

federal register

**Wednesday
October 26, 1988**

Part III

**Department of Defense
General Services
Administration**

**National Aeronautics and
Space Administration**

48 CFR Part 4 et al.

**Federal Acquisition Regulation (FAR);
Miscellaneous Amendments**

DEPARTMENT OF DEFENSE

GENERAL SERVICES
ADMINISTRATIONNATIONAL AERONAUTICS AND
SPACE ADMINISTRATION48 CFR Parts 4, 5, 8, 9, 13, 14, 15, 19,
25, 28, 33, 36, 37, 45, 52, and 53

[Federal Acquisition Circular 84-40]

Federal Acquisition Regulation (FAR);
Miscellaneous Amendments

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

ACTION: Interim rule with request for comments and final rules.

SUMMARY: Federal Acquisition Circular (FAC) 84-40 amends the Federal Acquisition Regulation (FAR) with respect to the following: Taxpayer Identification Number; Revised Federal Procurement Data System (FPDS) Forms; Sources Sought Synopsis for R&D; Restrictions on Competitive Procurement of Electric Service; Revision to OMB Circular A-120, Organizational Conflicts of Interest; Blanket Purchase Agreement Review Procedures; Signed Confirmation of Telegraphic Bids; Small Business Size Standards; Small Business Set-Asides (Sec. 921, DoD Authorization Act); Excess and Near Excess Foreign Currency; Service of Protest Clause; GAO Bid Protest Rules; Accountability for Government Property in the Possession of Contractors; Amendment of Solicitations; and Computer-Generation of Standard Forms.

DATES:

Effective Date: November 25, 1988.

Comment Date: Comments on the interim rule, Subpart 4.9 and Section 52.204-3, should be submitted to the FAR Secretariat on or before December 27, 1988, to be considered in the formulation of a final rule. Please cite Item I, FAC 84-40, in all correspondence on this subject.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523-4755.

SUPPLEMENTARY INFORMATION:

A. Background.

FAC 84-40, Item I. (Interim Rule)

In order for Federal agencies to comply with the Internal Revenue Service (IRS) reporting requirements, the Federal Acquisition Regulation (FAR) Subpart 4.9, Information Reporting to the

IRS, and corresponding coverage in Part 52 have been developed to provide for contractors to submit their taxpayer identification number (TIN) and certain related information to the appropriate contracting office.

26 U.S.C. 6041 and 6041A, in part, as implemented in 26 CFR, require payors, including the Federal Government, to report to the IRS certain payments made to contractors. Information required to be reported includes company name, address, TIN, and corporate status. Failure or refusal to furnish the TIN may result in a 20 percent reduction of payments otherwise due under the contract.

26 U.S.C. 6050M, as implemented in 26 CFR, requires head of Federal Executive agencies to report certain contract information to the IRS. The information required to be reported for certain contract actions over \$25,000 includes name, address, and TIN of contractor; name and TIN of common parent (if any); date of contract action; amount obligated on the contract; and estimated contract completion date.

B. Determination to Issue an Interim Rule

FAC 84-40, Item I

A determination has been made under authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) to issue the regulations in Item I of FAC 84-40 as an interim rule. This action is necessary because—

(a) The Internal Revenue Service (IRS), on July 29, 1988, published in the Federal Register (53 FR 28669) a proposed rule, with a 30-day comment period, implementing the requirements of 26 U.S.C. 6050M;

(b) It is anticipated that the IRS final rule will be published in the near future; and

(c) In order for Federal Executive agencies to be prepared to comply with the statutory requirements to be implemented in the anticipated IRS final rule, it is necessary to establish procedures for collection of the required taxpayer identification information in advance of the IRS final rule.

DoD, GSA, and NASA have determined that compelling reasons exist to promulgate an interim rule without prior opportunity for public comment. However, pursuant to Pub. L. 98-577 and FAR 1.501, public comments received in response to this interim rule will be considered in formulating a final rule.

C. Paperwork Reduction Act

FAC 84-40, Item I

The Paperwork Reduction Act (Pub. L. 96-511) is deemed to apply because the interim rule contains an information collection requirement. Accordingly, a request for approval of a new information collection requirement concerning Information Reporting to the Internal Revenue Service has been submitted to the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* Public comments concerning this OMB clearance request were invited through a October 5, 1988, Federal Register notice (53 FR 39128).

FAC 84-40, Items II through XVII

The Paperwork Reduction Act (Pub. L. 96-511) does not apply because these final rules do not impose any reporting or recordkeeping requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

D. Regulatory Flexibility Act

FAC 84-40, Item I

This interim rule is not expected to 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 all taxpayers are required to have a Taxpayer Identification Number (TIN) and this rule merely requests contractors to provide that number. Contractors should have immediate knowledge of this information item, making any significant additional effort unnecessary. An Initial Regulatory Flexibility analysis has, therefore, not been prepared. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR subpart will also be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite FAR Case 88-610 in correspondence.

FAC 84-40, Items II, V, VI, VII, VIII, IX, XI, XIII, XV, XVI, and XVII

The Regulatory Flexibility Act (Pub. L. 96-354) does not apply because each revision is not a "significant revision" as defined in FAR 1.501-1; i.e., it does not alter the substantive meaning of any coverage in the FAR having a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of the issuing agencies. Accordingly, and consistent with section 1212 of Pub. L. 98-525 and section 302 of

Pub. L. 98-577 pertaining to publication of proposed regulations (as implemented in FAR Subpart 1.5, Agency and Public Participation), solicitation of agency and public views on the revisions is not required. Since such solicitation is not required, the Regulatory Flexibility Act does not apply.

FAC 84-40, Item III

DoD, GSA, and NASA certify that the final rule will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601, *et seq.* The rule does not change current FAR requirements regarding synthesizing solicitations for R&D requirements. It merely clarifies and makes optional the synthesizing of advance notices of interest in R&D fields.

FAC 84-40, Item IV

DoD, GSA, and NASA certify that this final rule will not have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*). However, a Final Regulatory Flexibility Analysis has been prepared and will be submitted to the Chief Counsel for Advocacy of the Small Business Administration.

FAC 84-40, Item X

It is expected that this final rule will have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*). A Final Regulatory Flexibility Analysis has been prepared and will be submitted to the chief Counsel for Advocacy of the Small Business Administration.

FAC 84-40, Item XII

DoD, GSA, and NASA certify that the 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.* The rule does not impose any new requirements on contractors, large or small, and serves only to clarify existing regulatory coverage concerning protest procedures.

FAC 84-40, Item XIV

This rule will apply to all small businesses performing under Government contracts that provide for the furnishing of Government property. Approximately fifty thousand small businesses hold Government contracts. While the number of small businesses being furnished Government property under these contracts is unknown, the ultimate impact on small businesses

should be minimal. The problem with dual property systems exists primarily with large contractors. Small businesses normally maintain only one property control system for their own and Government property. Comments regarding the Initial Regulatory Flexibility Act Analysis were solicited in the Federal Register on October 7, 1987 (52 FR 37595). No public comments were received. A Final Regulatory Flexibility Analysis has been prepared and submitted to the Chief Counsel for Advocacy for the Small Business Administration.

E. Public Comments

FAC 84-40, Item III

On November 5, 1987, a proposed rule was published in the Federal Register (52 FR 42519). The comments that were received were considered by the Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council in the development of this final rule.

