

**DEPARTMENT OF DEFENSE****GENERAL SERVICES  
ADMINISTRATION****NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION****48 CFR Chapter 1****Federal Acquisition Circular 97-10;  
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, and technical amendments and corrections.

**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) 97-10. A companion document, the Small Entity Compliance Guide (SECG), follows this FAC. The FAC, including the SECG, 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 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 97-10 and specific FAR case number(s). Interested parties may also visit our website at <http://www.arnet.gov/far>.

**SUPPLEMENTARY INFORMATION:**

Item	Subject	FAR case	Analyst
I .....	Historically Underutilized Business Zone (HUBZone) Empowerment Contracting Program (Interim).	97-307	Moss.
II .....	Limits for Indefinite-Quantity Contracts .....	98-016	DeStefano.
III .....	Office of Federal Contract Compliance Programs National Pre-Award Registry .....	98-607	O'Neill.
IV .....	Limitation on Allowability of Compensation for Certain Contractor Personnel .....	97-303	Nelson.
V .....	Contractor Purchasing System Review Exclusions .....	97-016	Klein.
VI .....	Contract Quality Requirements .....	96-009	Klein.
VII .....	Mandatory Government Source Inspection .....	97-027	Klein.
VIII .....	No-Cost Value Engineering Change Proposals .....	96-011	Klein.
IX .....	Evidence of Shipment in Electronic Data Interchange Transactions .....	97-011	Nelson.
X .....	Technical Amendments.		

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 97-10 amends the Federal Acquisition Regulation (FAR) as specified below:

**Item I—Historically Underutilized  
Business Zone (HUBZone)  
Empowerment Contracting Program**

[FAR Case 97-307]

This interim rule amends FAR Parts 5, 6, 7, 8, 12, 13, 14, 15, 19, 26, 52, and 53 to implement the Small Business Administration Historically Underutilized Business Zone (HUBZone) Empowerment Contracting Program. The purpose of the program is to provide Federal contracting assistance for qualified small business concerns located in historically underutilized business zones in an effort to increase employment opportunities, investment, and economic development in these areas. The program provides for set-asides, sole source awards, and price evaluation preferences for HUBZone small business concerns and establishes goals for awards to such concerns.

**Item II—Limits for Indefinite-Quantity  
Contracts**

[FAR Case 98-016]

This final rule amends FAR 16.504(a) to clarify that maximum and minimum limits for indefinite-quantity contracts may be expressed as a number of units or dollar value.

**Item III—Office of Federal Contract  
Compliance Programs National Pre-  
Award Registry**

[FAR Case 98-607]

This final rule amends FAR part 22 and related clauses at part 52 to (1) inform the procurement community of the availability of the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) National Pre-Award Registry (Registry), accessible through the Internet, that contains contractor establishments who have received a preaward clearance within the preceding 24 months, and the option to use the information in the Registry in lieu of submitting a written request for a preaward clearance; and (2) implement revised Department of Labor (DoL) regulations pertaining to equal employment opportunity and affirmative action requirements for Federal contractors and subcontractors.

**Item IV—Limitation on Allowability of  
Compensation for Certain Contractor  
Personnel**

[FAR Case 97-303]

The interim rule published as Item XIII of FAC 97-04 is converted to a final rule with minor clarifying amendments at FAR 31.205-6(p)(2). The rule implements Section 808 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105-85). Section 808 limits allowable compensation costs for senior executives of contractors to the benchmark year by the Administrator, Office of Federal Procurement Policy (OFPP). The benchmark compensation amount is \$340,650 for contractor fiscal year 1998, and subsequent contractor fiscal years, unless and until revised by OFPP.

**Item V—Contractor Purchasing System  
Review Exclusions**

[FAR Case 97-016]

This final rule amends FAR 44.302 and 44.303 to exclude competitively awarded firm-fixed-price and competitively awarded fixed-price contracts with economic price adjustment, and sales of commercial items pursuant to FAR part 12, from the dollar amount used to determine if a contractor's level of sales to the Government warrants the conduct of a CPSR; and to exclude subcontracts awarded by a contractor exclusively in

support of Government contracts that are competitively awarded firm-fixed-price, competitively awarded fixed-price with economic price adjustment, or awarded for commercial items pursuant to FAR part 12, from evaluation during a CPSR.

