

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 6, 31, 32, and 42**

[FAC 97-17; Item VI]

**Federal Acquisition Regulation;
Technical Amendments**

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

ACTION: Technical amendments.

SUMMARY: This document makes amendments to the Federal Acquisition Regulation in order to update references and make editorial changes.

EFFECTIVE DATE: April 25, 2000.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501-4755.

List of Subjects in 48 CFR Parts 6, 31, 32, and 42

Government procurement.

Dated: April 13, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR Parts 6, 31, 32, and 42 as set forth below:

1. The authority citation for 48 CFR Parts 6, 31, 32, and 42 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 6—COMPETITION
REQUIREMENTS**

2. In section 6.304, revise the second sentence of paragraph (a)(4) to read as follows:

6.304 Approval of the justification.

(a) * * *

(4) * * * This authority is not delegable except in the case of the Under Secretary of Defense for Acquisition, Technology, and Logistics, acting as the senior procurement executive for the Department of Defense.

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**PART 31—CONTRACT COST
PRINCIPLES AND PROCEDURES****31.101 [Amended]**

3. In section 31.101, in the last sentence, remove “Acquisition and Technology” and add in its place “Acquisition, Technology, and Logistics”.

PART 32—CONTRACT FINANCING

4. Remove “19_” and add “20_” in the following places:

a. Section 32.411 in the Agreement for Special Bank Account; in paragraph (a) of Recitals; and after paragraph (e) of Covenants; and

b. Section 32.805(c) in the Acknowledgement.

32.502-4 [Amended]

5. In section 32.502-4 amend paragraph (a)(3) and (a)(4) by removing “(a)(5)” and adding in their places “(a)(6)”.

**PART 42—CONTRACT
ADMINISTRATION AND AUDIT
SERVICES**

6. Remove “19_” and add “20_” in the following places:

a. Section 42.1204, in the Novation Agreement following paragraph (i) at paragraphs (a)(2), (a)(8) (twice), and in the Certificates following paragraph (b)(9); and

b. Section 42.1205, in the Change-of-Name Agreement following paragraph (b) at paragraph (a)(2); and in the Certificate following paragraph (b)(2).

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LIST OF RULES IN FAC 97-17**DEPARTMENT OF DEFENSE****GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Chapter 1****Federal Acquisition Regulation; Small
Entity Compliance Guide**

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

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator for the National Aeronautics and Space Administration. This *Small Entity Compliance Guide* has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121). It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 97-17 which amend the FAR. The rule marked with an asterisk (*) indicates that a regulatory flexibility analysis has been prepared in accordance with 5 U.S.C. 604. Interested parties may obtain further information regarding these rules by referring to FAC 97-17 which precedes this document. These documents are also available via the Internet at <http://www.arnet.gov/far>.

FOR FURTHER INFORMATION CONTACT: Laurie Duarte, FAR Secretariat, (202) 501-4225. For clarification of content, contact the analyst whose name appears in the table below.

Item	Subject	FAR case	Analyst
I	Competition under Multiple Award Contracts	1999-014	De Stefano.
II	Determination of Price Reasonableness and Commerciality *	1998-300 (98-300)	Olson.
III	Caribbean Basin Trade Initiative	2000-003	Linfield.
IV	Utilization of Indian Organizations and Indian-Owned Economic Enterprises	1999-301 (99-301)	Moss.
V	Ocean Transportation by U.S.-Flag Vessels	1998-604 (98-604)	Klein.

Item I—Competition under Multiple Award Contracts (FAR Case 1999-014)

This rule amends FAR 2.101, Subpart 16.5, and 37.201 to clarify what the contracting officer should consider when planning for and placing orders under multiple award contracts. This rule affects all contracting officers that award multiple award contracts or place task or delivery orders under them. The rule—

- Requires the contracting officer to include the name, address, telephone number, facsimile number, and e-mail address of the agency task and delivery order ombudsman in the solicitation and contracts if multiple awards will be made;
- Stresses key things the contracting officer must consider when deciding if a multiple award contract is appropriate, such as—
 - Avoiding situations in which awardees specialize exclusively in one or a few areas within the statement of work;
 - The scope and complexity of the contract requirement;
 - The expected duration and frequency of task or delivery orders;
 - The mix of resources a contractor must have to perform expected task or delivery order requirements; and
 - The ability to maintain competition among the awardees throughout the contract's period of performance;
- Requires contracting officers to document their decision on whether or not to use multiple awards in the acquisition plan or contract file;
- Emphasizes the use of performance-based statements of work;
- Provides guidance on how to develop tailored order placement procedures;
- Requires contracting officers to consider cost or price as one of the factors in each selection decision for orders;

- Requires contracting officers to establish prices for each order that was not priced under the basic contract using the policies and methods in Subpart 15.4; and

- Requires contracting officers to document the order placement rationale and price in the contract file.

Item II—Determination of Price Reasonableness and Commerciality (FAR Case 1998-300) (98-300)

This final rule makes a minor editorial change to FAR 15.403-3 and converts the interim rule, which was published in FAC 97-14 as Item VI, as final. The editorial change amends the cross reference at 15.403-3(c)(1). The remainder of the interim rule that has been in effect since September 24, 1999, remains the same. The primary amendments made in the interim rule that are made final in this rule—

- Clarify procedures associated with obtaining information other than cost or pricing data when acquiring commercial items; and
- Establish that offerors who fail to comply with requirements to provide the information shall be ineligible for award.

Item III—Caribbean Basin Trade Initiative (FAR Case 2000-003)

This final rule amends FAR Parts 25.003, 25.400, 25.404, and the clause at 52.225-5, Trade Agreements, to implement the determination of the United States Trade Representative to renew the treatment of Caribbean Basin country end products as eligible products under the Trade Agreements Act, with the exception of end products from the Dominican Republic and Honduras. This rule applies only if an acquisition is subject to the Trade Agreements Act (see FAR 25.403). Offers of end products from the Dominican Republic and Honduras are

no longer acceptable under such acquisitions unless the contracting officer does not receive any offers of U.S.-made end products or eligible products (designated, Caribbean Basin, or NAFTA country end products).

Item IV—Utilization of Indian Organizations and Indian-Owned Economic Enterprises (FAR Case 1999-301) (99-301)

This final rule amends FAR Subpart 26.1 and the clause at 52.226-1 to delete DoD-unique requirements relating to Indian Organizations and Indian-Owned Economic Enterprises from the FAR.

Item V—Ocean Transportation by U.S.-Flag Vessels (FAR Case 1998-604) (98-604)

This final rule amends FAR 47.504 and the clauses at 52.212-5, 52.213-4, and 52.247-64 to apply the preference for U.S.-flag vessels to contracts awarded using simplified acquisition procedures. This rule only affects civilian agency contracts that may involve ocean transportation of supplies subject to the Cargo Preference Act of 1954.

The rule also adds Alternate I of 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels, to the clause at 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items. Alternate I applies when the supplies furnished under the contract must be transported exclusively in privately owned U.S.-flag vessels.

Dated: April 13, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

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