

(2) Offers or quotations under this acquisition are solicited from very small business concerns only. Offers that are from other than an eligible very small business concern shall not be considered and shall be rejected. The offeror represents that it is an eligible very small business concern by submission of an offer or quotation.

(c) *Agreement.* A very small business concern submitting an offer in its own name agrees to furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States. As used in this clause, the term *United States* includes its territories and possessions, the Commonwealth of Puerto Rico, the trust territory of the Pacific Islands, and the District of Columbia.

(End of clause)

Alternate I (Mar 1999). As prescribed in 19.905(a), delete paragraph (c) of the basic clause.

Alternate II (Mar 1999). As prescribed in 19.905(b), substitute the following paragraph (c) for paragraph (c) of the basic clause:

(c) *Agreement.* A very small business concern submitting an offer in its own name agrees to furnish, in performing the contract, only end items manufactured or produced by domestic firms in the United States. As used in this clause, the term *United States* includes its territories and possessions, the Commonwealth of Puerto Rico, the trust territory of the Pacific Islands, and the District of Columbia.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 11 and 52

[FAC 97-11; FAR Case 98-612; Item III]

RIN 9000-AI30

Federal Acquisition Regulation; Variation in Quantity

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 remove the requirement to include the clause at FAR 52.211-16, Variation in Quantity, in fixed-price solicitations and contracts that do not permit a variation in the quantity of supplies furnished under the contract.

EFFECTIVE DATE: May 3, 1999.

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 Ms. Victoria Moss, Procurement Analyst, at (202) 501-4764. Please cite FAC 97-11, FAR case 98-612.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR 11.703(a) to change the prescription for the clause at 52.211-16, Variation in Quantity. The revised prescription requires that the clause only be used if the contracting officer is authorizing a variation in the quantity of supplies to be furnished under fixed-price supply contracts or fixed-price service contracts that involve the furnishing of supplies. Currently the clause is required in all fixed-price supply contracts for supplies or for services that involve the furnishing of supplies. Where variations are not permitted, the clause is used with a "0%" permissible variation.

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.

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. 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 should cite 5 U.S.C. 601, *et seq.* (FAC 97-11, FAR case 98-612), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that 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 11 and 52

Government procurement.

Dated: February 25, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 11 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 11 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 11—DESCRIBING AGENCY NEEDS

2. Section 11.703 is amended by revising paragraph (a) to read as follows:

11.703 Contract clauses.

(a) The contracting officer shall insert the clause at 52.211-16, Variation in Quantity, in solicitations and contracts, if authorizing a variation in quantity in fixed-price contracts for supplies or for services that involve the furnishing of supplies.

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PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 52.211-16 is amended by revising the introductory paragraph to read as follows:

52.211-16 Variation in quantity.

As prescribed in 11.703(a), insert the following clause:

* * * * *

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 13, 16, 32, and 52

[FAC 97-11; FAR Case 91-118; Item IV]

RIN 9000-AG49

Federal Acquisition Regulation; Electronic Funds Transfer

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 to adopt as final, with changes, the interim rule published in Federal Acquisition Circular 90-42 on August 29, 1996. The rule amends the Federal Acquisition Regulation (FAR) to address the use of electronic funds transfers (EFT) for Federal contract payments made after January 1, 1999, and to