

and, therefore, no regulatory flexibility analysis has been prepared.

D. Review Under the Paperwork Reduction Act

No new information or recordkeeping requirements are imposed by this rulemaking. Accordingly, no OMB clearance is required under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*).

E. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this rule falls into a class of actions which would not individually or cumulatively have significant impact on the human environment, as determined by DOE's regulations (10 CFR Part 1021, Subpart D) implementing the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, this rule is categorically excluded from NEPA review because the amendments to the DEAR do not change the environmental effect of the rule being amended (categorical exclusion A5). Therefore, this rule does not require an environmental impact statement or environmental assessment pursuant to NEPA.

F. Review Under Executive Order 12612

Executive Order 12612 (52 FR 41685, October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the National Government and the States, or in the distribution of power and responsibilities among the various levels of Government. If there are sufficient substantial direct effects, then the Executive Order requires the preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action. This rule revises certain policy and procedural requirements. States which contract with DOE will be subject to this rule. However, DOE has determined that this rule will not have a substantial direct effect on the institutional interests or traditional functions of the States.

List of Subjects in 48 CFR Parts 915, 931, 942, 951, 952, and 970

Government procurement.

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For the reasons set out in the preamble, Chapter 9 of Title 48 of the Code of Federal Regulations is amended as set forth below.

PART 915—CONTRACTING BY NEGOTIATION

1. The authority citation for Parts 915, 931, 942, and 951 continues to read as follows:

Authority: 42 U.S.C. 7254; 40 U.S.C. 486(c).

2. Subsection 915.805-5 is amended by revising paragraph (c)(1) to read as set forth below:

915.805-5 Field pricing support.

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(c)(1) When an audit is required pursuant to 915.805-70, "Audit as an aid in proposal analysis," the request for audit shall be sent directly to the Federal audit office assigned cognizance of the offeror or prospective contractor. When the cognizant agency is other than the Defense Contract Audit Agency or the Department of Health and Human Services, and an appropriate interagency agreement has not been established, the need for audit assistance shall be coordinated with the Office of Policy, within the Headquarters procurement organization.

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3. Section 915.970-8(d) is amended by revising paragraph (d)(1) introductory text to read as set forth below:

915.970-8 Weighted guidelines application considerations.

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(d) *Capital investment (facilities).* (1) This element relates to the consideration to be given in the profit objective in recognition of the investment risk associated with the facilities employed by the contractor. Measurement of the amount of facilities capital employed is discussed in (FAR Appendix B) 48 CFR 9904.414. Five to twenty percent of the net book value of facilities capital allocated to the contract is the normal range of weight for this profit factor. The key factors that the negotiating official shall consider in evaluating this factor are:

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PART 931—CONTRACT COST PRINCIPLES AND PROCEDURES

4. Subsection 931.205-18 is revised to read as follows:

931.205-18 Independent research and development (IR&D) and bid and proposal (B&P) costs.

(c)(2) IR&D costs are recoverable under DOE contracts to the extent they are reasonable, allocable, not otherwise unallowable, and have potential benefit or relationship to the DOE program. The

term "DOE program" encompasses the DOE total mission and its objectives. B&P costs are recoverable under DOE contracts to the extent they are reasonable, allocable, and not otherwise unallowable.

PART 942—CONTRACT ADMINISTRATION

5. Section 942.003 is amended by revising paragraph (a) as set forth below:

942.003 Organizational structure.

(a) The Department of Defense has initiated a formal system of independent organizations responsible for performance of post-award management functions. A field structure of Contract Administration Offices (CAO) responsible for contract management and administration of contracts for major defense contractors has been established. DOD has organized plant residencies of contract management specialists for specific DOD contractors and their various business units. The Defense Logistics Agency performs contract management functions both at onsite residencies of contractors and on a mobile basis from centrally located management areas for other defense contractors. A complete listing of the DOD contract administration service components is contained in the Defense Directory cited in (FAR) 48 CFR 42.102.

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6. Section 942.101 is amended by removing paragraph (a)(2); redesignating paragraph (a)(3) as (a)(2); and revising paragraph (c) to read as follows:

942.101 Policy.

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(c) The Department of Energy has executed memoranda of understanding with the Defense Contract Audit Agency and the Office of Audit of the Department of Health and Human Services to provide audit support service to the DOE in support of its procurement mission. Procedures for acquiring these services are discussed in 942.70.

7. Subsection 942.705-1 is revised to read as follows:

942.705-1 Contracting officer determination procedure.

(a)(3) The Department of Energy shall use the contracting officer determination procedure for all business units for which it shall be required to negotiate final indirect cost rates. A listing of such business units is maintained by the Office of Policy, within the Headquarters procurement organization.

(b)(1) Pursuant to (FAR) 48 CFR 52.216-7, Allowable Cost and Payment,