

payment under either a commercial item or a noncommercial item contract.

Item VI—Caribbean Basin Country—Dominican Republic (FAR Case 2003–006)

This final rule amends FAR 25.003, 25.400, and the clauses at FAR 52.212–5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders Commercial Items, and FAR 52.225–5, Trade Agreements, to implement the direction of the USTR to reinstate the treatment of certain products of the Dominican Republic as eligible products under acquisitions subject to the Trade Agreements Act, as published by the USTR in the Federal Register at 68 FR 27883, May 21, 2003. This change will allow Government purchase of products originating in the Dominican Republic that are not excluded from duty-free treatment under 19 U.S.C. 2703(b), unless otherwise restricted by law.

Item VII—Prohibited Sources (FAR Case 2001–015)

This final rule removes Serbia, the Taliban-controlled regions of Afghanistan, and Iraq from the list of prohibited sources and points the contracting officer to lists of entities and individuals subject to economic sanctions that are available at <http://www.epls.gov/TerList1.html>. The contracting officer is no longer authorized in unusual circumstances to acquire for use outside the United States supplies or services restricted by this section, unless specifically authorized by the OFAC. However, OFAC has granted authority to Department of Defense personnel to make emergency acquisitions in direct support of U.S. or allied forces deployed in military contingency, humanitarian, or peacekeeping operations in a country or region subject to economic sanctions administered by OFAC.

Item VIII—Economic Planning, Employee Morale, and Travel Costs Principles (FAR Case 2002–001)

This final rule amends the FAR to revise three cost principles: (1) FAR 31.205–12, Economic planning costs; (2) FAR 31.205–13, Employee morale, health, welfare, food service, and dormitory costs and credits; and (3) FAR 31.205–46, Travel costs. The changes restructure the paragraphs and remove unnecessary and duplicative language to increase clarity and readability. The rule does not change the allowability of costs. The case was initiated to consider suggestions made at a series of public meetings. This rule is of particular interest to contractors and contracting

officers who use cost analysis to price contracts and modifications, and who determine or negotiate reasonable costs in accordance with a clause of a contract, e.g., price revision of fixed-price incentive contracts, terminated contracts, or indirect cost rates.

Item IX—Technical Amendments

This amendment makes editorial changes at FAR 8.404(b)(6) and 24.202(a).

Dated: September 24, 2003.

Laura G. Auletta,
Director, Acquisition Policy Division.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 2001–16 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2001–16 are effective October 31, 2003, except for Items I, II, III, IV, and IX, which are effective October 1, 2003.

Dated: September 22, 2003.

Deidre A. Lee,
Director, Defense Procurement and Acquisition Policy.

Dated: September 23, 2003.

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

Dated: September 15, 2003.

Tom Luedtke,
Assistant Administrator for Procurement, National Aeronautics and Space Administration.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 2, 4, 13, 32, and 52

[FAC 2001–16; FAR Case 2002–018; Item I]

RIN 9000–AJ61

Federal Acquisition Regulation; Central Contractor Registration

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to require registration of contractors in the Central Contractor Registration (CCR) database prior to award of any contract, basic agreement, basic ordering agreement, or blanket purchase agreement. In addition, the rule requires contracting officers to modify existing contracts whose period of performance extends beyond December 31, 2003, to require contractors to register in the CCR database by December 31, 2003. The rule also revises the source list of supplies in the FAR (*see* Simplified Acquisition Procedures) to reflect statutory changes.

DATES: *Effective Date:* October 1, 2003.

Applicability Date: This final rule applies to contracts, basic agreements, basic ordering agreements, blanket purchase agreements, or modifications awarded on or after October 1, 2003. Existing contracts, basic agreements, basic ordering agreements, or blanket purchase agreements with a period of performance beyond December 31, 2003, are also covered by this final rule and must be modified pursuant to FAR 4.1103.

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. For clarification of content, contact Ms. Jeritta Parnell, Procurement Analyst, at (202) 501–4082. Please cite FAC 2001–16, FAR case 2002–018.

SUPPLEMENTARY INFORMATION:

A. Background

This rule amends the FAR to require contractor registration in the Central Contractor Registration (CCR) database prior to award of any contract, basic agreement, basic ordering agreement, or blanket purchase agreement. In addition, the rule requires contracting officers to modify existing contracts whose period of performance extends beyond December 31, 2003, to require contractors to register in the CCR database by December 31, 2003.

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 68 FR 16366, April 3, 2003, with a request for comments. Thirty-one respondents submitted 106 comments. The following discussion of the comments is provided:

1. The proposed rule requires registration of contractors in the CCR

database for new awards and modifications to existing contracts by September 30, 2003.

