

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES  
ADMINISTRATION**

**NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION**

**48 CFR Part 9**

[FAR Case 95-007]

RIN 9000-AG66

**Federal Acquisition Regulation;  
Responsibility Determinations**

**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 are proposing to amend the Federal Acquisition Regulation (FAR) to emphasize the use of commercial sources of information in determining the responsibility of prospective contractors. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

**DATES:** Comments should be submitted on or before January 2, 1996 to be considered in the formulation of a final rule.

**ADDRESSES:** Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4037, Washington, DC 20405. Please cite FAR case 95-007 in all correspondence related to this case.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ralph DeStefano at (202) 501-1758 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405, (202) 501-4755. Please cite FAR case 95-007.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

This proposed rule implements a recommendation of the Department of Defense Procurement Process Reform Process Action Team. The rule revises FAR Subpart 9.1, Responsible Prospective Contractors, to state that contracting officers should use commercial sources of supplier information in making determinations of responsibility, and to clarify that preaward surveys should be requested only if sufficient relevant information from other sources, including commercial sources, is unavailable.

**B. Regulatory Flexibility Act**

This proposed 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 rule merely clarifies that commercial sources of information should be used in determining the responsibility of prospective contractors. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610 of the Act. Such comments must be submitted separately and should cite 5 U.S.C. 601 *et seq.* (FAR case 95-007), in correspondence.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which 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 9

Government procurement.

Dated: October 30, 1995.  
C. Allen Olson,  
*Director, Office of Federal Acquisition Policy.*

Therefore, it is proposed that 48 CFR Part 9 be amended as set forth below:

1. The authority citation for 48 CFR Part 9 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

**PART 9—CONTRACTOR  
QUALIFICATIONS**

2. Section 9.105-1 is amended in the introductory text of paragraph (c) by removing the parenthetical "(See 48 CFR Part 42, Subpart 42.15)"; by redesignating paragraphs (c)(4) through (c)(6) as (c)(5) through (c)(7), and adding a new paragraph (c)(4).

**9.105-1 Obtaining information.**

\* \* \* \* \*  
(c) \* \* \*

(4) Commercial sources of supplier information of a type offered to buyers in the private sector (for example, supplier performance and evaluation reports by Dun & Bradstreet Information Services, Standard & Poors, Moody Industrials, or similar sources).

\* \* \* \* \*

3. Section 9.106-1 is amended by revising paragraph (a) to read as follows:

**9.106-1 Conditions for preaward surveys.**

(a) A preaward survey is normally required only when the information on hand or readily available to the contracting officer, including information from commercial sources, is not sufficient to make a determination regarding responsibility. In addition, if the contemplated contract (1) will be for \$25,000 or less or (2) will have a fixed price of less than \$100,000 and will involve commercial products (see 11.001) only, the contracting officer should not request a preaward survey unless circumstances justify its cost.

\* \* \* \* \*

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