

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](mailto: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.

*Response:* The Councils clarify that the Brooks Act was recently re-codified by Congress and is now identified under 40 U.S.C. 1101 *et seq.* and the definition of architect-engineer services is defined under 40 U.S.C. 1102.

2. *Support interim rule but it does not go far enough. Recommend changes in the definition.*

*Comment:* One commenter requested that in each place where the term "architect-engineer" is used in the rule, it be replaced with the term "architectural and engineering (including surveying and mapping) services." Another commenter requested that all mapping and surveying be subjected to qualification based selection in conformance with the Brooks Act.

*Response:* The Councils considered these recommendations to be beyond the scope of the rule. In addition, the Councils have already addressed the issue of the procurement of mapping services in FAR case 2004-023, published in the **Federal Register** at 70 FR 20329, April 19, 2005.

3. *Address how GSA plans to prevent violation when Agencies use the GSA Multiple Award Schedule (MAS) program.*

*Comment:* Four commenters indicated that they have concerns with the proper use of the MAS program and asked that GSA indicate how it plans to eliminate the violations.

*Response:* GSA has indicated to the Councils that it supports the use of the qualifications based selection (QBS) process for the procurement of A/E services for public projects as mandated by the Brooks Architect-Engineer Act of 1972 (Public Law 92-582, 40 U.S.C. 1102 *et seq.*), and it does not condone any violation of the Brooks Act. To ensure that the ordering agencies are fully aware of the statutory requirement, GSA has indicated that it has taken various steps to state that the GSA MAS Program may *not* be used to acquire services that are subject to the procedures of FAR Subpart 36.6. These steps include adding information to the online and classroom training, refining the scope of MAS contracts, adding a notice to GSA portal and MAS brochures, adding new FAQ's on the website, and conducting a customer compliance survey. GSA also plans on conducting reviews of task orders for scope compliance and A/E services will be part of the reviews.

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

rule is not a major rule under 5 U.S.C. 804.

## B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because this rule only clarifies an already existing requirement that architectural and engineering services be procured using the procedures at FAR Subpart 36.6.

## C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

### List of Subjects in 48 CFR Parts 2, 8, 16, and 36

Government procurement.

Dated: September 22, 2005.

Julia B. Wise,

Director, Contract Policy Division.

### Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule amending 48 CFR parts 2, 8, 16, and 36, which was published at 70 FR 11737, March 9, 2005, is adopted as a final rule without change.

[FR Doc. 05-19469 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, 4, 6, 7, 8, 12, 13, 22, 28, 36, 37, 39, 41, 47, and 52

[FAC 2005-06; FAR Case 2005-010; Item III]

RIN 9000-AK27

### Federal Acquisition Regulation; Title 40 of United States Code Reference Corrections

**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 reflect the most recent codification of Title 40 of the United States Code.

**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 Mr. Gerald Zaffos, Procurement Analyst, at (202) 208-6091. Please cite FAC 2005-06, FAR case 2005-010.

## SUPPLEMENTARY INFORMATION:

### A. Background

Congress recently codified Title 40 of the United States Code. As a result, all sections of Title 40 were renumbered. This rule corrects the references to Title 40 in the FAR.

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 Regulatory Flexibility Act does not apply to this rule. This final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98-577, and publication for public comments is not required. However, the Councils will consider comments from small entities concerning the affected FAR Parts 2, 4, 6, 7, 8, 12, 13, 22, 28, 36, 37, 39, 41, 47, 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 2005-06, FAR case 2005-010), 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.*

### List of Subjects in 48 CFR Parts 2, 4, 6, 7, 8, 12, 13, 22, 28, 36, 37, 39, 41, 47, and 52

Government procurement.