

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.

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

BILLING CODE 6820-EP-P

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