

pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501-4755. Please cite FAC 2005-27, FAR case 2006-014.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

This final rule amends the Federal Acquisition Regulation implementing amendments to the Robert T. Stafford Disaster Relief and Emergency Assistance Act at 42 U.S.C. 5150.

The Local Community Recovery Act of 2006 amended the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize set-asides for major disaster or emergency assistance acquisitions to businesses that reside or primarily do business in the geographic area affected by the disaster or emergency. DoD, GSA, and NASA published an interim rule in the **Federal Register** at 71 FR 44546, August 4, 2006, to implement this statutory amendment.

Subsequently, Section 694 of the Department of Homeland Security Appropriations Act of 2007, Pub. L. 109-295, amended the Robert T. Stafford Disaster Relief and Emergency Assistance Act to enact requirements for transitioning work under existing contracts. A second interim rule was published in the **Federal Register** at 72 FR 63084, November 7, 2007, to address this statutory amendment. The second interim rule addressed the public comments received on the first interim rule. There were no comments received on the second interim rule.

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 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.* The rule implements set-asides for local businesses in an area affected by a major disaster or emergency to promote economic recovery.

The set-aside does not replace the small business set-aside. Both set-asides can apply to an acquisition. The local set-aside encourages the use of local small businesses.

The rule also implements a new requirement that work performed under

contracts already in effect be transitioned to local area organizations, firms or individuals, unless the agency head determines it is not feasible or practicable. The Councils expect that more work will be transitioned to small businesses than away from them. The Government Accountability Office (GAO) report on Hurricane Katrina Small Business Contracts (GAO-07-205) found that businesses in the three states primarily affected by the hurricane received \$1.9 billion, which was 18 percent of the \$11.6 billion spent by DHS, GSA, DoD and the Army Corps of Engineers between August 1, 2005 and June 30, 2006. Small businesses received 66 percent of the \$1.9 billion awarded to those local businesses. The Councils believe this shows that small businesses would not be hurt by a local area set-aside.

##### 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 5, 6, 12, 18, 26, and 52

Government procurement.

Dated: September 9, 2008.

**Al Matera,**

*Director, Office of Acquisition Policy.*

■ Accordingly, under the authority of 40 U.S.C. 121, the interim rule published at 71 FR 44546, August 4, 2006, is adopted as a final rule, and the interim rule published at 72 FR 63084, November 7, 2007, is adopted as a final rule with the following change:

##### PART 26—OTHER SOCIOECONOMIC PROGRAMS

■ 1. The authority citation for 48 CFR part 26 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. Revise section 26.202-2 to read as follows.

##### 26.202-2 Evaluation preference.

The contracting officer may use an evaluation preference, when authorized in agency regulations or procedures.

[FR Doc. E8-21387 Filed 9-16-08; 8:45 am]

**BILLING CODE 6820-EP-S**

## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Part 6

[FAC 2005-27; FAR Case 2007-007; Item V; Docket 2008-001; Sequence 17]

RIN 9000-AL08

#### Federal Acquisition Regulation; FAR Case 2007-007, Additional Requirements for Competition Advocate Annual Reports

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

**ACTION:** Final rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to require that annual reviews by executive agency competition advocates be provided in writing to both the agency senior procurement executive and the agency chief acquisition officer, if designated, and that the reports specifically address the quality of planning, executing, and managing of task and delivery orders over \$1 million.

**DATES:** *Effective Date:* October 17, 2008.

**FOR FURTHER INFORMATION CONTACT** Mr. Ernest Woodson, Procurement Analyst, at (202) 501-3775 for clarification of content. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501-4755. Please cite FAC 2005-27, FAR case 2007-007.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

The Administrator of the Office of Federal Procurement Policy (OFPP) issued a memorandum dated May 31, 2007, entitled "Enhancing Competition in Federal Acquisition", to executive agency chief acquisition officers and senior procurement executives that outlined several initiatives for enhancing competition in Federal acquisition. The agency competition advocates are required to describe initiatives that ensure task and delivery orders over \$1,000,000 issued under multiple award contracts are properly planned, issued, and comply with 8.405 and 16.505 in a report to the agency senior procurement executive and the

agency chief acquisition officer. An attachment to the Administrator's May 31, 2007 memorandum entitled, *Enhancing Competition in Federal Acquisition*, contains a list of questions designed to assist competition advocates in assessing the quality of competitive practices at their agencies. The policy memorandum and attachment can be found at [http://www.whitehouse.gov/omb/procurement/comp\\_contracting/competition\\_memo\\_053107.pdf](http://www.whitehouse.gov/omb/procurement/comp_contracting/competition_memo_053107.pdf). This FAR case implements this policy change.

