

did not find that any conditions or criteria listed in § 1307.3 were met by the agency's program in the period established in paragraphs (c)(1)(i) or (ii) of this section.

(3) Except as provided in § 1307.6, at least six months before the expiration date of a Head Start or Early Head Start agency's then current grant, ACF shall give written notice by certified mail return receipt requested, or other system that establishes the date of receipt of the notice by the addressee, either stating:

(i) The Head Start or Early Head Start agency will be required to compete for funding for an additional five-year period because ACF finds that one or more conditions or criteria listed in § 1307.3 were met by the agency's program during the period established under paragraphs (c)(1)(i) or (ii) of this section identifying the conditions or criteria ACF found, and summarizing the basis for the finding; or

(ii) That such agency has been determined on a final basis to be eligible for renewed funding for five years without competition because ACF did not find that any conditions or criteria listed in § 1307.3 existed in the agency's program during the period established under paragraphs (c)(1)(i) or (ii) of this section. The letter will include instructions on the information it must provide to the designated ACF official in order to receive funding.

§ 1307.8 Use of CLASS: Pre-K Instrument in the Designation Review System.

Except when all children are served in a single classroom, ACF will conduct multiple class observations and rate the conduct of the classes observed using the CLASS: Pre-K instrument. When the grantee serves the children in its program in a single class, that class will be observed and rated using the CLASS: Pre-K instrument. The domain scores for that class will be the domain scores for the grantee for that observation. After the observation is completed, ACF will report to the grantee the scores of the classes observed during the CLASS: Pre-K observation in each of the domains covered by the CLASS: Pre-K instrument. ACF will average the scores on each domain for all classrooms assessed during a CLASS: Pre-K observation to determine the grantee's score in each domain. As provided in § 1307.3(b)(3), an agency that has been determined by ACF to have a score of one, on one or more domains, during the transition period or a score below three, on one or more domains, for the period after the close of the transition period on each of the two most recent CLASS: Pre-K observations in the time period covered by an ACF decision

under § 1307.7 will be required to compete for designation renewal. As provided under § 1307.3(b)(3), the CLASS: Pre-K condition will apply to CLASS: Pre-K observations in DRS reviews under § 1307.7(c) that take place after the effective date of this part and during the third-year of the transition period.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[FAR Case 2009-034; Docket 2010-0098; Sequence 1]

RIN: 9000-AL73

Federal Acquisition Regulation; TINA Interest Calculations

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to revise the clauses at FAR 52.214-27, 52.215-10 and 52.215-11 to require compound interest calculations be applied to Government overpayments as a result of defective cost or pricing data.

DATES: Interested parties should submit written comments to the Regulatory Secretariat on or before November 22, 2010 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAR Case 2009-034 by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by inputting "FAR Case 2009-034" under the heading "Enter Keyword or ID" and selecting "Search". Select the link "Submit a Comment" that corresponds with "FAR Case 2009-034". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "FAR Case 2009-034" on your attached document.

- *Fax:* 202-501-4067.

- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), ATTN: Hada Flowers, 1800 F Street, NW., Room 4041, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR Case 2009-034, in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Chambers, Procurement Analyst, at (202) 501-3221 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501-4755. Please cite FAR case 2009-034.

SUPPLEMENTARY INFORMATION:

A. Background

On September 14, 2009, the U.S. Court of Appeals for the Federal Circuit (CAFC) issued a decision regarding the method of interest calculation on Cost Accounting Standards (CAS) cost impacts (*See GATES v. Raytheon Co.*, 584 F.3d 1062 (Fed. Cir. 2009)). The interest on CAS cost impacts is set by reference in the enabling statute to 26 U.S.C. 6621. The CAFC ruled that the citation led to calculation of the interest using daily compounding. The Truth in Negotiation Act (TINA) also references 26 U.S.C. 6621 for interest calculation. This proposed rule replaces the term "simple interest" as the requirement for calculating interest for TINA cost impacts with the phrase "Interest compounded daily as required by 26 U.S.C. 6622." Thus, compound interest calculations will be applied to Government overpayments as a result of defective cost or pricing data.