FAC 84-40, Item X

On October 14, 1987, an interim rule was published in the Federal Register (52 FR 38188). Over 35 public comments were received addressing a number of issues including Subcontracting Limitations, Fair Proportion by Industry, and Fair Market Price. The comments that were received were considered by the Councils in the development of this final rule.

FAC 84-40, Item XII

On November 25, 1986, a proposed rule was published in the Federal Register (51 FR 42805). The Comments that were received were considered by the Councils in the development of this final rule.

FAC 84-40, Item XIV

On October 7, 1987, a proposed rule was published in the Federal Register (52 FR 37595). The comments that were received were considered by the Councils in the development of this final rule and the change made to FAR 45.505(c) was made for clarification only.

List of Subjects in 48 CFR Parts 4, 5, 8, 9, 13, 14, 15, 19, 25, 28, 33, 36, 37, 45, 52, and 53

Government procurement.

Dated: October 19, 1988.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Federal Acquisition Circular

Number 84-40

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 84-40 is effective November 25, 1988.

Eleanor Spector,

Deputy Assistant Secretary of Defense for Procurement.

Richard G. Austin,

Acting Administrator, GSA.

October 17, 1988.

S.J. Evans,

Assistant Administrator for Procurement, NASA.

Federal Acquisition Circular (FAC) 84-40 amends the Federal Acquisition Regulation (FAR) as specified below:

Item I—Taxpayer Identification Number

FAR Subpart 4.9 and a clause at 52.204-3 are added for the purpose of implementing statutory and regulatory requirements pertaining to taxpayer identification and reporting.

Item II—Revised FPDS Forms

FAR 4.601 and 53.204-2 are revised to prescribe revised Standard Forms 279 and 281 for reporting contract actions to the Federal Procurement Data System.

Item III—Sources Sought Synopsis For R&D

FAR 5.205 is revised to clarify ambiguities in the existing FAR text and to make optional the synthesizing of advance notices of contracting officers' interest in Research and Development fields.

Item IV—Restriction on Competitive Procurement of Electric Service

FAR Subpart 8.3 is revised to incorporate the provisions of Sec. 8093 of the Department of Defense (DoD) Appropriations Act, FY 1988, contained in Pub. L. 100-202, permanently restricting the use of appropriated funds by any agency of the United States Government for competitive procurement of electric service, except as spelled out in the Act.

Item V—Revision to OMB Circular A-120

FAR 9.505-3, 37.000, 37.101, and Subpart 37.2 are revised to incorporate the changes called for in the revised OMB Circular. On January 12, 1988, OMB revised Circular A-120, "Guidelines for the Use of Consulting Services," in an effort to provide for greater control over the contracting for Advisory and Assistance Services.

Item VI—Organizational Conflicts of Interest

FAR 9.507 is revised to require the Chief of the Contracting Office (unless the agency designates a higher level official) to approve the contracting officer's plan for dealing with potential organizational conflicts of interest.

Item VII—Blanket Purchase Agreement Review Procedures

FAR 13.205(a) is revised to allow annual review of BPA files by the ordering officer on a random sample basis to ensure procedural compliance with the FAR. Currently, the FAR requires a semiannual review of all BPA files.

Item VIII—Telegraphic Bids/Proposals

FAR 14.201-6(g), 15.407(e), and the clauses at 52.214-13 and 52.215-17 are revised to allow procurements of perishable subsistence to be exempt from the requirement for submission of signed and completed copies of bids/proposals subsequent to submission of telegraphic offers.

Item IX—Small Business Size Standards

FAR 19.102 is revised to incorporate changes made to the size standards regulations as published in the Federal Register by the Small Business Administration. The modified size standard in the SIC Code 1629 of Major Group 16 pertaining to Dredging and Surface Cleanup Activities was effective September 15, 1988, by issuance of a final rule on August 25, 1988 (53 FR 32370), and the addition of Major Group 62 was effective September 8, 1988, by issuance of an emergency interim rule on August 9, 1988 (53 FR 29876).

Item X—Small Business Set-Asides (Sec. 921, DoD Authorization Act)

Section 921 of the National Defense Authorization Act for Fiscal year 1987 (Pub. L. 99-661), entitled "Small Business Set-Asides," amended sections 8 and 15 of the Small Business Act (15 U.S.C. 637; 15 U.S.C. 644) in order to increase participation by small business and small disadvantaged business concerns in the Federal procurement process. Identical amendments to the Small Business Act were contained in the Department of Defense Appropriations Act, 1987 (Pub. L. 99-591). At a later date, technical corrections to the amendments were made by the Defense Technical Corrections Act of 1987 (Pub. L. 100-26). This final rule revises certain sections of FAR Parts 14, 19, and 52 in order to conform FAR procurement procedures with the statutory amendments. Other provisions of Section 921 which require

rulemaking by the Small Business Administration (e.g., size determination program) are addressed in separate issuances by that Agency (see Federal Register, March 17, 1987 (52 FR 8261) and August 31, 1987 (52 FR 32870)).

Item XI—Excess and Near Excess Foreign Currency

FAR 25.304 is revised to expedite transmittal of changes in the lists of excess and near-excess currencies.

Item XII—Service of Protest Clause

FAR 33.101 is revised to conform the definition of "Interested Party" to General Accounting Office regulations governing consideration of protests. The clause at 52.233-2 is revised to clarify service of protest requirements.

Item XIII—GAO Bid Protest Rule

FAR 33.104 is revised to allow the protestor to file a request for documents it believes relevant to the protest, and to provide for two types of conferences, one on the merits of the protest and a fact finding conference. This revision is in accordance with the General Accounting Office (GAO) final rule changes to the regulations governing consideration of bid protests by the GAO and published in the Federal Register on December 8, 1987 (52 FR 46445).

Item XIV—Accountability for Government Property in the Possession of Contractors

FAR 45.505(c) is amended to clarify the requirements for records and reports of Government property in the possession of contractors. Under the revised coverage, contractors' systems for maintaining Government property records must be, as a minimum, equivalent to their own systems for maintaining records of contractor-owned property.

Item XV—Amendment of Solicitations

FAR at 52.214-3 and 52.215-8 are revised to clarify that when a solicitation amendment changes one aspect of a solicitation and does not mention other aspects of the solicitation, then those other aspects remain unchanged. This revision is necessary because of an inconsistency in interpretation of the FAR by the General Accounting Office (GAO) and the General Services Administration Board of Contract Appeals (GSBCA).

Item XVI—Computer-Generation of Standard Forms

FAR 53.103 and 53.105 are revised to allow for the computer generation of standard and optional forms.

Item XVII—Changes to Standard Form (SF) 1415, Consent of Surety

Standard Form 1415, Consent of Surety and Increase of Penalty, is revised to provide a place for the entry of the dollar figure amount the penalty of the payment bond or bonds are increased due to contract modification. FAR 28.106-3 and 53.228(1) are revised to show the date of the edition to be used and to state that local reproduction is authorized. SF 1415 is illustrated. As the SF 1415 is authorized for local reproduction, a copy is provided in the looseleaf edition of the FAR for the user to reproduce copies as required.

Therefore, 48 CFR parts 4, 5, 8, 9, 13, 14, 15, 19, 25, 28, 33, 36, 37, 45, 52, and 53 are amended as set forth below:

1. The authority citation for 48 CFR Parts 4, 5, 8, 9, 13, 14, 15, 19, 25, 28, 33, 36, 37, 45, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 466(c); 10 U.S.C. Ch. 137; and 42 U.S.C. 2473(c).

