



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

DEC 28 1992

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DIVISION OF CONTRACTS AND PROPERTY MANAGEMENT

MEMORANDUM FOR: Edward L. Halman, Director
Division of Contracts and Property Management
Office of Administration

FROM: Michael T. Lesar, Chief
Rules Review Section
Rules Review and Directives Branch
Division of Freedom of Information
and Publications Services
Office of Administration

SUBJECT: REGULATORY HISTORY PROCEDURES - ACQUISITION
REGULATION (NRCAR) (FINAL RULE)

In a memorandum dated April 5, 1985 (copy attached), the Executive Director for Operations established procedures for ensuring that a complete regulatory history is compiled for each rulemaking action undertaken by an office under his purview. These procedures are applicable to any proposed or final rule submitted for publication in the Federal Register after April 5, 1985. Briefly, these procedures require that--

Documents of central relevance to a rulemaking be maintained, and identified for a source of access; and

An index of documents comprising the regulatory history be developed and submitted to the Rules Review and Directives Branch (RRDB) within 60 days after the rulemaking is completed.

The final rule that establishes requirements for the procurement of goods and services within the NRC to satisfy the particular needs of the agency, was published in the Federal Register on December 23, 1992 (57 FR 61152). You should forward the completed index for the final rule to RRDB by March 23, 1993. In your transmittal memorandum to NUDOCS, please include the title of the rule, the complete Federal Register citation, and a listing of all parts affected by the document.

To assist you in preparing the list of documents centrally relevant to this rule, place the designator "AC01-2" in the upper right-hand corner of each document, including the transmittal memorandum, that you send to the Nuclear Document System

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(NUDOCS), Mail Stop P1-37. Each document transmitted to NUDOCs that can be made available to the public should be marked "PDR" in the upper right-hand corner of the front page. Documents that cannot be made available to the public should be marked "CF" (Central Files) in the upper right-hand corner of the first page. In addition, CF documents should be grouped after the PDR documents in order to streamline the microfiling process.

You should be sure to check all attachments to each document marked "PDR" to ensure that no documents to be withheld are inadvertently released. Examples of documents to be withheld (which sometimes are attached to documents that are released routinely) include Commission vote sheets and SECY Papers. In no case should a Commission vote sheet be released. Under Commission procedures, release of SECY Papers requires the concurrence of a majority of the Commissioners. Accordingly, release of any SECY Paper must be coordinated with the Office of the Secretary. All Commission vote sheets, and any SECY Paper that is to be withheld, should be marked "Central Files only."

Approximately two weeks after you submit the documents to the NUDOCs you should receive a computer printout listing the documents you submitted to the NUDOCs. If you do not receive the printout within two or three weeks, call the NUDOCs hotline, extension 28603, and request the printout. You should forward a copy of this printout, which comprises the regulatory history index, to the RRDB.

If you have any questions, please call me on 492-7758, or Betty Golden of my staff on 492-4268.



Michael T. Lesar, Chief
Rules Review Section
Rules Review and Directives Branch
Division of Freedom of Information
and Publications Services
Office of Administration

Attachment: As stated

by removing Leesburg, Channel 294C, and adding Tavares, Channel 294C1.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-10106 Filed 4-30-93; 8:45 am]

BILLING CODE 4712-01-80

NUCLEAR REGULATORY COMMISSION

48 CFR Parts 2012, 2015, 2030, and 2052

RIN 3150-AC01

Nuclear Regulatory Commission Acquisition Regulation; Minor Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; minor corrective and conforming amendments.

SUMMARY: This final rule makes a number of minor corrective and conforming amendments to the NRC's acquisition regulation. The final rule is necessary to correct recently discovered errors in the text of the acquisition regulation and to conform portions of regulatory text to recodified regulations of the Cost Accounting Standards Board.

EFFECTIVE DATE: May 3, 1993.

FOR FURTHER INFORMATION CONTACT: Edward L. Halman, Director, Division of Contracts and Property Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-4347.

SUPPLEMENTARY INFORMATION: On December 23, 1992 (57 FR 61152), the Nuclear Regulatory Commission (NRC) published a final rule which expanded the existing Nuclear Regulatory Commission Acquisition Regulation (NRCAR) to implement and supplement the government-wide Federal Acquisition Regulation. The final rule established requirements for the procurement of goods and services within the NRC that were necessary to satisfy the particular needs of the agency.

This document makes minor corrections and conforming changes to the NRCAR. The necessary changes are as follows:

Section 2012.104-70 is amended to correct a typographical error.

Section 2015.407-70 is revised to correct and expand the references to appropriate contract clauses.

