amended the FAR by increasing the justification and approval thresholds for DoD, NASA, and the U.S. Coast Guard from $50 million to $75 million. This change implemented 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). In addition, corresponding changes have been made to FAR 13.501. The rule will reduce administrative burden for ordering activities.

Item VI—Addition of Landscaping and Pest Control Services to the Small Business Competitiveness Demonstration Program (FAR Case 2004–036)

This final rule finalizes, without change, the interim rule published in the **Federal Register** at 70 FR 11740, March 9, 2005. The rule implements Section 821 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005. Section 821 amended Section 717 of the Small Business Competitiveness Demonstration Program Act of 1988 by adding landscaping and pest control services to the program. As a result, agencies are precluded from considering acquisitions for landscaping and pest control services over the emerging small business reserve amount, currently $25,000, for small business set-asides unless the set-asides are needed to meet their assigned goals. The change may impact small businesses because these awards were previously set-aside for small businesses.

Item VII—Powers of Attorney for Bid Bonds (FAR Case 2003–029)

This final rule is of particular interest to contracting officers and offerors in acquisitions of construction that require a bid bond. This rule was initiated at the request of the Office of Federal Procurement Policy to resolve the controversy surrounding contracting officers' decisions regarding the evaluation of bid bonds and accompanying powers of attorney. This rule amends the FAR to revise the policy relating to acceptance of copies of powers of attorney accompanying bid bonds. This revision to FAR parts 19 and 28 removes the matter of authenticity and enforceability of powers of attorney from a contracting officer's responsiveness determination, which is based solely on documents available at the time of bid opening. Instead, the rule instructs contracting officers to address these issues after bid opening.

Item VIII—Expiration of the Price Evaluation Adjustment (FAR Case 2005–002)

This interim rule cancels the authority for civilian agencies, other than NASA and the U.S. Coast Guard, to apply the price evaluation adjustment to certain small disadvantaged business concerns in competitive acquisitions. The change is required because the statutory authority for the adjustments has expired. As a result, certain small disadvantaged business concerns will no longer benefit from the adjustments. DoD, NASA, and the U.S. Coast Guard are authorized to continue applying the price evaluation adjustment.

Item IX—Accounting for Unallowable Costs (FAR Case 2004–006)

This final rule amends FAR 31.201–6, Accounting for unallowable costs, by adding paragraphs (c)(2) through (c)(5) to provide specific criteria on the use of statistical sampling as an acceptable practice to identify unallowable costs, including the applicability of penalties for failure to exclude certain projected unallowable costs. The final rule also amends FAR 31.109, Advance agreements, by adding ''statistical sampling methods'' as an example of the type of item for which an advance agreement may be appropriate. The case was initiated by the Director, Defense Procurement and Acquisition Policy, who established an interagency ad hoc committee to perform a comprehensive review of FAR Part 31, Contract Cost Principles and Procedures. The rule is of particular importance to contracting officers and contractors who negotiate contracts and modifications, and determine costs in accordance with FAR Part 31.

Item X—Reimbursement of Relocation Costs on a Lump-Sum Basis (FAR Case 2003–002)

This final rule amends FAR 31.205–35 to permit contractors the option of being reimbursed on a lump-sum basis for three types of employee relocation costs: (1) costs of finding a new home, (2) costs of travel to the new location, and (3) costs of temporary lodging. These three types of costs are in addition to the miscellaneous relocation costs for which lump-sum reimbursements are already permitted.

Item XI—Training and Education Cost Principle (FAR Case 2001–021)

This final rule amends the FAR by revising the contract cost principle at FAR 31.205–44, Training and education costs. The amendment streamlines the cost principle and increases clarity by eliminating restrictive and confusing language, and by restructuring the rule to list only specifically unallowable costs.

Dated: September 22, 2005.

Julia B. Wise,

Director,Contract Policy Division.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 2005-06 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 2005-06 is effective October 31, 2005, except for Items I, II, III, IV, V, VI, VII, and VIII, which are effective September 30, 2005.

Dated: September 15, 2005.

Vincent J. Feck, Lt Col, USAF

Acting Director, Defense Procurement and Acquisition Policy.

Dated: September 22, 2005.

David A. Drabkin,

Senior Procurement Executive, Office of the Chief Acquisition Officer, General Services Administration.

Dated: September 14, 2005.

