



Federal Register

**Tuesday,
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Part III

**Department of Defense
General Services
Administration**

**National Aeronautics and
Space Administration**

**48 CFR Chapter 1 et al.
Federal Acquisition Regulations; Final
Rules**

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Chapter 1****Federal Acquisition Circular 97-18;
Introduction**

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final and interim rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules issued by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 97-18. The Councils drafted these FAR rules using plain language in accordance with the White House memorandum, Plain Language in Government Writing, dated June 1, 1998. The Councils wrote all new and revised text using plain language. A companion document, the Small Entity Compliance Guide (SECG), follows this FAC. The FAC, including

the SECG, is available via the Internet at <http://www.arnet.gov/far>.

DATES: For effective dates and comment dates, see separate documents which follow.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501-4755, for information pertaining to status or publication schedules. For clarification of content, contact the analyst whose name appears in the table below in relation to each FAR case or subject area. Please cite FAC 97-18 and specific FAR case numbers. Interested parties may also visit our website at <http://www.arnet.gov/far>.

Item	Subject	FAR case	Analyst
I	Rescission of Office of Federal Procurement Policy Letters	2000-605	Olson
II	FAR Drafting Principles	1999-610	De Stefano
III	Requirements Supporting Procurement of Recycled Products and Environmentally Preferable Services	1998-015 (98-015)	Linfield
IV	General Records Schedules	1999-615	Nelson
V	Federal Supply Schedules Small Business Opportunities	1998-609 (98-609)	Nelson
VI	Trade Agreements Thresholds	2000-004	Linfield
VII	Restrictions on Acquisitions from Yugoslavia and Afghanistan	1999-008	Linfield
VIII	Applicability, Thresholds and Waiver of Cost Accounting Standards Coverage (Interim)	2000-301	Nelson
IX	Technical Amendments.		

SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments to these FAR cases, refer to the specific item number and subject set forth in the documents following these item summaries.

Federal Acquisition Circular 97-18 amends the FAR as specified below:

Item I—Rescission of Office of Federal Procurement Policy Letters (FAR Case 2000-605)

This final rule reflects editorial amendments removing unnecessary cross-references to policy letters that were rescinded by the Office of Federal Procurement Policy (OFPP) (65 FR 16968, March 30, 2000).

Item II—FAR Drafting Principles (FAR Case 1999-610)

This final rule adds Federal Acquisition Regulation drafting principles to enhance a common understanding of the regulation among all members of the acquisition team and other users. This rule affects all contracting officers who use the FAR. The final rule adds drafting conventions in FAR 1.108 and amends 1.105-2, 52.101, 52.104, 52.105, and 52.200 to reflect current FAR drafting conventions.

Item III—Requirements Supporting Procurement of Recycled Products and Environmentally Preferable Services (FAR Case 1998-015 (98-015))

This final rule implements Executive Order 13101, Greening the Government through Waste Prevention, Recycling, and Federal Acquisition, dated September 14, 1998. This rule is significant for all contracting officers who buy supplies, including supplies that are furnished under a service contract. The rule rewrites text currently in the FAR based on earlier Executive orders, but reorganizes and relocates some of the text to conform to plain language guidelines for Government writing. The rewrite and reorganization should make the text easier to use and understand. The revisions also emphasize Executive branch policies for the acquisition of products containing recovered material and other environmentally preferable products and services. The rule—

- Revises FAR Subpart 7.1 to ensure that requirements for printing and writing paper meet minimum content requirements specified in the E.O.;
- Revises Subpart 11.3 to add definitions and special requirements to implement E.O. requirements and Environmental Protection Agency (EPA) regulations governing acquisitions of printing and writing paper, and to

clarify that contracting officers may include in solicitations additional information requirements when needed to determine if the offeror's product meets requirements for recycled content or related standards;

- Clarifies in Part 13 how the procurement requirements of the Resource Conservation and Recovery Act, 42 U.S.C. 6962, apply to micro-purchases and acquisitions that do not exceed \$100,000; and
- Reorganizes and revises Subparts 23.4 and 23.7 and associated clauses.

Item IV—General Records Schedules (FAR Case 1999-615)

This final rule implements National Archives and Records Administration General Records Schedule 3, Procurement, Supply, and Grants Records (NARA Schedule 3), dated December 15, 1998. This rule affects all contracting officers. The rule—

- Rewrites and reorganizes the text already in the FAR to make it easier to understand.
- Simplifies the retention table by grouping several categories of records that were previously treated as separate records under more generic record categories (e.g., the contract file or the contract administration records).
- Deletes separate retention policy on signed original justifications and approvals, determinations and findings,

and rejected engineering change proposals. Those records are retained with the contract files shown in blocks 2 through 7 of the new retention table.

- Deletes the separate retention period for contract status, expediting, and production surveillance records. Those records are retained with the contract administration records shown in block 7 of the new retention table.