Comment: A number of respondents recommended some sort of transition period.

Response: Concur that there should be a short transition period. Departments and agencies were informed in OMB letters in mid-2001 that the CCR was a goal under the President's Management Agenda. For existing contracts and agreements, the final rule allows agencies until December 31, 2003, or sooner, to accomplish the transition to CCR so that they may still fulfill, in a timely fashion, an important objective of the integrated acquisition initiative, *i.e.*, to eliminate repetitive vendor registration.

2. Unless one of the exceptions applies, the rule applies to contractors with new contracts and existing contracts.

Comment: A number of respondents did not believe that it was in the best interest of the Government to require existing contracts to be modified to include the CCR registration requirement. One respondent suggested a "grandfathering" of existing contracts.

Response: Do not concur. Modification of current contracts benefits both the Government and contractors, by eliminating the need to maintain paper-based sources of contract information, by enabling contractors to update their information in one place via a website, and by allowing contracting officers to access contractor data and industry information less expensively, and more efficiently identify sources for contracting opportunities. Since other systems are using CCR data, modifications will ensure that the correct information provided by the vendor is used. Wholesale "grandfathering" is not considered an option as it would defeat one reason for CCR; *i.e.*, having one accurate and complete database for intergovernmental use.

3. Unless one of the exceptions applies, the rule requires small entities to register in CCR before contract award.

Comment: A number of respondents voiced concern regarding small businesses not having access to computers, refusing to register, not accepting payment by EFT. The possibility of an alternative procedure regarding small contractors was proposed.

Response: Partially concur. Language was added to the exceptions to cover micropurchases that do not use the electronic funds transfer (EFT) method and are not required to be reported.

Additional changes were not considered necessary. As a general matter, this rule benefits small businesses since the CCR requirement (1) simplifies and streamlines the procurement process by eliminating redundant requirements and processes, and (2) increases visibility of contractor sources for specific supplies and services. Contractors have been encouraged for years to utilize the public resources available to them when they do not have Internet access themselves. In addition, since 1998, the DoD has required small and large businesses to register in the CCR database, with no apparent negative impact to small businesses. One respondent concluded the rule would save small business time and money by facilitating paperless procurement and payment through electronic funds transfers.

4. The rule at FAR 4.1102(a)(1) through (a)(5) provides for exceptions when CCR registration is not required.

Comment: A variety of suggestions were made in this area—adding exceptions for Status of Forces Agreement (SOFA) family members performing work OCONUS; contracts whose period of performance will not extend beyond September 30, 2003; waivers to recognize the occasional need to contract with a sole source; including a dollar threshold. Several respondents requested clarification of the term purchasing mechanism". While other respondents requested that the exception listed in paragraph (a)(5) concerning foreign vendors be expanded to include all awards to foreign vendors for work performed outside the U.S. In addition, two respondents pointed out that the exception in paragraph (a)(5) implies registration of foreign vendors is required after award.

Response: Changes were made to 4.1102(a)(1), (a)(2), and (a)(5). Paragraph (a)(1) was revised to read, "Purchases that use a Governmentwide commercial purchase card as both the purchasing and payment mechanism, as opposed to using the purchase card only as a payment method." With this change, a threshold exception was considered unnecessary as this could include many micro-purchases. Paragraph (a)(2) was revised to delete the words "or purchases" since the FAR defines "classified contracts", while paragraph (a)(5) was revised to delete the words "before award". However, the Councils believe that an attempt to register foreign vendors should be made. Many foreign vendors are currently registered.

5. The Paperwork Burden Statement in the **Federal Register** notice of the proposed rule.

Comment: Two respondents questioned the subject paragraph; *i.e.*, the estimated respondents are too low (54,199) and the total burden hours (54,199) are too low; and the 1 hour estimate to complete the information is too low.

Response: No change. When drafted, the burden for this rule was to represent only new transactions. The numbers were provided by FPDS and represent new transactions for the year 2001 over \$25,000. A DoD clearance (OMB Control No. 0704-0400) provides for the current 226,000 enrolled in the CCR.

6. The Central Contractor Registration. Comments pertaining to the system, not the rule.

Comment: A variety of comments were received that related to the CCR and not to the rule. Examples of these comments include: Adding additional fields to the CCR; Confusion between the words Business Partner Network, CCR, and Federal Registration; Problems obtaining DUNS numbers; CCR as an unfunded mandate for agencies; Concerns that the financial community have implementing the requirement; The cost of using the CCR, both for the contractor and agency; and how agencies will be informed if contractors make changes to the information contained in the CCR.

Response: No change to the rule. The Councils considered these comments outside the scope of the case.

