

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter I

Federal Acquisition Circular 97-03; 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 in this Federal Acquisition Circular (FAC) 97-03. Each rule follows this document in the order listed below. A companion document, the Small Entity Compliance Guide, follows this FAC and may be located on 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 analyst whose name appears (in the table below) in relation to each FAR case or subject area. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501-4755. Please cite FAC 97-03 and specific FAR case number(s).

SUPPLEMENTARY INFORMATION: Federal Acquisition Circular 97-03 amends the Federal Acquisition Regulation (FAR) as specified below:

Item	Subject	FAR case	Analyst
I	Part 30 Deviations	97-014	Nelson.
II	Information Technology Management Reform Act of 1996	96-319	Nelson.
III	Final Overhead Settlement	95-017	Klein.
IV	Reorganization of FAR Part 13, Simplified Acquisition Procedures	94-772	Linfield.
V	Reporting Trade Sanction Exemptions	97-021	Linfield.
VI	New Mexico Gross Receipts and Compensating Tax	97-018	Moss.
VII	Compensation of Certain Contractor Personnel	96-325	Nelson.
VIII	Independent Research and Development/Bid and Proposal Costs for Fiscal Year 1996 and Beyond.	95-032	Nelson.
IX	Travel Reimbursement (Interim)	97-007	Nelson.
X	Protests to GAO	97-009	O'Neill.
XI	Novation and Related Agreements	95-034	Klein.
XII	Commercial Bills of Lading, Small Package Shipments	97-017	Klein.
XIII	Standard Form 1406, Preaward Survey of Prospective Contractor—Quality Assurance	96-022	Klein.
XIV	Technical Amendments		

Item I—Part 30 Deviations (FAR Case 97-014)

This final rule amends FAR 1.402 to remove the prohibition against authorizing deviations from FAR part 30, Cost Accounting Standards Administration, except for subsections 30.201-3 and 30.201-4, or the Cost Accounting Standards Board rules and regulations.

Item II—Information Technology Management Reform Act of 1996 (FAR Case 96-319)

The interim rule published as Item I of FAC 90-41 is converted to a final rule. This rule implements the Information Technology Management Reform Act of 1996 (Division E of Pub. L. 104-106). The final rule differs from the interim rule in that it makes a clarifying revision to paragraph (c) of the definition of "information technology" at FAR 2.101.

Item III—Final Overhead Settlement (FAR Case 95-017)

This final rule amends FAR parts 4, 42, and 52 to improve the process of final settlement of contractor indirect cost rates under cost-reimbursement contracts by (1) extending the time period within which a contractor must

submit an indirect cost rate proposal from 90 days to 6 months after the end of the contractor's fiscal year, (2) permitting extensions to the 6-month time period for exceptional circumstances only, and (3) providing a specific reference to the Defense Contract Audit Agency pamphlet that contains guidance on what generally constitutes an adequate final indirect cost rate proposal and supporting data.

Item IV—Reorganization of FAR Part 13, Simplified Acquisition Procedures (FAR Case 94-772)

This final rule revises FAR part 13 to reorganize its contents in a more process-oriented manner and to emphasize the use of electronic contracting and the Governmentwide commercial purchase card. FAR part 52 is amended to permit agency provisions and clauses to be incorporated by reference in solicitations and contracts, if the full text of the provisions and clauses may be accessed electronically by prospective contractors. A new clause is added at FAR 52.213-4 for use in simplified acquisitions; the clause is a compilation of the required and most commonly used clauses that apply to simplified acquisitions, and may be

used in lieu of individual clauses prescribed in the FAR.

Item V—Reporting Trade Sanction Exemptions (FAR Case 97-021)

This final rule amends FAR Subpart 25.10 to eliminate requirements for agencies to notify Congress when exercising the authority at FAR 25.1002(c) for exemption of certain procurements from trade sanctions imposed by the President. The rule instead requires agencies to notify the United States Trade Representative of such exemptions within 30 days after contract award.

Item VI—New Mexico Gross Receipts and Compensating Tax (FAR Case 97-018)

This final rule amends FAR 29.401-6 to identify the Defense Special Weapons Agency as an agency that has entered into an agreement with the State of New Mexico regarding taxation.