PART 4—ADMINISTRATIVE MATTERS

2. Section 4.602 is amended by revising paragraph (c) to read as follows:

4.602 Federal Procurement Data System.

(c) Data collection points in each agency report data on SF 279, Federal Procurement Data System (FPDS) Individual Contract Action Report, and SF 281, Federal Procurement Data System (FPDS) Summary Contract Action Report (\$25,000 or Less), or computer-generated equivalent.

4.703 [Amended]

3. Section 4.703 is amended in paragraph (a)(2) by removing the words "4.705 and 4.704" and inserting in their place the words "4.705 through 4.705-3".

4. Subpart 4.9, consisting of sections 4.900 through 4.904, is added to read as follows:

Subpart 4.9—Information Reporting to the Internal Revenue Service

Sec.	
4.900	Scope of subpart.
4.901	Definitions.
4.902	General.
4.903	Procedures.
4.904	Solicitation provision.

Subpart 4.9—Information Reporting To The Internal Revenue Service**4.900 Scope of subpart.**

This subpart provides policies and procedures applicable to contract and payment information reporting to the Internal Revenue Service (IRS).

4.901 Definitions.

"Common parent," as used in this subpart, means an offeror that is a member of an affiliated group of corporations that files its Federal income tax returns on a consolidated basis.

"Corporate status," as used in this subpart, means a designation as to whether the offeror is a corporate entity, an unincorporated entity, (e.g., sole proprietorship or partnership), or a corporation providing medical and health care services.

"Taxpayer Identification Number (TIN)," as used in this subpart, means the number required by the IRS to be used by the offeror in reporting income tax and other returns.

4.902 General.

(a) 26 U.S.C. 6041 and 6041A, as implemented in 26 CFR, in part, require payors, including Federal Government agencies, to report to the IRS payments made to certain contractors.

(1) The following payments are exempt from this reporting requirement:

(i) Payments to corporations. However, payments to corporations providing medical and health care services or engaged in the billing and collecting of payments for such services are not exempted.

(ii) Payments for bills for merchandise, telegrams, telephone, freight, storage, and similar charges.

(iii) Payments of income required to be reported on an IRS Form W-2 (e.g., contracts for personal services).

(iv) Payments to a hospital or extended care facility described in 26 CFR 501(c)(3) that is exempt from taxation under 26 CFR 501(a).

(v) Payments to a hospital or extended care facility owned and operated by the United States, a state, the District of Columbia, a possession of the United States, or a political subdivision, agency, or instrumentality of any of the foregoing.

(vi) Payments for any contract with a state, the District of Columbia, a possession of the United States, or a political subdivision, agency, or instrumentality of any of the foregoing.

(2) The following information is required to provide report to IRS:

(i) Name, address, and TIN of contractor.

(ii) Corporate status (see 4.901).

(b) 26 U.S.C. 605M, as implemented in 26 CFR, requires heads of Federal Executive agencies to report to the IRS the following information for certain contracts in excess of \$25,000:

(1) Name, address, and TIN of contractor.

(2) Name and TIN of common parent (if any).

(3) Date of the contract action.

(4) Amount obligated on the contract action.

(5) Estimated contract completion date.

4.903 Procedures.

The information reported to the IRS under 4.902(b) will be transmitted using the Federal Procurement Data System (see Subpart 4.6 and implementing instructions).

4.904 Solicitation provision.

The contracting officer shall insert the provision at 52.204-3, Taxpayer Identification, in all solicitations, unless the TIN of each offeror has previously been obtained and is known.

PART 5—PUBLICIZING CONTRACT ACTIONS

5. Section 5.205 is amended by revising paragraph (a) to read as follows:

5.205 Special situations.

(a) *Research and development (R&D) advance notice.* Contracting officers may publish in the CBD, advance notices of their interest in potential R&D programs whenever existing solicitation mailing lists do not include a sufficient number of concerns to obtain adequate competition. Advance notices shall not be used where security considerations prohibit such publication. Advance notices will enable potential sources to learn of R&D programs and provide their sources with an opportunity to submit information which will permit evaluation of their R&D capabilities. Potential sources which respond to advance notices shall be added to the appropriate solicitation mailing list for subsequent solicitation. Advance notices shall be titled "Research and Development Sources Sought," cite the appropriate Numbered Note, and include the name and telephone number of the contracting officer or other contracting activity official from whom technical details of the project can be obtained. This will enable sources to submit information for evaluation of their R&D capabilities. Contracting officers shall synopsise all subsequent solicitations for R&D contracts, including those resulting from a previously synopsised advance notice, unless one of the exceptions in 5.202 applies.

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

6. Section 8.302 is amended by adding paragraph (d) to read as follows:

8.302 Applicability.

(d)(1) Section 8093 of the Department of Defense Appropriations Act, 1988, contained in Pub. L. 100-202, provides that none of the funds appropriated by that Act or any other Act with respect to any fiscal year by any Department, agency, or instrumentality of the United States, may be used for the purchase of electricity by the Government in any manner that is inconsistent with the state law governing the providing of electric utility service, including state utility commission rulings and electric utility franchises or service territories established pursuant to state statute, state regulation, or state-approved territorial agreements.

(2) The Act does not preclude—

(i) The head of a Federal agency from entering into a contract pursuant to 42 U.S.C. 8287 (which pertains to the subject of shared energy savings);

(ii) The Secretary of a military department from entering into a contract pursuant to 10 U.S.C. 2394 (which pertains to contracts for energy or fuel for military installations); or

(iii) The Secretary of a military department from purchasing electricity from any provider when the utility or utilities having applicable state-owned franchise or other service authorizations are found by the Secretary to be unwilling or unable to meet unusual standards for service reliability that are necessary for purposes of national defense.

PART 9—CONTRACTOR QUALIFICATIONS

7. Section 9.505-3 is amended by revising the section title; by removing in the first sentence the word "consulting" and inserting in its place "advisory and assistance"; and by removing in the second sentence in the title of the OMB Circular the word "Consulting" and inserting in its place the words, "Advisory and Assistance," to read as follows:

9.505-3 Providing technical evaluation or advisory and assistance services.

8. Section 9.507 is amended by revising paragraph (a) and the introductory text of paragraph (b) to read as follows:

9.507 Procedures.

(a) If the contracting officer initially decides that a particular acquisition involves a significant potential organizational conflict of interest, before issuing the solicitation the contracting officer shall submit for approval to the chief of the contracting office (unless a higher level official is designated by the agency)—

(b) The approving official shall—

PART 13—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

13.203-1 [Amended]

9. Section 13.203-1 is amended in paragraph (f) by removing the acronym "ADTS"; and inserting in its place the words "GSA Nonmandatory ADP".

10. Section 13.205 is amended by revising paragraph (a) to read as follows:

13.205 Review procedures.

(a) The contracting officer placing orders under a BPA, or the designated representative of the contracting officer, shall review a sufficient random sample of the BPA files at least annually to ensure that authorized procedures are being followed.

PART 14—SEALED BIDDING

11. Section 14.201-6 is amended by redesignating paragraph (g) as (g)(1) and by adding a new (g)(2) to read as follows:

14.201-6 Solicitation provisions.

(g) ***
(2) The contracting officer shall insert the basic provision with its Alternate I in invitations for bids that are for perishable subsistence, and when the contracting officer considers that offerors will be unwilling to provide acceptance periods long enough to allow written confirmation.

