

to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids EPA from basing its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2). The Office of Management and Budget has exempted this action from review under Executive Order 12866.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 8, 1996. Filing a petition for reconsideration of this final rule by the Regional Administrator does not affect the finality of this rule for purposes of judicial review; nor does it extend the time within which a petition for judicial review may be filed, or postpone the effectiveness of this rule. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

B. Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this SIP or plan revision approved in this action, the State and any affected local or tribal governments have elected to adopt the program provided for under section 175A of the Clean Air Act. The rules and commitments approved in this action may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules and commitments being approved by this action will impose or lead to the imposition of any mandate upon the State, local, or tribal governments, either as the owner or operator of a source or as a regulator, or would impose or lead to the imposition of any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these requirements under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Therefore, EPA has determined that this final action does not include a mandate that may

result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

C. Procedural Information

This action has been classified as a Table Three action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995, memorandum from May Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

D. Executive Order 12866

Under Executive Order 12866 [58 FR 51735 (October 4, 1993)], the EPA must determine whether the regulatory action is "significant", and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866, and is therefore not subject to OMB review.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Environmental protection, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Transportation conformity, Transportation-air quality planning, Volatile organic compounds.

Dated: October 20, 1995.

A. Stanley Meiburg,
Acting Regional Administrator.

Title 40, part 52, of the Code of Federal Regulations is amended to read as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart SS—Texas

2. Section 52.2270 is amended by adding paragraph (c)(96) to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(96) A revision to the Texas State Implementation Plan for Transportation Conformity: Regulation 30 TAC Chapter 114 "Control of Air Pollution from Motor Vehicles", Section 114.27 "Transportation Conformity" as adopted

by the Texas Natural Resource Conservation Commission (TNRCC) on October 19, 1994, was submitted by the Governor on November 6, 1994. No action is taken on a portion of 30 TAC 114.27(c) that contains provisions of 40 CFR 51.448.

(i) Incorporation by reference.

(A) The TNRCC 30 TAC Chapter 114 "Control of Air Pollution from Motor Vehicles", 114.27 "Transportation Conformity" as adopted by the TNRCC on October 19, 1994. No action is taken on a portion of 30 TAC 114.27(c) that contains provisions of 40 CFR 51.448.

(B) TNRCC order No. 94-40 as passed and approved on October 12, 1994.

(ii) Additional material. None.

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GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-41

[FPMR Amendment G-110]

RIN 3090-AF53

Use of Cash To Procure Official Passenger Transportation Services

AGENCY: Federal Supply Service, GSA.
ACTION: Final rule.

SUMMARY: This regulation amends the Federal Property Management Regulations (FPMR) to grant agency heads or their designated representatives authority to approve all cash purchases of passenger transportation services. Although agency heads or their designated representatives currently have permanent authority to approve emergency cash purchases, their authority to approve nonemergency cash purchases of transportation services in excess of \$100 was temporary and expired on July 31, 1995 (see FPMR Temporary Regulation G-57, Supp. 1). This amendment gives agencies permanent authority to approve all cash purchases of passenger transportation services.

EFFECTIVE DATE: August 1, 1995.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Policy, Procedures, and Liaison Branch, Office of Transportation Audits (202-219-3164).

SUPPLEMENTARY INFORMATION: FPMR Temporary Regulation G-57, published in the Federal Register on July 26, 1993 (58 FR 39664), invited agency comments through December 31, 1993, concerning the revised cash policy. Comments were

received from one Federal agency which asked that GSA clarify the policy in §§ 101-41.203-1 and 101-41.203-2(d) by indicating the limitations to be applied against a traveler for purchasing transportation tickets from other than a carrier or Travel Management Center (TMC) under GSA contract. This agency also suggested that the cash limit be raised from \$100 to \$300.

The Federal Travel Regulation contains in 41 CFR Part 301-15 the general policy regarding use of travel agents and TMC's by Federal executive agencies and specifies in § 301-3.4 when a one-time exception may be granted, the reimbursement amount allowed, and when reimbursement denial is appropriate. We believe incorporation of this policy by reference in § 101-41.203-1 is sufficient and that verbatim repetition is not needed.

Additionally, we are concerned that raising the cash limit would increase the likelihood of more travelers using cash to avoid use of contract fares, make audit of passenger transportation costs impracticable, and conflict with the Government's overall policy of reducing the use of cash. For these reasons, we have determined that it would not be prudent to raise the cash limit. Agencies should be mindful that a cash purchase which exceeds the established limit should be the occasional exception and not the standard.

The General Services Administration (GSA) has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, it is determined that this rule will not have a significant economic impact on a substantial number of small entities. Therefore, no regulatory flexibility analysis has been prepared.

The reporting forms required by this regulation are not subject to the provisions of Pub. L. 96-511, the Paperwork Reduction Act of 1980, and Subpart 201-45.6 of this title.

List of Subjects in 41 CFR Part 101-41

Accounting, Air carriers, Claims, Maritime carriers, Passenger services, Railroads, Transportation.

