

Dated: August 7, 1997.
Eleanor R. Spector,
Director, Defense Procurement.

Dated: August 7, 1997.
Tom Luedtke,
*Deputy Associate Administrator for
 Procurement National Aeronautics and Space
 Administration.*

Dated: August 7, 1997.
Edward C. Loeb,
*Acting Deputy Associate Administrator,
 Office of Acquisition Policy, General Services
 Administration.*
 [FR Doc. 97-22074 Filed 8-15-97; 1:12 pm]
 BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE
GENERAL SERVICES
ADMINISTRATION

NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION

48 CFR Part 1

[FAC 97-01; FAR Case 97-006; Item I]

RIN 9000-AH64

Federal Acquisition Regulation;
Business Process Innovation

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
 state that contracting officers, in their
 role as members of the Government
 acquisition team, should take the lead in
 encouraging business process
 innovations and ensuring that business
 decisions are sound. This regulatory
 action was not subject to Office of
 Management and Budget review under
 Executive Order 12866, dated
 September 30, 1993, and is not a major
 rule under 5 U.S.C. 804.

DATES: Effective October 21, 1997.

FOR FURTHER INFORMATION CONTACT: The
 FAR Secretariat, Room 4035, GS
 Building, Washington, DC 20405 (202)
 501-4755 for information pertaining to
 status or publication schedules. For
 clarification of content, contact Mr.
 Ralph De Stefano, Procurement Analyst,
 at (202) 501-1758. Please cite FAC 97-
 01, FAR case 97-006.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR 1.102-
 4(e) by adding a statement that
 contracting officers, in their role as
 members of the Government acquisition
 team, should take the lead in
 encouraging business process
 innovations and ensuring that business
 decisions are sound.

B. Regulatory Flexibility Act

The final rule does not constitute a
 significant FAR revision within the
 meaning of FAR 1.501 and Pub. L. 98-
 577, and publication for public
 comment is not required. However,
 comments from small entities
 concerning the affected FAR 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 97-01, FAR case 97-
 006), 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 1

Government procurement.

Dated: August 7, 1997.

Edward C. Loeb,
Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 1 is amended
 as set forth below:

PART 1—FEDERAL ACQUISITION
REGULATIONS SYSTEM

1. The authority citation for 48 CFR
 Part 1 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 1.102-4 is amended by
 adding the following sentence at the end
 of paragraph (e):

1.102-4 Role of the acquisition team.

* * * * *

(e) * * * Contracting officers should
 take the lead in encouraging business
 process innovations and ensuring that
 business decisions are sound.

[FR Doc. 97-21486 Filed 8-21-97; 8:45 am]
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DEPARTMENT OF DEFENSE

GENERAL SERVICES
ADMINISTRATION

NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION

48 CFR Parts 1, 9, 14, 19, 22, 33, and
52

[FAC 97-01; FAR Case 96-601; Item II]

RIN 9000-AH31

Federal Acquisition Regulation; FASA
and the Walsh-Healey Public Contracts
Act

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

ACTION: Interim rule adopted as final.

SUMMARY: The Civilian Agency
 Acquisition Council and the Defense
 Acquisition Regulations Council have
 agreed to convert the interim rule
 published as Item I of Federal
 Acquisition Circular 90-43 on
 December 20, 1996, to a final rule
 without change. The rule amends the
 Federal Acquisition Regulation (FAR) to
 eliminate the requirement that covered
 contractors under the Walsh-Healey
 Public Contracts Act must be either the
 manufacturer of or a regular dealer in
 the materials, supplies, articles, or
 equipment to be manufactured or used
 in the performance of the contract. This
 regulatory action was not subject to
 Office of Management and Budget
 review under Executive Order 12866,
 dated September 30, 1993, and is not a
 major rule under 5 U.S.C. 804.

DATES: Effective October 21, 1997.

FOR FURTHER INFORMATION CONTACT: The
 FAR Secretariat, Room 4035, GS
 Building, Washington, DC 20405 (202)
 501-4755 for information pertaining to
 status or publication schedules. For
 clarification of content, contact Mr. Jack
 O'Neill, Procurement Analyst, at (202)
 501-3856. Please cite FAC 97-01, FAR
 case 96-601.

SUPPLEMENTARY INFORMATION:

A. Background

On December 20, 1996 (61 FR 67409),
 the DoD, GSA, and NASA published an
 interim FAR rule implementing the
 Federal Acquisition Streamlining Act of
 1994 (Pub. L. 103-355) amendments to
 the Walsh-Healey Public Contracts Act.
 The interim rule deleted the
 "manufacturer" or "regular dealer"
 requirements and all related definitions
 from the FAR, consistent with a
 Department of Labor final rule issued on

August 5, 1996 (61 FR 40714). No comments were received in response to the interim FAR rule. Therefore, the interim FAR rule is being converted to a final rule without change.

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 within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because this rule merely amends the FAR to conform to revisions to Department of Labor (DoL) regulations reflecting repeal of the "manufacturer" and "regular dealer" requirements under the Walsh-Healey Public Contracts Act. DoL has determined that the revisions to its regulations will not have a significant economic impact on a substantial number of small entities.

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 1, 9, 14, 19, 22, 33, and 52

Government procurement.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR Parts 1, 9, 14, 19, 22, 33, and 52 which was published at 61 FR 67409, December 20, 1996, is adopted as a final rule without change.

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

Dated: August 7, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.
[FR Doc. 97-21487 Filed 8-21-97; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 28, and 52

[FAC 97-01; FAR Case 95-301; Item III]

RIN 9000-AG99

Federal Acquisition Regulation; Irrevocable Letters of Credit and Alternatives to Miller Act Bonds

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

ACTION: Interim rule adopted as final with changes.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to adopt as final, with changes, the interim rule published as Item XVII of Federal Acquisition Circular 90-39 on June 20, 1996. The rule amends the Federal Acquisition Regulation (FAR) to address the use of irrevocable letters of credit in lieu of surety on Miller Act bonds (OFPP Policy Letter 91-4) and alternatives to Miller Act Bonds, as required by Section 4101(b) of the Federal Acquisition Streamlining Act of 1994 (FASA) (Pub. L. 103-355). This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

DATE: Effective October 21, 1997.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501-4755 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Jack O'Neill, Procurement Analyst, at (202) 501-3856. Please cite FAC 97-01, FAR case 95-301.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR Parts 1, 28, and 52 to provide for use of Irrevocable Letters of Credit as substitutes for corporate or individual surety on Miller Act bonds, and provides alternatives to Miller Act payment bonds for construction contracts valued at \$25,000 to \$100,000, which are no longer subject to the Miller Act, in accordance with Section 4104(b)(1) of FASA. An interim rule with request for comment was

published in the **Federal Register** on June 20, 1996 (61 FR 31651). Comments were received from seven respondents. The final rule includes the following changes in response to public comments:

- Update of the references to reflect the current version of the Uniform Customs and Practice for Documentary Credits.
- Amendment of the definition of Irrevocable Letter of Credit (ILC). Deletion of application of the term "unconditional" to ILCs.
- Incorporation of requirements for a specific expiration date for ILCs used in lieu of surety on performance or payment bonds, with automatic extension for one-year periods, until the contracting officer notifies the financial institution that the Government is waiving the right to payment.
- Limitation of the requirement for confirmation of ILCs over \$5 million to those issued by financial institutions that had letter of credit business of less than \$25 million in the past year.
- Incorporation of an explicit requirement for credit rating service to be as specified in Office of Federal Procurement Policy Pamphlet No. 7.
- Amendment of the clause at 52.228-13, Alternative Payment Protections, to specify the amount of payment protection as 50 percent of the contract price, and to require payment protection within a certain number of days after contract award.

The Councils did not adopt a comment which recommended a change in the expiration date for ILCs from 60 to 75 days after the close of the bid acceptance period, as the comment appeared to be based on a misinterpretation of the rule. The recommended 75-day expiration period was based on the need for 60 days to cover the bid acceptance period, plus 10 days to cover the time necessary for submission of payment and performance bonds, and 5 additional days to cover mailing time. However, as written, the rule provides for 60 days in addition to the number of days required for the bid acceptance period; *i.e.*, if the bid acceptance period is 60 days, the rule requires the ILC to cover a total of 120 days before expiration.

B. Regulatory Flexibility Act

The final rule is expected to have a significant positive 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 provides alternatives to Miller Act bonds for construction contracts between \$25,000 and \$100,000, which may be beneficial to