

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Chapter 1**

[FAR Case 94-780]

RIN 9000-AG37

**Federal Acquisition Regulation; Small
Business**

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: This proposed rule is issued pursuant to the Federal Acquisition Streamlining Act of 1994, Public Law 103-355 (the Act). The Federal Acquisition Regulatory Council is considering amending the Federal Acquisition Regulation (FAR) as a result of changes to 41 U.S.C. 22 by Sections 4004, 7101, 7102, and 7106 of the Act. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

DATES: Comment Due Date: Comments should be submitted on or before March 7, 1995 to be considered in the formulation of a final rule.

Public Meeting: A public meeting will be held on February 3, 1995, at 9:30 a.m.—

Oral/Written Statements: Views to be presented at the public meeting should be sent, in writing, to the FAR Secretariat, at the address given below, not later than January 31, 1995.

ADDRESSES: Interested parties should submit written comments to:—General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405, Telephone: (202) 501-4755.

The public meeting will be held at:—General Services Administration Auditorium, 18th & F Streets, NW, First Floor, Washington, DC 20405.

Please cite FAR case 94-780 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Ms. Victoria Moss, Small Business Team Leader, at (202) 501-1143 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAR case 94-780.

SUPPLEMENTARY INFORMATION:**A. Background**

The Federal Acquisition Streamlining Act of 1994, Pub. L. 103-355 (the Act), provides authorities that streamline the acquisition process and minimize burdensome government-unique requirements. Major changes that can be expected in the acquisition process as a result of the Act's implementation include changes in the areas of Commercial Item Acquisition, Simplified Acquisition Procedures, the Truth in Negotiations Act, and introduction of the Federal Acquisition Computer Network. In order to promptly achieve the benefits of the provisions of the Act, the Government is issuing implementing regulations on an expedited basis. We believe prompt publication of proposed rules provides the public the opportunity to participate more fully in the process of developing regulations.

This notice announces FAR revisions developed under FAR case 94-780. The following sections of the Federal Acquisition Streamlining Act are implemented by this proposed rule:

a. Section 4004, Small Business Reservation, amends section 15(j) of the Small Business Act to reserve each contract for the purchase of goods or services that have an anticipated value greater than \$2,500, but not greater than \$100,000, for exclusive small business participation unless the contracting officer is unable to obtain offers from two or more small businesses that are competitive with market price, quality and delivery.—

b. Section 7101, Repeal of Certain Requirements, paragraph (a) deletes sections 15(e) and (f) from the Small Business Act. These sections established the priority for the award of contracts and subcontracts in carrying out the set-aside programs.

c. Section 7102, Contracting Program for Certain Small Business Concerns (not applicable to DOD, NASA, and the Coast Guard), amends Section 15(g)(1) of the Small Business Act to permit the Head of an Agency to enter into competition using less than full and open competition by restricting competition to small disadvantaged businesses (SDB's) or by using a price evaluation preference of up to 10 percent when evaluating SDB offers received as a result of an unrestricted solicitation.—

d. Section 7106, Procurement Goals for Small Business Concerns Owned by Women, establishes a Governmentwide goal for participation by women-owned small business concerns in prime contracts and subcontracts and revises

sections 8 and 15 of the Small Business Act to accommodate the goal.

Public Meeting

The FAR Council is interested in an exchange of ideas and opinions with respect to the regulatory implementation of the Act. For that reason, the FAR Council is conducting a series of public meetings. The public is encouraged to furnish its views; the FAR Council anticipates that public comments will be very helpful in formulating final rules.

A public meeting will be held on February 3, 1995, to enable the public to present its views on this rule. This rule will only be discussed at the public meeting session. Any subsequent public meetings will be devoted to other revisions to the FAR.

Persons or organizations wishing to make presentations will be allowed 10 minutes each to present their views, provided they notify the FAR Secretariat at (202) 501-4755. Written statements for presentation should be submitted to the FAR Secretariat by January 31, 1995. Persons or organizations with similar positions are encouraged to select a common spokesman for presentation of their views. This meeting, in conjunction with the **Federal Register** notice soliciting public comments on the rule, will be the only opportunity for the public to present its views.

B. Regulatory Flexibility Act

The proposed rule contains a number of amendments that will have a beneficial effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*; e.g., the rule provides for the targeting for procurements to small disadvantaged businesses through small disadvantaged business set-asides and an evaluation preference in unrestricted procurements; puts women-owned small businesses on an equal footing with small disadvantaged businesses in subcontracting plan requirements; automatically sets aside acquisitions greater than \$2,500 but not greater than \$100,000 for small business; and simplifies and clarifies the small business representations. Since the rule is considered significantly beneficial to small entities, an Initial Regulatory Flexibility Analysis has not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610 of the Act. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 94-780, Small Business (Pub. L. 103-355, Federal