Anne Guenther,

Acting Assistant Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. 05–19467 Filed 9–29–05; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 2, 7, 11, and 39

[FAC 2005–06; FAR Case 2004–018; Item I]

RIN 9000–AK29

Federal Acquisition Regulation; Information Technology Security

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

ACTION: Interim rule with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on an interim rule amending the Federal Acquisition

Regulation (FAR) to implement the Information Technology (IT) Security provisions of the Federal Information Security Management Act of 2002 (FISMA) (Title III of the E-Government Act of 2002 (E-Gov Act)).

DATES: *Effective Date*: September 30, 2005.

Comment Date: Interested parties should submit written comments to the FAR Secretariat on or before November 29, 2005 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAC 2005–06, FAR case 2004–018, by any of the following methods:

• Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

• Agency Web Site: *http://www.acqnet.gov/far/ProposedRules/proposed.htm*. Click on the FAR case number to submit comments.

• E-mail: farcase.2004–018@gsa.gov. Include FAC 2005–06, FAR case 2004–018 in the subject line of the message.

• Fax: 202–501–4067.

• Mail: General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW; Room 4035, ATTN: Laurieann Duarte, Washington, DC 20405.

Instructions: Please submit comments only and cite FAC 2005–06, FAR case 2004–018, in all correspondence related to this case. All comments received will be posted without change to *http://www.acqnet.gov/far/ProposedRules/proposed.htm*, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat at (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Cecelia L. Davis, Procurement Analyst, at (202) 219–0202. The TTY Federal Relay Number for further information is1–800–877–8973. Please cite FAC 2005–06, FAR case 2004–018.

SUPPLEMENTARY INFORMATION:

A. Background

American society relies on the Federal Government for essential information and services provided through interconnected computer systems. Both Government and industry face increasing security threats to essential services and must work in close partnership to address those risks. Increasingly, contractors are supplying, operating, and accessing critical IT systems, performing critical functions throughout the life of IT systems. At the same time, it is apparent that information technology and the IT marketplace have become truly global. The security risks are shared globally as well.

Unauthorized disclosure, corruption, theft, or denial of IT resources have the potential to disrupt agency operations and could have financial, legal, human safety, personal privacy, and public confidence impacts. The Federal community has not focused on unclassified activities with regard to information technology resources involved in the acquisition and use of information on behalf of the Government. In particular, there is need to focus on the role of contractors in security as more and more Federal agencies outsource various information technology functions. Until now, regulations have generally been silent regarding security requirements for contractors who provide goods and services with IT security implications.

This rule amends FAR parts 1, 2, 7, 11, and 39 to implement the information technology security provisions of the Federal Information Security Management Act of 2002 (FISMA) (Title III of the E-Government Act of 2002 (E-Gov Act)). The rule recognizes security as an important part of all phases of the IT acquisition life cycle. The rule focuses much needed attention on the importance of system and data security by contracting officials and other members of the acquisition team.

The intent of adding specific guidance in the FAR is to provide clear, consistent guidance to acquisition officials and program managers; and to encourage and strengthen communication with IT security officials, chief information officers, and other affected parties.

The Councils recognize that IT security standards will continue to evolve and that agency-specific policy and implementation will evolve differently across the spectrum of Federal agencies, depending on their missions. Agencies will customize IT security policies and implementations to meet mission needs as they adapt to a dynamic IT security environment.

The rule is proposing to amend the FAR by—

• Adding the stipulation that when buying goods and services contracting officers shall seek advice from specialists in information security;

• Adding a definition for the term ''Information Security'';

• Incorporating security requirements in acquisition planning and when describing agency needs;

• Requiring adherence to Federal Information Processing Standards; and

• Revising the policy in FAR 39.101 to require including the appropriate agency security policy and requirements in information technology 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 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.* Although the FAR rule will itself have no direct impact on small business concerns, the subsequent supplemental policy-making at the agency level may have some impact on these entities. Since FISMA requires that agencies establish IT security policies that are commensurate with agency risk and potential for harm and that meet certain minimum requirements, the real implementation of this will occur at the agency level. The impact on small entities will, therefore, be variable depending on the agency implementation. The bulk of the policy requirements for information security are expected to be issued as either changes to agency supplements to the FAR or as internal IT policies promulgated by the agency Chief Information Officer (CIO), or equivalent, to assure compliance with agency security policies. These agency supplements and IT policies may affect small business concerns in terms of their ability to compete and win Federal IT contracts. The extent of the effect and impact on small business concerns is unknown and will vary from agency to agency due to the wide variances among agency missions and functions.