7. Individual comments and concerns that resulted in no change to the rule.

Comment: A variety of comments were received under this category. Examples of these comments include: Proposed revisions to the FAR clauses at 52.204-7 and 52.212-4(t) that reduces contractor liability for incorrect information; Will contractors be required to provide banking information?; Suspend rule for 90 days to convene a public meeting; Suggestion that each company elect to have a single annual renewal date for all its CCR registrations; Can COs require contractors with existing contracts to register in CCR?; What type of modification is required to amend existing contracts?; What happens if a contractor refuses to register; and who verifies the information in CCR?

Response: No change to the rule. The Councils did not believe the comments included under this category required changes to the rule.

8. Editorial changes to the rule.

Comment: A variety of comments offered editorial changes to the rule as follows:

1. A variety of editorials, including typos and updating references.

2. New telephone numbers for D&B.

3. Deletion of an incorrect e-mail address at the FAR provision at 52.204-6(c).

4. A revision to FAR 13.102 to emphasize the use of the CCR database.

5. Changes to the definitions of DUNS number and DUNS+4 at FAR 2.101 and 52.204-7(a). Changes were also made to FAR 52.204-6(b)(2), 52.204-7(c), and 52.212-1(j) to clarify and correct information related to D&B and to obtaining DUNS numbers.

6. A revision to FAR 52.204-7(c) to include a verification timeframe of "normally takes less than 48 hours."

7. A revision to FAR 13.201(d) to add a reference to 4.1104.

8. A revision to FAR 4.1104 to delete a redundant phrase.

9. A revision to FAR 52.212-4(t) to include language that addresses novation and change of name agreements included in FAR 52.204-7(g)(2).

10. A revision to FAR 4.203(e) and 4.905 to preclude furnishing information that may be required by CCR.

Response: The rule reflects editorial revisions.

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 changes may 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 imposes a reporting, recordkeeping, or other compliance requirements. All small entities will be subject to the rule unless their contract, basic agreements, basic ordering agreement, or blanket purchase agreement falls within one of the six exceptions. A Final Regulatory Flexibility Analysis (FRFA) has been prepared and is as follows:

Final Regulatory Flexibility Analysis—FAR Case 2002-018, Central Contractor Registration

This Final Regulatory Flexibility Analysis has been prepared consistent with the criteria of 5 U.S.C. 604.

1. *Description of the reasons why action by the agency is being considered.*

In an effort to broaden use and reliance upon e-business applications, the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are working with the Office of Federal Procurement Policy to eliminate the need to maintain paper-based sources of contractor information. The Central Contractor Registration (CCR) System is a centrally

located, searchable database, accessible via the Internet to develop, maintain, and provide sources for future procurements. The CCR data is the most up to date and complete data available. As a single validated source of data on contractors doing business with the Government, the CCR database enables prospective contractors to update their information in one place via a web site (<http://www.CCR.gov>). The information is then available via the Internet. Contracting officers will now be able to access contractor data and industry information less expensively, and more efficiently identify sources for contracting opportunities. This rule will not create a total electronic commerce environment, but will help provide a basic framework or foundation that will allow migration to a total electronic commerce environment. There are other projects that are completed (FedBizOpps) or in the planning stages, which are complementary and will also become part of the total electronic commerce initiative.

2. *Summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments.*

No comments were received in response to the Initial Regulatory Flexibility Analysis for this rule.

3. *Description of, and, where feasible, estimate of the number of small entities to which the proposed rule will apply.*

To date, no supporting data has been collected; therefore, there is no available estimate of the number of small businesses that will be subject to the rule. However, some agencies (*e.g.*, DoD) already require contractors to register in the CCR and there does not appear to be any adverse impact on small business. Based on Governmentwide data, approximately 42,675 small businesses were awarded contracts of \$25,000 or more in fiscal year 2001. It is estimated that a majority of them will be subject to the rule. Many of these businesses are already among the over 200,000 registrants in CCR. Information is not available to identify the additional number of small businesses that were awarded contracts of less than \$25,000, or were awarded basic agreements, basic ordering agreements, or blanket purchase agreements.

4. *Description of projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.*

This rule imposes a reporting, recordkeeping, or other compliance requirements. However, this requirement will be significantly reduced from that currently required. Existing regulations require contractors to submit duplicate information each time they enter into contracts and certain types of agreements with the Government. This rule eliminates this duplication so that information the Government needs to do business with a contractor will be collected once (with

periodic update by the contractor) for use many times. All small entities will be subject to the rule unless their contract, basic agreements, basic ordering agreements, or blanket purchase agreements fall within one of the six exceptions. A contractor's administrative or financial personnel, who have general knowledge of the contractor's business, including the contractor's bank account and financial agent, may register by providing the pertinent information into the CCR database.

