

to subjects would alert those individuals to the fact that the OTS or another law enforcement authority is conducting an investigation or inquiry into their activities, and such accountings could reveal the geographic location of the investigation or inquiry, the nature and purpose of the investigation or inquiry and the nature of the information disclosed, and dates on which that investigation or inquiry was active. Subjects possessing such knowledge would thereby be able to take appropriate measures to avoid detection or apprehension by altering their operations, transferring their activities to other locations or destroying or concealing evidence which would form the basis for prosecution or the imposition of civil sanctions.

(e) 5 U.S.C. 552a(e)(1) requires that an agency maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The term "maintain" as defined in 5 U.S.C. 552a(a)(3) includes "collect" and "disseminate." At the time that information is collected by the OTS there is often insufficient time to determine whether the information is relevant and necessary to accomplish a purpose of the OTS; in many cases information collected may not be immediately susceptible to a determination of whether the information is relevant and necessary, particularly in the early stages of investigation or inquiry; and in many cases information which initially appears to be irrelevant and unnecessary may, upon further evaluation or upon continuation of the investigation or inquiry, prove to have particular relevance to an enforcement program of the OTS. Further, not all violations of law uncovered during an OTS investigation or inquiry fall within the jurisdiction of the OTS; in order to promote effective law enforcement it often becomes necessary and desirable to disseminate information pertaining to such violations to other law enforcement agencies which have jurisdiction over the offense to which the information relates. The OTS therefore believes that it is appropriate to exempt the above-listed systems of records from provisions of 5 U.S.C. 552a(e)(1).

Dated: September 20, 1995.

Jonathan L. Fiechter,
Acting Director.

Dated: December 5, 1995.

Alex Rodriquez,
Deputy Assistant Secretary (Administration).
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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1253

RIN 3095-AA64

Location of Records and Hours of Use; Suitland Research Room

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule; confirmation of interim final rule.

SUMMARY: The National Archives and Records Administration (NARA) is adopting as a final rule the interim final rule on NARA location of records and hours of use. The interim rule modified research room hours at the Suitland research room to end Saturday hours and updated addresses and hours of use of NARA facilities outside the Washington, DC area. This final rule corrects the extended ZIP codes of several addresses updated in the interim rule. This rule affects Federal agencies and members of the public who perform research in NARA facilities.

DATES: The effective date of this rule is September 9, 1995.

FOR FURTHER INFORMATION CONTACT: Mary Ann Hadyka or Nancy Allard on (301) 713-6730.

SUPPLEMENTARY INFORMATION: On August 8, 1995, NARA issued an interim final rule (60 FR 40416). The effective date of the interim final rule was September 9, 1995. No comments were received during the 60-day comment period provided by the interim rule; however, several addresses in the interim rule require minor corrections. No changes have been made to the research room hours published in the interim rule.

This rule is not a significant regulatory action for purposes of Executive Order 12866 of September 30, 1993, and has not been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small entities.

List of Subjects in 36 CFR Part 1253

Archives and records.

Accordingly, the interim final rule amending 36 CFR part 1253 which was published at 60 FR 40416 on August 8, 1995, is adopted as a final rule with the following changes:

PART 1253—LOCATION OF RECORDS AND HOURS OF USE

1. The authority citation for part 1253 continues to read as follows:

Authority: 44 U.S.C. 2104(a).

2. In § 1253.3, paragraph (d) is revised to read:

§ 1253.3 Presidential libraries.

* * * * *

(d) Dwight D. Eisenhower Library, 200 SE Fourth Street, Abilene, KS 67410-2900. Hours: 9 a.m. to 4:45 p.m., Monday through Friday.

3. In § 1253.6, paragraphs (h), (i), and (m) are revised to read:

§ 1253.6 Federal Records Centers.

* * * * *

(h) 2312 E. Bannister Rd., Kansas City, MO 64131-3060. Hours: 8 a.m. to 4 p.m., Monday through Friday.

(i) 501 W. Felix St., Bldg. 1, Dock 1, Fort Worth, TX. Mailing Address: PO Box 6216, Fort Worth, TX 76115-6216. Hours: 8 a.m. to 4 p.m., Monday through Friday.