For the reasons set out in the preamble, 41 CFR Part 101-41 is amended as follows:

PART 101-41—TRANSPORTATION DOCUMENTATION AND AUDIT

1. The authority citation for Part 101-41 continues to read as follows:

Authority: 31 U.S.C. 3726 and 40 U.S.C. 486(c).

Subpart 101-41.2—Passenger Transportation Services Furnished for the Account of the United States

2. Section 101-41.203-1 is amended by revising the heading and paragraph (a) to read as follows:

§ 101-41.203-1 Procurement from carriers.

(a) All passenger transportation services shall be procured with a GTR, Government contractor-issued charge card, or centrally billed account unless otherwise provided in § 101-41.203-2 of this subpart. Agency heads or their designees may specify which of these Government-provided methods of payment, or combination thereof, travelers will use to procure official passenger transportation services. Such services, regardless of the procurement method specified by the agency, must be procured directly from either a carrier or a travel agent. A travel agent may be used only as prescribed in the Federal Travel Regulation (FTR), 41 CFR chapters 301-304 or applicable regulations of the Department of Defense (DOD).

* * * * *

3. Section 101-41.203-2 is revised to read as follows:

§ 101-41.203-2 Use of cash.

(a) A GTR or Government excess baggage authorization ticket (GEBAT) shall not be used to procure passenger transportation services costing \$10 or less, exclusive of Federal transportation tax, and to pay air excess baggage charges of \$15 or less for each leg of a trip (see § 101-41.203-6), unless special circumstances justify their use. The contractor-issued charge card or centrally billed account shall be used for these purchases when practical. When not practical, use of cash may be authorized or approved. To procure passenger transportation services costing more than \$10 but not more than \$100, exclusive of Federal transportation tax, the GTR, Government contractor-issued charge card, or centrally billed account shall be used. Cash may be used for these purchases only when none of the other procurement methods is practical. For passenger transportation services costing more than \$100, excluding Federal transportation tax, only a GTR, Government contractor-issued charge card, or centrally billed account may be used unless otherwise exempted in this subpart.

(1) When the use of cash is authorized to purchase the services set forth in paragraph (a) of this section, cash payment may be made with a travel

advance in accordance with provisions of the FTR (41 CFR 301-10.3).

(2) Any credit card, other than the Government contractor-issued charge card, and all travelers checks shall be considered the equivalent of cash and subject to the \$100 limitation provided in paragraph (a) of this section.

(Note—To protect the integrity of the Government charge card program designed for payment of allowable travel and transportation expenses incurred in connection with official travel, travelers shall be discouraged from using personal credit cards.)

(3) Procurement of passenger transportation services under the group or charter provisions of the FTR (41 CFR 301-3.4(b)(2)) is not subject to the provisions of this subpart.

(4) Authorization under paragraph (b) of this section to use cash in excess of \$100 should be obtained prior to travel. In the absence of advance written authorization or approval, passenger transportation services exceeding \$100 shall be purchased in accordance with policies and procedures prescribed in applicable Government travel regulations. It is a traveler's responsibility to know that use of a GTR, Government contractor-issued charge card, or centrally billed account may be required to obtain certain discount fares and to comply with the mandatory provisions of the FTR governing the use of contract airline service. Cash shall not be used to circumvent the regulations governing airline contracts.

(b) Cash purchases of transportation services in excess of \$100 shall be discouraged and each agency shall establish procedures to encourage Federal travelers to use a Government contractor-issued charge card, centrally billed account, or GTR instead of cash to purchase passenger transportation services. Agencies shall monitor and control cash purchases of transportation services in a manner that will ensure such purchases are kept to a minimum.

(1) When a Federal traveler does not use a GTR, Government contractor-issued charge card, or centrally billed account, heads of agencies, or their designated representatives, may in limited instances authorize travelers to exceed the \$100 limitation when procuring passenger transportation services.

(i) Each agency shall establish guidelines for approval of cash purchases in excess of \$100 and determine if the use of cash is due to:

(A) emergency circumstances (where use of a GTR, Government contractor-issued charge card, or centrally billed account was not possible); or

(B) agency failure to advise a new employee and/or invited or infrequent traveler of proper procedures for purchasing transportation services.

(ii) If a cash purchase is determined to have been made under a nonemergency circumstance, reimbursement shall not exceed the cost which would have been properly chargeable to the Government if the transportation services had been procured using one of the Government-provided methods of procurement. Should a Federal employee make cash purchases without just cause or deliberately attempt to circumvent use of GSA air or rail service programs for personal convenience or some other reason not consistent with sound travel management practices, the agency may, as provided in 31 U.S.C. 3702, send all documents related to the travel to the Comptroller General, General Accounting Office, Claims Section, Washington, DC 20548, for a decision on the traveler's right to reimbursement.

