

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 Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not 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 it will have a beneficial, but small, impact. Under the prior policy and clause, small businesses which failed to follow the fast payment clause instructions to mark the invoice "FAST PAY" had their invoices rejected, which means they would not be paid until they sent a corrected invoice. The clause revisions mean the invoices would not have to be automatically rejected. No comments were received from small entities or other members of the public.

## 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 Parts 52

Government procurement.

Dated: April 12, 2006.

Gerald Zaffos,

Director, Contract Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR part 52 as set forth below:

## PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 48 CFR part 52 continues 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 52.213–1 by revising the date of the clause and paragraphs (c)(1)(ii), (c)(3), and (e) to read as follows:

### 52.213–1 Fast Payment Procedure.

\* \* \* \* \*

### FAST PAYMENT PROCEDURE (APR 2006)

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(ii) Display prominently on the invoice "FAST PAY." Invoices not prominently marked "FAST PAY" via manual or electronic means may be accepted by the

payment office for fast payment. If the payment office declines to make fast payment, the Contractor shall be paid in accordance with procedures applicable to invoices to which the Fast Payment clause does not apply.

\* \* \* \* \*

(3) If this contract, order, or blanket purchase agreement requires the preparation of a receiving report, the Contractor shall either—

(i) Submit the receiving report on the prescribed form with the invoice; or

(ii) Include the following information on the invoice:

(A) Shipment number.

(B) Mode of shipment.

(C) At line item level—

(1) National stock number and/or manufacturer's part number;

(2) Unit of measure;

(3) Ship-To Point;

(4) Mark-For Point, if in the contract; and

(5) FEDSTRIP/MILSTRIP document number, if in the contract.

\* \* \* \* \*

(e) *Fast pay container identification.* The Contractor shall mark all outer shipping containers "FAST PAY." When outer shipping containers are not marked "FAST PAY," the payment office may make fast payment. If the payment office declines to make fast payment, the Contractor shall be paid in accordance with procedures applicable to invoices to which the Fast Payment clause does not apply.

(End of clause)

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Part 19

[FAC 2005–09; Item X; Docket FAR–2006–0021]

### Federal Acquisition Regulation; Technical Amendment

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

**ACTION:** Final rule.

**SUMMARY:** This document amends the Federal Acquisition Regulation (FAR) to make an editorial correction.

**DATES:** *Effective Date:* April 19, 2006.

**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. Please

cite FAC 2005–09, Technical Amendment.

## List of Subjects in 48 CFR Part 19

Government procurement.

Dated: April 12, 2006.

Gerald Zaffos,

Director, Contract Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR part 19 as set forth below:

## PART 19—SMALL BUSINESS PROGRAMS

■ 1. The authority citation for 48 CFR part 19 continues to read as follows:

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

### 19.1005 [Amended]

■ 2. Amend section 19.1005 in paragraph (a) in Item 3 of the NAICS Description by removing from the end of NAICS code entry "541310" the word "or".

[FR Doc. 06–3687 Filed 4–18–06; 8:45 am]

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Chapter 1

[Docket FAR–2006–0023]

### Federal Acquisition Regulation; Federal Acquisition Circular 2005–09; 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. It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 2005–09 which amend the FAR. An asterisk (\*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding these rules by referring to FAC

2005–09 which precedes this document. These documents are also available via the Internet at <http://www.acqnet.gov/far>.

**FOR FURTHER INFORMATION CONTACT:**  
Laurieann 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 2005–09

| Item       | Subject                                                                           | FAR case | FAR Analyst |
|------------|-----------------------------------------------------------------------------------|----------|-------------|
| I .....    | Federal Technical Data Solution (FedTeDS) .....                                   | 2004–007 | Zaffos.     |
| II .....   | Definition of Information Technology .....                                        | 2004–030 | Davis.      |
| III .....  | OMB Circular A–76 .....                                                           | 2004–021 | Zaffos.     |
| IV .....   | Combating Trafficking in Persons (Interim) .....                                  | 2005–012 | Clark.      |
| *V .....   | Confirmation of HUBZone Certification .....                                       | 2005–009 | Cundiff.    |
| *VI .....  | Expiration of the Price Evaluation Adjustment .....                               | 2005–002 | Cundiff.    |
| VII .....  | Removal of Sanctions Against Certain European Union Member States (Interim) ..... | 2005–045 | Clark.      |
| VIII ..... | Free Trade Agreements Morocco (Interim) .....                                     | 2006–001 | Clark.      |
| IX .....   | Fast Payment Procedures .....                                                     | 2004–031 | Olson.      |
| X .....    | Technical Amendment.                                                              |          |             |

#### SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments to these FAR cases, refer to the specific item number and subject set forth in the documents following these item summaries.

FAC 2005–09 amends the FAR as specified below:

#### Item I—Federal Technical Data Solution (FedTeDS) (FAR Case 2004–007)

This final rule amends the FAR to require contracting officers to make solicitation-related information that requires limited availability or distribution available to offerors electronically via the Federal Technical Data Solution (FedTeDS), unless certain exceptions apply. FedTeDS provides secure, user identification and password protected access to solicitation-related data that should not be made available to the public on the Governmentwide Point of Entry (GPE) website.

