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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 14 and 52

[FAR Case 2016-003; Docket No. 2016-0003, Sequence No. 1]

RIN 9000-AN21

**Federal Acquisition Regulation: Administrative Cost to Issue
and Administer a Contract**

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and the National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to revise the estimated administrative cost to award and administer a contract, for the purpose of evaluating bids for multiple awards.

DATES: Interested parties should submit written comments to the Regulatory Secretariat Division at one of the addresses shown below on or before **[Insert date 60 days after the date of publication in the FEDERAL REGISTER]** to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR case 2016-003 by any of the following methods:

- Regulations.gov: <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching for "FAR Case 2016-003". Select the link "Comment Now" that corresponds with "FAR Case 2016-003." Follow the instructions provided on the screen. Please include your name, company name (if any), and "FAR Case 2016-003" on your attached document.
- Mail: General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: Ms. Flowers, 1800 F Street, NW., 2nd Floor, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR Case 2016-003, in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Michael O. Jackson, Procurement Analyst, at 202-208-4949 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755. Please cite FAR Case 2016-003.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are proposing to revise the provision of the FAR that addresses the Government's cost

to award and administer a contract, for the purpose of evaluating bids for multiple awards. The FAR provision at 52.214-22, Evaluation of Bids for Multiple Awards, which was issued in March 1990, reflects that \$500 is the administrative cost to the Government for issuing and administering contracts. Based on inflation factors and escalating annual Consumer Price Index (CPI) data available, an upward adjustment of \$500 in the provision to \$1,000 is a realistic reflection of the actual cost to the Government. We used the CPI calculator at the following web address, <http://data.bls.gov/cgi-bin/cpicalc.pl>, to calculate the upward adjustment. We plugged in the base line year 1990 and \$500 and it came up with \$907.00, and we rounded up to \$1000. This cost will be reviewed periodically and updated as deemed appropriate.

II. Discussion and Analysis

Amendments to FAR subparts 14.2 and 52.2 are proposed by this rulemaking. A monetary adjustment is proposed for FAR 14.201-8, Price Related Factors, and clause 52.214-22, Evaluation of Bids for Multiple Awards. The adjustment from \$500 to \$1,000 is to reflect a realistic estimate of the cost to the Government to issue and administer a contract.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This proposed rule is not a major rule under 5 U.S.C. 804.

V. Regulatory Flexibility Act

DoD, GSA, and NASA 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. However, an Initial Regulatory Flexibility Analysis (IRFA) has been performed. The IRFA is summarized as follows:

FAR 14.201-8 and 52.214-22, Evaluation of Bids for Multiple Awards, reflect that \$500 is the administrative cost to the Government for issuing and administering contracts. The rule is necessary to reestablish a more realistic estimate of the cost to award and administer a contract, for the purpose of evaluating bids for multiple awards. The current cost to award and administer a contract has not changed since 1990.

The objective of this rule is to revise FAR 14.201-8 and 52.214-22, Evaluation of Bids for Multiple Awards, to include an inflation adjustment based on Consumer Price Index (CPI), <http://data.bls.gov/cgi-bin/cpicalc.pldata>, since 1990. The adjustment will change the estimated cost to award and administer a contract from \$500 to \$1,000.

According to the Federal Procurement Data System, in Fiscal Year 2015, the Federal Government made approximately 2,019 definitive contract awards to small businesses using sealed bidding procedures and 103 indefinite-delivery contract awards to small businesses using sealed bidding procedures, 12 of which were multiple awards.

DoD, GSA, and NASA do not expect this 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 the proposed rule pertains to Government administrative expenses only.

There will be no burden on small businesses because this rule change does not place any new requirement on small entities.

The Regulatory Secretariat Division has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat Division. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule consistent with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2016-003), in correspondence.

VI. Paperwork Reduction Act

This proposed rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 14 and 52

Government procurement.

William Clark
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Office of Government-wide
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Therefore, DoD, GSA, and NASA are proposing to amend 48 CFR parts 14 and 52, as set forth below:

1. The authority citation for 48 CFR parts 14 and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 14—SEALED BIDDING

2. Amend section 14.201-8 by revising the introductory text and removing from paragraph (c) the term "\$500" and adding "\$1,000" in its place.

The revision reads as follows.

14.201-8 Price related factors.

The factors set forth in paragraphs (a) through (e) of this section may be applicable in evaluation of bids for award and shall be included in the solicitation when applicable (see 14.201-5(c)):

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PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Amend section 52.214-22 by revising the date of the provision and removing from the paragraph the term "\$500" and adding "\$1,000" in its place.

The revision reads as follows:

52.214-22 Evaluation of Bids for Multiple Awards.

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EVALUATION OF BIDS FOR MULTIPLE AWARDS (DATE)

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