

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 2, 9, 22, 28, 44, and 52****[FAR Case 2002–023]****RIN 9000–AJ78****Federal Acquisition Regulation;
Excluded Parties System
Enhancement**

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 curtail the publication and obviate the need to publish the hardcopy publication of the List of Parties Excluded from Federal Procurement and Nonprocurement Programs (List of Parties) produced by the Government Printing Office (GPO), and publish an electronic list of parties excluded from doing business with the Federal Government online identified as the Excluded Parties List System (EPLS). The new electronic list will enable agencies to input their data directly to the EPLS; improve the reliability of the content by allowing content owners to directly input entries; provide access to historical data that was previously provided through Freedom of Information Act (FOIA) procedures; enhance the ability to verify entries by permitting search by exact name and social security number, and shorten the lead time between exclusionary action taken by agencies and updating the list.

DATES: Interested parties should submit comments in writing on or before January 30, 2004 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.2002-023@gsa.gov.

Please submit comments only and cite FAR case 2002–023 in all correspondence related to this case.

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. Ralph De Stefano, Procurement Analyst, at (202) 501–1758. Please cite FAR case 2002–023.

SUPPLEMENTARY INFORMATION:**A. Background**

The rule, if finalized, will enable agencies to directly input data to update the Excluded Parties List System (EPLS) on parties debarred, suspended, proposed for debarment, or declared ineligible by agencies or excluded by agencies, Government corporations, or the General Accounting Office (GAO). The entry by the agencies will update the content in real time, improve system reliability, eliminate the need for a hard copy list, provide access to the archival data, and enhance the ability to verify entries by permitting a search by exact name and social security number.

The electronic updating of the list by agencies promotes the use of the Internet and emerging technologies within and across the Government agencies and provides citizen-centric Government information. The private sector and state and local governments who wish to avoid doing business with contractors that lack current responsibility, although not required, use the aforementioned list.

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 while we have made changes in the way GSA manages and maintains the List of Parties excluded from Federal Procurement and Nonprocurement Programs, the proposed rule does not substantively change procedures for award and administration of contracts. The rule primarily will curtail the publication and obviate the need to publish the hardcopy publication of the List of Parties Excluded from Federal Procurement and Nonprocurement Programs (List of Parties) produced by the Government Printing Office (GPO), and publishes an electronic list of parties excluded from doing business with the Federal Government online identified as the Excluded Parties List System (EPLS). The new electronic list will—

- Enable agencies to input their data directly to the EPLS;
- Improve the reliability of the content by allowing content owners to directly input entries;

- Provide access to historical data that was previously provided through Freedom of Information Act (FOIA) procedures;

- Enhance the ability to verify entries by permitting search by exact name and social security number, and

- Shorten the lead time between exclusionary action taken by agencies and updating the content.

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 2, 9, 22, 28, 44, 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.* (FAR case 2002–023), 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 2, 9, 22, 28, 44, and 52

Government procurement.

Dated: November 25, 2003.

Ralph J. De Stefano,

Acting Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 2, 9, 22, 28, 44, and 52 as set forth below:

1. The authority citation for 48 CFR parts 2, 9, 22, 28, 44, and 52 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).

**PART 2—DEFINITIONS OF WORDS
AND TERMS**

2. Amend section 2.101 in paragraph (b) by adding, in alphabetical order, the definition “Excluded Parties List System”; and removing the definition “List of Parties Excluded from Federal Procurement and Nonprocurement Programs”. The added text reads as follows:

2.101 Definitions.

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(b) * * *

Excluded Parties List System means an electronic database maintained and