

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 52.215-27 is amended by revising the clause to read as follows:

52.215-27 Termination of Defined Benefit Pension Plans.

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Termination of Defined Benefit Pension Plans (Mar 1996)

The Contractor shall promptly notify the Contracting Officer in writing when it determines that it will terminate a defined benefit pension plan or otherwise recapture such pension fund assets. If pension fund assets revert to the Contractor or are constructively received by it under a termination or otherwise, the Contractor shall make a refund or gift a credit to the Government for its equitable share of the gross amount withdrawn. The Government's equitable share shall reflect the Government's participation in pension costs through those contracts for which cost or pricing data (see 15.804 of the Federal Acquisition Regulation (FAR)) were submitted or which are subject to FAR Part 31. The Contractor shall include the substance of this clause in all subcontracts under this contract which meets the applicability requirements of FAR 15.804-8(e).
(End of clause)

4. Section 52.215-39 is amended by revising the clause to read as follows:

52.215-39 Reversion or Adjustment of Plans for Postretirement Benefits Other Than Pensions (PRB).

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Reversion or Adjustment of Plans for Postretirement Benefits Other Than Pensions (PRB) (Mar 1996)

The Contractor shall promptly notify the Contracting Officer in writing when it determines that it will terminate or reduce a PRB plan. If PRB fund assets revert, or inure, to the Contractor or are constructively received by it under a plan termination, reduction, or otherwise, the Contractor shall make a refund or give a credit to the Government for its equitable share of any amount of previously funded PRB costs which revert or inure to the Contractor. Such equitable share shall reflect the Government's previous participation in PRB costs through those contracts for which cost or pricing data (see 15.804 of the Federal Acquisition Regulation (FAR)) were submitted or which are subject to FAR Part 31. The Contractor shall include the substance of this clause in all subcontracts under this contract which meet the applicability requirements of FAR 15.804-8(f).
(End of clause)

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 15

[FAC 90-37; FAR Case 95-006; Item VI]

RIN 9000-AG69

Federal Acquisition Regulation; Field Pricing Support Request

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 to amend the Federal Acquisition Regulation (FAR) to clarify internal Government procedures for requesting field pricing support. 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 95-006.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule implements a recommendation of the Department of Defense Procurement Process Reform Process Action Team. The rule clarifies that contracting officers may send audit requests directly to the cognizant audit office, if no other type of field pricing support is required.

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 95-006), 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 15

Government procurement.

Dated: January 11, 1996.

Edward C. Loeb,

Acting Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR Part 15 is amended as set forth below:

PART 15—CONTRACTING BY NEGOTIATION

1. The authority citation for 48 CFR Part 15 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 15.805-5 is amended in paragraph (c)(1) by revising the second sentence to read as follows:

15.805-5 Field pricing support.

* * * * *

(c) * * *

(1) * * * If an audit is all that is needed, the contracting officer may initiate an audit by sending the request directly to the cognizant audit office.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 15

[FAC 90-37; FAR Case 92-002; Item VII]

RIN 9000-AF74

Federal Acquisition Regulation; Subcontract Proposal Audits

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 to amend the Federal Acquisition Regulation (FAR) to add two additional examples of when field pricing support audits of subcontract proposals may be appropriate. 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 92-002.

SUPPLEMENTARY INFORMATION:

A. Background

An amendment to the FAR was published in the Federal Register at 59 FR 14457, March 28, 1994, as a proposed rule with a request for comments. Three responses were received. Each supported 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 most contracts awarded to small entities are awarded on a competitive, fixed-price basis and certified cost or pricing data and field pricing support are not required.

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 15

Government procurement.

Dated: January 11, 1996.

Edward C. Loeb,

Acting Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR Part 15 is amended as set forth below:

PART 15—CONTRACTING BY NEGOTIATION

1. The authority citation for 48 CFR Part 15 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 15.806-3 is amended in paragraph (a)(3) by removing "or"; in paragraph (a)(4) by removing the period and inserting a semicolon; and by adding paragraphs (a) (5) and (6) to read as follows:

15.806-3 Field pricing reports.

(a) * * *

(5) The contractor or higher tier subcontractor has been cited for having significant estimating system deficiencies in the area of subcontract pricing, especially the failure to perform adequate cost analyses of proposed subcontract costs or to perform subcontract analyses prior to negotiation of the prime contract with the Government; or

(6) A lower tier subcontractor has been cited as having significant estimating system deficiencies.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 15

[FAC 90-37; FAR Case 92-017; Item VIII]

RIN 9000-AF79

Federal Acquisition Regulation; Overhead Should-Cost Reviews

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 amend the Federal Acquisition Regulation (FAR) to add guidance on overhead should-cost reviews. 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 92-017.

SUPPLEMENTARY INFORMATION:

A. Background

An amendment to FAR 15.810 was published in the Federal Register at 59 FR 16388, April 6, 1994, as a proposed rule with a request for comments. Six responses were received. The Councils' analysis of those comments did not result in any revisions to the proposed rule previously published.

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 contracts awarded to small entities rarely are subject to program or overhead should-cost reviews.

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 15

Government procurement.

Dated: January 11, 1996.

Edward C. Loeb,

Acting Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR Part 15 is amended as set forth below:

PART 15—CONTRACTING BY NEGOTIATION

1. The authority citation for 48 CFR Part 15 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 15.810 is revised to read as follows:

15.810 Should-cost review.

15.810-1 General.

(a) Should-cost reviews are a specialized form of cost analysis. Should-cost reviews differ from traditional evaluation methods. During traditional reviews, local contract audit