

notice from BLM to provide any additional information necessary to complete the APD, or the APD may be returned to the operator.

(b) Within 30 days after the operator has submitted a complete application, including incorporating any changes that resulted from the onsite inspection, the BLM will:

(1) Approve the application, subject to reasonable conditions of approval, if the requirements of the NEPA, NHPA, ESA, and other applicable law have been met and, if on FS lands, FS has approved the SUPO; or

(2) Notify the operator that it is deferring action on the permit.

(c) The notice of deferral in paragraph (b)(2) of this section must specify:

(1) Any action the operator could take that would enable BLM (in consultation with the FS if applicable) to issue a final decision on the application. The FS will notify the applicant of any action the applicant could take that would enable the FS to issue a final decision on the SUPO on NFS lands. Actions may include, but are not limited to, assistance with:

(A) Data gathering; and

(B) Preparing analyses and documents.

(2) If applicable, a list of actions that BLM or the FS need to take before making a final decision on the application, including analysis required by NEPA or other applicable law and a schedule for completing these actions.

(d) The operator has two years from the date of the notice under paragraph (c)(1) of this section to take the action specified in the notice. If all analyses required by NEPA, NHPA, ESA, and other applicable laws have been completed, BLM (and the FS if applicable), will make a decision on the permit and the SUPO within 10 days of receiving a report from the operator addressing all of the issues or actions specified in the notice under paragraph (c)(1) of this section and certifying that all required actions have been taken. If the operator has not completed the actions specified in the notice within two years from the operator's receipt of the paragraph (c)(1) notice, BLM will deny the permit.

(e) For APDs on NFS lands, the decision to approve a SUPO or Master Development Plan may be subject to FS appeal procedures. Under current FS appeal procedures, resolution of the appeal may take up to 105 days before that decision can be implemented. BLM cannot approve an APD until the appeal of the SUPO is resolved.

3. Further amend section VI. of the Appendix following the regulatory text of proposed rule by revising the last

sentence of the first paragraph on page 43362 to read as follows:

This section also applies to lands with Indian surface and Federal minerals. The operator must address surface use issues with the Bureau of Indian Affairs.

Dated: March 2, 2006.

**Dale N. Bosworth,**

*Chief, USDA—Forest Service.*

Dated: February 24, 2006.

**Johnnie Burton,**

*Acting Assistant Secretary, Land and Minerals Management.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 48 CFR Parts 1532 and 1552

[FRL-8044-3]

#### EPAAR Prescription and Clause—Simplified Acquisition Procedures Financing

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to revise the EPA Acquisition Regulation (EPAAR) Subparts 1532 and 1552 to implement a procedure for simplified acquisition procedures financing. This proposed EPAAR revision will add a prescription and clause for contracting officers to use when approving advance or interim payments on simplified acquisitions. The proposed prescription and clause apply to commercial item orders at or below the simplified acquisition threshold. This action revises the EPAAR, but does not impose any new requirements on Agency contractors. The procedure will allow contractors to invoice for advance and interim payments in accordance with standard commercial practices when authorized by the contracting officer and identified in the clause payment schedule.

**DATES:** Interested parties should submit comments in writing on or before May 12, 2006.

**ADDRESSES:** Submit your comments, identified by Docket ID No. OARM-2006-0126, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- Agency Web site: <http://www.epa.gov/edocket>. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

- E-mail: [oei.docket@epa.gov](mailto:oei.docket@epa.gov).
- Surface Mail: EPA Docket Center, Environmental Protection Agency, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Attention Docket ID No. OARM-2006-0126.

**Instructions:** Direct your comments to Docket ID No. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.epa.gov/edocket>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, [regulations.gov](http://www.regulations.gov), or e-mail. The EPA EDOCKET and the federal [regulations.gov](http://www.regulations.gov) Web sites are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit EDOCKET on-line or see the **Federal Register** of May 31, 2002 (67 FR 38102).

**Docket:** All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the OEI Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday,

excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752).