An Initial Regulatory Flexibility Analysis (IRFA) has been prepared. The analysis is summarized as follows:

Initial Regulatory Flexibility Analysis FAC 2005–06, FAR Case 2004–018, Information Technology Security

This Initial Regulatory Flexibility Analysis has been prepared consistent with 5 U.S.C. 603.

1. Description of the reasons why the action is being taken.

This interim rule amends the Federal Acquisition Regulation to implement the information technology (IT) security provisions of the Federal Information Security Management Act of 2002 (FISMA), (Title III of the E-Government Act of 2002 (E-Gov Act)). FISMA requires agencies to identify and provide information security protections

commensurate with security risks to Federal information collected or maintained for the agency and information systems used or operated on behalf of an agency by a contractor.

2. Succinct statement of the objectives of, and legal basis for, the rule.

The rule implements the IT security provisions of the FISMA. Section 301 of FISMA (44 U.S.C. 3544) requires that contractors be held accountable to the same security standards as Government employees when collecting or maintaining information or using or operating information systems on behalf of an agency. Security is to be considered during all phases of the acquisition life cycle. FISMA requires that agencies establish IT security policies that are commensurate with agency risk and potential for harm and that meet certain minimum requirements. Agencies are further required, through the Chief Information Officer (CIO) or equivalent, to assure compliance with agency security policies. The law requires that contractors and Federal employees be subjected to the same requirements in accessing Federal IT systems and data.

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

The FAR rule will itself have no direct impact on small business concerns. As stated in #2 above, FISMA requires that agencies establish IT security policies that are commensurate with agency risk and potential for harm and that meet certain minimum requirements. The real implementation of this will occur at the agency level. The impact on small entities will, therefore, be variable depending on the agency implementation. The bulk of the policy requirements for information security are expected to be issued as either changes to agency supplements to the FAR or as internal IT policies promulgated by the agency Chief Information Officer (CIO), or equivalent, to assure compliance with agency security policies. These agency supplements and IT policies may affect small business concerns in terms of their ability to compete and win Federal IT contracts. The extent of the effect and impact on small business concerns is unknown and will vary from agency to agency due to the wide variances among agency missions and functions.

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

The rule does not impose any new reporting, recordkeeping, or compliance requirements.

5. Identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap, or conflict with the rule.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

6. Description of any significant alternatives to the rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the rule on small entities.

There are no practical alternatives that will accomplish the objectives of the applicable statutes.

The FAR Secretariat has submitted a copy of the IRFA 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, 7, 11, and 39 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 2005–06, FAR case 2004–018), in correspondence.

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.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary to implement the requirements of the Federal Information Security Management Act (FISMA) of 2002, which went into effect December 17, 2002 and associated implementing guidance from the Office of Management and Budget (OMB) and National Institute of Standards and Technology, particularly FISMA's requirement for agencies to ensure contractor compliance with all current IT security laws and policies. The FAR does not currently provide adequate security for, or sufficient oversight of, the operations of Government contractors (including service providers), and this interim rule is necessary to ensure the Federal Government is not exposed to inappropriate and unknown risk.

However, pursuant to Public Law 98–577 and FAR 1.501, the Councils will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Parts 1, 2, 7, 11, and 39

Government procurement.

Dated: September 22, 2005.

Julia B. Wise,

Director,Contract Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 1, 2, 7, 11, and 39 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 2, 7, 11, and 39 continues to read as follows:

Authority: : 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and42 U.S.C. 2473(c).

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.602–2 [Amended]

■ 2. Amend section 1.602–2 by removing from paragraph (c) ''engineering,'' and adding ''engineering, information security,'' in its place.

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 3. Amend section 2.101 in paragraph (b) by adding, in alphabetical order, the definitions ''Information security'' and ''Sensitive But Unclassified (SBU) information'' to read as follows:

2.101 Definitions.

* * * * *

(b) * * *

Information security means protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide—

(1) Integrity, which means guarding against improper information modification or destruction, and includes ensuring information nonrepudiation and authenticity;

(2) Confidentiality, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information; and

(3) Availability, which means ensuring timely and reliable access to, and use of, information.

* * * * *

Sensitive But Unclassified (SBU) information means unclassified information, which, if lost, misused, accessed or modified in an

unauthorized way, could adversely affect the national interest, the conduct of Federal programs, or the privacy of individuals. Examples include information which if modified, destroyed or disclosed in an unauthorized manner could cause: loss of life; loss of property or funds by unlawful means; violation of personal privacy or civil rights; gaining of an unfair commercial advantage; loss of advanced technology, useful to competitor; or disclosure of proprietary information entrusted to the Government.

