

ACTION: Final rule.

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

DATES: *Effective Date:* April 4, 2002.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501-4755. Please cite FAC 2001-06, Technical Amendments.

List of Subjects in 48 CFR Parts 1, 5, 6, 9, 31, and 52

Government procurement.

Dated: March 6, 2002.

Al Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 1, 5, 6, 9, and 52 as set forth below:

1. The authority citation for 48 CFR parts 1, 5, 6, 9, and 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).

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.404 [Amended]

2. Amend section 1.404 in paragraph (c) by removing “Associate” and adding “Assistant” in its place.

PART 5—PUBLICIZING CONTRACT ACTIONS

5.207 [Amended]

3. Amend section 5.207(c)(4) in paragraph 6. of “Format Item and Explanation/Description of Entry” by removing “5.207(g)” and adding “5.207(h)” in its place.

PART 6—COMPETITION REQUIREMENTS

6.302-5 [Amended]

4. Amend section 6.302-5 in paragraph (b)(2) by removing the word “Handicapped” and adding “Disabled” in its place.

PART 9—CONTRACTOR QUALIFICATIONS

9.104-3 [Amended]

5. Amend section 9.104-3 in paragraph (c) by removing “(see *Affiliates* and *Concerns* in 19.101)” and adding “(see *Concern* in 19.001 and *Affiliates* in 19.101)” in its place.

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

31.101 [Amended]

6. Amend section 31.101 in the next-to-the-last sentence by removing “Associate” and adding “Assistant” in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.219-19 [Amended]

7. Amend section 52.219-19 in the introductory text by removing “19.1007(a)” and adding “19.1008(a)” in its place.

52.219-20 [Amended]

8. Amend section 52.219-20 in the introductory text by removing “19.1007(b)” and adding “19.1008(b)” in its place.

[FR Doc. 02-5827 Filed 3-19-02; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Regulation; Small Entity Compliance Guide

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

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator for the National Aeronautics and Space Administration. This *Small Entity Compliance Guide* has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121). It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 2001-06 which amend the FAR. An asterisk (*) next to a rule indicates that a Regulatory Flexibility Analysis has been prepared in accordance with 5 U.S.C. 604. Interested parties may obtain further information regarding these rules by referring to FAC 2001-06 which precedes this document. These documents are also available via the Internet at <http://www.arnet.gov/far>.

FOR FURTHER INFORMATION CONTACT: Laurie Duarte, FAR Secretariat, (202) 501-4225. For clarification of content, contact the analyst whose name appears in the table below.

LIST OF RULES IN FAC 2001-06

| Item | Subject | FAR case | Analyst |
|------------|--|----------|------------|
| I | Commercial Items—Standard Form 1449 | 2000-012 | Moss. |
| II | Definitions for “Contract Action” and “Contracting Action” | 2000-402 | Moss. |
| III | Definitions for Sealed Bid and Negotiated Procurements | 2000-403 | DeStefano. |
| IV | Procurement Integrity Rewrite | 1998-024 | DeStefano. |
| V | Acquisition of Helium | 2000-008 | Nelson. |
| VI | HUBZone Program Applicability | 2001-003 | Cundiff. |
| VII | Application of Labor Clauses | 1999-612 | Nelson. |
| VIII | Technical Amendments. | | |

Item I—Commercial Items—SF 1449 (FAR Case 2000-012)

Standard Form 1449, Solicitation/Contract/Order for Commercial Items, is prescribed by the FAR for the acquisition of commercial items. This final rule makes several minor revisions

to the form, including the addition of a block to indicate that the acquisition is a HUBZone set-aside, the substitution of a NAICS code for the SIC code, the notation that award is made only on the offeror’s items specifically listed in block 29, and the addition of several

blocks in the area of the form used as a receiving report by the Government. All of the changes involve blocks that are completed by the Government.

Item II—Definitions for “Contract Action” and “Contracting Action” (FAR Case 2000–402)

This final rule amends the FAR to provide for consistent use of the term “contract action.” The rule changes the term “contracting action” to “contract action” throughout the FAR and makes other editorial changes to clarify the text.