14.205-5 [Amended]

12. Section 14.205-5 is amended by removing in paragraph (a) the parenthetical reference "(see also 19.501(k))".

PART 15—CONTRACTING BY NEGOTIATION

13. Section 15.407 is amended by redesignating paragraph (e) as (e)(1) and by adding a new (e)(2) to read as follows:

15.407 Solicitation provisions.

(e) ***
(2) The contracting officer shall insert the basic provision with its Alternate 1 in solicitations that are for perishable subsistence and when the contracting officer considers that offerors will be unwilling to provide acceptance periods long enough to allow written confirmation.

PART 19—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

14. Section 19.102 is amended in Major Group 16 by removing in the second SIC Code 1629 the figure "\$9.5" and inserting in its place the figure "\$13.5"; and by adding Major Group 62 to Division H after Major Group 60 to read as follows:

19.102 Size standards.

MAJOR GROUP 62—SECURITY AND COMMODITY BROKERS, DEALERS, EXCHANGES, AND SERVICES

SIC	Description	Size
6221	Commodity Contracts, Brokers, and Dealers.	\$3.5

15. Section 19.202-6 is amended by revising paragraph (a) to read as follows:

19.202-6 Determination of fair market price.

(a) For total and partial small business set-aside contracts, the fair market price shall be the price achieved in accordance with the reasonable price guidelines in 15.805-2.

16. Section 19.501 is amended by revising paragraph (g)(2) to read as follows:

19.501 General.

(g) ***
(2) Awards will be made at fair market prices. Withdrawal of a repetitive set-aside will be in accordance with 19.506.

19.502-2 [Amended]

17. Section 19.502-2 is amended by removing in paragraph (b) the words "reasonable prices" and inserting in their place the words "fair market prices".

19.502-3 [Amended]

18. Section 19.502-3 is amended by removing in paragraph (a)(3) the words "reasonable price" and inserting in their place the words "fair market price".

19.503 [Amended]

19. Section 19.503 is amended in the second sentence of paragraph (d) by removing the words "an unreasonable price" and inserting in their place the words "more than a fair market price".

19.506 [Amended]

20. Section 19.506 is amended in the first sentence of paragraph (a) by removing the words "because of unreasonable price" and inserting in their place the words "payment of more than a fair market price".

21. Section 19.508 is amended by revising paragraph (e) to read as follows:

19.508 Solicitation provisions and contract clauses.

(e) The contracting officer shall insert the clause at 52.219-14, Limitations on Subcontracting, in solicitations and contracts, except those awarded using small purchase procedures in Part 13, for supplies, services, and construction, if any portion of the requirement is to be set aside for small business, or if the contract is to be awarded under Subpart 19.8.

22. Section 19.806-1 is amended by adding a new paragraph (a) and redesignating existing paragraphs (a) and (b) as (b) and (c) to read as follows:

19.806-1 General.

(a) The contracting officer shall estimate the current fair market price of the work to be performed by the SBA's contractor.

PART 25—FOREIGN ACQUISITION

23. Section 25.304 is amended by revising paragraph (a) and by removing paragraphs (e) and (f) to read as follows:

25.304 Excess and near-excess foreign currencies.

(a) The United States holds currencies of certain countries in amounts determined annually by the Secretary of the Treasury to be excess to the normal, or above the immediate (near-excess) requirements of the Government. These countries are identified in Bulletins issued by the Office of Management and Budget which will be distributed through agency procedures on an expedited basis. Additional information may also be obtained from the Department of the

Treasury, Office of the Assistant Secretary for International Affairs, Office of Development Policy. Acquisitions of foreign end products, services, or construction paid for in excess of near-excess foreign currencies are an exception to the balance of payments restrictions in this subpart (see 25.302(b)(8)).

(e) [Removed]

(f) [Removed]

PART 28—BONDS AND INSURANCE

24. Section 28.106-3 is amended in paragraph (a) to add a second sentence to read as follows:

28.106-3 Additional bond.

(a) * * * Standard Form 1415 is authorized for local reproduction, and a copy of the form is furnished for this purpose in Part 53 of the looseleaf edition of the FAR.

PART 33—PROTESTS, DISPUTES, AND APPEALS

25. Section 33.101 is amended by revising the definition "Interested Party" to read as follows:

33.101 Definitions.

"Interested Party for the purpose of filing a protest," as used in this subpart, means an actual or prospective offeror whose direct economic interest could be affected by the award of a contract or by the failure to award a contract.

26. Section 33.104 is amended by revising paragraph (a); by redesignating existing paragraphs (e), (f), and (g) as (f), (g), and (h); and by adding a new paragraph (e) to read as follows:

33.104 Protests to GAO.

(a) *General.* (1) A protestor shall furnish a copy of its complete protest to the official or location designated in the solicitation or, in the absence of such a designation, to the contracting officer, no later than 1 day after the protest is filed with the GAO. Failure to furnish a complete copy of the protest within 1 day may result in dismissal of the protest by GAO.

(2)(i) If the protestor files a request for documents with a protest, the agency shall furnish copies of those requested documents, and the documents described in 33.104(a)(6), along with the copy of the agency report to the protestor, unless the protestor is not otherwise authorized by law to receive the requested documents or the documents—

(A) Are not relevant to the protest;

(B) Would give the protestor a competitive advantage; or

(C) Have been previously provided to the protestor.

(ii) Documents referred to in subdivision (a)(2)(i) of this section not furnished to the protestor shall be identified, and the reason for not furnishing them stated in the agency report described in subparagraph (a)(3) of this section.

(iii) If the protestor, after receipt of the agency report, requests additional documents, the agency must respond to the GAO within 5 days by filing the requested documents or by identifying any documents which will not be furnished to the protestor, and stating the reason for not furnishing them.

(3) When a protest, before or after award, has been lodged with the GAO, the agency shall prepare a report. The report should include a copy of—

(i) The protest;

(ii) The offer submitted by the protesting offeror and a copy of the offer which is being considered for award or which is being protested;

(iii) The solicitation, including the specifications or portions relevant to the protest;

(iv) The abstract of offers or relevant portions;

(v) Any other documents that are relevant to the protest; and

(vi) The contracting officer's signed statement setting forth findings, actions, and recommendations and any additional evidence or information deemed necessary in determining the validity of the protest. The statement shall be fully responsive to the allegation of the protest. If the contract action or contract performance continues after receipt of the protest, the report will include the determination(s) prescribed in paragraphs (b) or (c) of this section.

(vii) In addition to subdivisions (a)(3) (i) through (vi) of this section, the copy of the report forwarded to the GAO shall also identify the other parties who are being furnished copies of the report.

(4) Other persons, including offerors, involved in or affected by the protest shall be given notice of the protest and its basis in appropriate cases, within 1 work day after its receipt by the agency. The agency shall give immediate notice of the protest to the contractor if the award has been made or, if no award has been made, to all parties who appear to have a reasonable prospect of receiving an award if the protest is denied. These persons shall also be advised that they may submit their views and relevant information directly to the GAO with a copy to the contracting officer and to other

participating interested parties within a specified period of time. Normally, the time specified will be 1 week.

(5) The agency shall submit a complete report (see subparagraph (a)(3) of this section) to GAO within 25 work days after receipt from GAO of the telephonic notice of such protest, or within 10 work days after receipt from GAO of a determination to use the express option, unless—

(i) The GAO advises the agency that the protest has been dismissed; or

(ii) The agency advises GAO in writing that the specific circumstances of the protest require a longer period and GAO establishes a new date. Any new date shall be documented in the agency's protest file.