* * * * *

PART 7—ACQUISITION PLANNING

■ 4. Amend section 7.103 by adding paragraph (u) to read as follows:

7.103 Agency-head responsibilities.

* * * * *

(u) Ensuring that agency planners on information technology acquisitions comply with the information technology security requirements in the Federal Information Security Management Act (44 U.S.C. 3544), OMB's implementing policies including Appendix III of OMB Circular A–130, and guidance and standards from the Department of Commerce's National Institute of Standards and Technology.

■ 5. Amend section 7.105 by adding a sentence to the end of paragraph (b)(17) to read as follows:

7.105 Contents of written acquisition plans.

* * * * *

(b) * * *

(17) * * * For Information Technology acquisitions, discuss how agency information security requirements will be met.

* * * * *

PART 11—DESCRIBING AGENCY NEEDS

■ 6. Revise section 11.102 to read as follows:

11.102 Standardization program.

Agencies shall select existing requirements documents or develop new requirements documents that meet the needs of the agency in accordance with the guidance contained in the Federal Standardization Manual, FSPM–0001; for DoD components, DoD 4120.24–M, Defense Standardization Program Policies and Procedures; and for IT standards and guidance, the Federal Information Processing Standards Publications (FIPS PUBS). The Federal Standardization Manual may be obtained from the General Services Administration (see address in 11.201(d)(1)). DoD 4120.24–M may be obtained from DoD (see address in 11.201(d)(2)). FIPS PUBS may be obtained from the Government Printing Office (GPO), or the Department of Commerce's National Technical Information Service (NTIS) (see address in 11.201(d)(3)).

■ 7. Amend section 11.201 by adding paragraph (d)(3) to read as follows:

11.201 Identification and availability of specifications.

* * * * *

(d) * * *

(3) The FIPS PUBS may be obtained from *http://www.itl.nist.gov/fipspubs/*, or purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, Telephone (202) 512–1800, Facsimile (202) 512–2250; or National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, Telephone (703) 605–6000, Facsimile (703) 605–6900, Email: *orders@ntis.gov*.

* * * * *

PART 39—ACQUISITION OF INFORMATION TECHNOLOGY

■ 8. Amend section 39.101 by adding paragraph (d) to read as follows:

39.101 Policy.

* * * * *

(d) In acquiring information technology, agencies shall include the appropriate information technology security policies and requirements.

[FR Doc. 05–19468 Filed 9–29–05; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 8, 16, and 36

[FAC 2005–06; FAR Case 2004–001; Item II]

RIN 9000–AK15

Federal Acquisition Regulation; Improvements in Contracting for Architect-Engineer Services

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 adopted as final, without change, an interim rule amending the Federal Acquisition Regulation (FAR) to implement Section 1427(b) of the Services Acquisition Reform Act of 2003 (Title XIV of Public Law 108–136). This final rule emphasizes the requirement to place orders for architect-engineer services consistent with the FAR and reiterates that such orders shall not be placed under General Services Administration (GSA) multiple award schedule (MAS) contracts and Governmentwide task and delivery order contracts unless the contracts were awarded using the procedures as stated in the FAR.

DATES: *Effective Date:* September 30, 2005.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat at (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 2005–06, FAR case 2004–001.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule constitutes the implementation in the FAR of Section 1427 of the Services Acquisition Reform Act of 2003 (Title XIV of Public Law 108–136) to ensure that the requirements of the Brooks Architect-Engineers Act (40 U.S.C. 1102 *et seq.*) are not circumvented through the placement of orders under GSA MAS contracts and Governmentwide task and delivery order contracts that were not awarded using FAR Subpart 36.6 procedures. An order cannot be issued consistent with FAR Subpart 36.6, as currently required by FAR 16.500(d), unless the basic underlying contract was awarded using the Brooks Architect-Engineers Act procedures. This final rule amends FAR parts 2, 8, 16, and 36 to ensure appropriate procedures are followed when ordering architect-engineer services. The interim rule was published in the **Federal Register** at 70 FR 11737, March 9, 2005. The Councils received comments in response to the interim rule from seven (7) respondents.

Summary of the Public Comments

The comments were organized into three groups as follows:

1. *Clarification on the Brooks Act Citation (40 U.S.C. 1102).*

Comment: Two commenters indicated that they were unable to find any relation of 40 U.S.C. 1102 with Architect-Engineer Services and requested clarification.