

Federal Government. It was not the intent that the decision to give reciprocity would require the agencies to change the two debarment and suspension systems and establish identical procedures for excluding persons under both the FAR and the Common Rule.

Finally, to ensure uniformity with the Nonprocurement Common Rule (published at 59 FR 65607, December 20, 1994), other technical changes were made to section 9.401.

List of Subjects in 48 CFR Parts 9, 22, 28, 44, and 52

Government procurement.

Dated: May 30, 1995.

Capt. Barry L. Cohen, SC, USN,

Project Manager for the Implementation of the Federal Acquisition Streamlining Act of 1994.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 90-28 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 90-28 is effective August 25, 1995.

Eleanor R. Spector,

Director, Defense Procurement.

Ada M. Ustad,

Associate Administrator for Acquisition Policy, General Services Administration.

Tom Luedtke,

Deputy Associate Administrator for Procurement, NASA, May 18, 1995.

Therefore, 48 CFR Parts 9, 22, 28, 44, and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 9, 22, 28, 44, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 9—CONTRACTOR QUALIFICATIONS

2. Section 9.105-1(c)(1) is revised to read as follows:

9.105-1 Obtaining information.

* * * * *

(c) * * *

(1) The List of Parties Excluded from Federal Procurement and Nonprocurement Programs maintained in accordance with subpart 9.4.

* * * * *

3. Section 9.207(a)(9) is revised to read as follows:

9.207 Changes in status regarding qualification requirements.

* * * * *

(a) * * *

(9) The source is on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs (see subpart 9.4); or

* * * * *

4. Section 9.401 is revised to read as follows:

9.401 Applicability.

In accordance with Public Law 103-355, Section 2455 (31 U.S.C. 6101, note), and Executive Order 12689, any debarment, suspension or other Government-wide exclusion initiated under the Nonprocurement Common Rule implementing Executive Order 12549 on or after August 25, 1995 shall be recognized by and effective for Executive Branch agencies as a debarment or suspension under this subpart. Similarly, any debarment, suspension, proposed debarment or other Government-wide exclusion initiated on or after August 25, 1995 under this subpart shall also be recognized by and effective for those agencies and participants as an exclusion under the Nonprocurement Common Rule.

5. Section 9.403 is amended by removing the definition *Parties Excluded from Procurement Programs* and adding, in alphabetical order, the definitions *List of Parties Excluded from Federal Procurement and Nonprocurement Programs* and *Nonprocurement Common Rule* to read as follows:

9.403 Definitions.

* * * * *

List of Parties Excluded from Federal Procurement and Nonprocurement Programs means a list compiled, maintained and distributed by the General Services Administration (GSA) containing the names and other information about parties debarred, suspended, or voluntarily excluded under the Nonprocurement Common Rule or the Federal Acquisition Regulation, parties who have been proposed for debarment under the Federal Acquisition Regulation, and parties determined to be ineligible.

Nonprocurement Common Rule means the procedures used by Federal Executive Agencies to suspend, debar, or exclude individuals or entities from participation in nonprocurement transactions under Executive Order 12549. Examples of nonprocurement transactions are grants, cooperative agreements, scholarships, fellowships, contracts of assistance, loans, loan

guarantees, subsidies, insurance, payments for specified use, and donation agreements.

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6. Section 9.404 is amended—

—by revising the section heading to read as set forth below;

—by revising paragraphs (a)(1), (b) introductory text, (c)(5), (d) introductory text, (d)(3); and

—in paragraph (c)(3) by removing the word “consolidated”. The revised text reads as follows:

9.404 List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

(a) * * *

(1) Compile and maintain a current list of all parties debarred, suspended, proposed for debarment, or declared ineligible by agencies or by the General Accounting Office;

* * * * *

(b) The List of Parties Excluded from Federal Procurement and Nonprocurement Programs shall indicate—

* * * * *

(c) * * *

(5) Establish procedures to provide for the effective use of the List of Parties Excluded from Federal Procurement and Nonprocurement Programs, including internal distribution thereof, to ensure that the agency does not solicit offers from, award contracts to, or consent to subcontracts with contractors on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs, except as otherwise provided in this subpart; and

* * * * *

(d) Information on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs is available as follows:

* * * * *

(3) A telephone inquiry service to answer general questions about entries on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs is also available by calling GSA at (202) 501-4873 or 501-4740. The inquiry will be answered within one working day.

9.405 [Amended]

7. Section 9.405 is amended—

—in paragraph (b) by removing the phrase “Parties Excluded from Procurement Programs” and inserting in its place “List of Parties Excluded from Federal Procurement and Nonprocurement Programs”;

—in paragraph (d)(1) by removing the phrase “Procurement Programs” and inserting in its place “Federal