(6)(i) Timely action on protests is essential. Upon notice that a protest has been lodged with the GAO, the contracting officer shall immediately begin compiling the information necessary for a report to the GAO. To further expedite processing, when furnishing a copy of the report including relevant documents to the GAO, the agency shall simultaneously furnish a copy of the report including relevant documents to the protestor and the awardee or offeror who appears to have a substantial prospect of receiving an award if the protest is denied, and a copy of the report without relevant documents to other interested parties who have responded to the notice in subparagraph (a)(4) of this section, unless the protestor or other interested party is not otherwise authorized by law to receive those documents, or subdivisions (6)(i) (A) and (B) are applicable. Upon request, the agency shall also provide to any interested party a relevant document contained in the report.

(A) Documents previously furnished to or prepared by a party (e.g., the solicitation or the party's own proposal) need not be furnished to that party.

(B) Classified or privileged information or information that would give a party a competitive advantage and other information that the Government determines under appropriate authority to withhold should be deleted from the copy of the report or relevant documents furnished to that party.

(C) If documents are withheld from any of the parties, the agency must include in the report and in the copies of the report provided to the protestor and the interested parties, a list of the withheld documents.

(ii) The protestor and other interested parties shall be requested to furnish a copy of any comments on the report

directly to the GAO, as well as to the contracting officer and to other participating interested parties.

(7) Agencies shall furnish the GAO with the name, title, and telephone number of one or more officials (in both field and headquarters offices, if desired) whom the GAO may contact who are knowledgeable about the subject matter of the protest. Each agency shall be responsible for promptly advising the GAO of any change in the designated officials.

* * * * *

(e) *Conferences.* (1) A conference on the merits of the protest may, at the sole discretion of the GAO, be held at the request of the protestor, the agency, or any interested party.

(2) A fact finding conference may, at the sole discretion of the GAO, be held at the request of any protestor, agency or interested party, or on the initiative of the GAO. The fact finding conference is intended to resolve specific factual disputes essential to the resolution of the protest which cannot otherwise be resolved from the record. Witnesses may be called to testify under oath and each party may question witnesses. A transcript will be made of the proceeding, and copies are available from the GAO for a fee. Written comments on the transcript may be submitted to the GAO within 3 days of receipt.

* * * * *

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

27. Section 36.501 is amended by revising paragraph (b) to read as follows:

36.501 Performance of work by the contractor.

* * * * *

(b) The contracting officer shall insert the clause at 52.236-1, Performance of Work by the Contractor, in solicitations and contracts, except those awarded pursuant to Subparts 19.5 or 19.8, when a fixed-price construction contract is contemplated and the contract amount is expected to exceed \$1,000,000. The contracting officer may insert the clause on solicitations and contracts when a fixed-price construction contract is contemplated and the contract amount is expected to be \$1,000,000 or less.

PART 37—SERVICE CONTRACTING

37.000 [Amended]

28. Section 37.000 is amended by removing in the second sentence the word "consulting" and inserting in its

place the words "advisory and assistance".

37.101 [Amended]

29. Section 37.101 is amended by removing in paragraph (d) the word "consulting" and inserting in its place the words "advisory and assistance"; by removing paragraph (e); and by redesignating existing paragraphs (f) through (j) as (e) through (i).

30. Subpart 37.2, consisting of sections 37.200 through 37.207 is revised to read as follows:

Subpart 37.2—Advisory and Assistance Services

Sec.

- 37.200 Scope of subpart.
- 37.201 Definition.
- 37.202 Policy.
- 37.203 Types of advisory and assistance services.
- 37.204 Exclusions.
- 37.205 Management controls.
- 37.206 Requesting activity responsibilities.
- 37.207 Contracting officer responsibilities.

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

37.200 Scope of subpart.

This subpart prescribes policies and procedures for acquiring advisory and assistance services by contract. The subpart regulates these contracts with individuals and organizations for both personal and nonpersonal services.

37.201 Definition.

"Advisory and assistance services" means services, other than those excluded or exempted in this subpart, to support or improve agency policy development, decision-making, management, and administration, or to support or improve the operation of management systems.

37.202 Policy.

(a) The acquisition of advisory and assistance services is a legitimate way to improve Government services and operations. Accordingly, advisory and assistance services may be used at all organizational levels to help managers achieve maximum effectiveness or economy in their operations.

(b) Subject to 37.205, agencies may contract for advisory and assistance services, when essential to the agency's mission, to—

- (1) Obtain outside points of view to avoid too limited judgment on critical issues;
- (2) Obtain advice regarding developments in industry, university, or foundation research;
- (3) Obtain the opinions, special knowledge, or skills of noted experts;

(4) Enhance the understanding or, and develop alternative solutions to, complex issues;

(5) Support and improve the operation of organizations;

(6) Ensure the more efficient or effective operation of managerial or hardware systems.

(c) Advisory and assistance services shall not be—

(1) Used in performing work of a policy, decision-making, or managerial nature which is the direct responsibility of agency officials;

(2) Used to bypass or undermine personnel ceilings, pay limitations, or competitive employment procedures;

(3) Contracted for on a preferential basis to former Government employees;

(4) Used under any circumstances specifically to aid in influencing or enacting legislation;

(5) Used to obtain professional or technical advice which is readily available within the agency or another Federal agency.

37.203 Types of advisory and assistance services.

Advisory and assistance services may take the form of information, advice, opinions, alternatives, conclusions, recommendations, training, or direct assistance. These services consist of—

(a) *Individual experts and consultants.* Individual experts and consultants are persons possessing special, current knowledge or skill that may be combined with extensive operational experience. This enables them to provide information, opinions, advice, or recommendations to enhance understanding of complex issues or to improve the quality and timeliness of policy development or decision-making.

(b) *Studies, analyses, and evaluations.* Studies, analyses, and evaluations are organized, analytic assessments needed to provide the insights necessary for understanding complex issues or improving policy development or decision-making. These analytic efforts result in formal, structured documents containing data or leading to conclusions and/or recommendations. This summary description is operationally defined by the following criteria:

- (1) *Objective.* To enhance understanding of complex issues or to improve the quality and timeliness of agency policy development or decision-making by providing new insights into, understanding of, alternative solutions to, or recommendations on agency policy and program issues, through the applications of fact finding, analysis, and evaluation.

(2) *Areas of application.* All subjects, issues, or problems involving policy development of decision-making in the agency. These may involve concepts, organization, programs and other systems, and the application of such systems.

(3) *Outputs.* Outputs are formal structured documents containing or leading to conclusions and/or recommendations. Data bases, models, methodologies, and related software created in support of a study, analysis, or evaluation are to be considered part of the overall study effort.

(c) *Management and professional support services.* Management and professional support services take the form of advice, training, or direct assistance for organizations to ensure more efficient or effective operations of managerial, administrative, or related systems. This summary description is operationally defined in terms of the following criteria:

(1) *Objective.* To ensure more efficient or effective operation of management support or related systems by providing advice, training, or direct assistance associated with the design or operation of such systems.

(2) *Areas of application.* Management support or related systems such as program management, project monitoring and reporting, data collection, logistics management, budgeting, accounting, auditing, personnel management, paperwork management, records management, space management, and public relations.

(3) *Outputs.* Services in the form of information, opinions, advice, training, or direct assistance that lead to the improved design or operation of managerial, administrative, or related systems. This does not include training which maintains skills necessary for normal operations. Written reports are normally incidental to the performance of the service.