Item V—Federal Supply Schedules Small Business Opportunities (FAR Case 1998–609) (98–609))

This final rule amends the Federal Acquisition Regulation to ensure that small businesses holding contracts under the Federal Supply Schedules are afforded the maximum practicable opportunity to compete for and receive FSS purchases. This rule affects all ordering offices which place orders under Federal Supply Schedule contracts. The rule—

- Encourages ordering offices to consider the availability of small business concerns under the schedule and encourages ordering offices to consider small businesses when conducting evaluations before placing an order.
- Amends FAR Subpart 38.1 to reaffirm that the General Services Administration and agencies delegated the authority to establish a Federal Supply Schedule must comply with all statutory and regulatory requirements before issuance of a solicitation.
- Revises the FSS guidance in accordance with the plain language guidelines in a White House memorandum, Plain Language in Government Writing, dated June 1, 1998.

Item VI—Trade Agreements Thresholds (FAR Case 2000–004)

This final rule amends FAR Subparts 25.2, 25.4, 25.6, and 25.11, and the clauses at 52.225–11 and 52.225–12 to implement new dollar thresholds for application of the Trade Agreements Act (TAA) and North American Free Trade Agreement (NAFTA), as published by the U.S. Trade Representative in the **Federal Register** at 65 FR 17332, March 31, 2000. Contracting Officers must review the new thresholds when acquiring supplies, services, or construction, in order to select the appropriate contract clauses to implement the Buy American Act, Balance of Payments Program, trade agreements, and sanctions of European

Union country end products and services.

Item VII—Restrictions on Acquisitions from Yugoslavia and Afghanistan (FAR Case 1999–008)

This final rule amends FAR Subpart 25.7, section 25.1103, and the associated clauses at 52.212–5, 52.213–4, and 52.225–13, to implement Executive Orders 13121 and 13129. These Executive orders, as modified by Office of Foreign Assets Control (OFAC) General Licenses Numbers 2 and 4, prohibit the importation into the United States of any goods or services from Serbia (excluding the territory of Kosovo) or the territory of Afghanistan controlled by the Taliban. As a matter of policy, the Government does not generally acquire, even for overseas use, supplies or services that cannot be imported lawfully into the United States.

This rule primarily affects contracting officers making purchases overseas, for overseas use, because the Treasury Department already prohibits import of these restricted goods and services into the United States. The rule is particularly beneficial to contracting officers facing unusual circumstances overseas (such as location within a restricted territory), explicitly providing an exception for such circumstances.

Item VIII—Applicability, Thresholds and Waiver of Cost Accounting Standards Coverage (FAR Case 2000–301)

This interim rule amends FAR Part 30, Cost Accounting Standards Administration, and the provision at FAR 52.230–1, Cost Accounting Standards Notices and Certification, to implement Section 802 of the National Defense Authorization Act for Fiscal Year 2000 (Pub. L. 106–65) and the Cost Accounting Standards (CAS) Board's interim rule, Applicability, Thresholds and Waiver of Cost Accounting Standards Coverage. The FAR rule revises policies affecting which contractors and subcontractors must comply with Cost Accounting Standards. The rule—

- Amends the provision at FAR 52.230–1, Cost Accounting Standards Notices and Certification, to remove the requirement that a contractor or subcontractor must have received at least one CAS-covered contract exceeding \$1 million (“trigger contract”) to be subject to full CAS coverage, since

the CAS Board removed this “trigger contract” amount from its corresponding solicitation provision, Cost Accounting Standards Notices and Certification, at 48 CFR 9903.201–3. The CAS Board established a new “trigger contract” dollar amount of \$7.5 million in the CAS applicability section of its regulations (48 CFR 9903.201–1) rather than in its solicitation provision. Since FAR 30.201–1 already references this section, no FAR changes were required to address the new “trigger contract” dollar amount;

- Increases the dollar threshold for full CAS coverage from \$25 million to \$50 million; and
- Adds procedures and conditions for agency waiver of the applicability of CAS.

Item IX—Technical Amendments

These amendments update references and make editorial changes at sections 3.303, 5.204, 47.504, 49.601–1, and 49.601–2.

Dated: May 26, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 97–18 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.

All Federal Acquisition Regulation (FAR) changes and other directive material contained in FAC 97–18 are effective June 6, 2000 except for Item VII which is effective July 6, 2000 and items II, III, IV, and V which are effective August 7, 2000. Each rule is applicable to solicitations issued on or after the rule's effective date.

Dated: May 26, 2000.

R.D. Kerrins, Jr., Col, USA,

Acting Director, Defense Procurement.

Dated: May 26, 2000.

Edward C. Loeb,

Acting Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration.

Dated: May 25, 2000.

Anne Guenther,

Acting Associate Administrator for Procurement, National Aeronautics and Space Administration.

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