

the Commission determines that reporting is required, it will seek comment from the OMB and interested parties prior to any such requirements taking effect. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, we will seek specific comment on how we might “further reduce the information collection burden for small business concerns with fewer than 25 employees.” Nevertheless, interested parties are encouraged to comment on whether any new or revised information collection is necessary, and if so, how the Commission might minimize the burden of any such collection.

C. Ex Parte Presentations

69. These matters shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented is generally required. Other requirements pertaining to oral and written presentations are set forth in § 1.1206(b) of the Commission’s rules.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 24

[FAR Case 2009-004; Docket 2010-0089,
Sequence 1]

RIN 9000-AL59

Federal Acquisition Regulation: FAR Case 2009-004, Enhancing Contract Transparency

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

ACTION: Advance notice of proposed
rulemaking.

SUMMARY: The Civilian Agency
Acquisition Council and the Defense

Acquisition Regulations Council (Councils) are seeking information that will assist in determining how best to amend the Federal Acquisition Regulation (FAR) to enable public posting of contract actions, should such posting become a requirement in the future, without compromising contractors’ proprietary and confidential commercial or financial information. This transparency effort is intended to promote efficiency in Government contracting through an open acquisition process and improve Federal spending accountability consistent with the Administration’s memorandum entitled *Transparency and Open Government* (January 21, 2009) (Published in the **Federal Register** at 74 FR 4685, January 26, 2009).

DATES: Interested parties should submit written comments to the Regulatory Secretariat at the address shown below on or before July 12, 2010 to be considered in the formation of a proposed rule.

ADDRESSES: Submit comments identified by FAR Case 2009-004, by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by inputting “FAR Case 2009-004” under the heading “Comment or Submission.” Select the link “Send a Comment or Submission” that corresponds with FAR Case 2009-004. Follow the instructions provided to complete the “Public Comment and Submission Form.” Please include your name, company name (if any), and “FAR Case 2009-004” on your attached document.
- *Fax:* 202-501-4067.
- *Mail:* General Services Administration, FAR Secretariat (MVCB), 1800 F Street, NW., Room 4041, Attn: Hada Flowers, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR Case 2009-004 in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Jackson, Procurement Analyst, at (202) 208-4949 for clarification of content. The FAR Secretariat at (202) 501-4755 for information pertaining to status or publication schedules. Please cite FAR case 2009-004.

SUPPLEMENTARY INFORMATION:

The Councils anticipate that, in the future, a requirement to post on-line the text of contracts and task and delivery orders will be instituted. See generally

Presidential Memorandum entitled *Freedom of Information Act* (January 21, 2009) (Published in the **Federal Register** at 74 FR 4683, January 26, 2009); Presidential Memorandum entitled *Transparency and Open Government* (January 21, 2009) (Published in the **Federal Register** at 74 FR 4685, January 26, 2009); Attorney General Memorandum entitled *Freedom of Information Act* (March 19, 2009); Office of Science and Technology Policy Notice, *Transparency and Open Government* (Published in the **Federal Register** at 74 FR 23901, May 21, 2009); OMB memorandum entitled *Open Government Directive* (M-10-06, December 8, 2009). In support of this anticipated requirement, the Councils are considering how best to revise the FAR to facilitate such posting without violating statutory and regulatory prohibitions against disclosing protected information belonging to the Government or contractors.

The Councils are particularly interested in suggestions that will facilitate uniform, consistent processing methods that are fair and equitable as well as cost effective and efficient, while at the same time simplifying access to acquisitions once posted. The Councils are mindful of the need to protect the Government’s classified information in accordance with the National Industrial Security Program Operating Manual (NISPO) (DoD 5220.22-M) and the Industrial Security Regulation (DoD 5220.22-R) (*see* FAR Subpart 4.4) and the protections afforded contractor information under the Freedom of Information Act (FOIA) (5 U.S.C. 552) procedures (*see* FAR Subpart 24.2 and E.O. 12600). The Councils are also mindful of the FAR section which already addresses the marking of contractor information (*see* FAR 3.104-4).

It may not be practical to apply FOIA procedures before posting in every case. The Councils are looking into methods for identifying the types of information that should not be posted or released to the public, as well as means for electronic processing and posting, and development of provision or clause requirements for successful offerors to provide a redacted copy of the contract. The Councils are also requesting suggestions for how best to protect the types of information through redacting, locating all such information in a standard place in the contract, or other possible methods to be considered.

Respondents are encouraged to address the benefits of this transparency effort as well as possible impacts on offerors’ and the Government’s business systems, dollar thresholds for

application, and other cost impacts, especially on proposal preparation. Also, written responses to this notice should address whether a public meeting on this topic would be beneficial and, if so, what issues should be addressed.

This is a significant regulatory action and, therefore, was 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.

List of Subjects in 48 CFR Part 24

Government procurement.

Dated: May 7, 2010.

Edward Loeb,

Acting Director, Acquisition Policy Division.

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