5. *Description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.*

There are no significant practical alternatives that will accomplish the objective of this rule. Continued reliance on a paper-based system would unnecessarily promote inefficiency associated with paper-based processes. The successful phase-out of the paper-based *Commerce Business Daily* in favor of reliance on FedBizOpps demonstrates that the Federal contracting community, including small businesses, is successfully transitioning to greater use of electronic tools and their associated efficiencies to conduct business.

The FAR Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration. Interested parties may obtain a copy from the FAR Secretariat. The Councils will consider comments from small entities concerning the affected FAR parts 1, 2, 4, 13, 32, and 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.* (FAC 2001-16, FAR case 2002-018), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104-13) applies because the final rule contains information collection requirements. The paperwork burden analysis takes into account the burden required for information current, complete and accurate and the burden required for new registrants to review instructions, search existing data sources, gather and maintain the data needed, and completing and reviewing the collection of information. Accordingly, the FAR Secretariat has forwarded a request for approval of the increased information collection requirement, OMB Control Number 9000-0159, concerning FAR Case 2002-018, Central Contractor Registration, to the Office of Management and Budget. Public comments concerning this request will be invited through a subsequent **Federal Register** notice.

List of Subjects in 48 CFR Parts 1, 2, 4, 13, 32, and 52

Government procurement.
Dated: September 24, 2003.

Laura G. Auletta,
Director, Acquisition Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 1, 2, 4, 13, 32, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 2, 4, 13, 32, 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 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

■ 2. Amend section 1.106 in the table following the introductory paragraph by adding FAR segments “52.204-7”, “52.212-1(k)”, and “52.212-4(t)” and corresponding OMB Control Numbers “9000-0159”, respectively.

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 3. Amend section 2.101(b) by adding, in alphabetical order, the definitions “Central Contractor Registration (CCR) database”, “Data Universal Numbering System (DUNS) number”, “Data Universal Numbering System +4 (DUNS+4) number”, and “Registered in the CCR database” to read as follows:

2.101 Definitions.

* * * * *

(b) * * *

Central Contractor Registration (CCR) database means the primary Government repository for contractor information required for the conduct of business with the Government.

* * * * *

Data Universal Numbering System (DUNS) number means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B), to identify unique business entities.

Data Universal Numbering System +4 (DUNS+4) number means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see subpart 32.11) for the same concern.

* * * * *

Registered in the CCR database means that—

(1) The contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database; and

(2) The Government has validated mandatory data fields and has marked the record “Active”.

* * * * *

PART 4—ADMINISTRATIVE MATTERS

■ 4. Amend section 4.203 by revising the introductory text of paragraph (e)(1) to read as follows:

4.203 Taxpayer identification information.

* * * * *

(e) * * *

(1) Each contracting officer that issues a basic ordering agreement or indefinite-delivery contract (other than a Federal Supply Schedule contract) shall provide to contracting officers placing orders under the agreement or contract (if the contractor is not required to provide this information to a central contractor registration database)—

* * * * *

■ 5. Amend section 4.603 by revising paragraph (a) to read as follows:

4.603 Solicitation provisions.

(a) Insert the provision at 52.204-6, Data Universal Numbering System (DUNS) Number, in solicitations that—

(1) Are expected to result in a requirement for the generation of an SF 279, Federal Procurement Data System (FPDS)—Individual Contract Action Report (see 4.602(c)), or a similar agency form; and

(2) Do not contain the clause at 52.204-7, Central Contractor Registration.

* * * * *

■ 6. Revise section 4.905 to read as follows:

4.905 Solicitation provision.

The contracting officer shall insert the provision at 52.204-3, Taxpayer Identification, in solicitations that—

(a) Do not include the clause at 52.204-7, Central Contractor Registration; and

(b) Are not conducted under the procedures of part 12.

■ 7. Add subpart 4.11 to read as follows:

Subpart 4.11—Central Contractor Registration

Sec.

- 4.1100 Scope.
- 4.1101 Definitions.
- 4.1102 Policy.
- 4.1103 Procedures.
- 4.1104 Solicitation provision and contract clauses.

4.1100 Scope.

This subpart prescribes policies and procedures for requiring contractor registration in the Central Contractor Registration (CCR) database, a part of the Business Partner Network (BPN) to—

(a) Increase visibility of vendor sources (including their geographical locations) for specific supplies and services; and

(b) Establish a common source of vendor data for the Government.

