DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 47 and 52

[FAC 97–17; FAR Case 1998–604 (98–604); Item V]

RIN 9000–AI39

Federal Acquisition Regulation; Ocean Transportation by U.S.-Flag Vessels

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 apply the preference for U.S.-flag vessels to contracts awarded using simplified acquisition procedures.

DATES: *Effective Date:* June 26, 2000.

Applicability Date: The FAR, as amended by this rule, is applicable to solicitations issued on or after June 26, 2000.

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. Linda Klein, Procurement Analyst, at (202) 501–3775. Please cite FAC 97–17, FAR case 1998–604.

SUPPLEMENTARY INFORMATION:

A. Background

The Councils published a proposed rule in the **Federal Register** on July 12, 1999 (64 FR 37640). Five respondents submitted public comments on the proposed rule. The Councils considered all public comments in the formulation of the final rule.

This rule amends the FAR as follows:

- Applies the preference for U.S.-flag vessels to contracts awarded using simplified acquisition procedures (47.504, 52.213–4, and 52.247–64).
- Adds to the clause at 52.212–5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items, Alternate I to 52.247–64, Preference for Privately Owned U.S.-Flag Commercial Vessels.

The final rule does not incorporate in the clause at 52.247–64 the exception at 47.504(e) for subcontracts for commercial items or commercial components. The Councils will address this issue under FAR case 1999–024, Preference for U.S.-Flag Vessels—Subcontracts for Commercial Items.

This rule was not subject to Office of Management and Budget 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 Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not 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 most ocean transportation companies are large business concerns. This rule does not apply to acquisitions by the Department of Defense.

C. Paperwork Reduction Act

The Paperwork Reduction Act applies. The information collection requirements of the clause at FAR 52.247–64 have been approved under OMB Control Number 9000–0061, which also covers clauses at 52.247–6, 52.247–29 through 52.247–44, 52.247–48, 52.247–52, and 52.247–57. FAR 52.247–64 requires contractors to submit a legible copy of the on-board ocean bill of lading for each shipment to the contracting officer and the Maritime Administration. This rule makes 52.247–64 applicable to acquisitions below the simplified acquisition threshold. However, these respondents are already required to submit some form of bill of lading under 52.247–29 through 52.247–44. We estimate an increased number of responses per respondent (21), but a decreased number of hours per response (.05), resulting in no change to the number of respondents (65,000) and total response hours (65,780).

List of Subjects in 48 CFR Parts 47 and 52

Government procurement.

Dated: April 13, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 47 and 52 as set forth below:

1. The authority citation for 48 CFR parts 47 and 52 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 47—TRANSPORTATION

47.504 [Amended]

2. In section 47.504, remove paragraph (d) and redesignate paragraph (e) as (d).

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. In section 52.212–5, revise the date of the clause; redesignate paragraph (b)(26) as (b)(26)(i); and add paragraph (b)(26)(ii) to read as follows:

52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

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Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items (June 2000)

* * * * *

(b) * * *

__ (26)(ii) Alternate I of 52.247–64.

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4. In section 52.213–4, revise the date of the clause; and add paragraph (b)(1)(xi) to read as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

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Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (June 2000)

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(b) * * *

(1) * * *

(xi) 52.247–64, Preference for Privately Owned U.S.-Flag Commercial Vessels (June 2000) (46 U.S.C. 1241). (Applies to supplies transported by ocean vessels.)

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5. In section 52.247–64, revise the date of the clause and paragraph (d); and remove paragraph (e)(1) and redesignate paragraphs (e)(2) through (e)(4) as (e)(1) through (e)(3), respectively. The revised text reads as follows:

52.247–64 Preference for Privately Owned U.S.-Flag Commercial Vessels.

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Preference for Privately Owned U.S.-Flag Commercial Vessels (June 2000)

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(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts or purchase orders under this contract.

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