

positive benefit to small businesses. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. The Councils will consider comments from small entities concerning the affected FAR Parts 7, 11, 13, and 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. (FAC 2001-25, FAR case 2003-025), 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.

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because this statute requires that the FAR be amended no later than 180 days after enactment. The statute was enacted on November 24, 2003, which required amending the FAR by May 22, 2004. However, pursuant to Public Law 98-577 and FAR 1.501, the Councils will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Parts 7, 11, 13, and 15

Government procurement.

Dated: September 28, 2004.

Ralph J. De Stefano,

Acting Director, Contract Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 7, 11, 13, and 15 as set forth below:

1. The authority citation for 48 CFR parts 7, 11, 13, and 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).

PART 7—ACQUISITION PLANNING

2. Add section 7.108 to read as follows:

7.108 Additional requirements for telecommuting.

In accordance with section 1428 of Public Law 108-136, an agency shall generally not discourage a contractor from allowing its employees to

telecommute in the performance of Government contracts. Therefore, agencies shall not—

(a) Include in a solicitation a requirement that prohibits an offeror from permitting its employees to telecommute unless the contracting officer first determines that the requirements of the agency, including security requirements, cannot be met if telecommuting is permitted. The contracting officer shall document the basis for the determination in writing and specify the prohibition in the solicitation; or

(b) When telecommuting is not prohibited, unfavorably evaluate an offer because it includes telecommuting, unless the contracting officer first determines that the requirements of the agency, including security requirements, would be adversely impacted if telecommuting is permitted. The contracting officer shall document the basis for the determination in writing and address the evaluation procedures in the solicitation.

PART 11—DESCRIBING AGENCY NEEDS

3. Amend section 11.002 by adding paragraph (g) to read as follows:

11.002 Policy.

* * * * *

(g) Agencies shall not include in a solicitation a requirement that prohibits an offeror from permitting its employees to telecommute unless the contracting officer executes a written determination in accordance with FAR 7.108(a).

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

4. Amend section 13.106-2 by redesignating paragraphs (b)(2) and (b)(3) as (b)(3) and (b)(4), respectively, and adding a new paragraph (b)(2) to read as follows:

13.106-2 Evaluation of quotations or offers.

* * * * *

(b) * * *

(2) If telecommuting is not prohibited, agencies shall not unfavorably evaluate an offer because it includes telecommuting unless the contracting officer executes a written determination in accordance with FAR 7.108(b).

* * * * *

PART 15—CONTRACTING BY NEGOTIATION

5. Amend section 15.304 by adding paragraph (c)(6) to read as follows:

15.304 Evaluation factors and significant subfactors.

* * * * *

(c) * * *

(6) If telecommuting is not prohibited, agencies shall not unfavorably evaluate an offer that includes telecommuting unless the contracting officer executes a written determination in accordance with FAR 7.108(b).

* * * * *

[FR Doc. 04-22246 Filed 10-4-04; 8:45 am]

BILLING CODE 6820-EP-S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 39

[FAC 2001-25; FAR Case 2004-020; Item IV]

RIN 9000-AK05

Federal Acquisition Regulations; Section 508 Micropurchase Exemption

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

ACTION: Interim rule with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to extend the micropurchase exemption for purchasing electronic and information technology (EIT) that conforms to the requirements of Section 508 of the Rehabilitation Act of 1973 from October 1, 2004, to April 1, 2005. No further extensions will be granted. The extension until April 1, 2005, will provide agencies time to update their purchase card training modules on the 508 requirements and train their personnel.

DATES: Effective Date: October 5, 2004.

Comment Date: Interested parties should submit comments to the FAR Secretariat at the address shown below on or before December 6, 2004 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAC 2001-25, FAR case 2004-020 by any of the following methods:

• Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

• Agency Web Site: <http://www.acqnet.gov/far/ProposedRules/proposed.htm>. Click on the FAR case number to submit comments.

• E-mail: farcase.2004-020@gsa.gov. Include FAC 2001-25, FAR case 2004-020 in the subject line of the message.

• Fax: 202-501-4067.

• Mail: General Services

Administration, Regulatory Secretariat (V), 1800 F Street, NW, Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Instructions: Please submit comments only and cite FAC 2001-25, FAR case 2004-020, in all correspondence related to this case. All comments received will be posted without change to <http://www.acqnet.gov/far/ProposedRules/proposed.htm>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat at (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 2001-25, FAR case 2004-020.

SUPPLEMENTARY INFORMATION:

A. Background

Section 508 of the Rehabilitation Act of 1973 requires that the Electronic and Information Technology (EIT) developed, procured, maintained, or used by the Federal Government provide individuals with disabilities access to and use of information and data that is comparable to the access and use of information and data by individuals without disabilities. The law was implemented first through standards developed by the Architectural and Transportation Barriers Compliance Board, ("Access Board") and then incorporated into the FAR.

Initially, the FAR exempted micropurchases from the 508 requirements until January 1, 2003. (See FAR Case 1999-607, 66 FR 20894, April 25, 2001.) The rule's preamble gave notice that the Government would revisit the issue prior to the sunset date. This deadline was extended (FAR Case 2002-012, 67 FR 80321, December 31, 2002 and 68 FR 43872, July 24, 2003) and is due to expire October 1, 2004.

The FAR Council is extending the micropurchase exception from October 1, 2004, to April 1, 2005, and no additional extensions will be granted. Agencies have had three years of experience with Section 508, and

industry continues to make investments in accessible technology to support the requirements. The extension until April 1, 2005, will provide agencies time to update their purchase card training modules on the 508 requirements and train their personnel. Free, online training developed by GSA, in collaboration with the Section 508 Executive Steering Committee, is available at <http://www.section508.gov>.

The FAR Council received public comments on the first extension to October 1, 2004. None of the comments received took issue with extending the micropurchase exemption. Extending the micropurchase exemption will not cause a significant impact on the disability community or industry.

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 interim rule is not expected 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 the proposed rule continues the status quo for another six months. When the FAR Council last extended the exception through October 1, 2004, none of the comments received took issue with extending the micropurchase exception. Also, extending the micropurchase exception will not cause a significant impact on the disability community or industry.

Therefore, an Initial Regulatory Flexibility Analysis has not been performed. The Councils will consider comments from small entities concerning the affected FAR Part 39 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 2001-25, FAR case 2004-020), 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.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator

of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because the rule extends an exception that would otherwise impose training burdens that the acquisition community may be challenged to meet by October 1, 2004. The extension until April 1, 2005, will provide agencies time to update their purchase card training modules on the 508 requirements and train their personnel. However, pursuant to Public Law 98-577 and FAR 1.501, the Councils will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Part 39

Government procurement.

Dated: September 28, 2004.

Ralph J. De Stefano,

Acting Director, Contract 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 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).

39.204 [Amended]

■ 2. Amend section 39.204 in the first sentence of paragraph (a) by removing "October 1, 2004" and adding "April 1, 2005" in its place.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 14 and 52

[FAC 2001-25; Item V]

Federal Acquisition Regulation; Technical Amendments

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

ACTION: Final rule.

SUMMARY: This document makes amendments to the Federal Acquisition Regulation (FAR) in order to make editorial changes.