* * * * *

(m) 6125 Sand Point Way NE, Seattle, WA 98115-7999. Hours: 8 a.m. to 4 p.m., Monday through Friday.

4. In § 1253.7, paragraphs (g), (h), (l), and (m) are revised to read:

§ 1253.7 Regional Archives System.

* * * * *

(g) National Archives—Central Plains Region, 2312 E. Bannister Rd., Kansas City, MO 64131-3060. Hours: 8 a.m. to 4 p.m., Monday through Friday. Telephone: (816) 926-6934.

(h) National Archives—Southwest Region, 501 West Felix St., Bldg. 1, Dock 1, Fort Worth, TX. Mailing address: PO Box 6216, Fort Worth, TX 76115-0216. Hours: 8 a.m. to 4 p.m., Monday through Friday. Telephone: (817) 334-5525.

* * * * *

(l) National Archives—Pacific Northwest Region, 6125 Sand Point Way NE, Seattle, WA 98115-7999. Hours: 8 a.m. to 4 p.m., Monday through Friday. Telephone: (206) 526-6507.

(m) National Archives—Alaska Region, 654 W. 3rd Ave. Rm. 012, Anchorage, AK 99501-2145. Hours: 8 a.m. to 4 p.m., Monday through Friday. Telephone: (907) 271-2441.

Dated: December 28, 1995.

John W. Carlin,

Archivist of the United States.

[FR Doc. 96-139 Filed 1-4-96; 8:45 am]

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DEPARTMENT OF TRANSPORTATION**48 CFR Parts 1213, 1237, 1252 and 1253**

RIN 2105-AC-30

Revision of Department of Transportation Acquisition Regulation; Procedures for Acquiring Training Services

AGENCY: Transportation.

ACTION: Final rule.

SUMMARY: This final rule implements a Department of Transportation Office of the Inspector General recommendation resulting from a review of the acquisition of commercial training services. This final rule contains revisions to the Transportation Acquisition Regulation (TAR) which were published in the November 3, 1995 Federal Register (60 FR 55827) as a notice of proposed rulemaking (NPRM). The revisions address public comments received as a result of the November 3, 1995 NPRM. The TAR is codified in Chapter 12 of Title 48 of the Code of Federal Regulations.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Barbara Perreault Weakley, Office of Acquisition and Grant Management, M-61, 400 Seventh Street, S.W., Washington, D.C. 20590: (202) 366-4967.

SUPPLEMENTARY INFORMATION:**A. Background**

On November 3, 1995, revisions to the TAR were published in the Federal Register (60 FR 55827) as a notice of proposed rulemaking (NPRM). Comments were solicited from interested parties, including the public and other Federal agencies. The NPRM announced the Department's intent to revise the TAR to require all contractors to certify that the data provided concerning company qualifications, background, etc., is current, accurate and complete; and to prohibit contractors from soliciting or advertising private, non-Government (to include non-appropriated fund instrumentalities) training to students during contracted-for training sessions. The NPRM established a public comment period which closed on December 4, 1995.

B. Public Comments

Three substantive comments were received from one commentor in response to the proposed rule. The

Department fully considered these comments in developing the final rule and has reconciled the comments as follows:

Comment: The clause at (TAR) 48 CFR 1252.237-72, Prohibition on Advertising, while better in its description of the practices the Department wishes to prohibit, still may be too restricted. If "conducting training services" is meant to mean the act of delivering the contracted training, it is acceptable. If it refers to any time under contract with the Department, we believe it is too restrictive and unacceptably interferes with free enterprise and conduct of our business. To preclude misunderstandings, recommend the clause be changed to read, "* * * shall not advertise or solicit business from attendees for private, non-Government training during the training sessions * * *."

Response: The comment was adopted with minor changes in wording.

Comment: The meaning of the phrase "non-Government" is not clear. Does it mean training that is not applicable to the Government or training provided by "for profit" and "not for profit" companies. In the interest of fair competition and free enterprise, this rule should extend to all non-appropriated fund instrumentalities. Recommend the phrase "to include non-appropriated fund instrumentalities" be included after each mention of the term "non-Government."

Response: The rule extends to all for profit and not for profit companies under contract to provide training to DOT employees. The TAR language is considered adequate and no change was required.

