

Date: March 12, 2014.

**Judith A. Enck,**

*Regional Administrator, Region 2.*

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 39 and 52

[FAR Case 2014-006; Docket No. 2014-0006; Sequence No. 1]

RIN 9000-AM72

#### Federal Acquisition Regulation; Year Format

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

**ACTION:** Proposed rule.

**SUMMARY:** DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to delete regulations relating to the year 2000 compliance.

**DATES:** Interested parties should submit written comments to the Regulatory Secretariat at one of the addressees shown below on or before May 27, 2014 to be considered in the formation of the final rule.

**ADDRESSES:** Submit comments in response to FAR Case 2014-006 by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching for "FAR Case 2014-006". Select the link "Comment Now" that corresponds with "FAR Case 2014-006." Follow the instructions provided at the "Comment Now" screen. Please include your name, company name (if any), and "FAR Case 2014-006" on your attached document.

- *Fax:* 202-501-4067.

- *Mail:* General Services

Administration, Regulatory Secretariat (MVCB), ATTN: Hada Flowers, 1800 F Street NW., 2nd Floor, Washington, DC 20405.

*Instructions:* Please submit comments only and cite FAR Case 2014-006, 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 Loeb, Procurement Analyst, at 202-501-0650, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755. Please cite FAR Case 2014-006.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to delete obsolete coverage relating to the year 2000 compliance at FAR 39.002, 39.101(a), and 39.106. Also, the rule will make conforming changes to FAR 39.107 and the clause prescription at FAR 52.239-1. The year 2000 coverage is no longer needed because all of the issues addressing the transition to year 2000 compliance language have been resolved.

In 1997, an interim rule, FAR Case 96-607, was promulgated to address year 2000 compliance issues, (see 62 FR 273, January 2, 1997). FAR Case 96-607 was finalized on August 22, 1997 (62 FR 44830). Subsequently, Section 622 of the Omnibus Appropriations and Authorization Act for Fiscal Year 1999 (Pub. L. 105-277) provided that "None of the funds appropriated in this or any other Act shall be used to acquire information technologies which do not comply with FAR section 39.106 (Year 2000 compliance) of the Federal Acquisition Regulation, unless an agency's Chief Information Officer determines that noncompliance with section 39.106 is necessary to the function and operation of the requesting agency or the acquisition is required by a signed contract with the agency in effect before the date of enactment of this Act. Any waiver granted by the Chief Information Officer shall be reported to the Office of Management and Budget, and copies shall be provided to Congress." FAR Case 98-306 was opened to incorporate this restriction in FAR part 39. The final FAR rule was published on June 17, 1999 (64 FR 32747) and has remained unchanged (See FAR 39.101).

##### II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of

harmonizing rules, and of promoting flexibility. 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.

##### III. Regulatory Flexibility Act

DoD, GSA, and NASA 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 this rule is proposing to delete obsolete language from the regulation.

Nonetheless, an Initial Regulatory Flexibility Analysis has been performed and is summarized below:

This rule amends the FAR to delete obsolete coverage relating to the year 2000 compliance at FAR 39.002, 39.101(a), and 39.106. Also, the rule will make conforming changes to FAR 39.107 and the clause prescription at FAR 52.239-1. The year 2000 coverage is no longer needed because all of the issues addressing the transition to year 2000 compliance language have been resolved. Based upon Federal Procurement Data System data, there were 9021 Information Technology contractors in fiscal year 2013, of which 6284 were small business. The impact on small business is expected to be positive since we are deleting an obsolete requirement.

The Regulatory Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat. DOD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 610 (FAR Case 2014-006), in correspondence.

##### IV. Paperwork Reduction Act

The proposed rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

##### List of Subjects in 48 CFR Parts 39 and 52

Government procurement.

Dated: March 19, 2014.

**William Clark,**

*Acting Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.*

Therefore, DoD, GSA, and NASA propose to amend 48 CFR parts 39 and 52 as set forth below:

■ 1. The authority citation for 48 CFR part 39 is revised to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

## **PART 39—ACQUISITION OF INFORMATION TECHNOLOGY**

### **39.002 [Amended]**

■ 2. Amend section 39.002 by removing the definition “*Year 2000 compliant*”.

### **39.101 [Amended]**

■ 3. Amend section 39.101 by removing paragraph (a); and redesignating paragraphs (b) through (e), as paragraphs (a) through (d).

### **39.106 [Removed]**

### **39.107 [Redesignated as 39.106]**

■ 4. Remove section 39.106 and redesignate section 39.107 as section 39.106.

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

■ 5. 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 51 U.S.C. 20113

### **52.239–1 [Amended]**

■ 6. Amend section 52.239–1 by removing from the introductory text “39.107” and adding “39.106” in its place.

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