4.1101 Definitions.

As used in this subpart—

Agreement means basic agreement, basic ordering agreement, or blanket purchase agreement.

Business Partner Network means an integrated electronic infrastructure the Government uses to manage (*i.e.*, collect, validate, access and maintain) the information it needs to transact business with its contractors.

4.1102 Policy.

(a) Prospective contractors shall be registered in the CCR database prior to award of a contract or agreement, except for—

(1) Purchases that use a Governmentwide commercial purchase card as both the purchasing and payment mechanism, as opposed to using the purchase card only as a payment method;

(2) Classified contracts (*see* 2.101) when registration in the CCR database, or use of CCR data, could compromise the safeguarding of classified information or national security;

(3) Contracts awarded by—

(i) Deployed contracting officers in the course of military operations, including, but not limited to, contingency operations as defined in 10 U.S.C. 101(a)(13) or humanitarian or peacekeeping operations as defined in 10 U.S.C. 2302(7); or

(ii) Contracting officers in the conduct of emergency operations, such as responses to natural or environmental disasters or national or civil emergencies, *e.g.*, Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121);

(4) Contracts to support unusual or compelling needs (*see* 6.302-2);

(5) Awards made to foreign vendors for work performed outside the United States, if it is impractical to obtain CCR registration; and

(6) Micro-purchases that do not use the electronic funds transfer (EFT) method for payment and are not required to be reported (*see* subpart 4.6).

(b) If practical, the contracting officer shall modify the contract or agreement

awarded under paragraph (a)(3) or (a)(4) of this section to require CCR registration.

(c)(1)(i) If a contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the contractor shall provide the responsible contracting officer a minimum of one business day's written notification of its intention to change the name in the CCR database; comply with the requirements of Subpart 42.12; and agree in writing to the timeline and procedures specified by the responsible contracting officer. The contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the contractor fails to comply with the requirements of paragraph (g)(1)(i) of the clause at 52.204-7, Central Contractor Registration, or fails to perform the agreement at 52.204-7(g)(1)(i)(3), and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the contractor to be other than the contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the EFT clause of the contract.

(2) The contractor shall not change the name or address for electronic funds transfer payments (EFT) or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (*see* subpart 32.8, Assignment of Claims).

(3) Assignees shall be separately registered in the CCR database. Information provided to the contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of the contract.

4.1103 Procedures.

(a) Unless the acquisition is exempt under 4.1102, the contracting officer—

(1) Shall verify that the prospective contractor is registered in the CCR database (*see* paragraph (b) of this section) before awarding a contract or agreement;

(2) Should use the DUNS number or, if applicable, the DUNS+4 number, to verify registration—

(i) Via the Internet at <http://www.ccr.gov>;

(ii) By calling toll-free: 1-888-227-2423, commercial: (269) 961-5757, or Defense Switched Network (DSN) (used at certain Department of Defense locations): 932-5757; or

(iii) As otherwise provided by agency procedures; and

(3) Shall modify a contract or agreement that does not already include the requirement to be registered in the CCR database and maintain registration until final payment, and whose period of performance extends beyond December 31, 2003—

(i) To incorporate, as appropriate, the clause at 52.204-7, Central Contractor Registration, and its Alternate I, or, for a contract for commercial items, an addendum to 52.212-4, Contract Terms and Conditions—Commercial Items, that requires the contractor to be registered in the CCR database by December 31, 2003, and maintain registration until final payment; and

(ii) In sufficient time to permit CCR registration by December 31, 2003.

(b) Need not verify registration before placing an order or call if the contract or agreement includes the clause at 52.204-7, or 52.212-4(t), or a similar agency clause.

(c) If the contracting officer, when awarding a contract or agreement, determines that a prospective contractor is not registered in the CCR database and an exception to the registration requirements for the award does not apply (*see* 4.1102), the contracting officer shall—

(1) If the needs of the requiring activity allow for a delay, make award after the apparently successful offeror has registered in the CCR database. The contracting officer shall advise the offeror of the number of days it will be allowed to become registered. If the offeror does not become registered by the required date, the contracting officer shall award to the next otherwise successful registered offeror following the same procedures (*i.e.*, if the next apparently successful offeror is not registered, the contracting officer shall advise the offeror of the number of days it will be allowed to become registered, etc.); or

(2) If the needs of the requiring activity do not allow for a delay, proceed to award to the next otherwise successful registered offeror, provided that written approval is obtained at one level above the contracting officer.

(d) Agencies shall protect against improper disclosure of contractor CCR information.

(e) The contracting officer shall, on contractual documents transmitted to

the payment office, provide the DUNS number, or, if applicable, the DUNS+4, in accordance with agency procedures.