Comment: We believe the clause at (TAR) 1252.237-72 is also too restrictive with regard to a common occurrence which arises while providing the training. Students who are interested in other subject areas may ask about our ability to provide such training. Literally interpreted, our instructors could not answer such questions. We do not believe this to be the intent of the clause. We recommend inserting the word "unsolicited" in the second sentence of the clause as follows, "This prohibition extends to unsolicited oral comments, * * *."

Response: The comment was adopted and (TAR) 48 CFR 1252.237-72 was changed to reflect this clarification.

C. Regulatory Analyses and Notices

The Department has determined that this action is not a significant regulatory action under Executive Order 12866 or under the Department's Regulatory Policies and Procedures. The

Department does not believe that there would be sufficient Federalism implications to warrant the preparation of a Federalism assessment. This rule will not have a significant economic impact on a substantial number of small entities because the basic policies remain unchanged. Therefore, this rule does not require a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980.

D. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96-511) applies because the final rule contains information collection requirements which require OMB approval under 44 U.S.C. 3501, et seq. OMB has granted approval for the period through April 30, 1997, under OMB Control Number 2105-0517.

List of Subjects in 48 CFR Parts 1213, 1237, 1252 and 1253

Government procurement.

This final rule is issued by delegated authority under 49 CFR 1.59(q). This authority has been redelegated to the Senior Procurement Executive.

Issued this 22nd day of December 1995, at Washington, DC.

David J. Litman,

*Senior Procurement Executive.***Adoption of Amendments**

Title 48 of the Code of Federal Regulations, Parts 1213, 1237, 1252 and 1253 are amended as set forth below:

1. The authority citation for 48 CFR chapter 12, Parts 1213, 1237, 1252 and 1253 continues to read as follows:

Authority: 5 U.S.C. 201; 41 U.S.C. 418(b); 48 CFR 3.1.

2. Part 1213 is amended by adding subpart 1213.71 to read as follows:

PART 1213—SMALL PURCHASES AND OTHER SIMPLIFIED PURCHASE PROCEDURES**Subpart 1213.71—Department of Transportation Procedures for Acquiring Training Services**

1213.7100 Applicability.

1213.7101 Solicitation provision and contract clause.

Subpart 1213.71—Department of Transportation Procedures for Acquiring Training Services**§ 1213.7100 Applicability.**

(a) DOT policy at (TAR) 48 CFR 1237.7000 also applies to the Standard Form (SF) 182, Request, Authorization, Agreement and Certification of Training, which may be used to acquire training services; however, the policy does not

apply to training services acquired by the Government purchase/credit card. The Government purchase/credit card can only be used to acquire training services valued at \$2,500 or less.

(b) As reflected in (TAR) 48 CFR 1237.7002, this policy does not apply to training attended by DOT employees which is scheduled and conducted by Government sources of supply, educational institutions, or private entities where DOT does not control or sponsor the training. Examples of when the policy does and does not apply include:

(1) When SF 182s are issued for three DOT employees to attend a one week course at a university or other private entity, the policy does not apply. DOT does not control this course because the university or private entity has a contract in place with the training provider and DOT is placing an order under an existing contract; and

(2) When DOT awards a contract to a university or other private entity to provide training for DOT and/or other Government personnel, the policy applies. DOT controls this course; therefore, no soliciting or advertising of private, non-Government training while conducting the contracted-for training is permitted.

§ 1213.7101 Solicitation provision and contract clause.

(a) Contracting officers shall insert the provision at (TAR) 48 CFR 1252.237-71, Certification of Data, in all solicitations and requests for quotations, and the clause at (TAR) 48 CFR 1252.237-72, Prohibition on Advertising, in solicitations, requests for quotations, and all contracts (e.g., purchase orders, SF 182s) for training services when the content and/or presentation of the training is controlled by DOT.

(b) Contracting officers shall incorporate the successful offeror's certified data into any resultant contract(s). Certified data may be incorporated by reference, if the contracting officer determines it contains sufficient descriptive information (i.e., dated material such as résumés, company and/or personnel qualifications) to reliably describe the certified data submitted.

PART 1237—SERVICE CONTRACTING

3. Subpart 1237.70, Department of Transportation Procedures for Acquiring Training Services, is added to read as follows:

Subpart 1237.70—Department of Transportation Procedures for Acquiring Training Services

- 1237.7000 Policy.
1237.7001 Certification of data.
1237.7002 Applicability.
1237.7003 Solicitation provision and contract clause.

