

with whom plans should be negotiated, the contracting officer shall consider the integrity of the competitive process, the goal of affording maximum practicable opportunity for small, small disadvantaged and women-owned small business concerns to participate, and the burden placed on offerors.

3. Section 19.708 is amended in paragraph (b)(1)(iii) by revising "has been" to read "is" and by adding a sentence at the end of the paragraph to read as follows:

19.708 Solicitation provisions and contract clauses.

* * * * *

(b)(1) * * *

(iii) * * * When contracting by negotiation, and subcontracting plans are required with initial proposals as provided for in 19.705-2(d), the contracting officer shall use the clause with its Alternate II.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 52.219-9 is amended by adding Alternate II at the end of the section to read as follows:

52.219-9 Small, Small Disadvantaged, and Women-Owned Small Business Subcontracting Plan.

* * * * *

Alternate II (MAR 1996). As prescribed in 19.708(b)(1), substitute the following paragraph (c) for paragraph (c) of the basic clause:

(c) Proposals submitted in response to this solicitation shall include a subcontracting plan, which separately addresses subcontracting with small business concerns, small disadvantaged business concerns and women-owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small business concerns, small disadvantaged business concerns and women-owned small business concerns with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate a subcontracting plan shall make the offeror ineligible for award of a contract.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 28 and 52

[FAC 90-37; FAR Case 92-014; Item XII]

RIN 9000-AF78

Federal Acquisition Regulation; Insurance—Liability to Third Persons

AGENCY: 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 have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to delete a solicitation provision and prescriptive language pertaining to liability insurance under cost-reimbursement contracts. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

EFFECTIVE DATE: March 26, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O'Such at (202) 501-1759 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 FAC 90-37, FAR case 92-014.

SUPPLEMENTARY INFORMATION:

A. Background

The deleted FAR language applied only to cost-reimbursement contracts for research and development awarded to state agencies or charitable institutions that claim partial or total immunity from tort liability. For these entities, Alternates I and II of 52.228-7, Insurance—Liability to Third Persons, limit the contract's insurance requirements and the Government's obligation to indemnify for third party liability. A proposed rule was published in the Federal Register at 59 FR 16392, April 6, 1994. No substantive comments were received in response to the proposed rule.

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 under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the FAR language being deleted applies only to cost-reimbursement contracts for research and development that are awarded to entities which, by virtue of their status as either an agency of the state or as a charitable institution, claim partial or total immunity from tort liability under such contracts. These entities are believed to be few in number.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the 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 Parts 28 and 52

Government procurement.

Dated: January 11, 1996.

Edward C. Loeb,

Acting Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR Parts 28 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 28 and 52 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 28—BONDS AND INSURANCE

28.311-1 [Removed]

28.311-2 and 28.311-3 [28.311-2, 28.311-3 Redesignated as 28.311-1, 28.311-2]

2. Section 28.311-1 is removed and sections 28.311-2 and 28.311-3 are redesignated as 28.311-1 and 28.311-2, respectively.

28.311-1 [Amended]

3. The newly designated 28.311-1 is amended by removing the last two sentences.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.228-6 [Removed and reserved]

4. Section 52.228-6 is removed and reserved.

5. Section 52.228-7 is amended in the introductory paragraph by removing the citation "28.311-2" and inserting "28.311-1"; by revising the date of the clause heading; by revising paragraphs

(a)(1) and (c) introductory text; and by removing Alternates I and II. The revised text reads as follows:

52.228-7 Insurance—Liability to Third Persons.

* * * * *

Insurance—Liability to Third Persons (Marcg 1996)

(a)(1) Except as provided in subparagraph (a)(2) of this clause, the Contractor shall provide and maintain workers' compensation, employer's liability, comprehensive general liability (bodily injury), comprehensive automobile liability (bodily injury and property damage) insurance, and such other insurance as the Contracting Officer may require under this contract.

* * * * *

(c) The Contractor shall be reimbursed—

* * * * *

6. Section 52.245-7 is amended by revising the date of the clause and the first sentence of paragraph (j) to read as follows:

52.245-7 Government Property (Consolidated Facilities).

* * * * *

Government Property (Consolidated Facilities March 1996)

* * * * *

(j) *Indemnification of the Government.* The Contractor shall indemnify the Government and hold it harmless against claims for injury to persons or damage to property of the Contractor or others arising from the Contractor's possession or use of the facilities, except as specified in the clause at FAR 52.228-7, Insurance—Liability to Third Persons.* * *

* * * * *

7. Section 52.245-10 is amended by revising the date of the clause and the first sentence of paragraph (f) to read as follows:

52.245-10 Government Property (Facilities Acquisition).

* * * * *

Government Property (Facilities Acquisition March 1996)

* * * * *

(f) *Indemnification of the Government.* The Contractor shall indemnify the Government and hold it harmless against claims for injury to persons or damage to property of the Contractor or others arising from the Contractor's possession or use of the facilities, except as specified in the clause at FAR 52.228-7, Insurance—Liability to Third Persons.* * *

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

[FAC 90-37; FAR Case 94-002; Item XIII]

RIN 9000-AG79

Federal Acquisition Regulation; Availability of Accounting Guide

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 have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to advise contractors on how to obtain an informational accounting guide entitled "Guidance for New Contractors." This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

EFFECTIVE DATE: March 26, 1996.

FOR FURTHER INFORMATION CONTACT:

Mr. Jeremy Olson at (202) 501-3221 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 FAC 90-37, FAR case 94-002.

SUPPLEMENTARY INFORMATION:

A. Background

The final rule is the result of a recommendation by the Office of Federal Procurement Policy SWAT Team that the FAR be revised to include information on how contractors may obtain an accounting guide, published by the Defense Contract Audit Agency, to assist in developing contractors' accounting systems.

B. Regulatory Flexibility Act

The 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. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C.

601, *et seq.* (FAC 90-37, FAR case 94-002), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the 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 31

Government procurement.

Dated: January 11, 1996.

Edward C. Loeb,

Acting Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR Part 31 is amended as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR Part 31 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).

2. Section 31.002 is added to read as follows:

31.002 Availability of accounting guide.

Contractors needing assistance in developing or improving their accounting systems and procedures may request a copy of the guide entitled "Guidance for New Contractors" (DCAAP 7641.90). The guide is available from: Headquarters, Defense Contract Audit Agency, Operating Administrative Office, 8725 John J. Kingman Road, Suite 2135, Fort Belvoir, Virginia 22060-6219; Telephone No. (703) 767-1066; Telefax No. (703) 767-1061.

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