

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 3, 9, 12, 13, 14, 15, 31, 36, 42, 46, 51, and 52

[FAC 2001-04; Item VII]

Federal Acquisition Regulation; Technical Amendments

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

ACTION: Final rule.

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

DATES: Effective Date: February 8, 2002.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501-4755. Please cite FAC 2001-04, Technical Amendments.

List of Subjects in 48 CFR Parts 3, 9, 12, 13, 14, 15, 31, 36, 42, 46, 51, and 52

Government procurement.

Dated: February 1, 2002.

Al Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 3, 9, 12, 13, 14, 15, 31, 36, 42, 46, 51, and 52 as set forth below:

1. The authority citation for 48 CFR parts 3, 9, 12, 13, 14, 15, 31, 36, 42, 46, 51, 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 3—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

3.807 [Amended]

2. Amend section 3.807 by removing "3804-3408," and adding "3804-3808," in its place.

PART 9—CONTRACTOR QUALIFICATIONS

3. Amend section 9.203 by revising paragraph (c)(2) to read as follows:

9.203 QPL's, QML's, and QBL's.

\* \* \* \* \*

(c) \* \* \* (2) Defense Standardization Manual 4120.24-M, Appendix 2, as amended by Military Standards 961 and 962.

\* \* \* \* \*

PART 12—ACQUISITION OF COMMERCIAL ITEMS

12.301 [Amended]

4. Amend section 12.301 in paragraph (e)(1) by removing "16.505" and adding "16.506" in its place.

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

13.301 [Amended]

5. Amend section 13.301 in the first sentence of paragraph (b) by removing "GSA Federal Supply Service Contract Guide for Governmentwide Commercial Purchase Card Service" and adding "current GSA credit card contract" in its place.

PART 14—SEALED BIDDING

14.205-2 [Amended]

6. Amend section 14.205-2 in paragraph (b) by adding "or suspended" after the word "debarred".

14.409-1 [Amended]

7. Amend section 14.409-1 in the introductory text of paragraph (a)(2) by removing "(see 25.408(a)(4))," and adding "(see 25.408(a)(5))," in its place.

PART 15—CONTRACTING BY NEGOTIATION

15.404-4 [Amended]

8. Amend section 15.404-4 in the introductory text of paragraph (c)(4)(i) by removing "10 U.S.C. 2306(e)" and adding "10 U.S.C. 2306(d)" in its place.

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

9. Revise section 31.002 to read as follows:

31.002 Availability of accounting guide.

Contractors needing assistance in developing or improving their accounting systems and procedures may request a copy of the Defense Contract Audit Agency Pamphlet No. 7641.90, Information for Contractors. The pamphlet is available via the Internet at http://www.dcaa.mil.

31.205-17 [Amended]

10. Amend section 31.205-17 by designating the undesignated introductory paragraph as "(a) Definitions.;" and in the definition "Idle facilities" by redesignating paragraphs (1), (i), (ii), (2), and (3) as (b), (b)(1), (b)(2), (c), and (d), respectively.

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

36.606 [Amended]

11. Amend section 36.606 in the first sentence of paragraph (f) by removing "best and final offer" and adding "final proposal revision" in its place.

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

12. Amend section 42.705-1 by revising paragraph (b)(1) to read as follows:

42.705-1 Contracting officer determination procedure.

\* \* \* \* \*

(b) Procedures. (1) In accordance with the Allowable Cost and Payment clause at 52.216-7 or 52.216-13, the contractor shall submit to the contracting officer (or cognizant Federal agency official) and to the cognizant auditor a final indirect cost rate proposal. The required content of the proposal and supporting data will vary depending on such factors as business type, size, and accounting system capabilities. The contractor, contracting officer, and auditor must work together to make the proposal, audit, and negotiation process as efficient as possible. Accordingly, each contractor shall submit an adequate proposal to the contracting officer (or cognizant Federal agency official) and auditor within the 6-month period following the expiration of each of its fiscal years. Reasonable extensions, for exceptional circumstances only, may be requested in writing by the contractor and granted in writing by the contracting officer. A contractor shall support its proposal with adequate supporting data. For guidance on what generally constitutes an adequate final indirect cost rate proposal and supporting data, contractors should refer to the Model Incurred Cost Proposal in Chapter 6 of the Defense Contract Audit Agency Pamphlet No. 7641.90, Information for Contractors, available via the Internet at http://www.dcaa.mil.