#### Item II—Definition of Information Technology (FAR Case 2004–030)

This final rule adopts without change the interim rule which amended FAR 2.101(b) by revising the definition for “information technology” to reflect changes to the definition resulting from the enactment of Public Law 108–199, Consolidated Appropriations Act, 2004. Section 535(b) of Division F of Public Law 108–199 permanently revises the term “information technology,” which is defined at 40 U.S.C. 11101, to add “analysis” and “evaluation” and to clarify the term “ancillary equipment.”

#### Item III—OMB Circular A–76 (FAR Case 2004–021)

This final rule amends FAR Subpart 7.3 to provide language that is consistent with OMB Circular A–76 (Revised), *Performance of Commercial*

*Activities*, dated May 29, 2003. In addition, it provides two new provisions that inform potential offerors of the procedures the Government will follow for streamlined and standard competitions, as they are defined in the Circular.

#### Item IV—Combating Trafficking in Persons (FAR Case 2005–012)

This interim rule amends FAR Parts 12, 22 and 52 to implement the Trafficking Victims Protection Reauthorization Act of 2003, as amended by the Trafficking Victims Protection Reauthorization Act of 2005. The statute (22 U.S.C. 7104(g)) requires that the contract contain a clause allowing the agency to terminate the contract without penalty if the contractor or subcontractor engage in severe forms of trafficking in persons or has procured a commercial sex act, or used forced labor in the performance of the contract. The interim rule applies to contractors awarded service contracts (other than commercial service contracts under Part 12). Such contractors must develop policies to combat trafficking in persons and notify the contracting officer immediately of any information it received from any source that alleges a contract employee has engaged in conduct that violates this policy, and any actions taken against the employee pursuant to the clause.

#### Item V—Confirmation of HUBZone Certification (FAR Case 2005–009)

The interim rule published at 70 FR 43581, July 27, 2005 is converted to a final rule without change. The interim rule amended FAR 19.703 and the clause at 52.219–9 to clarify that prime contractors must confirm that a subcontractor representing itself as a Historically Underutilized Business Zone (HUBZone) small business concern is certified, consistent with the

requirements of 15 U.S.C. 632 *et seq.*, as amended. This change is expected to increase subcontracting opportunities for certified HUBZone small business concerns and ensure accurate reporting of subcontract awards to HUBZone small business concerns under Government contracts.

#### Item VI—Expiration of the Price Evaluation Adjustment (FAR Case 2005–002)

This final rule adopts, without change, an interim rule that amended the FAR to cancel the authority for civilian agencies, other than NASA and the U.S. Coast Guard, to apply the price evaluation adjustment to certain small disadvantaged business concerns in competitive acquisitions. The change was required because the statutory authority for the adjustments had expired. As a result, certain small disadvantaged business concerns will no longer benefit from the adjustments. DoD, NASA, and the U.S. Coast Guard are authorized to continue applying the price evaluation adjustment.

#### Item VII—Removal of Sanctions Against Certain European Union Member States (FAR Case 2005–045)

This interim rule removes the sanctions in FAR Part 25 against Austria, Belgium, Denmark, Finland, France, Ireland, Italy, Luxembourg, the Netherlands, Sweden, and the United Kingdom on acquisitions not covered by the World Trade Organization Government Procurement Agreement (WTO GPA). These sanctions did not apply to small business set-asides, to acquisitions below the simplified acquisition threshold using simplified acquisition procedures, or to acquisitions by the Department of Defense. Contracting officers may now consider offers of end products,

services, and construction that were previously prohibited by the sanctions.

**Item VIII—Free Trade Agreements - Morocco (FAR Case 2006–001)**

This interim rule allows contracting officers to purchase the products of Morocco without application of the Buy American Act if the acquisition is subject to the Morocco Free Trade Agreement. The U.S. Trade Representative negotiated a Free Trade Agreement with Morocco, which went into effect January 1, 2006. This agreement joins the North American Free Trade Agreement (NAFTA) and the Australia, Chile, and Singapore Free

Trade Agreements which are already in the FAR. The threshold for applicability of the Morocco Free Trade Agreement is \$193,000 for supplies and services, \$7,407,000 for construction.

**Item IX—Fast Payment Procedures (FAR Case 2004–031)**

This amendment permits, but does not require, fast payment when invoices and/or outer shipping containers are not marked “Fast Pay”, provided the contract includes the “Fast Payment Procedure” clause. If the Fast Payment clause is in the contract, such unmarked invoices will no longer be rejected. Instead, they will be paid using either

fast payment or normal payment procedures. In addition, the revision deletes the requirement for marking invoices “No Receiving Report Prepared.”

**X—Technical Amendment**

An editorial change is made at FAR 19.1005(a) in Item 3 of the NAICS Description by removing from the end of NAICS code entry “541310” the word “or”.

Dated: April 12, 2006.

**Gerald Zaffos,**

*Director, Contract Policy Division.*

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