Section 2030.201-5 is revised to reflect the authorization contained in

the recodified regulations of the Cost Accounting Standards Board.

In Part 2052, a number of contract clauses are redesignated to correct inconsistencies in the contract provisions numbering system. Clauses are added concerning "Project Officer Authority—Alternate 2" and "Travel Reimbursement—Alternate 1." The clause concerning "Proposal Presentation and Format—Alternate 1 (language for negotiated task order contracts)" is revised to correct references to other contract provisions.

Administrative Procedure Act: Waiver

Because these amendments make minor corrective and conforming changes to an existing regulation pertaining to the acquisition of goods and services by contract, the NRC has determined pursuant to 5 U.S.C. 553(a)(2), that the rulemaking provisions of the Administrative Procedure Act do not apply.

Environmental Impact: Categorical Exclusion

The NRC has determined that this rule is the type of action described in the categorical exclusion set forth in 10 CFR 51.22(c) (5) and (6). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval number 3150-0169.

Regulatory Analysis

This final rule is administrative in that it corrects and conforms the text of an existing regulation. These amendments will not have a significant impact. Therefore, the NRC has not prepared a regulatory analysis for this final rule. The regulatory analysis for the NRCAR was contained in the final rule published December 23, 1992 (57 FR 61152).

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule, and therefore, that a backfit analysis is not required for this final rule because these amendments do not involve any provision which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects

48 CFR Part 2012

Government procurement, Nuclear Regulatory Commission Acquisition Regulation.

48 CFR Part 2015

Government procurement, Nuclear Regulatory Commission Acquisition Regulation, Reporting and recordkeeping requirements.

48 CFR Part 2030

Government procurement, Nuclear Regulatory Commission Acquisition Regulation.

48 CFR Part 2052

Government procurement, Nuclear Regulatory Commission Acquisition Regulation, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following corrective and conforming amendments to 48 CFR Parts 2012, 2015, 2030, and 2052.

PART 2012—CONTRACT DELIVERY AND PERFORMANCE

1. The authority citation for Part 2012 continues to read as follows:

Authority: 42 U.S.C. 2201; 42 U.S.C. 5841; and 41 U.S.C. 418(b).

2012.104-70 [Amended]

2. In 2012.104-70(b)(1), the word "and" is revised to read "or."

PART 2015—CONTRACTING BY NEGOTIATION

3. The authority citation for Part 2015 continues to read as follows:

Authority: 42 U.S.C. 2201; 42 U.S.C. 5841; and 41 U.S.C. 418(b).

4. Section 2015.407-70 is revised to read as follows:

2015.407-70 Solicitation provisions and contract clauses.

(a) The contracting officer shall insert in Requests for Proposals (RFPs) the provisions at:

(1) Section 2052.215-70, Key Personnel;

(2) (i) Section 2052.215-71, Project Officer Authority (for solicitations for cost-reimbursement, cost-plus-fixed-fee, cost-plus-award-fee, cost-sharing, labor-hour or time-and-materials, including task order contracts);

(ii) Section 2052.215-72, Project Officer Authority—Alternate 1 (for

solicitations for issuance of delivery orders for specific products/services).

(iii) Section 2052.215-73, Project Officer Authority—Alternate 2 with paragraph (b)(1) deleted and the remainder of the clause renumbered (for solicitations for firm fixed price contracts);

(iv) The provision, 2052.215-71, and Alternates 1 and 2 are intended for experienced, trained project officers, and may be altered to delete duties where appropriate.

(3) Section 2052.215-74, Timely Receipt of Proposals;

(4) Section 2052.215-75, Award Notification and Commitment of Public Funds; and

(5) Section 2052.215-76, Disposition of Proposals.

(b) The contracting officer shall insert in all solicitations for negotiated procurements for cost type contracts that do not provide for task orders or delivery orders, the provision at 2052.215-77, Proposal Presentation and Format, except that:

(1) For all solicitations for negotiated task order contracts, paragraphs (e)(4) (xi) and (xi) must be deleted (and the remainder renumbered), and the paragraph found at 2052.215-78—Alternate 1, must be substituted for paragraph (d)(2).

(2) 2052.215-79—Alternate 2. For all negotiated procurements for a fixed-price, labor-hour, or time-and-materials contract, paragraph (d)(2) shall be deleted from the provision 2052.215-77.

These provisions must be tailored to assure that all sections, but in particular paragraph (e), Technical and Management Proposal, reflect a one-to-one relationship to the evaluation criteria.

(c) The contracting officer shall insert the provision at 2052.215-80, Preproposal Conference, in RFPs where there will be a preproposal conference. This provision may be altered to fit the circumstances of the requirement.

(d) The contracting officer shall insert the clauses at 2052.215-81, Travel Reimbursement, and 2052-215-83, Travel Approvals, in RFPs where there will be travel. For contracts where there is no ceiling amount on domestic travel, the provision found at 2052.215-82, Travel Reimbursement—Alternate 1 shall be used with paragraph (a) deleted and the remainder of the clause renumbered.

5. Section 2015.670 is revised to read as follows:

2015.670 Contract provisions.

(a) The contracting officer shall include the provision found at 2052.215-84, Contract Award and

Evaluation of Proposals, in all solicitations where technical is more important than cost:

(1) The contracting officer shall substitute the paragraph found at 2052.215-85 for paragraph (b) in all solicitations for negotiated competitive procurements where cost is more important than technical merit.

(2) The contracting officer shall substitute the paragraph found at 2052.215-86 for paragraph (b) in all solicitations for negotiated competitive procurements where cost and technical merit are of equal significance.

(b) The contracting officer may make appropriate changes to the provision to accurately reflect other evaluation procedures, such as evaluation of proposals against mandatory criteria and benchmarking criteria for ADP procurements.

PART 2030—COST ACCOUNTING STANDARDS

6. The authority citation for Part 2030 continues to read as follows:

Authority: 42 U.S.C. 2201; 42 U.S.C. 5841; and 41 U.S.C. 418(b).

7. Section 2030.201-5 is revised to read as follows:

2030.201-5 Waiver.

Requests to waive Cost Accounting Standards (CAS) requirements must be submitted to the Chairman, CAS Board, by the Procurement Executive. The requests for waivers must be forwarded through the Head of the Contracting Activity with supporting documentation and rationale.

PART 2052—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

8. The authority citation for Part 2052 continues to read as follows:

Authority: 42 U.S.C. 4201; 42 U.S.C. 5841; and 41 U.S.C. 418(b).

2052.212-72 [Amended]

9. In 2052.212-72, in the first paragraph under the "Financial Status Report" heading, the phrase "Financial Identification Number (FIN)" is revised to read "Job Code".

2052.215-81-2052.215-84 [Redesignated]
10. Sections 2052.215-81 through 2052.215-84 are redesignated as 2052.215-83 through 2052.215-86 respectively.

2052.215-73-2052.215-80 [Redesignated]

11. Sections 2052.215-73 through 2052.215-80 are redesignated as 2052.215-74 through 2052.215-81 respectively.

12. A new 2052.215-73 is added to read as follows:

2052.215-73 Project officer authority—Alternate 2.

As prescribed at 2015.407-70(a) for solicitations for fixed price contracts, the clause at 2052.215-72—Alternate 1 must be used with paragraph (b)(1) deleted and the remainder of the clause renumbered.

2052.215-77 [Amended]

13. In newly designated 2052.215-77, paragraph (d)(1) under the heading "Proposal Presentation and Format" the word "Contracting" is revised to read "Contract."

14. Newly designated § 2052.215-78 is revised to read as follows:

2052.215-78 Proposal presentation and format—Alternate 1 (language for negotiated task order contracts).

As prescribed at 2015.407-70(b)(1), paragraphs e(4)(xi) and 2(xi) must be deleted (and the remainder renumbered) and the following paragraph must be substituted for (d)(2) in provision 2052.215-77.

(d) Cost proposal.

(2) The offeror shall provide a cost proposal based on the estimated level of effort. The total estimated cost proposed by the offeror is used for evaluation purposes only. Any resultant contract, except a requirements contract, contains an overall cost ceiling whereby individual task orders may be issued. The cost and fee, if any, for each task order is individually negotiated and also contains a cost ceiling.
(End of Provision)

15. A new 2052.215-82 is added to read as follows:

2052.215-82 Travel reimbursement—Alternate 1.

16. Newly designated § 2052.215-83 is revised as follows:

2052.215-83 Travel approvals.

As prescribed in 2015.407-70(d), insert the following clause in applicable solicitations and contracts:

Travel Approvals

(a) All domestic travel requires the prior approval of the project officer.

(b) All foreign travel must be approved in advance by the NRC on NRC Form 445 and must be in compliance with FAR 52.247-63, Preference for U.S. Flag Air Carriers. Foreign travel approval must be communicated in writing through the contracting officer.
(End of Clause)

As prescribed at 2015.407-70(d) for contracts where there is no ceiling amount on domestic travel, delete paragraph (a) of 2052.215-81 and renumber the remainder of the clause.
(End of Provision)

Dated at Rockville, Maryland, this 26th day of April, 1993.