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PART 46—QUALITY ASSURANCE

13. Amend section 46.202-4 by revising the last sentence of paragraph (b) to read as follows:

46.202-4 Higher-level contract quality requirements.

\* \* \* \* \*

(b) \* \* \* Examples of higher-level quality standards are ISO 9001, 9002, or 9003; ANSI/ISO/ASQ Q9001-2000;

ANSI/ASQC Q9001, Q9002, or Q9003; QS-9000; AS-9000; ANSI/ASQC E4; and ANSI/ASME NQA-1.

**PART 51—CONTRACTOR USE OF GOVERNMENT SUPPLY SOURCES**

**51.101 [Amended]**

14. Amend section 51.101 in paragraph (b) by removing “(see 41 CFR 101-26.407)” and adding “(see 41 CFR 101-26.507)” in its place.

**PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

15. Amend section 52.212-3 by—  
 a. Revising the date of the provision;  
 b. Removing the reference “(c)(7)(i)” from paragraph (c)(9)(ii) and adding “(c)(9)(i)” in its place;  
 c. Revising paragraph (h); and  
 d. Removing from Alternate I “(Oct 2000)” and adding “(Feb 2002)” in its place; and by removing “(c)(2)” from paragraph (10) of Alternate I and adding “(c)(4)” in its place. The revised text reads as follows:

**52.212-3 Offeror Representations and Certifications—Commercial Items.**

\* \* \* \* \*

**Offeror Representations and Certifications—Commercial Items (Feb 2002)**

\* \* \* \* \*

(h) *Certification Regarding Debarment, Suspension or Ineligibility for Award (Executive Order 12549).* (Applies only if the contract value is expected to exceed the simplified acquisition threshold.) The offeror certifies, to the best of its knowledge and belief, that the offeror and/or any of its principals—

(1) [ ] Are, [ ] are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency; and

(2) [ ] Have, [ ] have not, within a three-year period preceding this offer, been convicted of or had a civil

judgment rendered against them for: Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(3) [ ] Are, [ ] are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses.

\* \* \* \* \*

16. Amend section 52.213-4 by revising paragraph (a)(2)(vi); and in paragraph (b)(1)(viii), by removing “(Jan 2001)” and adding “(Dec 2001)” in its place. The revised text reads as follows:

**52.213-4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).**

\* \* \* \* \*

**Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (Feb 2002)**

(a) \* \* \*

(2) \* \* \*

(vi) 52.244-6, Subcontracts for Commercial Items (Dec 2001).

\* \* \* \* \*

**52.219-21 [Amended]**

17. Amend section 52.219-21 in the prescription by removing “19.1007(c)” and adding “19.1008(c)” in its place.

**52.222-44 [Amended]**

18. Amend section 52.222-44 by revising the date of the clause to read “(Feb 2002)” and in paragraph (d) by removing “paragraph (b)” and adding “paragraph (c)” in its place.

[FR Doc. 02-2919 Filed 2-7-02; 8:45 am]

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**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) 2001-04 which amend the FAR. An asterisk (\*) next to a rule 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 2001-04 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.

**LIST OF RULES IN FAC 2001-04**

Item	Subject	FAR case	Analyst
I .....	Definitions for Classified Acquisitions .....	2000-404	DeStefano.
II .....	Special Simplified Procedures for Purchases of Commercial Items in Excess of the Simplified Acquisition Threshold.	2002-002	Moss.
III .....	Notification of Noncompliance with Cost Accounting Standards .....	2001-013	Olson.
IV .....	Executive Order 13204, Revocation of Executive Order on Nondisplacement of Qualified Workers Under Certain Contracts.	2001-017	Nelson.
V .....	Caribbean Basin Country End Products .....	2000-306	Davis.
VI .....	Final Contract Voucher Submission .....	1999-026	Klein.