

information pertaining to status or publication schedules. For clarification of content, contact Mr. Michael Jackson, Procurement Analyst, at (202) 208-4949. Please cite FAC 2005-01, FAR case 2002-021.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

This final rule amends FAR 44.403 by requiring the use of the clause at 52.244-6, Subcontracts for Commercial Items, in solicitations and contracts other than those for commercial items.

The current clause prescription requires use of the clause in solicitations and contracts for "supplies or services" other than commercial items. It is not clear whether this includes solicitations and contracts for construction. The clause matrix at FAR 52.301 lists the clause at 52.244-6 as required for solicitations and contracts for construction.

The revised clause prescription clarifies that the clause is required in all solicitations and contracts other than those for commercial items, thereby clearly including construction contracts that are not for the acquisition of commercial items.

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 68 FR 61302, October 27, 2003. One positive public comment was received supporting the revisions to the clause prescription. This final rule differs from the proposed rule by not adding the phrase "... and includes commercial construction materials but does not include construction itself" to the definition "Commercial item" under paragraph (a) of FAR clause 52.244-6, Definitions. This additional language is unnecessary to clarify the ambiguity between the matrix and the clause prescription. The change at FAR 44.403 and the clause matrix, that already requires the clause in solicitations and contracts for construction, provide sufficient clarity. Also, the additional language in the proposed rule could have been interpreted to conflict with OFPP Memorandum dated July 3, 2003, Applicability of FAR Part 12 to Construction Acquisitions. This rule is not intended to make any changes to existing OFPP guidance addressing the applicability of FAR Part 12 to construction acquisitions.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

##### B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule is a clarification of existing policy. Inclusion of FAR clause 52.244-6 reduces the number of flow down clauses required in subcontracts for commercial items and commercial components.

##### 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 Part 44

Government procurement.

Dated: February 24, 2005.

**Rodney P. Lantier,**

*Director, Contract Policy Division.*

■ Therefore, DoD, GSA, and NASA amend 48 CFR part 44 as set forth below:

##### PART 44—SUBCONTRACTING POLICIES AND PROCEDURES

■ 1. The authority citation for 48 CFR part 44 is revised to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

■ 2. Revise section 44.403 to read as follows:

##### 44.403 Contract clause.

The contracting officer shall insert the clause at 52.244-6, Subcontracts for Commercial Items, in solicitations and contracts other than those for commercial items.

[FR Doc. 05-4091 Filed 3-8-05; 8:45 am]

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 28, 31, 42, and 52

[FAC 2005-01; Item IX]

#### Federal Acquisition Regulation; Technical Amendments

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

**ACTION:** Final rule.

**SUMMARY:** This document makes amendments to the Federal Acquisition Regulation (FAR) in order to make editorial changes.

**DATES:** *Effective Date:* March 9, 2005.

**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 2001-05, Technical Amendments.

#### List of Subjects in 48 CFR Parts 28, 31, 42, and 52

Government procurement.

Dated: February 24, 2005.

**Rodney P. Lantier,**

*Director, Contract Policy Division.*

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 28, 31, 42, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 28, 31, 42, and 52 is revised to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

##### PART 28—BONDS AND INSURANCE

###### 28.203 [Amended]

■ 2. Amend section 28.203-3 in paragraph (d) by removing "19" each time it appears and adding "20" in its place.

##### PART 31—CONTRACT COST PRINCIPALS AND PROCEDURES

###### 31.101 [Amended]

■ 3. Amend section 31.101 by removing from the fifth sentence "Assistant Administrator for Procurement" and adding "Deputy Chief Acquisition Officer" in its place.

**PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES**

■ 4. Revise section 42.203 to read as follows:

**42.203 Contract administration services directory.**

The Defense Contract Management Agency (DCMA) maintains the Federal Directory of Contract Administration Services Components. The directory lists the names and telephone numbers of those DCMA and other agency offices that offer contract administration services within designated geographic areas and at specified contractor plants. Federal agencies may access it on the Internet at <http://www.dcma.mil/>. For additional information contact—Defense Contract Management Agency, ATTN: DCMA-DSL, 6350 Walker Lane, Alexandria, VA 22310-3226.

**PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

**52.225-13 [Amended]**

■ 5. Amend section 52.225-13 by removing from paragraph (b) “<http://www.epls.gov/TerList1.html>” and adding “<http://epls.arnet.gov/News.html>” in its place.

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**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Chapter 1**

**Federal Acquisition Regulation; Small Entity Compliance Guide**

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

**ACTION:** Small Entity Compliance Guide.

**SUMMARY:** This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator for the National Aeronautics and Space Administration. This *Small Entity Compliance Guide* has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 2005-01 which amend the FAR. An asterisk (\*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding these rules by referring to FAC 2005-01 which precedes this document. These documents are also available via the Internet at <http://www.acqnet.gov/far>.

**FOR FURTHER INFORMATION CONTACT:** Laurieann Duarte, FAR Secretariat, (202) 501-4225. For clarification of content, contact the analyst whose name appears in the table below.

Item	Subject	FAR case	Analyst
I .....	Improvements in Contracting for Architect-Engineer Services (Interim) .....	2004-001	Jackson.
II .....	Increased Justification and Approval Threshold for DoD, NASA, and Coast Guard (Interim) .....	2004-037	Jackson.
III .....	Extension of Authority for Use of Simplified Acquisition Procedures for Certain Commercial Items, Test Program.	2004-034	Jackson.
*IV .....	Addition of Landscaping and Pest Control Services to the Small Business Competitiveness Demonstration Program (Interim).	2004-036	Marshall.
V .....	Nonavailable Articles—Policy .....	2003-021	Davis.
VI .....	Cost Accounting Standards Administration .....	1999-025	R. C. Loeb.
VII .....	Elimination of Certain Subcontract Notification Requirements (Interim) .....	2003-024	Cundiff.
VIII .....	Use of FAR Clause 52.244-6, Subcontracts for Commercial Items .....	2002-021	Jackson.
IX .....	Technical Amendments.		

**Item I—Improvements in Contracting for Architect-Engineer Services (FAR Case 2004-001) (Interim)**

This interim rule is of particular interest to contracting officers who acquire architect-engineer services. It clarifies to contracting officers that architect-engineer services offered under multiple award schedule contracts or under Federal governmentwide task and delivery order contracts must—

- Be performed under the supervision of a licensed professional architect or engineer; and
- Be awarded in accordance with the quality-based selection procedures in FAR Subpart 36.6.

In addition, the rule clarifies to contracting officers that task orders issued under an indefinite delivery contract must be issued using the procedures in FAR Subpart 36.6 if the services being acquired specify,

substantially or to a dominant extent, the performance of architect-engineer services. This rule implements section 1427 of the Services Acquisition Reform Act of 2003 (Pub. L. 108-136).

**Item II—Increased Justification and Approval Threshold for DoD, NASA, and Coast Guard (FAR Case 2004-037) (Interim)**

This interim rule amends the FAR by increasing the justification and approval thresholds for DoD, NASA, and the U.S. Coast Guard from \$50,000,000 to \$75,000,000. This change implements Section 815 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, which amends 10 U.S.C. 2304(f)(1)(B) (Public Law 108-375). This reduces the administrative burden of approving a justification for other than full and open competition by allowing the head of the procuring activity in DoD, NASA, or the Coast

Guard to approve justifications up to \$75 million. In addition to this change, FAR 6.304(a)(3)(ii) is corrected to replace the outdated GS-16 reference with “a grade above GS-15.”

**Item III—Extension of Authority for Use of Simplified Acquisition Procedures for Certain Commercial Items, Test Program (FAR Case 2004-034)**

This final rule amends the Federal Acquisition Regulation (FAR) by extending until January 1, 2008, the timeframe in which an agency may use simplified procedures to purchase commercial items in amounts greater than the simplified acquisition threshold, but not exceeding \$5,000,000 (\$10,000,000 for acquisitions in support of a contingency operation or to facilitate the defense against or recovery from nuclear, biological, chemical, or radiological attack). This change