(d) *Engineering and technical service.* Engineering and technical services (technical representatives) take the form of advice, training, or, under unusual circumstances, direct assistance to ensure more efficient or effective operation or maintenance of existing platforms, weapon systems, related systems, and associated software. All engineering and technical services provided prior to final Government acceptance of a complete hardware system are part of the normal development, production, and procurement processes and do not fall in this category. Engineering and technical services provided after final Government acceptance of a complete hardware system are in this category

except where they are procured to increase the original design performance capabilities of existing or new systems or where they are integral to the operational support of a deployed system and have been formally reviewed and approved in the acquisition planning process.

37.204 Exclusions.

The following activities and programs are excluded or exempted from the definition of advisory or assistance services:

(a) Activities that are reviewed in accordance with the OMB Circular A-76, Policies for Acquiring Commercial or Industrial Products and Services Needed by the Government.

(b) Architectural and engineering services as defined in Part 36.

(c) ADP/Telecommunications functions and related services that are controlled in accordance with 41 CFR Part 201, the Federal Information Resources Management Regulation.

(d) Research on theoretical mathematics and basic medical, biological, physical, social, psychological, or other phenomena.

(e) Engineering studies related to specific physical or performance characteristics of existing or proposed systems.

(f) The day-to-day operation of facilities (e.g., the Johnson Space Center and related facilities) and functions (e.g., ADP operations and building maintenance).

(g) Government-owned, contractor-operated (GOCO) facilities. However, any contract for advisory and assistance services other than the basic contract for operation and management of a GOCO shall come under the definition of advisory or assistance services.

(h) Clinical medicine.

(i) Those support services of a managerial or administrative nature performed as a simultaneous part of, and nonseparable from specific development, production, or operational support activities. In this context, nonseparable means that the managerial or administrative systems in question (e.g., subcontractor monitoring or configuration control) cannot reasonably be operated by anyone other than the designer or producer of the end-item hardware.

(j) Contracts entered into in furtherance of statutorily mandated advisory committees.

(k) Initial training, training aids, and technical documentation acquired as an integral part of the lease or purchase of equipment.

(l) Routine maintenance of equipment, routine administrative services (e.g.,

mail, reproduction, telephone), printing services, and direct advertising (media) costs.

(m) Auctioneers, realty-brokers, appraisers, and surveyors.

(n) The National Foreign Intelligence Program (NFIP).

(o) The General Defense Intelligence Program (GDIP).

(p) Tactical Intelligence and Related Activities (TIARA).

(q) Foreign Military Sales.

(r) Engineering and technical services as set forth in 37.203(d).

37.205 Management controls.

OMB Circular A-120 requires each agency to establish procedures for a written evaluation at the conclusion of the contract to assess the utility of the deliverables to the agency and the performance of the contractor.

37.206 Requesting activity responsibilities.

Requests for advisory and assistance services shall include—

(a) A statement certifying that the requirement is for advisory and assistance services as defined in this subpart.

(b) Written justification of need and certification that such services do not unnecessarily duplicate and previously performed work or services.

(c) Written approval for such services by an official at a level above the requesting office. However, in the case of requirements received by the contracting officer during the fourth quarter of the fiscal year, for award during the same fiscal year, the approval at the second level, or higher level if required by agency procedures, above the requesting office shall accompany the request for contract action.

(d) Properly chargeable funds certified by the cognizant fiscal/budget office.

37.207 Contracting officer responsibilities.

The contracting officer is responsible for determining whether any requested contractual action, regardless of dollar value, constitutes advisory and assistance services as described in this subpart. The contracting officer's determination shall be final. Before processing any contractual action for advisory and assistance services, the contracting officer shall verify that—

(a) Action is taken to avoid conflicts of interest in accordance with Subpart 9.5.

(b) The applicable requirements of this subpart and 37.103 and 37.104 are met;

(c) The services being contracted for consist only of the types of services defined as 37.203;

(d) The request includes a statement of need and certification by the requesting official (see 37.206(a) and (b)); and

(e) Written approval for the requirement, including requests for contract modifications beyond the scope of the acquisition originally approved, has been obtained from the appropriate level(s) (see 37.206(c)).

PART 45—GOVERNMENT PROPERTY

31. Section 45.505 is amended by revising paragraph (c) to read as follows:

45.505 Records and reports of Government property.

* * * * *

(c) Official Government property records must identify all Government property and provide a complete, current, auditable record of all transactions. The contractor's system of records maintenance shall be sufficient to adequately control Government property as required by this section. The contractor's system of records maintenance, as a minimum, shall be equivalent to and maintained in the same manner as the contractor's system for maintaining records of contractor-owned property, but need not exceed the requirements of this subpart. The records shall be safeguarded from tampering or destruction. Records shall be accessible to authorized Government personnel.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

32. Section 52.204-3 is added to read as follows:

52.204-3 Taxpayer Identification.

As prescribed in 4.904, insert the following provision:

TAXPAYER IDENTIFICATION (NOV 1988)

(a) *Definitions.*
 "Common parent," as used in the solicitation provision, means an offeror that is a member of an affiliated group of corporations that files its Federal income tax returns on a consolidated basis.
 "Corporate status," as used in this solicitation provision, means a designation as to whether the offeror is a corporate entity, an unincorporated entity (e.g., sole proprietorship or partnership), or a corporation providing medical and health care services.

"Taxpayer Identification Number (TIN)," as used in this solicitation provision, means the number required by the IRS to be used by

the offeror in reporting income tax and other returns.

(b) The offeror is required to submit the information required in paragraphs (c) through (e) of this solicitation provision in order to comply with reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M and implementing regulations issued by the Internal Revenue Service (IRS). If the resulting contract is subject to reporting requirements described in 4.902(a), the failure or refusal by the offeror to furnish the information may result in a 20 percent reduction of payments otherwise due under the contract.

(c) *Taxpayer Identification Number (TIN).*

- () TIN: _____
- () TIN has been applied for.
- () TIN is not required because:
- () Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the U.S. and does not have an office or place of business or a fiscal paying agent in the U.S.;
- () Offeror is an agency or instrumentality of a foreign government;
- () Offeror is an agency or instrumentality of a state or local government;
- () Other. State basis. _____

(d) *Corporate Status.*

- () Corporation providing medical and health care services, or engaged in the billing and collecting of payments for such services;
- () Other corporate entity;
- () Not a corporate entity;
- () Sole proprietorship
- () Partnership
- () Hospital or extended care facility described in 26 CFR 501(c)(3) that is exempt from taxation under 26 CFR 501(a).

(e) *Common Parent.*

() Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this clause.

() Name and TIN of common parent: _____

Name _____

TIN _____

(End of provision)

33. Section 52.214-3 is revised to read as follows:

52.214-3 Amendments to Invitations for Bids.

As prescribed in 14.201-6(b)(3), insert the following provision:

AMENDMENTS TO INVITATIONS FOR BIDS (NOV 1988)

- (a) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.
- (b) Bidders shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date in the space provided for this purpose on the form for submitting a bid, or (3) by letter or telegram. The Government must receive the acknowledgment by the time and at the place specified for receipt of bids.

(End of provision)

34. Section 52.214-13 is amended by revising the introductory text and by adding Alternate I to read as follows.

52.214-13 Telegraphic Bids.

As prescribed in 14.201-6(g)(1), insert the following provision:

* * * * *

Alternate I (NOV 1988). As prescribed in 14.201-6(g)(2), substitute the following for paragraph (d) of the basic clause:

(d) Written confirmation of telegraphic bids is not required.

35. Section 52.215-8 is revised to read as follows:

52.215-8 Amendments to Solicitations.

As prescribed in 15.407(c)(4), insert the following provision:

AMENDMENTS TO SOLICITATIONS (NOV 1988)

(a) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

(b) Offerors shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment; (2) by identifying the amendment number and date in the space provided for this purpose on the form for submitting an offer; or (3) by letter or telegram. The Government must receive the acknowledgment by the time specified for receipt of offers.

(End of provision)

36. Section 52.215-17 is amended by revising the introductory text and by adding Alternate I to read as follows:

52.215-17 Telegraphic Proposals.

As prescribed in 15.407(e)(1) insert the following provision:

Alternate I (NOV 1988). As prescribed in 15.407(e)(2), substitute the following for paragraph (d) of the basic provision:

(d) Written confirmation of telegraphic proposals is not required.

37. Section 52.233-2 is revised to read as follows:

52.233-2 Service of Protest.

As prescribed in 33.106, insert the following provision:

SERVICE OF PROTEST (NOV 1988)

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO) or the General Services Administration Board of Contract Appeals (GSBCA), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from _____

(Contracting Officer designate the official and location where a protest may be served on the Contracting Officer.)

(b) The copy of any protest shall be received in the office designated above on the same day a protest is filed with the GSBCA or within one day of filing a protest with the GAO.

(End of provision)

52.236-13 [Amended]

38. Section 52.236-13 is amended by removing in paragraph (b) the date "April 1981" and inserting in its place the date "October 1984".

PART 53—FORMS

39. Section 53.103 is revised to read as follows:

53.103 Exceptions.

Agencies shall not (a) alter a standard form prescribed by this regulation, or (b) use for the same purpose any form other than the standard form prescribed by this regulation without receiving in advance an exception to the form (see 41 CFR 201-45.510).

40. Section 53.105 is revised to read as follows:

53.105 Computer generation.

Agencies may computer-generate the standard and optional forms prescribed

in the FAR without exception approval (see 53.103), providing there is no change to the name, content, or sequence of the data elements, and the form carries the standard or optional form number and edition date. Agencies shall notify the FAR Secretariat of their decisions to computer-generate forms prescribed by the FAR.

41. Section 53.204-2 is revised to read as follows:

53.204-2 Contract reporting (SF's 279, 281).

The following forms are prescribed for use by executive agencies in reporting contract actions, as specified in 4.602(c):

(a) *SF 279 (REV. 10/88), Federal Procurement Data System (FPDS) Individual Contract Action Report* (See 4.602(c).)

(b) *SF 281 (REV. 10/88), Federal Procurement Data System (FPDS)*

Summary Contract Action Report (\$25,000 or Less). (See 4.602(c).)

42. Section 53.228 is amended by revising paragraph (l) to read as follows:

53.228 Bonds and insurance (SF's 24, 25, 25-A, 25-B, 28, 34, 35, 273, 274, 275, 1414, 1415, 1416).

(l) *SF 1415 (REV. 11/87), Consent of Surety and Increase of Penalty*. (See 28.108-1(l).) SF 1415 is authorized for local reproduction and a copy is furnished for this purpose in Part 53 of the looseleaf edition of the FAR.

43. Section 53.301-279 is revised to read as follows:

BILLING CODE 6820-61-M

53.301-279 Standard Form 279, FDDS-Individual Contract Action Report (over \$10,000).

FEDERAL PROCUREMENT DATA SYSTEM (FPDS) INDIVIDUAL CONTRACT ACTION REPORT

INTERAGENCY REPORT CONTROL NUMBER 0206-GSA-QU

1. REPORTING AGENCY (FIPS 95) 2. CONTRACT NUMBER (Left justified) 3. MODIFICATION NUMBER (Left justified) 4. CONTRACTING OFFICE ORDER NUMBER (Left justified) 5. CONTRACTING OFFICE Code 6. ACTION DATE CY MO 7. TYPE OF DATA ENTRY A-Original B-Deleting C-Correcting 8. REPORT PERIOD FY Q 9. KIND OF CONTRACT ACTION A. Initial Letter Contract B. Definitive Contract C. New Definitive Contract D. Small Purchase Procedure E. Order Under indef Delivery Contract (IDC) F. Order Under BOA G. Order/Modification Under Federal Schedule H. Modification I. Termination for Default J. Termination for Convenience K. Initial Load of Federal Schedule Contract Z. Standard Industrial Classification (SIC) CODE (OMB SIC Manual) 10. DOLLARS OBLIGATED OR DEOBLIGATED THIS ACTION (Round to nearest 1000, right justified) (Use lead zeros) 11. TYPE OF OBLIGATION A- Obligated B- Deobligated 12. PRINCIPAL PRODUCT OR SERVICE (FPDS Product/Service Code Manual) Code 13. PRINCIPAL STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE (OMB SIC Manual) Code 14. ADVISORY/ ASSISTANCE SERVICES AWARD Y- Yes N- No 15. CONTRACTOR NAME 16. CONTRACTOR ESTABLISHMENT CODE 17. PRINCIPAL PLACE OF PERFORMANCE (State or U.S. outlying area, city or place - FIPS 55) OR FOREIGN COUNTRY (FIPS 10-3) 18. CONTRACT FOR FOREIGN GOVERNMENT OR INTERNATIONAL ORGANIZATION Y- Yes N- No 19. TARIFF OR REGULATED (Pre-CICA) Y- Yes N- No 20. FOREIGN TRADE DATA 21. BUY AMERICAN ACT PERCENT DIFFERENCE 22. COUNTRY OF MANUFACTURE (FIPS 10-3) 23. SYNOPSIS OF PROCUREMENT PRIOR TO AWARD A Synopsized prior to award B Not synopsized due to Urgency C Not synopsized for other reason 24. TYPE OF CONTRACT OR MODIFICATION A Fixed-Price Redetermination B Firm Fixed-Price C Fixed-Price with Economic Price Adjustment L Fixed-Price Incentive R Cost-Plus Award-Fee S Cost-Plus Fee T Cost Sharing U Cost-Plus - Fixed-Fee V Cost-Plus - Incentive-Fee Y Time and Materials Z Labor Hour 25. CICA APPLICABILITY A CICA Applicable B Small Purchase Procedure C Subject to Statute other than CICA D Pre-CICA 26. SOLICITATION PROCEDURES (Complete only if Item 25 = A) A Full and Open Competition - Sealed Bid B Full and Open Competition - Competitive Proposal C Full and Open Competition - Combination D Architect - Engineer E Basic Research F. Multiple Award Schedule G Alternate Source - Reduced Cost H Alternate Source - Mobilization I Alternate Source - Eng/R & D Capability K Set-Aside (Exclude B(a) Awards) L Other than Full and Open Competition 27. AUTHORITY FOR OTHER THAN FULL AND OPEN COMPETITION (Complete only if Item 26 = L) A Unique Source B Follow-on Contract C Unsolicited Research Proposal D Patent / Data Rights E Utilities F. Standardization G Only One Source - Other H. Urgency I. Mobilization J. Essential R & D Capability L. International Agreement M. Authorized by Statute N. Authorized Resale P. National Security Q. Public Interest 28. NUMBER OF OFFERS RECEIVED (Complete only if Item 25 = A) A. One B. More than one 29. EXTENT COMPETED A Competed Action B Not Available for Competition C Follow-on to Competed Action D Not Competed 30. TYPE OF CONTRACTOR A Small Disadvantaged Business B Other Small Business C Large Business D Sheltered Workshop E Nonprofit Educational Organization F Nonprofit Hospital G Other Nonprofit Organization H State/Local Govt - Educational I State/Local Govt - Hospital K Other State/Local Government L Foreign Contractor M Domestic Contractor Performing Outside U S 31. WOMAN- OWNED SMALL BUSINESS Y- Yes N- No 32. PREFERENCE PROGRAM A Directed to Sheltered Workshops B B(a) Program C Combined Labor Surplus Area / Small Business Set-Aside D Small Business Set-Aside E Labor Surplus Area Set-Aside F Tie Bid Preference G Buy Indian/Self-Determination Act H No Preference Program or Not Listed 33. SUBCONTRACTING PLAN (Small and Small Disadvantaged Business) A Required B Not Required 34. SUBJECT TO LABOR STATUTES A Walsh-Healey Act, Manufacturer B Walsh-Healey Act, Regular Dealer C Service Contract Act D Davis-Bacon Act E Not Subject to Walsh-Healey, Service Contract, or Davis-Bacon Act 35. ESTIMATED CONTRACT COMPLETION DATE CY MO 36. CONTRACTOR'S TIN 37. COMMON PARENT'S NAME 38. COMMON PARENT'S TIN 39. RESERVED FOR FPDS 40. OPTIONAL REPORTED DATA ELEMENTS 41. FOR AGENCY INTERNAL USE

