

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 15

[FAR Case 2002-027]

RIN 9000-AJ66

Federal Acquisition Regulation; Unsolicited Proposals

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to implement Section 834 of the Homeland Security Act of 2002 (Public Law 107-296). Section 834 adds new considerations concerning the submission, receipt, evaluation, and acceptance or rejection of unsolicited proposals.

DATES: Interested parties should submit comments in writing on or before August 4, 2003, to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to—General Services Administration, FAR Secretariat (MVA), 1800 F Street, NW., Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to—farcase.2002-027@gsa.gov. Please submit comments only and cite FAR case 2002-027 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, at (202) 501-4755 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Ralph De Stefano, Procurement Analyst, at (202) 501-1758. Please cite FAR case 2002-027.

SUPPLEMENTARY INFORMATION:

A. Background

The rule amends the FAR to implement section 834 of the Homeland Security Act of 2002 (Pub. L. 107-296). Section 834 adds new considerations concerning the submission, receipt, evaluation, and acceptance or rejection of unsolicited proposals. The rule will require that a valid unsolicited proposal not address a previously published agency requirement. It also requires that, before initiating a comprehensive evaluation, the agency must determine that the proposal contains sufficient cost-related or price-related information for evaluation, and that it has overall scientific, technical, or socioeconomic merit.

This is not a significant regulatory action and, therefore, was not subject to 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 do not expect this proposed rule to 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, while we have made changes in accordance with plain language guidelines, we have not substantively changed procedures for award and administration of contracts. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Part 15 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. (FAR case 2002-027), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed 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 15

Government procurement.

Dated: May 29, 2003

Laura G. Smith,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose amending 48 CFR part 15 as set forth below:

PART 15—CONTRACTING BY NEGOTIATION

1. The authority citation for 48 CFR part 15 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Amend section 15.603 by removing “and” from the end of paragraph (c)(4); removing the period from the end of paragraph (c)(5) and adding “; and” in its place; and adding a new paragraph (c)(6) to read as follows:

15.603 General.

* * * * *

(c) * * *

(6) Not address a previously published agency requirement.

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3. In section 15.606-1, amend paragraph (a) by—

a. Revising paragraph (a)(4);

b. Redesignating paragraphs (a)(5) and (a)(6) as (a)(6) and (a)(7), respectively; and

c. Adding a new paragraph (a)(5). The revised and added text reads as follows:

15.606-1 Receipt and initial review.

(a) * * *

(4) Contains sufficient technical information and cost-related or price-related information for evaluation;

(5) Has overall scientific, technical, or socioeconomic merit;

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