

\$200,000/\$250,000). No comments were received in response to the Initial Regulatory Flexibility Analysis for either case. The increased thresholds are limited to specified procurements. In addition, the special authorities are only available for a short period of time. There are no data available on the number of procurements that will be eligible. However, we expect the number of small entities that will be impacted by the increased thresholds to this limited class of procurements to be very small.

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, 10, 12, 13, 19, and 25

Government procurement.

Dated: September 24, 2003.

Laura G. Auletta,

Director, Acquisition Policy Division.

Interim Rules Adopted as Final With Changes

■ Accordingly, DoD, GSA, and NASA adopt the interim rules amending 48 CFR parts 2, 10, 12, 13, 19, and 25, which were published in the **Federal Register** at 67 FR 56116, August 30, 2002, and 68 FR 4048, January 27, 2003, as a final rule with the following change:

PART 10—MARKET RESEARCH

■ 1. The authority citation for 48 CFR part 10 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

10.002 [Amended]

■ 2. Amend section 10.002 in paragraph (b)(2)(iv) by removing “Government” and adding “Government and commercial” in its place.

[FR Doc. 03-24585 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 12, 32, and 52

[FAC 2001-16; FAR Case 2001-005; Item V]

RIN 9000-AJ20

Federal Acquisition Regulation; Notification of Overpayment, Contract Financing Payments

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 require the contractor to notify the contracting officer if the Government overpays when making an invoice payment or a contract financing payment under either a commercial item or noncommercial item contract.

DATES: *Effective Date:* October 31, 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. Jeritta Parnell, Procurement Analyst, at (202) 501-4082. Please cite FAC 2001-16, FAR case 2001-005.

SUPPLEMENTARY INFORMATION:

A. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 67 FR 55676, August 29, 2002, with request for comments. Two respondents submitted public comments. A discussion of the comments is provided below. Differences between the proposed and the final rule are discussed in paragraph 4 below.

1. *Comment:* There is concern that credit invoices, due to a revision of indirect billing rates, contractual actions impacting negotiated price, adjustments to progress payments as a result of change in the contract's estimated cost at completion, and authorized borrow-payback transfers will all be potentially misconstrued as overpayments because they may result in a need for the contractor to pay a sum back to the

Government as a result of the normal and expected operation of contractual terms and conditions. Therefore, the following definition should be added at the beginning of each of the proposed paragraphs imposing a notification requirement:

An overpayment is a payment of an amount greater than the value the contractor is entitled to receive at the time of the payment.

Councils' response: Do not concur. The intent of the rule is to require contractors to notify the Government when they become aware that an incorrect payment has been made. The Councils do not believe there is a demonstrated need for such a definition. First, the term “overpayment” is used in Government contracting in a variety of contexts, and we are concerned that establishing a definition in the payment clauses could have unintended consequences. Second, when a contract is modified to reflect the incorporation of new billing rates, or some other contract administration action, the contract modification should identify whether a credit is due the Government. The Councils do not anticipate that a contracting officer would issue a notification of overpayment in these instances. If, in the future, it becomes apparent that, in practice, contracting officers are taking an overly broad and needlessly burdensome interpretation of what constitutes an overpayment for the purposes of this notification requirement, then the Councils will revisit this issue.

2. *Comment:* A dollar threshold of \$25,000, or some other reasonable threshold, should be established for the notification of overpayment requirement. The requirement for providing a notification for any overpayment, no matter how small or insignificant in amount, is not cost-effective. In addition, instead of immediate notification, DoD should give contractors thirty days to notify the contracting officer, after the overpayment has been verified to source documents. Finally, the contract should require that the disposition instructions provided by the contracting officer be broadened, *i.e.*, that the payment office be required to provide both the contractor and contracting officer with appropriation-level detail of how all overpayment refunds are posted back to the contract.

Councils' response: The Councils do not agree with the premise that a threshold is needed. Many, if not most, contractors now provide notice to the Government when they believe an overpayment, or any other payment