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 Councils do not expect this proposed rule 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 the rule merely clarifies the statutory method for calculating interest in the rare instances when a contractor is found to be in violation of TINA. Since TINA requirements generally do not apply to contracts with small entities,

and since the numbers of contractors found to have submitted defective cost or pricing data are a minute subset of contractors to whom TINA applies, the rule is not expected to apply to a substantial number of small entities. Furthermore, the differential in interest computing methods is not expected to amount to a significant economic impact. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Part 52 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2009-034), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed 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. Chapter 35, *et seq.*

List of Subjects in 48 CFR Part 52

Government procurement.

Dated: September 15, 2010.

Edward Loeb,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose amending 48 CFR part 52 as set forth below:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR part 52 continues 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. Amend section 52.214-27 by—
a. Revising the date of the clause; and
b. Removing from paragraph (e)(1) “Simple interest” and adding “Interest compounded daily, as required by 26 U.S.C. 6622,” in its place.

The revised text reads as follows:

52.214-27 Price Reduction for Defective Cost or Pricing Data—Modifications—Sealed Bidding.

* * * * *

Price Reduction for Defective Cost or Pricing Data—Modifications—Sealed Bidding (Date)

* * * * *

3. Amend section 52.215-10 by—
a. Revising the date of the clause; and
b. Removing from paragraph (d)(1) “Simple interest” and adding “Interest

compounded daily, as required by 26 U.S.C. 6622,” in its place.

The revised text reads as follows:

52.215-10 Price Reduction for Defective Cost or Pricing Data.

* * * * *

Price Reduction for Defective Cost or Pricing Data (Date)

* * * * *

4. Amend section 52.215-11 by—
a. Revising the date of the clause; and
b. Removing from paragraph (e)(1) “Simple interest” and adding “Interest compounded daily, as required by 26 U.S.C. 6622,” in its place.

The revised text reads as follows:

52.215-11 Price Reduction for Defective Cost or Pricing Data—Modifications.

* * * * *

Price Reduction for Defective Cost or Pricing Data—Modifications (Date)

* * * * *

[FR Doc. 2010-23589 Filed 9-21-10; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket number FWS-R4-ES-2010-0051]
[MO 92210-0-0008-B2]

Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition to List *Agave eggersiana* (no common name) as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: We, the Fish and Wildlife Service (Service), announce a 12-month finding on a petition to list the plant *Agave eggersiana* (no common name) as endangered under the Endangered Species Act of 1973, as amended (Act). After review of all available scientific and commercial information, we find that listing *A. eggersiana* is warranted. Currently, however, listing *A. eggersiana* is precluded by higher priority actions to amend the Lists of Endangered and Threatened Wildlife and Plants. Upon publication of this 12-month petition finding, we will add *A. eggersiana* to our candidate species list. We will develop a proposed rule to list *A. eggersiana* as our priorities allow. We will make any determination on critical habitat during development of the proposed listing rule. In any interim

period the status of the candidate taxon will be addressed through our annual Candidate Notice of Review (CNOR).

DATES: The finding announced in this document was made on September 22, 2010.

ADDRESSES: This finding is available on the Internet at <http://www.regulations.gov> at Docket Number [FWS-R4-ES-2010-0051]. Supporting documentation we used in preparing this finding is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Caribbean Ecological Services Field Office, Road 301, Km. 5.1, Boquero'n, Puerto Rico 00622. Please submit any new information, materials, comments, or questions concerning this species or this finding to the above internet address or the mailing address listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Ms. Marelisa Rivera, Assistant Field Supervisor, Caribbean Ecological Services Field Office, P.O. Box 491, Boquero'n, Puerto Rico 00622; by telephone at (787) 851-7297; or by facsimile at (787) 851-7440. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.

Background

Section 4(b)(3)(A) of the Act (16 U.S.C. 1531 *et seq.*) requires that, for any petition to revise the Federal Lists of Threatened and Endangered Wildlife and Plants that contains substantial scientific or commercial information that listing a species may be warranted, we make a finding within 12 months of the date of receipt of the petition. In this finding, we determine whether the petitioned action is: (a) Not warranted, (b) warranted, or (c) warranted, but immediate proposal of a regulation implementing the petitioned action is precluded by other pending proposals to determine whether species are threatened or endangered, and expeditious progress is being made to add or remove qualified species from the Federal Lists of Endangered and Threatened Wildlife and Plants. Section 4(b)(3)(C) of the Act requires that we treat a petition for which the requested action is found to be warranted but precluded as though resubmitted on the date of such finding, that is, requiring a subsequent finding to be made within 12 months. We must publish these 12-month findings in the **Federal Register.**