Item III—Definitions for Sealed Bid and Negotiated Procurements (FAR Case 2000–403)

This final rule amends the FAR to clarify definitions that are used for sealed bid and negotiated procurements. The final rule—

- Moves the definitions of “bid sample” and “descriptive literature” from FAR Part 14 to FAR 2.101 because the definitions apply to more than one FAR part, *e.g.*, parts 14 and 15;
- Amends those definitions and the definition of “offer” in accordance with plain language guidelines;
- Revises applicable provisions in FAR Part 52 to conform with the new definitions;

- Adds a new definition for “solicitation” at FAR 2.101; and
- Provides definitions for “bid” and “bidder” in FAR Part 28 because, as used in that part, the terms address sealed bid and negotiated acquisitions.

The rule clarifies terminology used in FAR 15.201(f), 15.609(e), and 35.007(g). Where we mean an entity that is actively seeking a contract, we use the term “prospective offeror.” However, those cites describe processes that are set up to ensure fair and open competition. Therefore, any interested party is able to participate, including parties that the Government has not yet identified. Therefore, the rule uses the more general term “potential offeror.”

Item IV—Procurement Integrity Rewrite (FAR Case 1998–024)

This final rule amends FAR parts 2, 3, 4, 9, 15, and 52 to rewrite the procurement integrity coverage (the

implementation of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) (more commonly referred to as the Procurement Integrity Act)) in plain language.

FAR 3.104 implements prohibitions, restrictions, and other requirements of the Procurement Integrity Act that are placed on certain agency officials that participate in Federal agency procurements. However, other statutes and regulations also govern the conduct of Government employees. While specific guidance pertaining to the Procurement Integrity Act at FAR 3.104 does not implement these other statutes and regulations, the rule does add guidance to alert these agency officials that they should seek advice from agency ethics officials before engaging in certain activities that could have serious consequences, including criminal prosecution.

These revisions to FAR 3.104 do not change either the requirements of the Procurement Integrity Act or change, in any manner, who is covered by, or the activities covered in, Office of Government Ethics regulations interpreting conflict of interest statutes.

Item V—Acquisition of Helium (FAR Case 2000–008)

This final rule revises FAR Subpart 8.5 and the clause at 52.208–8 to implement the Department of the Interior final rule regarding helium contracts that was published in the **Federal Register** at 63 FR 66760, December 3, 1998. The final rule—

- Changes the definitions;
- Eliminates the requirement for certain contractors and subcontractors to submit helium forecasts; and
- Establishes the requirement that contractors and subcontractors under contracts with a major helium requirement must report purchases of helium from Federal helium suppliers.

Item VI—HUBZone Program Applicability (FAR Case 2001–003)

The HUBZone Act of 1997 expanded the applicability of the HUBZONE

Program to all agencies covered by the FAR after September 30, 2000, and is currently reflected in the FAR. This rule amends the FAR to simplify the existing language at FAR parts 12, 19, and 52.

Item VII—Application of Labor Clauses (FAR Case 1999–612)

This final rule affects all contracting officers who use the FAR. The rule—

- Moves the Prohibition of Segregated Facilities clause from the list at paragraph (b), to the list at paragraph (a), of the clause at 52.213–4 and clarifies the existing requirements of 41 CFR 60–1.8, promulgated by the Department of Labor under E.O. 11246. The Prohibition of Segregated Facilities clause must be included in contracts whenever the Equal Opportunity clause (FAR 52.222–26) is included.

- Moves the Equal Opportunity clause from the list at paragraph (b), to the list at paragraph (a), of the clause at 52.213–4 because the clause must be included in almost all contracts, even those under \$10,000, in accordance with the requirements at FAR 22.802(a)(1) and 22.807(b). Even though included, the clause is inapplicable unless the aggregate value of contracts and subcontracts awarded to the contractor exceeds \$10,000 in a year.

- Makes other revisions to the clause at FAR 52.222–26, Equal Opportunity, to include a definition of “United States” and incorporate the exception for work performed outside the United States.

Item VIII—Technical Amendments

These amendments update sections and make editorial changes at FAR 1.404, 5.207, 6.302–5, 9.104–3, 31.101, 52.219–19, and 52.219–20.

Dated: March 6, 2002.

Al Matera,

Director, Acquisition Policy Division.

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