Item VII—Compensation of Certain Contractor Personnel (FAR Case 96-325)

The interim rule published as Item XI of FAC 90-45 is converted to a final rule with a minor clarifying amendment at FAR 31.205-6(p)(1). The rule implements Section 809 of the Fiscal

Year 1997 National Defense Authorization Act (Pub. L. 104-201). Section 809 places a Governmentwide ceiling of \$250,000 per year on allowable compensation costs for contractor personnel in senior management positions under contracts awarded during fiscal year 1997.

Item VIII—Independent Research and Development/Bid and Proposal Costs for Fiscal Year 1996 and Beyond (FAR Case 95-032)

This final rule amends the cost principle at FAR 31.205-18, Independent Research and Development (IR&D) and Bid and Proposal (B&P) Costs, and deletes FAR subpart 42.10, Negotiating Advance Agreements for Independent Research and Development/Bid and Proposal Costs. The rule removes, for fiscal year 1996 and beyond, the requirements to calculate or negotiate a ceiling for IR&D/B&P costs. In addition, the rule clarifies that costs incurred in preparing, submitting, and supporting offers on potential cooperative arrangements are allowable to the extent they are allocable, reasonable, and not otherwise unallowable.

Item IX—Travel Reimbursement (FAR Case 97-007)

This interim rule amends FAR 31.205-46 to raise, from \$25 to \$75, the maximum travel expense amount that contractor personnel may claim without providing a supporting receipt. This change is consistent with a recent amendment to the Federal Travel Regulation.

Item X—Protests to GAO (FAR Case 97-009)

This final rule amends the protest procedures at FAR 33.101 and 33.104 to conform with revisions made to the General Accounting Office Bid Protest Regulations.

Item XI—Novation and Related Agreements (FAR Case 95-034)

This final rule amends FAR subpart 42.12 to expand and clarify procedures for processing novation agreements, and for determining when use of a novation agreement is appropriate.

Item XII—Commercial Bills of Lading, Small Package Shipments (FAR Case 97-017)

This final rule amends FAR 47.303-17 to raise the threshold for requiring receipted freight bills for small package shipments from \$25 to \$100, and the maximum amount that the Government may pay for invoiced but unsupported transportation charges from \$100 to

\$250. These increased amounts are considered to more accurately reflect shipping costs in today's business environment.

Item XIII—Standard Form 1406, Preaward Survey of Prospective Contractor—Quality Assurance (FAR Case 96-022)

This final rule revises Standard Form 1406, Preaward Survey of Prospective Contractor—Quality Assurance, to delete references to canceled specifications, and to conform the language in the form to the current language in FAR part 46.

Item XIV—Technical Amendments

This document makes technical corrections to FAR 1.201-1, 19.811-1, and 42.203. Standard Forms 33, 1435, 1436, and 1437 are reissued to reflect changes to internal references as a result of the rewrite of FAR part 15. Standard Form 279 is reissued to provide accounting for purchases under the commercial test.

Dated: December 1, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 97-03 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.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 97-03 is effective February 9, 1998, except for Items VI, IX, and XIV, which are effective December 9, 1997.

Dated: November 22, 1997.

Eleanor R. Spector,

Director, Defense Procurement.

Dated: November 28, 1997.

Ida M. Ustad,

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

Dated: November 18, 1997.

Tom Luedtke,

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

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1

[FAC 97-03; FAR Case 97-014; Item I]

RIN 9000-AH77

Federal Acquisition Regulation; Part 30 Deviations

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to remove the prohibition against authorizing deviations from certain sections pertinent to cost accounting standards administration. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: February 9, 1998.

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 Ms. Linda Nelson, Procurement Analyst, at (202) 501-1900. Please cite FAC 97-03, FAR case 97-014.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR 1.402, Policy, to remove the prohibition against authorizing deviations from FAR Part 30 (except for subsections 30.201-3 and 30.201-4, or the Cost Accounting Standards Board (CASB) rules and regulations). This prohibition was added to the FAR when the CASB rules and regulations were added to FAR part 30. Since only the CASB has authority to waive CAS, the FAR part 30 deviation prohibition at FAR 1.402 was added to preclude the granting of a CAS waiver by other than the CASB. The prohibition was intended to apply to the CASB rules and regulations, not to the administration of CAS. Accordingly, the prohibition with respect to certain portions of FAR part 30 is no longer necessary since the CASB rules and