

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 2, 5, and 7**

[FAR Case 2004-007]

RIN 9000-AK08

**Federal Acquisition Regulation;
Federal Technical Data Solution**

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 provide for the access and distribution of solicitation requirements or other documents (e.g., technical specifications, maps, building designs, schedules, etc.), when controls are necessary according to agency procedures, through the Federal Technical Data Solution (FedTeDS) website in lieu of the Governmentwide Point of Entry (GPE).

DATES: Interested parties should submit comments in writing on or before January 3, 2005 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAR case 2004-007 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.2004-007@gsa.gov. Include FAR case 2004-007 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 FAR case 2004-007 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 Mr. Gerald Zaffos, Procurement Analyst, at (202) 208-6091. Please cite FAR case 2004-007.

SUPPLEMENTARY INFORMATION:**A. Background**

Under current FAR regulations, contracting officers are required to use the Governmentwide Point of Entry (GPE) to publish information about proposed contract actions where the contract is estimated to be \$25,000 or more. FAR 5.102 encourages contracting officers to use the GPE to disseminate additional information related to solicitations, where practicable and cost-effective. However, as a freely accessible web site, the GPE is inappropriate for disseminating information that requires additional controls to monitor access and distribution (e.g., technical specifications, maps, building designs, schedules, etc.). One of the e-Government Integrated Acquisition Environment's (IAE) initiatives is to maximize efficiency, effectiveness, and security in the acquisition process through the use of internet-based technology. As part of the IAE, a secure solution (FedTeDS) has been developed for this purpose.

Agencies will still be required to synopsise and post their contracting opportunities at the Government Point of Entry, FedBizOpps. However, the agency should post information that requires additional controls to monitor access and distribution (e.g., technical specifications, maps, building designs, schedules, etc.), as determined by the agency, by providing a link from FedBizOpps to FedTeDS.

By clicking on the link, a vendor will be taken to FedTeDS. Once in FedTeDS, a vendor can either download a copy of the information or request it on a compact disc (CD) (if the contracting agency is making the information available in that medium). In order to download the information or request a CD, the vendor must be registered in both the Central Contractor Registration (CCR) and FedTeDS. To register in FedTeDS, a vendor must have the Marketing Partner Identification Number (MPIN) it created when registering in CCR. The MPIN, together with the vendor's CAGE number or DUNS number, is used to register and obtain a password in FedTeDS. Because the vendor defines it, the MPIN in combination with the CAGE or DUNS number provides a unique identifier for authenticating the individual obtaining

the information. A vendor user guide is available at <https://www.fedteds.gov/>.

Vendors that have already downloaded solicitations from FedBizOpps will receive an e-mail notification when new information becomes available in FedTeDS. They will then have to go to FedBizOpps to click on the appropriate link to FedTeDS. Vendors will only have access to documents related to information in FedTeDS through a link from FedBizOpps; there is no search capability within FedTeDS.

A feature of FedTeDS that is available to vendors is "See My Colleagues." This allows the vendor to see who has been using the same CAGE code or DUNS number, thereby helping to ensure that only authorized people have access.

For acquisitions that are exempt from posting in FedBizOpps, an agency can send specific vendors an email with a direct link to the information in FedTeDS. This allows an agency to avoid sending large attachments through an unsecured email system.

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 the rule does not impose any costs on either small or large businesses. 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 Parts 2, 5, and 7 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 2004-007), 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 Parts 2, 5, and 7

Government procurement.

Dated: October 22, 2004.

Laura Auletta,

Director, Contract Policy Division.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 2, 5, and 7 as set forth below:

1. The authority citation for 48 CFR parts 2, 5, and 7 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 2—DEFINITIONS OF WORDS AND TERMS

2. Amend section 2.101 in paragraph (b) by adding, in alphabetical order, the definition “Federal Technical Data Solution (FedTeDS)” to read as follows:

2.101 Definitions.

* * * * *

(b) * * *

Federal Technical Data Solution (FedTeDS) is a web application integrated with the Governmentwide Point of Entry (GPE) and the Central Contractor Registration (CCR) system for distribution of information related to contract opportunities. It is designed to enhance controls on the access and distribution of solicitation requirements or other documents when controls are necessary according to agency procedures. FedTeDS may be found on the Internet at <https://www.fedteds.gov>.

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PART 5—PUBLICIZING CONTRACT ACTIONS

3. Amend section 5.102 by revising paragraphs (a)(1) and (a)(2); by adding a new paragraph (a)(5); and by revising

the introductory text of paragraph (b) to read as follows:

5.102 Availability of solicitations.

(a)(1) Except as provided in paragraph (a)(4) of this section, the contracting officer must make available through the GPE solicitations synopsized through the GPE. The contracting officer must also make specifications, technical data, and other pertinent solicitation information available through the GPE, except as provided in paragraph (a)(5) of this section. Transmissions to the GPE must be in accordance with the interface description available via the Internet at <http://www.fedbizopps.gov>.

(2) The contracting officer is encouraged, when practicable and cost-effective, to make accessible through the GPE additional information related to a solicitation, except as provided in paragraph (a)(5) of this section.

* * * * *

(5) When a solicitation contains information that requires additional controls to monitor access and distribution (*e.g.*, technical specifications, maps, building designs, schedules, etc.), as determined by the agency, the information should be made available through the Federal Technical Data Solution (FedTeDS). When FedTeDS is used it must be used in conjunction with the GPE to meet the synopsis and advertising requirements of this part. Exceptions to posting on FedTeDS include—

- (i) Information that is classified; or
- (ii) Information that will be provided through alternative electronic means; or
- (iii) Information that, because of its nature (*e.g.*, size, format) it is not cost-

effective or practicable for contracting officers to make available through FedTeDS.

(b) When the contracting officer does not make a solicitation available through the GPE pursuant to paragraph (a)(4) of this section or when the contracting officer does not make information that requires additional controls to monitor access and distribution available through FedTeDS, pursuant to paragraph (a)(5) of this section, the contracting officer—

* * * * *

5.207 [Amended]

4. Amend section 5.207 in paragraph (c)(19) by removing “if any” and adding “such as FedTeDS (<https://www.fedteds.gov>)” in its place.

PART 7—ACQUISITION PLANS

5. Amend section 7.105 by adding a sentence to the end of paragraph (b)(15) to read as follows:

7.105 Contents of written acquisition plans.

* * * * *

(b) * * *

(15) * * * Indicate which information that requires additional controls to monitor access and distribution (*e.g.*, technical specifications, maps, building designs, schedules, etc.), as determined by the agency, is to be posted via the Federal Technical Data Solution (FedTeDS) (see 5.102(a)(5)).

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