42. CONTRACTING OFFICER OR REPRESENTATIVE a. TYPED NAME b. SIGNATURE c. TELEPHONE NO. d. DATE SUBMITTED (YYMMDD)

44. Section 53-301-281 is revised to read as follows:

53.301-281 Standard Form 281, FDDS-Summary of Contract Actions of \$10,000 or Less.

**FEDERAL PROCUREMENT DATA SYSTEM (FPDS)
SUMMARY CONTRACT ACTION REPORT (\$25,000 or Less)**
(Dollars in thousands, rounded to the nearest thousand)

**INTERAGENCY REPORT
CONTROL NUMBER**
0208-GSA-QU

CIVILIAN AGENCIES Net dollars and number of actions where anticipated value of instrument is \$25,000 or less.				DEPARTMENT OF DEFENSE Net dollars and number of actions where amount obligated on action is \$25,000 or less.			
A. REPORT PERIOD		B. REPORT TYPE (X one)		C. REPORTING AGENCY CODE (FIPS 95)			
FY	QTR	ORIGINAL	REVISION				
D. REPORTING AGENCY NAME			E. CONTRACTING OFFICE CODE		F. CONTRACTING OFFICE NAME		

PART I - PRIME CONTRACT ACTIONS OF \$25,000 OR LESS

	PROCUREMENT METHOD	Number of Actions (a)	NET DOLLAR AMOUNTS				Total Dollars (f)
			Small Business Concerns (b)	Large Business Concerns (c)	Domestic Outside U.S. / Foreign (d)	Other Entries (e)	
NEW AWARDS AND MODIFICATIONS	1. Tariff or Regulated Acquisitions						
	2. Contract for Foreign Government or International Organization						
	3. Small Purchases (FAR Part 13)						
	4. Delivery Orders - GSA Schedules Only						
	5. Delivery Orders - Other Federal Schedules						
	6. Delivery Orders - All Other						
	7. Other Procurement Methods						
	8. TOTAL NEW AWARDS AND MODIFICATIONS						
COMPETITION	9. Competed						
	10. Not Competed						
	11. Not Available for Competition						
MODIFICATIONS	12. TOTAL MODIFICATIONS (Excluding Line 3)						

PART II - SELECTED SOCIOECONOMIC STATISTICS
(Includes both new awards and modifications)

PREFERENCE PROGRAMS			TYPE OF CONTRACTOR		
CATEGORY	Number of Actions (a)	Total Net Dollars (b)	CATEGORY	Number of Actions (a)	Total Net Dollars (b)
13. Small Business - Small Purchase Set-Aside			18. Small Disadvantaged Business		
14. Small Business Set-Aside			19. Woman-Owned Small Business		
15. Labor Surplus Area Set-Aside			20. Sheltered Workshop		
16. Combined Labor Surplus/ Small Business Set-Aside					
17. 8(a) Awards					

G. PERSON SUBMITTING REPORT			
NAME	SIGNATURE	TELEPHONE NUMBER (include area code)	DATE SUBMITTED

NSN 7540-01-091-9674
Previous edition not usable
BILLING CODE 6820-61-C

201-104

Standard Form 281, (REV. 10-88)
FAR (48 CFR) 53.204-2(b)

BEST COPY AVAILABLE

45. Section 53-301-1415 is revised to read as follows:

53.301-1415 Standard Form 1415, Consent of Surety and Increase of Penalty.

CONSENT OF SURETY AND INCREASE OF PENALTY		1. CONTRACT NO.	2. MODIFICATION NO.	3. DATED
4. The surety (co-sureties) consents (consent) to the foregoing contract modification and agrees (agree) that its (their) bond or bonds shall apply and extend to the contract as modified or amended. The principal and surety (co-sureties) further agree that on or after the execution of this consent, the penalty of the performance bond or bonds is increased by _____ dollars (\$ _____) and the penalty of the payment bond or bonds is increased by _____ dollars (\$ _____). However, the increase of the liability of each co-surety resulting from this consent shall not exceed the sums shown below.				
5. NAME OF SURETY(IES)		6. INCREASE IN LIABILITY LIMIT UNDER PERFORMANCE BOND		7. INCREASE IN LIABILITY LIMIT UNDER PAYMENT BOND
a.		\$ _____		\$ _____
b.				
c.				
8. INDIVIDUAL PRINCIPAL	a. BUSINESS ADDRESS		b. DATE THIS CONSENT EXECUTED	
			c. SIGNATURE *	
			d. TYPED NAME	
		(Seal)		
9. CORPORATE PRINCIPAL	a. CORPORATE NAME AND BUSINESS ADDRESS		b. DATE THIS CONSENT EXECUTED	
			c. PERSON EXECUTING CONSENT (Signature) *	
			BY	
		d. TYPED NAME AND TITLE OF ABOVE PERSON		
		(Affix Corporate Seal)		

* The Principal or authorized representative shall execute this Consent of Surety and Increase of Penalty with the modification to which it pertains. If the representative (e.g., attorney-in-fact) that signs the consent is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved, a Power-of-Attorney or a Certificate of Corporate Principal must accompany the consent.

10. CORPORATE SURETY(IES)

A	a. CORPORATE SURETY'S NAME AND ADDRESS		b. PERSON EXECUTING CONSENT (Signature)	
			BY	
			c. TYPED NAME AND TITLE OF ABOVE PERSON	
		(Affix Corporate Seal)		
B	a. CORPORATE SURETY'S NAME AND ADDRESS		b. PERSON EXECUTING CONSENT (Signature)	
			BY	
			c. TYPED NAME AND TITLE OF ABOVE PERSON	
		(Affix Corporate Seal)		
C	a. CORPORATE SURETY'S NAME AND ADDRESS		b. PERSON EXECUTING CONSENT (Signature)	
			BY	
			c. TYPED NAME AND TITLE OF ABOVE PERSON	
		(Affix Corporate Seal)		

Add similar signature blocks on the back of this form if necessary for additional co-sureties.

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STANDARD FORM 1415 (REV. 11-87)
 Prescribed by GSA
 FAR (48 CFR) 53.228(f)

[FR Doc. 88-24605 Filed 10-25-88; 8:45 am]

BILLING CODE 6820-61-C