Subpart 1237.70—Department of Transportation Procedures for Acquiring Training Services

§ 1237.7000 Policy.

When training services are provided under contract to DOT, it is the policy of DOT that all prospective contractors:

- (a) Certify that the data provided concerning company qualifications, background statements, etc., is current, accurate, and complete; and
(b) Agree to not solicit or advertise private, non-Government training while conducting a training course.

§ 1237.7001 Certification of data.

Towards fulfilling DOT's policy at (TAR) 48 CFR 1237.7000(a), contracting officers shall request information from prospective contractors for certification purposes. The type of information requested is dependent upon the criticality of the service and/or any unique or essential qualification requirements.

§ 1237.7002 Applicability.

The policy at (TAR) 48 CFR 1237.7000 applies to all DOT contracts as defined in FAR 2.101 for training services when DOT controls the content and/or presentation of the course. This policy does not apply to courses attended by DOT employees which are offered and sponsored by Government sources of supply, educational institutions, or private entities where DOT does not control the course content or presentation. (See (TAR) 48 CFR 1213.7100 for examples.)

§ 1237.7003 Solicitation provision and contract clause.

(a) The contracting officer shall insert the provision at (TAR) 48 CFR 1252.237-71, Certification of Data, in solicitations and the clause at (TAR) 48 CFR 1252.237-72, Prohibition on Advertising, in solicitations and contracts for training services when the content and/or presentation of the course is controlled by DOT.

(b) Contracting officers shall incorporate the successful offeror's certified data into any resultant contract(s). Certified data may be incorporated by reference, if the contracting officer determines it contains sufficient descriptive information (i.e., dated material such as

résumés, company and/or personnel qualifications) to reliably describe the certified data submitted.

PART 1252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Part 1252 is amended to add 1252.237-71 and 1252.237-72 in subpart 1252.2 as follows:

Subpart 1252.2—Texts of Provisions and Clauses

§ 1252.237-71 Certification of data.

As prescribed in (TAR) 48 CFR 1213.7101 and 1237.7003, insert the following provisions:

Certification of Data (Jan 1996)

(a) The offeror represents and certifies that to the best of its knowledge and belief, the information and/or data (e.g., company profile, qualifications, background statements, brochures) submitted with its offer is current, accurate, and complete as of the date of its offer.

(b) The offeror understands that any inaccurate data provided to the Department of Transportation may subject the offeror, its subcontractors, its employees, or its representatives to: (1) prosecution for false statements pursuant to 18 U.S.C. 1001 and/or; (2) enforcement action for false claims or statements pursuant to the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801-2812 and 49 CFR part 31 and/or; (3) termination for default under any contract resulting from its offer and/or; (4) debarment or suspension.

(c) The offeror agrees to obtain a similar certification from its subcontractors.

Signature: _____

Date: _____

Typed Name and Title: _____

Company Name: _____

This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

(End of provision)

§ 1252.237-72 Prohibition on advertising.

As prescribed in (TAR) 48 CFR 1213.7002 and 1237.7003, insert the following clause:

Prohibition on Advertising (Jan. 1996)

The contractor or its representatives (including training instructors) shall not advertise or solicit business from attendees for private, non-Government training during contracted-for training sessions. This prohibition extends to unsolicited oral comments, distribution or sales of written materials, and/or sales of promotional videos or audio tapes.

The contractor agrees to insert this clause in its subcontracts.

(End of clause)

1252.237-71, Certification of Data, and
 1252.237-72, Prohibition on
 Advertising, immediately following
 1252.237-70, Qualifications of
 Employees, as follows:

Appendix to Subpart 1253.3

* * * * *

PART 1253—FORMS

5. In the appendix to Subpart 1253.3,
 the (TAR) Matrix is amended by adding

Tar Matrix

Provision or clause	Prescribed in	P or C	IBR	UCF	Principle type and/or purpose of contract																		
					FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SP	UTL SVC	
1252.237-71 Certification of Data	1237.7003	P	No	K	A	A	A	A	A
1252.237-72 Prohibition on Advertising	1237.7003	C	No	I	A	A	A	A	A

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