**FOR FURTHER INFORMATION CONTACT:** Tiffany Schermerhorn, Policy, Training and Oversight Division, Office of Acquisition Management, Mail Code 3802R, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; e-mail address: [schermerhorn.tiffany@epa.gov](mailto:schermerhorn.tiffany@epa.gov), telephone (202) 564-9902.

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

The proposed EPAAR additions are necessary so that contracting officers may provide simplified acquisition procedures financing that is appropriate or customary in the commercial marketplace when purchasing commercial items at or below the simplified acquisition threshold. It does not impose any new requirements regarding submission of invoices or vouchers since Agency contractors currently submit invoices or vouchers for payment of orders. The EPAAR changes are consistent with the Federal Acquisition Regulation.

**II. Statutory and Executive Order Reviews**

*A. Executive Order 12866*

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

*B. Paperwork Reduction Act*

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule does not impose any new information collection or other requirements on Agency contractors.

*C. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business

as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any new requirements on small entities.

**List of Subjects in 48 CFR Parts 1532 and 1552**

Government procurement.

Dated: February 15, 2006.

**Judy S. Davis,**

*Director, Office of Acquisition Management.*

For the reasons set forth in the Preamble, Chapter 15 of Title 48 Code of Federal Regulations, parts 1532 and 1552 are proposed to be amended as follows:

1. The authority citation for 48 CFR parts 1532 and 1552 continues to read as follows:

**Authority:** Sec. 205(c), 63 Stat. 390 as amended, 40 U.S.C. 486(c).

**PART 1532—CONTRACT FINANCING**

2. Add section 1532.003 to read as follows.

**1532.003 Simplified acquisition procedures financing.**

(a) *Scope.* This subpart provides for authorization of advance and interim payments on commercial item orders not exceeding the simplified acquisition threshold. Advance payments are payments that are made prior to performance. Interim payments are payments that are made during the order period according to a payment schedule.

(b) *Procedures for micropurchases.* Contracting officers may authorize advance and interim payments on orders for commercial items only at or below the micro-purchase threshold.

(c) *Procedures for purchases exceeding micropurchase threshold.* Contracting officers must secure approval at one level above the contracting officer, on a case-by-case basis, for advance and interim payments on orders for commercial items exceeding the micropurchase threshold and not exceeding the simplified acquisition threshold. The contracting

officer shall submit a recommendation for approval of financing terms, along with the supporting rationale for the action, to one level above the contracting officer. Simplified acquisition contracting officers (SACO) shall forward recommendations through their OAM Advisors to one level above the contracting officer.

(d) *Supporting rationale.* Regardless of dollar value, the contracting officer shall document the file with supporting rationale demonstrating that the purchase meets the conditions of FAR 32.202-1(b)(1), (3) and (4).

(e) *Administration.* Regardless of dollar value, the contracting officer is responsible for ensuring that supplies or services have been delivered. The contracting officer shall document the file with evidence of receipt of supplies or services throughout the order period as appropriate to the acquisition.

(f) *Clause.* The contracting officer shall insert the clause at 1552.232-74, Payments—Simplified Acquisition Procedures Financing, in solicitations and orders that will provide simplified acquisition procedures financing.

**PART 1552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

3. Add section 1552.232-74 to read as follows.

**1552.232-74 Payments—Simplified Acquisition Procedures Financing.**

As prescribed in 1532.003, insert the following clause in solicitations and orders that will provide simplified acquisition procedures financing.

**PAYMENTS—SIMPLIFIED ACQUISITION PROCEDURES FINANCING (XXX 2006)**

Simplified acquisition procedures financing in the form of \_\_\_\_\_ [contracting officer insert *advance* (prior to performance) and/or *interim* (according to payment schedule)] payment(s) will be provided under this commercial item order in accordance with the payment schedule below. If both advance and interim payments are to be made, the payment schedule shown below will specify the type of payment provided for each line item.

The Government shall pay the contractor as follows upon the submission of invoices or vouchers approved by the project officer: \_\_\_\_\_ [insert payment schedule].

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