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 Regulatory Flexibility Act does not apply to this rule. This final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98-577, and publication for public comments is not required. However, the Councils will consider comments from small entities concerning the affected FAR Part 6 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 2005-27, FAR case 2007-007), 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.*

### List of Subjects in 48 CFR Part 6

Government procurement.

Dated: September 9, 2008.

Al Matera,

Director, Office of Acquisition Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR part 6 as set forth below:

### PART 6—COMPETITION REQUIREMENTS

1. The authority citation for 48 CFR part 6 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 6.502 by—

- a. Revising the introductory text of paragraphs (b)(1) and (b)(2);
- b. Removing from the end of the paragraph (b)(2)(v) the word “and”;
- c. Adding to the end of paragraph (b)(2)(vi) the word “and”;

d. Adding a new paragraph (b)(2)(vii); and

e. Revising paragraphs (b)(3) and (b)(4) to read as follows:

#### 6.502 Duties and Responsibilities.

\* \* \* \* \*

(b) \* \* \*

(1) Review the contracting operations of the agency and identify and report to the agency senior procurement executive and the chief acquisition officer—

\* \* \* \* \*

(2) Prepare and submit an annual report to the agency senior procurement executive and the chief acquisition officer in accordance with agency procedures, describing—

\* \* \* \* \*

(vii) Initiatives that ensure task and delivery orders over \$1,000,000 issued under multiple award contracts are properly planned, issued, and comply with 8.405 and 16.505.

(3) Recommend goals and plans for increasing competition on a fiscal year basis to the agency senior procurement executive and the chief acquisition officer; and

(4) Recommend to the agency senior procurement executive and the chief acquisition officer a system of personal and organizational accountability for competition, which may include the use of recognition and awards to motivate program managers, contracting officers, and others in authority to promote competition in acquisition.

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 12, 13, 32, 33, 36, 42, and 52

[FAC 2005-27; FAR Case 2005-018; Item Vi; Docket 2006-0020; Sequence 11]

RIN 9000-AK59

#### Federal Acquisition Regulation; FAR Case 2005-018, Contract Debts

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

**ACTION:** Final rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense

Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to revise the policies and procedures for contract debts.

**DATES:** *Effective Date:* October 17, 2008

**FOR FURTHER INFORMATION CONTACT:** Ms. Meredith Murphy, Procurement Analyst, at (202) 208-6925 for clarification of content. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501-4755. Please cite FAC 2005-27, FAR case 2005-018.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

In 2003, the DoD Comptroller established the DoD Accounts Receivable Workgroup to evaluate the processes and procedures for reporting accounts receivables. This Workgroup concluded that contracting officers may not be properly reporting contract debts. Based on the Workgroup's recommendations, DoD established a Contract Debt Integrated Process Team (IPT).

The mission of the IPT was to evaluate the adequacy of DoD's existing controls and procedures for ensuring that contract debts are identified and recovered in a timely manner, properly accounted for in DoD's books and records, and properly coordinated with the appropriate Government officials. Contract debts result from compliance, or a failure to comply, with the terms of a contract and include debts identified by auditors, contracting officers, disbursing officials, and contractors. On May 26, 2005, a final report was issued that included a number of recommended FAR changes to improve contract debt controls and procedures, and to ensure consistency within/between existing regulations.

The Councils established this case to evaluate the DoD recommendations and apply them, where appropriate, Governmentwide. The rule makes the following changes:

1. *Reorganizes FAR 32.6.* Reorganizes FAR 32.6 to add clarity and provide a logical sequence. The section has been reorganized as follows:

- 32.600—Scope of subpart.
- 32.601—General.
- 32.602—Responsibilities.
- 32.603—Debt determination.
- 32.604—Demand for payment.
- 32.605—Final decisions.
- 32.606—Debt collection.
- 32.607—Installment payments and deferment of collection.
- 32.608—Interest.
- 32.609—Delays in receipt of notices or demands.