

DOE contract audit agency is the Defense Contract Audit Agency (DCAA); the Department of Health and Human Services (HHS) has audit cognizance for most educational institutions.

3. Subparagraph 915.970-8(d)(1) is revised to add a reference to the relocation of the CAS to FAR Appendix B (Federal Acquisition Circular (FAC) 90-12, August 31, 1992).

4. Subsection 931.205-18 is revised to add the acronyms "IR&D" and "B&P" to the title. The DEAR reference to the FAR is changed from (c)(3) to (c)(2), because the FAR amendment (FAC 90-13, September 24, 1992) deleted FAR (c)(3). Paragraph (c)(4) is deleted in its entirety, except for a portion of the first sentence of (c)(4) which was moved to (c)(2). Also, FAC 90-13 replaced the requirement for separate advance agreements with temporary limits (for a 3-year period) on allowable IR&D/B&P costs. DOE has chosen not to institute the temporary limits, but rather to allow for full recovery, immediately. Thus, the text was amended to reflect the DOE policy that generally IR&D costs are allowable if reasonable, allocable, and they have a potential benefit or relationship to the DOE program. B&P costs are generally allowable if they are reasonable and allocable.

5. Section 942.003, paragraph (a) is revised to delete references to the Department of Defense (DOD) services; the services no longer have individual plant residencies. This revision reflects the current DOD structure for contract administration.

6. Section 942.101 is amended by deleting the reference to the Air Force Contract Management Division (AFCMD) and the DOE IG in paragraphs (a)(2) and (c), respectively. The AFCMD no longer exists and the Office of Procurement and Assistance Management now negotiates the interagency agreements with DCAA and HHS. Paragraph (a)(3) is redesignated as (a)(2) to accommodate the deletion of AFCMD.

7. Subsection 942.705-1 is revised at paragraph (a)(3) by deleting the statement that a listing of business units, for which DOE has final indirect cost rate negotiation responsibility, is published in the DOE Order System. The listing is no longer published in the DOE Order System. The revised paragraph (b)(1) clarifies the proscription that contractors shall neither be required nor directed to submit final indirect cost rate proposals to the auditor.

8. Subsection 942.705-3 is revised to correct the statement that negotiated rates are "centrally maintained" when,

in fact, they are only "distributed" by the Office of Policy.

9. Subsection 942.705-4 is revised to correct the statement that negotiated rates are maintained by the Office of Policy, when, in fact, they are only distributed by the Office.

10. Subsection 942.705-5 is revised to correct the statement that negotiated rates are maintained by the Office of Policy, when, in fact, they are only distributed by the Office.

11. Subpart 942.10 is removed as a result of concomitant changes to the IR&D/B&P advance agreements (see item 4, foregoing). There is no longer a requirement to negotiate advance agreements; thus, the coverage is removed in its entirety.

12. Subsection 942.7003-6 is revised to add the word "Administration" to the title of FAR Part 30, which was changed as a result of FAC 90-12, August 31, 1992. Additionally, the reference to Public Law 91-379, which established the CAS, is deleted due to the subsequent incorporation of the CAS in FAR Appendix B and their application to civilian agencies pursuant to Public Law 100-679.

13. Subsection 942.7004 is revised at paragraph (a) to incorporate the results of the interagency agreements between the Office of Procurement and Assistance Management and DCAA and HHS. References to the DOE IG are deleted. Paragraphs (b), (c), and (d) are deleted as they describe internal operating procedures that, in large part, are no longer valid.

14. Subsection 951.7000 is revised to delete the reference to outdated General Services Administration (GSA) Bulletin A-95. The reference to the Federal Property Management Regulations (FPMRs) is sufficient.

15. Subsection 951.7001 is revised to delete the reference to outdated GSA Bulletin A-95 in the introductory paragraph. Paragraphs (a), (b), and (c) are deleted as they duplicate information contained in clause 952.251-70.

16. Subsection 952.251-70 is amended to correct a referenced citation at paragraph (a) from "Property Management Regulation (FPMR), Temporary Regulation A-30" to "Travel Regulation (FTR), Part 301-15, Travel Management Programs."

17. The authority citation for Part 970 is restated.

18. Subsection 970.3001-1 is revised to reflect the relocation of the CAS, within the FAR, from Part 30 to Appendix B.

19. Subsection 970.3001-2 is revised to correct the cross reference from "970.3102-10" to "970.3102-3."

20. Subsection 970.3102-17 is amended by revising paragraph (c)(2)(i) and adding a new paragraph (c)(6). In (c)(2)(i), line 1, the letter "s" is deleted from the word "Regulations" to reflect the new title. New subparagraph (c)(6) is added to reflect changes in FAR 31.205-46, "Travel costs" as a result of FAC 90-7 which provided for downward adjustments to the maximum per diem rates when no lodging costs are incurred or on partial travel days.

21. Subsection 970.7104-33 is revised to reflect the relocation of the Cost Accounting Standards, within the FAR, from Part 30 to Appendix B.

II. Procedural Requirements

A. Review Under Executive Order 12866

Today's regulatory action has been determined not to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," (58 FR 51735, October 4, 1993). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

B. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs agencies to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in Sections 2(a) and (b), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation: specifies clearly any preemptive effect; describes any administrative proceedings to be available prior to judicial review and any provisions for the exhaustion of such administrative proceedings; and defines key terms. DOE certifies that today's rule meets the requirements of sections 2(a) and (b) of Executive Order 12778.

C. Review Under the Regulatory Flexibility Act

This rule was reviewed under the Regulatory Flexibility Act of 1980, Public Law 96-354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities,