

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 8 and 38**

[FAR Case 1999–603]

RIN 9000–AJ63

**Federal Acquisition Regulation;
Federal Supply Schedules Services
and Blanket Purchase Agreements
(BPAs)**

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to incorporate policies for services and to strengthen the procedures for establishing Blanket Purchase Agreements under the Federal Supply Schedules.

DATES: Interested parties should submit comments in writing on or before June 17, 2003 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to—General Services Administration, FAR Secretariat (MVA), 1800 F Street, NW., Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to—farcase.1999-603@gsa.gov.

Please submit comments only and cite FAR case 1999–603 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, at (202) 501–1900. Please cite FAR case 1999–603.

SUPPLEMENTARY INFORMATION:**A. Background**

The Multiple Award Schedules (MAS) program, directed and managed by the General Services Administration (GSA), provides Federal agencies with a simplified process for obtaining commercial supplies and services at prices associated with volume buying. For much of its history, the MAS focused on the sale of products. In

recent years, however, GSA has sought to facilitate broad access to service contractors. This general transformation of the schedules program has coincided with a trend in Federal procurement towards acquiring managed solutions from the marketplace. The amount of services acquisition from the MAS has grown steadily as agencies increasingly turn to schedule contractors to meet their needs.

To assist its customers, GSA developed “special ordering procedures” that address the acquisition of services.

However, because FAR subpart 8.4 has remained primarily geared towards products, agencies have been inconsistent in adhering to certain basic acquisition requirements when buying services off the MAS, such as in their use of statements of work, effective pricing of orders, application of competition, and proper documentation of award decisions.

The FAR Council seeks to significantly improve the application of acquisition basics on MAS purchases for services and reinforce sound MAS practices generally. To achieve this result, the Civilian Agency Acquisition Council (CAAC) and the Defense Acquisition Regulations Council (DARC) are proposing numerous amendments to FAR subpart 8.4. In developing these changes, the CAAC and DARC, in coordination with the FAR Council, carefully considered the findings and recommendations made by the General Accounting Office in its report no. GAO–01–125, *Contract Management: Not Following Procedures Undermines Best Pricing Under GSA’s Schedule*.

Accordingly, the rule proposes to amend FAR subpart 8.4 to—

- Add new coverage on use of statements of work when acquiring services from the schedules;
- Clarify and strengthen the procedures for establishing Blanket Purchase Agreements against the schedules;
- Reinforce documentation requirements generally and address the documentation of sole source orders in particular;
- Highlight the availability of “e-Buy,” GSA’s electronic quote system, to encourage greater transparency through use of electronic media;
- Add new coverage to allow agencies to make payment for oral or written orders by any authorized means, including the Governmentwide commercial purchase card;
- Clarify the procedures for termination for cause and convenience; and

- Reorganize and revise the subpart text for ease of use.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, *Regulatory Planning and Review*, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule addresses internal Government administrative procedures and does not impose any additional requirements on Government offerors or contractors. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR parts 8 and 38 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 1999–603), in correspondence.

C. Paperwork Reduction Act

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

List of Subjects in 48 CFR Parts 8 and 38

Government procurement.

Dated: April 14, 2003.

Cecelia L. Davis,

Acting Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 8 and 38 as set forth below:

1. The authority citation for 48 CFR parts 8 and 38 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

**PART 8—REQUIRED SOURCES OF
SUPPLIES AND SERVICES**

2. Amend section 8.401 by revising paragraphs (a), (b), and (c); and by removing from the introductory text of paragraph (d) and (d)(2) the word “office” and adding in its place. The revised text reads as follows: