets, registers, or their equivalent, of salaries and wages paid to individual employees for each payroll period; change slips; and tax withholding statements: Retain 3 years after completion of contract, unless contract performance is the subject of enforcement action.

\* \* \* \* \*

3. Revise section 4.800 to read as follows:

**4.800 Scope of subpart.**

This subpart prescribes requirements for establishing, maintaining, and disposing of contract files.

4. Revise section 4.805 to read as follows:

**4.805 Storage, handling, and disposal of contract files.**

(a) Agencies must prescribe procedures for the handling, storing, and disposing of contract files. These procedures must take into account documents held in all types of media, including microfilm and various electronic media. Agencies may change the original medium to facilitate storage as long as the requirements of Part 4, law, and other regulations are satisfied. The process used to create and store records must record and reproduce the original document, including signatures and other written and graphic images completely, accurately, and clearly. Data transfer, storage, and retrieval procedures must protect the original data from alteration. Unless law or other regulations require signed originals to be kept, they may be destroyed after the responsible agency official verifies that record copies on alternate media and copies reproduced from the record copy are accurate, complete, and clear representations of the originals. Agency procedures for contract file disposal must include provisions that the documents specified in paragraph (b) of this section may not be destroyed before the times indicated, and may be retained longer if the responsible agency official determines that the files have future value to the Government. When

original documents have been converted to alternate media for storage, the requirements in paragraph (b) of this section also apply to the record copies in the alternate media.

(b) If administrative records are mixed with program records and cannot be economically segregated, the entire file should be kept for the period of time approved for the program records. Similarly, if documents described in the following table are part of a subject or case file that documents activities that are not described in the table, they should be treated in the same manner as the files of which they are a part. The retention periods for acquisitions at or below the simplified acquisition threshold also apply to acquisitions conducted prior to July 3, 1995, that used small purchase procedures. The retention periods for acquisitions above the simplified acquisition threshold also apply to acquisitions conducted prior to July 3, 1995, that used other than small purchase procedures.

Document	Retention period
(1) Records pertaining to Contract Disputes Act actions.	6 years and 3 months after final action or decision for files created prior to October 1, 1979. 1 year after final action or decision for files created on or after October 1, 1979.
(2) Contracts (and related records or documents, including successful proposals) exceeding the simplified acquisition threshold for other than construction.	6 years and 3 months after final payment.
(3) Contracts (and related records or documents, including successful proposals) at or below the simplified acquisition threshold for other than construction.	3 years after final payment.
(4) Construction contracts:	
(i) Above \$2,000	6 years and 3 months after final payment.
(ii) \$2,000 or less	3 years after final payment.

Document	Retention period	Document	Retention period
(iii) Related records or documents, including successful proposals, except for contractor's payrolls (see (b)(4)(iv)).	Same as contract file.	(10) Investigations, cases pending or in litigation (including protests), or similar matters.	Until final clearance or settlement, or, if related to a document identified in (b)(1)-(9), for the retention period specified for the related document, whichever is later.
(iv) Contractor's payrolls submitted in accordance with Department of Labor regulations, with related certifications, anti-kickback affidavits, and other related papers.	3 years after contract completion unless contract performance is the subject of an enforcement action on that date.	[FR Doc. 00-13820 Filed 6-1-00; 4:00 pm] <b>BILLING CODE 6820-EP-P</b>	
(5) Solicited and unsolicited unsuccessful offers, quotations, bids, and proposals: (i) Relating to contracts above the simplified acquisition threshold.	If filed separately from contract file, until contract is completed. Otherwise, the same as related contract file.	<b>DEPARTMENT OF DEFENSE</b> <b>GENERAL SERVICES ADMINISTRATION</b> <b>NATIONAL AERONAUTICS AND SPACE ADMINISTRATION</b>  <b>48 CFR Parts 8 and 38</b> <b>[FAC 97-18; FAR Case 1998-609 (98-609); Item V]</b> <b>RIN 9000-AI48</b> <b>Federal Acquisition Regulation; Federal Supply Schedules Small Business Opportunities</b>	
(ii) Relating to contracts at or below the simplified acquisition threshold.	1 year after date of award or until final payment, whichever is later.	<b>AGENCIES:</b> Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA). <b>ACTION:</b> Final rule.  <b>SUMMARY:</b> The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to enhance the participation of small business concerns under the Federal Supply Schedules (FSS) program. <b>DATES:</b> <i>Effective Date:</i> August 7, 2000. <i>Applicability Date:</i> The FAR, as amended by this rule, is applicable to solicitations issued on or after August 7, 2000. <b>FOR FURTHER INFORMATION CONTACT:</b> 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 97-18, FAR case 1998-609. <b>SUPPLEMENTARY INFORMATION:</b> <b>A. Background</b> The rule— • Amends FAR subpart 8.4 to encourage ordering offices to consider the availability of small business	
(6) Files for canceled solicitations.	5 years after cancellation.		
(7) Other copies of procurement file records used by component elements of a contracting office for administrative purposes.	Upon termination or completion.		
(8) Documents pertaining generally to the contractor as described at 4.801(c)(3).	Until superseded or obsolete.		
(9) Data submitted to the Federal Procurement Data System (FPDS). Electronic data file maintained by fiscal year, containing unclassified records of all procurements other than simplified acquisitions, and information required under 4.601.	5 years after submittal to FPDS.		

concerns under the schedule and encourages ordering offices to consider small businesses when conducting evaluations before placing an order;

- Amends FAR Part 38 to reaffirm that the General Services Administration and agencies delegated the authority to establish a Federal Supply Schedule must comply with all statutory and regulatory requirements before a solicitation is issued; and
- Revises the FSS guidance in accordance with the plain language guidelines in a White House memorandum, Plain Language in Government Writing, dated June 1, 1998.

DoD, GSA, and NASA published a proposed rule in the **Federal Register** on September 14, 1999 (64 FR 49948). Thirty-two respondents submitted public comments. We considered all comments and converted the proposed rule to a final rule with minor changes.

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 Councils prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with 5 U.S.C. 604. Because this rule may impact small businesses, we are providing the FRFA in its entirety as follows:

This Final Regulatory Flexibility Analysis has been prepared consistent with the criteria stated in 5 U.S.C. 604.

1. *Statement of need for, and objectives of, the rule.*

The purpose of this rule is to promote the growth of Federal procurement sales opportunities for small business concerns under the Federal Supply Schedules. The rule amends FAR Subparts 8.4 and 38.1 to encourage ordering offices to consider small business concerns, if available, when conducting evaluations before placing an order. The rule also recognizes the recent change made by the Small Business Administration requiring inclusion of Federal Supply Schedule orders in agencies' small business goals. Effective fiscal year 1999, agencies must include the dollar value of orders expected to be placed against the General Services Administration's (GSA) Federal Supply Service (FSS) Schedules and report accomplishments against those goals.

2. *Summary of significant issues raised by the public comments in response to the Initial Regulatory Flexibility Analysis (IRFA), a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments.*

We received one public comment that specifically addressed the Initial Regulatory Flexibility Analysis. The public comment expressed concerns that the data presented