(2) Delegation of authority for authorizing and approving the use of cash in excess of \$100 for the procurement of transportation services shall be held to as high an administrative level as practicable to ensure adequate consideration and review of the circumstances. Any such delegation shall be made in writing and copies shall be retained to permit monitoring of the system. The agency shall make delegation of authority records available for examination by GSA auditors.

(3) To justify the use of cash in excess of \$100 when procuring passenger transportation services, both the agency head, or the designated representative, and the traveler shall certify on the travel voucher the necessity for such use.

(4) After a traveler has been reimbursed for a cash purchase, copies of travel authorizations, ticket coupons, and any ticket refund applications, or SF's 1170, Redemption of Unused Tickets, shall be forwarded for audit to the General Services Administration, Transportation Audit Division (FWA), Attention: Code E, Washington, DC 20405.

(5) The agency shall maintain travel vouchers and make them available for site audit by GSA auditors. General Records Schedule 9, Travel and Transportation Records (see 36 CFR 1228.22), provides instructions for the disposal of travel vouchers.

(c) GSA (FWA) will report to the appropriate military or civilian agency travel manager for appropriate action suspected travel management errors

and/or misroutings which result in higher travel costs to the Government.

(d) A traveler who uses cash to purchase individual passenger transportation services shall procure such services directly from the carrier or from a travel agent under GSA or DOD contract (see § 101-41.203-1), and shall account for those expenses on their travel vouchers, furnishing passenger coupons or other evidence as appropriate in support thereof. Moreover, travelers shall assign to the Government the right to recover any excess payments involving carriers' use of improper rates. That assignment must be preprinted or otherwise annotated on the travel voucher and shall be initialed by the traveler.

(e) Travelers using cash to procure passenger transportation services shall be made aware by their employing agencies of the provisions of § 101-41.209-4 concerning a carrier's liability for liquidated damages because of failure to provide confirmed reserved space. Also, travelers using cash shall adhere to the regulations of the General Accounting Office (4 CFR 52.2) regarding the use of U.S.-flag vessels and air carriers (see § 101-41.203-1(b)).

Appendix to Subchapter G [Amended]

4. The appendix to subchapter G is amended by removing FPMR Temp. Reg. G-57 and G-57 Supp. 1.

Dated: October 26, 1995.

Roger W. Johnson,

Administrator of General Services.

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41 CFR Part 201-39

RIN 3090-AF57

Amendment of FIRMR Provisions to Provide For Multi-Agency Use of Contracts For Federal Information Processing (FIP) Resources

AGENCY: Information Technology Service, GSA.

ACTION: Final rule.

SUMMARY: This document amends Federal Information Resources Management Regulation (FIRMR) provisions to provide for multi-agency use of contracts for FIP resources, and address the applicability of Federal Acquisition Regulation (FAR) subpart 17.5 when one agency acquires FIP resources through another agency's contract which has been awarded pursuant to a delegation of procurement authority from GSA under the Brooks Act.

DATES: This rule is effective December 8, 1995.

FOR FURTHER INFORMATION CONTACT: Judy Steele, GSA/KAR at (202) 501-3194 (v) or (202) 501-0657 (tdd).

SUPPLEMENTARY INFORMATION: (1) A notice of proposed rulemaking (NPR) was published in the Federal Register on December 7, 1993, clarifying requirements when one agency acquires FIP resources through another agency's contract. All comments were considered, and, where possible, incorporated into the final rule.

(2) A significant concern of some commenters was that the proposed rule did not sufficiently address the relationship of the Economy Act to the Brooks Act when an agency acquires FIP resources through another agency's contract and transfers associated funds. When one agency uses another agency's contract, statutory authority must exist for use of the contract and for a related transfer of funds. One authority is the Economy Act (31 U.S.C. 1535). If the Economy Act is used, agencies must comply with implementing provisions in FAR subpart 17.5. Agencies may use the Brooks Act (40 U.S.C. 759) as the statutory authority for Federal interagency agreements for goods and services within the scope of the Brooks Act. The Brooks Act provides GSA authority independent of the Economy Act to procure, lease or transfer FIP resources for Federal agencies. By its terms, GSA's procurement authority under the Brooks Act can be delegated to other agencies. If the Brooks Act applies, the Economy Act provisions under 31 U.S.C. 1535 do not apply. When agencies comply with the policies and procedures established in this amendment in acquiring FIP resources, they are acting under GSA's delegated Brooks Act authority. Therefore, a related transfer of funds when using contracts that are made available by GSA for use on a Governmentwide basis may be made without regard to the Economy Act. However, the timing of obligations is governed by various authorities, the terms of the appropriating act itself, legislation authorizing the appropriation, the organic or enabling legislation which prescribes a function or creates a program with the appropriated funds, statutory provisions that allow or prohibit use of appropriated funds, and general rules that have been developed through the Comptroller General and the courts. If an agency uses the Brooks Act as authority for a transfer of funds for FIP resources, a binding agreement between the agency providing the funds and the agency that will issue an order