4.1104 Solicitation provision and contract clauses.

Except as provided in 4.1102(a), use the clause at 52.204-7, Central Contractor Registration, in solicitations and contracts. If modifying a contract or an agreement to require registration, use the clause with its Alternate I.

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

■ 8. Amend section 13.102 by revising paragraph (a) to read as follows:

13.102 Source list.

(a) Contracting officers should use the Central Contractor Registration database (*see* Subpart 4.11) at <http://www.ccr.gov> as their primary sources of vendor information. Offices maintaining additional vendor source files or listings should identify the status of each source (when the status is made known to the contracting office) in the following categories:

- (1) Small business.
- (2) Small disadvantaged business.
- (3) Women-owned small business.
- (4) HUBZone small business.
- (5) Service-disabled veteran-owned small business.
- (6) Veteran-owned small business.

* * * * *

13.201 [Amended]

■ 9. Amend section 13.201 in the first sentence of paragraph (d) by removing "32.1110" and adding "4.1104 and 32.1110" in its place.

PART 32—CONTRACT FINANCING

■ 10. Amend section 32.805 by adding paragraph (d)(4) to read as follows:

32.805 Procedure.

* * * * *

(d) * * *
(4) The assignee is registered separately in the Central Contractor Registration unless one of the exceptions in 4.1102 applies.

* * * * *

32.1103 [Amended]

■ 11. Amend section 32.1103 by removing the word "where" from paragraph (d).

■ 12. Amend section 32.1110 by revising the introductory text of paragraph (a), (a)(1), and (a)(2)(i) to read as follows:

32.1110 Solicitation provision and contract clauses.

(a) The contracting officer shall insert the clause at—

(1) 52.232–33, Payment by Electronic Funds Transfer—Central Contractor Registration, in solicitations and contracts that include the clause at 52.204–7 or an agency clause that requires a contractor to be registered in the CCR database and maintain registration until final payment, unless—

(i) Payment will be made through a third party arrangement (*see* 13.301 and paragraph (d) of this section); or

(ii) An exception listed in 32.1103(a) through (i) applies.

(2)(i) 52.232–34, Payment by Electronic Funds Transfer—Other than Central Contractor Registration, in solicitations and contracts that require EFT as the method for payment but do not include the clause at 52.204–7, Central Contractor Registration, or a similar agency clause that requires the contractor to be registered in the CCR database.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 13. Revise section 52.204–6 to read as follows:

52.204–6 Data Universal Numbering System (DUNS) Number.

As prescribed in 4.603(a), insert the following provision:

Data Universal Numbering System (DUNS) Number (Oct 2003)

(a) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation “DUNS” or “DUNS+4” followed by the DUNS number or “DUNS+4” that identifies the offeror’s name and address exactly as stated in the offer. The DUNS number is a nine-digit number assigned by Dun and Bradstreet, Inc. The DUNS+4 is the DUNS number plus a 4-character suffix that may be assigned at the discretion of the offeror to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see Subpart 32.11) for the same parent concern.

(b) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number—

(i) If located within the United States, by calling Dun and Bradstreet at 1–866–705–5711 or via the Internet at <http://www.dnb.com>; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

(i) Company legal business name.

(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(iii) Company physical street address, city, state and Zip Code.

(iv) Company mailing address, city, state and Zip Code (if separate from physical).

(v) Company telephone number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

(x) Company Headquarters name and address (reporting relationship within your entity).

(End of provision)

■ 14. Add section 52.204–7 to read as follows:

52.204–7 Central Contractor Registration.

As prescribed in 4.1104, use the following clause:

Central Contractor Registration (Oct 2003)

(a) *Definitions.* As used in this clause—
Central Contractor Registration (CCR) database means the primary Government repository for Contractor information required for the conduct of business with the Government.

Data Universal Numbering System (DUNS) number means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

Data Universal Numbering System + 4 (DUNS+4) number means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see the FAR at Subpart 32.11) for the same parent concern.

Registered in the CCR database means that—

(1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database; and

(2) The Government has validated all mandatory data fields and has marked the record “Active”.

(b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation “DUNS” or “DUNS+4” followed by the DUNS or DUNS+4 number that identifies the offeror’s name and address exactly as stated in the offer. The DUNS number will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number—

(i) If located within the United States, by calling Dun and Bradstreet at 1–866–705–5711 or via the Internet at <http://www.dnb.com>; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

(i) Company legal business.

(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(iii) Company Physical Street Address, City, State, and Zip Code.

(iv) Company Mailing Address, City, State and Zip Code (if separate from physical).

(v) Company Telephone Number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

(x) Company Headquarters name and address (reporting relationship within your entity).

