

based on that price, provided the same policies and procedures are used for costing all business of the using division, subsidiary, or organization under common control.

(f) No depreciation or rental is allowed on property fully depreciated by the contractor or by any division, subsidiary, or affiliate of the contractor under common control. However, a reasonable charge for using fully depreciated property may be agreed upon and allowed (but, see 31.109(h)(2)). In determining the charge, consideration shall be given to cost, total estimated useful life at the time of negotiations, effect of any increased maintenance charges or decreased efficiency due to age, and the amount of depreciation previously charged to Government contracts or subcontracts.

(g) Whether or not the contract is otherwise subject to CAS, the requirements of 31.205–52 shall be observed.

(h) In the event of a write-down from carrying value to fair value as a result of impairments caused by events or changes in circumstances, allowable depreciation of the impaired assets is limited to the amounts that would have been allowed had the assets not been written down (see 31.205–16(g)). However, this does not preclude a change in depreciation resulting from other causes such as permissible changes in estimates of service life, consumption of services, or residual value.

(i) A “capital lease,” as defined in Statement of Financial Accounting Standard No. 13 (FAS–13), Accounting for Leases, is subject to the requirements of this cost principle. (See 31.205–36 for Operating Leases.) FAS–13 requires that capital leases be treated as purchased assets, *i.e.*, be capitalized, and the capitalized value of such assets be distributed over their useful lives as depreciation charges or over the leased life as amortization charges, as appropriate, except that—

(1) Lease costs under a sale and leaseback arrangement are allowable up to the amount that would have been allowed had the contractor retained title to the asset; and

(2) If it is determined that the terms of the capital lease have been significantly affected by the fact that the lessee and lessor are related, depreciation charges are not allowable in excess of those that would have occurred if the lease contained terms consistent with those found in a lease between unrelated parties.

#### 31.205–16 [Amended]

■ 4. Amend section 31.205–16 in the first sentence of paragraph (b) by removing “31.205–11(m)” and adding “31.205–11(i)” in its place.

■ 5. Amend section 31.205–36 by revising paragraph (a); and removing paragraph (b)(4) to read as follows:

#### 31.205–36 Rental costs.

(a) This subsection is applicable to the cost of renting or leasing real or personal property acquired under “operating leases” as defined in Statement of Financial Accounting Standards No. 13 (FAS–13), Accounting for Leases. (See 31.205–11 for Capital Leases.)

\* \* \* \* \*

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 4 and 53

[FAC 2001–18; FAR Case 2003–019; Item III]

RIN 9000–AJ76

#### Federal Acquisition Regulation; Federal Procurement Data System

**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 changes in contract action reporting to the Federal Procurement Data System—Next Generation (FPDS–NG).

**DATES:** *Effective Date:* December 11, 2003.

**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 2001–18, FAR case 2003–019.

#### SUPPLEMENTARY INFORMATION:

#### A. Background

The Federal Government is modernizing its procurement data collection system, the Federal Procurement Data System (FPDS). The new system, the Federal Procurement Data System—Next Generation (FPDS–NG), became operational on October 1, 2003, for transactions awarded after that date. FPDS captured data on individual contract actions over \$25,000 and summary data on contract actions below \$25,000. FPDS–NG allows the Government to capture data on individual transactions regardless of dollar value. As a result, FPDS–NG provides more information to agencies for managing their programs and to the public for better understanding of how taxpayer funds are spent. The capabilities of FPDS–NG provide an efficient means of satisfying the statutory requirement of 41 U.S.C. 417, that each Executive agency maintain a computer file containing the information at FAR 4.601. Consequently, submitting contract action data to FPDS–NG will be considered compliance with the requirements of FAR 4.601.

Therefore, the FAR is being amended to revise 4.602 to—

- Reflect that the information in FPDS–NG is available to the general public;
- Provide the Web site for FPDS–NG, which must be entered as <https://www.fpds.gov>;
- Delete the physical address for the Federal Procurement Data Center;
- Allow agencies to report all transactions between \$2,500 and \$25,000 to FPDS–NG as either individual contract actions or summary contract actions until September 30, 2004;
- Require all contract actions over \$2,500 be reported to FPDS–NG as individual contract actions after September 30, 2004;
- Require agencies to insert the provision at 52.204–6, Data Universal Numbering System (DUNS) Number, in solicitations when the expected award amount will result in the generation of an individual contract action report and the contract does not include FAR clause 52.204–7, Central Contractor Registration; and
- Eliminate the use of the SF 279, Federal Procurement Data System (FPDS)—Individual Contract Action Report, and the SF 281, Federal Procurement Data System (FPDS)—Summary Contract Action Report (\$25,000 or Less).

This is not a significant regulatory action and, therefore, was not subject to