

**TITLE: CIB 96-22 - New Federal Acquisition Regulation (FAR) Procedures  
for the Procurement of Commercial Items**

August 23, 1996

MEMORANDUM FOR ALL CONTRACTING OFFICERS AND NEGOTIATORS

TO: DISTRIBUTION LIST FAC

FROM: M/OP/OD, Marcus L. Stevenson, Procurement Executive

SUBJECT: New Federal Acquisition Regulation (FAR) Procedures for  
the Procurement of Commercial Items

**CONTRACT INFORMATION BULLETIN 96 - 22**

The FAR council has recognized that certain statutes and regulations, such as the Clean Air Act or the Drug Free Workplace Act, are meaningless when off-the-shelf items are procured, and often cause confusion and delays. When the Federal Acquisition Streamlining Act of 1994 (FASA, Public Law 103-355) was passed, separate, streamlined acquisition procedures for commercial items were created with the intent of bringing Government procurement closer to the private sector. Commercial items are defined in FAR 2.101 as goods and services that are commonly available and are "...offered and sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices...."

**Highlights of FAR changes:**

- FAR 12.207 - commercial items contracts can only be Firm Fixed Price or Fixed Price With Economic Price Adjustment;
- FAR 12.302 - "standard" provisions and clauses (specified in FAR Part 12 only) can be customized without requesting a formal deviation;
- FAR 12.303 - Modified contract format can be used in lieu of the Unified Contract Format (set forth in FAR 14.201-1);
- FAR 12.503/504 - commercial items exempted from over 20 statutes (fewer clauses and certifications);
- FAR 12.603 - CBD synopsis can serve as the solicitation, reducing procurement leadtime to a minimum of 15 days.

The AIDAR will be revised soon. There are a few AIDAR clauses that are prescribed for use in all types of contracts, but are best suited for services paid by cost-reimbursement, and are completely inapplicable to commercial items procurement.

As a stopgap measure until the AIDAR revisions take effect, we have issued a class deviation authorizing the non-inclusion of certain AIDAR clauses in commercial items contracts. A copy of the class deviation is attached to this CIB, and should be referenced, or a copy should be included, in contract files for commercial items.

Attachment: Class Deviation OP-DEV-96-1c

August 21, 1996

ACTION MEMORANDUM TO THE PROCUREMENT EXECUTIVE

THRU: M/OP/OD, James D. Murphy /s/

FROM: M/OP/P, Kathleen J. O'Hara /s/

Subject: Class Deviation for Commercial Items, OP-DEV-96-1c

Problem: To authorize a class deviation from AIDAR Part 752 for the acquisition of commercial items, as classified by FAR Part 12.

Discussion: FAC 90-32 introduced commercial items contracting (CI), a new, streamlined type of contracting designed to bring Government acquisition more in line with commercial practices by eliminating superfluous requirements. Two types of contracts are permitted under this new procedure, firm fixed price, and fixed price with economic price adjustment. Many of the AIDAR clauses in Part 752 contain the prescription, "...use in all AID contracts," but were, in fact, written for and are best suited to cost reimbursement service contracts.

Specifically, the following AIDAR clauses should not be applied to commercial items contracts:

752.245-70	Government Property -- AID Reporting Requirements
752.245-71	Title to and Care of Property
752.7001	Biographical Data
752.7008	Use of Government Facilities or Personnel
752.7010	Conversion of U.S. Dollars to Local Currency
752.7013	Contractor-Mission Relationships
752.7015	Use of Pouch Facilities
752.7027	Personnel
752.7029	Post Privileges
752.7032	International Travel Approval and Notification
752.7033	Physical Fitness

Your approval is requested to remove the requirement to include the above clauses in commercial items contracts. Subsequent to this approval, their use would be at the individual Contracting Officer's discretion.

We are in the process of reviewing the clause prescriptions in the AIDAR and will incorporate the necessary changes in one of the next AIDAR notices. This class deviation will expire two years from the signature date, or when incorporated into the AIDAR, whichever is first.

Recommendation:

- 1) That you approve this class deviation by signing below.
- 2) That you sign the attached CIB to inform contracting staff of the deviation.

APPROVED: \_\_\_\_\_

DISAPPROVED: \_\_\_\_\_

DATED: \_\_\_\_\_