(d) If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.

(e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.

(f) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government’s reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(g)(1)(i) If a Contractor has legally changed its business name, “doing business as” name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day’s written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of Subpart 42.12 of the FAR; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (g)(1)(i) of this clause, or fails to perform the agreement at paragraph (g)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect

information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(h) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the internet at <http://www.ccr.gov> or by calling 1-888-227-2423, or 269-961-5757.

Alternate I (Oct. 2003). As prescribed in 4.1104(a), substitute the following paragraph (b) for paragraph (b) of the basic clause:

(b)(1) The Contractor shall be registered in the CCR database by _____ [Contracting Officer shall insert a date no later than December 31, 2003]. The Contractor shall maintain registration during performance and through final payment of this contract.

(2) The Contractor shall enter, in the block with its name and address on the cover page of the SF 30, Amendment of solicitation/Modification of Contract, the annotation "DUNS" or "DUNS +4" followed by the DUNS or DUNS +4 number that identifies the Contractor's name and address exactly as stated in this contract. The DUNS number will be used by the Contracting Officer to verify that the Contractor is registered in the CCR database.

■ 15. Amend section 52.212-1 by revising the date of the provision and paragraph (j); and adding paragraph (k) to read as follows:

52.212-1 Instructions to Offerors—Commercial Items.

* * * * *

Instructions to Offerors—Commercial Items, (Oct. 2003)

* * * * *

(j) *Data Universal Numbering System (DUNS) Number.* (Applies to all offers exceeding \$25,000, and offers of \$25,000 or less if the solicitation requires the Contractor to be registered in the Central Contractor Registration (CCR) database. The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS +4" followed by the DUNS or DUNS +4 number that identifies the offeror's name and address. The DUNS +4 is the DUNS number plus a 4-character suffix that may be assigned at the discretion of the offeror to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see FAR Subpart 32.11) for the same parent concern. If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one. An offeror within the United

States may contact Dun and Bradstreet by calling 1-866-705-5711 or via the internet at <http://www.dnb.com>. An offeror located outside the United States must contact the local Dun and Bradstreet office for a DUNS number.

(k) *Central Contractor Registration.* Unless exempted by an addendum to this solicitation, by submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance and through final payment of any contract resulting from this solicitation. If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror. Offerors may obtain information on registration and annual confirmation requirements via the Internet at <http://www.ccr.gov> or by calling 1-888-227-2423 or 269-961-5757.

■ 16. Amend section 52.212-4 by revising the date of the clause; and adding paragraph (t) to read as follows:

52.212-4 Contract Terms and Conditions—Commercial Items.

* * * * *

Contract Terms and Conditions—Commercial Items, (OCT 2003)

* * * * *

(t) *Central Contractor Registration (CCR).*

(1) Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(2)(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in FAR subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of subpart 42.12; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (t)(2)(i) of this clause, or fails to perform the agreement at

paragraph (t)(2)(i)(C) of this clause, and in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(3) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the internet at <http://www.ccr.gov> or by calling 1-888-227-2423 or 269-961-5757.

52.212-5 [Amended]

■ 17. Amend section 52.212-5 by revising the date of the clause to read "(OCT 2003); and in paragraph (b)(29) of the clause by removing "(MAY 1999)" and adding "(OCT 2003)" in its place.

52.213-4 [Amended]

■ 18. Amend section 52.213-4 by removing from the clause heading "(Aug 2003)" and in paragraph (b)(1)(ix) "(May 1999)" and adding in their places "(Oct 2003)".

■ 19. Amend section 52.232-33 by—
 ■ a. Revising the date of the clause;
 ■ b. Removing paragraph (e);
 ■ c. Redesignating paragraphs (f) through (j) as (e) through (i), respectively; and
 ■ d. Revising newly designated paragraph (g) to read as follows:

52.232-33 Payment by Electronic Funds Transfer—Central Contractor Registration.

* * * * *

Payment by Electronic Funds Transfer—Central Contractor Registration, (Oct 2003)

* * * * *

(g) *EFT and assignment of claims.* If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall register separately in the CCR database and shall be paid by EFT in accordance with the terms of this clause. Notwithstanding any other requirement of this contract, payment to an ultimate recipient other than the Contractor, or a financial institution properly recognized under an assignment of claims pursuant to subpart 32.8, is not permitted. In all respects, the requirements of this clause shall apply to

the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

* * * * *

[FR Doc. 03-24582 Filed 9-30-03; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 4, 5, 6, 7, 9, 10, 12, 13,
14, 19, 22, 25, 34, 35, and 36

[FAC 2001-16; FAR Case 1997-304; Item
II]

RIN 9000-A110

Federal Acquisition Regulation; Electronic Commerce in Federal Procurement

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

ACTION: Interim rule adopted as final with changes.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to further implement section 850 of the National Defense Authorization Act for Fiscal Year 1998; and implement section 810 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001.

Section 850 calls for the use of cost-effective procedures and processes that employ electronic commerce in the conduct and administration of Federal procurement systems. This includes the designation in the FAR of a single point of universal electronic public access to Governmentwide procurement opportunities (the "Governmentwide Point of Entry" or "GPE"). Section 810 allows agencies to provide access to notices through the GPE, as designated in the FAR, instead of publishing them via the Commerce Business Daily (CBD).

This rule finalizes the interim rule that designated Federal Business Opportunities (FedBizOpps) as the GPE. In addition, this final rule makes the GPE the exclusive official source for public access to notices of procurement actions over \$25,000.

DATES: Effective Date: October 1, 2003.

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. For clarification of content, contact Ms. Cecelia Davis, Procurement Analyst, at (202) 219-0202. Please cite FAC 2001-16, FAR case 1997-304.

SUPPLEMENTARY INFORMATION:

A. Background

1. Implementation of Section 850 of the Defense Authorization Act for Fiscal Year 1998

Section 850, which is codified at section 30 of the Office of Federal Procurement Policy Act (41 U.S.C. 426), requires agencies to "establish, maintain, and use, to the maximum extent that is practicable and cost-effective, procedures and processes that employ electronic commerce in the conduct and administration of their procurement systems." Among other things, section 850 called for "any notice of agency requirements or agency solicitation for contract opportunities" to be provided in a form that allows "convenient and universal user access through a single, government-wide point of entry" (GPE). In addition, section 850 amended titles 10, 15, 40, and 41 of the United States Code to eliminate the statutory preference for the Federal Acquisition Computer Network (FACNET) computer architecture in conducting transactions electronically.

On October 30, 1998, the Councils published an interim rule (63 FR 58590), which amended FAR subpart 4.5 and made associated changes to FAR parts 2, 5, 13, 14, and 32 to implement section 850. In particular, the interim rule amended the FAR to—

- Promote the cost-effective application of electronic commerce in Federal procurement; and
- Require Federal procurement systems that employ electronic commerce to apply nationally and internationally recognized standards that broaden interoperability and ease the electronic interchange of information.

Around the time that the interim rule was developed, the General Services Administration (GSA), the National Aeronautics and Space Administration (NASA), and other agencies piloted, and later began using, "FedBizOpps" (formerly known as the Electronic Posting System) to take greater advantage of electronic tools. Among other things, these efforts were designed to provide sellers with "one-stop"

access to business opportunities (*i.e.*, where sellers, after identifying pre-solicitation notices of interest for actions above \$25,000, could quickly access related solicitation information through a direct link). These efforts were also intended to streamline agency buyers' preparation and issuance of notices and solicitation information without disrupting, eliminating, or otherwise requiring the replacement of current agency electronic commerce software.

In the spring of 2000, the Office of Federal Procurement Policy (OFPP) recommended that FedBizOpps (<http://www.fedbizopps.gov>) be designated as the GPE. The Councils published a proposed rule in the **Federal Register** to reflect this recommendation (65 FR 50872, August 21, 2000). The preamble to the proposed rule described the Government's objectives in designating a GPE (*i.e.*, to create a central point for electronic access to business opportunities, to follow the commercial lead, and to modernize processes used by sellers and buyers) and how FedBizOpps met these objectives.

After considering public comments on the proposed rule, the Councils published an interim rule in the **Federal Register** to make the proposed designation of FedBizOpps as the GPE effective (66 FR 27406, May 16, 2001). That rule required agencies to make notices of contracting opportunities that meet the criteria in FAR 5.101 and 5.201 accessible via FedBizOpps by October 1, 2001. In addition, the rule—

- Added place of contract performance and set-aside status as two new data fields to the required notice content;
- Required agencies to make accessible through FedBizOpps other notices that were being published in the CBD, such as presolicitation notices and award notices supporting subcontracting opportunities;
- Required agencies to make accessible via FedBizOpps most solicitations and amendments associated with business opportunities listed on the FedBizOpps web site;
- Permitted contractors to publicize subcontracting opportunities with the intent of supporting achievement of subcontracting goals; and
- Permitted agencies to make accessible via FedBizOpps information that allows potential offerors to better understand how they can meet the Government's needs.

This final rule finalizes the GPE designation that was proposed at 65 FR 50872, August 21, 2000, and made effective by the interim rule published