

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Chapter 1**

[Federal Acquisition Circular 97-22 (Delay of Effective Date)]

Federal Acquisition Regulation; Delay of Effective Date

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

ACTION: Final rules: delay of effective date.

SUMMARY: In accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled "Regulatory Review Plan," published in the **Federal Register** on January 24, 2001, this action delays for 60 days the effective date of Items I, III, IV, and V of Federal Acquisition Circular (FAC) 97-22 published in the **Federal Register** on January 10, 2001 (66 FR 2116). The 60-day delay in the effective date is necessary to give agency officials the opportunity for further review and consideration of new regulations, consistent with the Assistant to the President's memorandum of January 20, 2001.

DATES: Effective Date: The effective date of Item I of FAC 97-22, the final rule amending 48 CFR parts 1 through 9, 11, 13, 14, 15, 17, 19, 22, 23, 24, 26 through 29, 31 through 37, 39, 42, 43, 44, 46 through 50, and 52, published in the **Federal Register** on January 10, 2001 at 66 FR 2117 is delayed until May 11, 2001.

The effective date of Item III of FAC 97-22, the final rule amending 48 CFR parts 32 and 52, published in the **Federal Register** on January 10, 2001 at 66 FR 2137 is delayed until May 11, 2001.

The effective date of Item IV of FAC 97-22, the final rule amending 48 CFR part 52, published in the **Federal Register** on January 10, 2001 at 66 FR 2139 is delayed until May 11, 2001.

The effective date of Item V of FAC 97-22, the final rule amending 48 CFR

part 52, published in the **Federal Register** on January 10, 2001 at 66 FR 2140 is delayed until May 11, 2001.

Applicability Date: The FAR, as amended by these rules, is applicable to solicitations issued on or after May 11, 2001, per FAR 1.108(d).

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. Please cite FAC 97-22 (delay of effective date).

SUPPLEMENTARY INFORMATION: This document extends, for 60 days, the effective date of the following FAR rules published in FAC 97-22 in the **Federal Register** at 66 FR 2116, January 10, 2001:

FAR Case 1999-403—Definitions

This final rule clarifies the applicability of definitions used in the FAR, eliminates redundant or conflicting definitions, and makes definitions easier to find. The rule—

- Relocates definitions of terms that are used in more than one FAR part with the same meaning to 2.101;
- Relocates other definitions of terms to the "Definitions" section of the highest level FAR division (part, subpart, or section) where the term as defined is used. For example, if a term was defined in a FAR section, but the term is used as defined in another section of that subpart, then the definition was moved to the "Definitions" section of that subpart;
- Clarifies that a term, defined in FAR 2.101, has the same meaning throughout the FAR unless the context in which the term is used clearly requires a different meaning; or unless another FAR part, subpart, or section provides a different definition for that particular part, subpart, or section;
- Adds cross-references to definitions of terms in FAR 2.101 that are defined differently in another part, subpart, or section of the FAR; and
- Makes technical corrections throughout the FAR.

FAR Case 1999-016—Advance Payments for Non-Commercial Items

This final rule amends the FAR to permit federally insured credit unions, in addition to banks, to participate in the maintenance of special accounts for advance payments. The rule will only

affect contracting officers that provide contract financing using advance payments for non-commercial items.

FAR Case 1999-021—Part 12 and Assignment of Claims

This final rule amends the FAR to correct an inconsistency between two clauses related to the assignment of claims. FAR 52.232-36, Payment by Third Party, prohibits a contractor from assigning its rights to receive payment under the contract if payment is made by a third party, such as when a Governmentwide commercial purchase card is used. This clause is cited in the contract clause at FAR 52.212-5 that addresses terms and conditions required to implement statutes or Executive orders for commercial items.

FAR 52.212-4, Contract Terms and Conditions—Commercial Items, addresses assignment of claims but does not include the third party prohibition. This rule revises FAR 52.212-4(b) to add the prohibition.

FAR Case 1996-023—Clause Flowdown—Commercial Items

This final rule amends the clause at FAR 52.244-6, Subcontracts for Commercial Items, to revise the listing of clauses the contractor must flow down to subcontractors. The rule revises the listing to add the clause at FAR 52.219-8, Utilization of Small Business Concerns, when specified circumstances have been met. In addition, the rule adds language to inform contractors that they may flow down a minimal number of additional clauses to subcontractors to satisfy their contractual obligations.

Dated: February 27, 2001.

Deidre A. Lee,

Director, Defense Procurement, Department of Defense.

Dated: March 1, 2001.

David A. Drabkin,

Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration.

Dated: February 26, 2001.

Anne Guenther,

Acting Associate Administrator for Procurement, National Aeronautics and Space Administration.

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