#### **Item VI—Contract Quality Requirements**

[FAR Case 96-009]

This final rule amends FAR 46.202-4, 46.311, and 52.246-11 to replace references to Government specifications with references to commercial quality standards as examples of higher-level contract quality requirements; to require the contracting officer to indicate in the solicitation which higher-level quality standards will satisfy the Government's requirement; and, if more than one standard is listed in the solicitation, to require the offeror to indicate its selection by checking a block.

#### **Item VII—Mandatory Government Source Inspection**

[FAR Case 97-027]

This final rule amends FAR 46.402 to facilitate the elimination of unnecessary requirements for Government contract quality assurance at source. This rule deletes the mandatory requirements for Government contract quality assurance at source on all contracts that include a higher-level contract quality requirement, and for supplies requiring inspection that are destined for overseas shipment.

#### **Item VIII—No-Cost Value Engineering Change Proposals**

[FAR Case 96-011]

The interim rule published as Item X of FAC 97-05 is converted to a final rule without change. The rule revises FAR 48.104-3 to clarify that no-cost value engineering change proposals (VECPs) may be used when, in the contracting officer's judgment, reliance on other VECP approaches likely would not be more cost-effective, and the no-cost settlement would provide adequate consideration to the Government.

#### **Item IX—Evidence of Shipment in Electronic Data Interchange (EDI) Transactions**

[FAR Case 97-011]

This final rule revises the clause at FAR 52.247-48 to facilitate the use of electronic data interchange (EDI) transactions and to streamline the payment process when supplies are purchased on a free on board (f.o.b.) destination basis with inspection and acceptance at origin.

#### **Item X—Technical Amendments**

Amendments are being made at FAR 1.106, 19.102, 19.502-5, 32.908, 37.602-3, 42.203, 52.212-5, 52.219-9, 52.222-37, 53.228 and 53.301 in order to update references and make editorial changes.

Dated: December 14, 1998.

**Ralph DeStafano,**

*Acting Director, Federal Acquisition Policy Division.*

#### **Federal Acquisition Circular**

FAC 97-10

Federal Acquisition Circular (FAC) 97-10 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 97-10 are effective February 16, 1999, except for Item VIII which is effective December 18, 1998, and Items I and X which are effective January 4, 1999.

Dated: December 14, 1998.

Eleanor R. Spector,

*Director, Defense Procurement.*

Dated: December 11, 1998.

Ida M. Ustad,

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

Tom Luedtke,

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

Dated: December 11, 1998.

[FR Doc. 98-33512 Filed 12-16-98; 8:45 am]

BILLING CODE 6820-EP-P

### **DEPARTMENT OF DEFENSE**

#### **GENERAL SERVICES ADMINISTRATION**

#### **NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

#### **48 CFR Parts 5, 6, 7, 8, 12, 13, 14, 15, 19, 26, 52, and 53**

[FAC 97-10; FAR Case 97-307; Item I]

RIN 9000-AI20

#### **Federal Acquisition Regulation; Historically Underutilized Business Zone (HUBZone) Empowerment Contracting Program**

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

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense

Acquisition Regulations Council have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to implement revisions made to Small Business Administration (SBA) regulations covering the Historically Underutilized Business Zone (HUBZone) Empowerment Contracting Program (hereinafter referred to as the HUBZone Program).

**EFFECTIVE DATE:** January 4, 1999.

**Comment Date:** Comments should be submitted to the FAR Secretariat at the address shown below on or before February 16, 1999 to be considered in the formulation of a final rule.

**ADDRESSES:** Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVR), 1800 F Street, NW, Room 4035, Attn: Ms. Laurie Duarte, Washington, DC 20405.

E-Mail comments submitted over the Internet should be addressed to: farcase.97-307@gsa.gov

Please cite FAC 97-10, FAR case 97-307 in all correspondence related to this case.

**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. Victoria Moss, Procurement Analyst, at (202) 501-4764. Please cite FAC 97-10, FAR case 97-307.

#### **SUPPLEMENTARY INFORMATION:**

##### **A. Background**

This interim rule amends FAR parts 5, 6, 7, 8, 12, 13, 14, 15, 19, 26, 52, and 53 to comply with the SBA's HUBZone Program regulations contained in 13 CFR parts 121, 125, and 126 (63 FR 31896, June 11, 1998). The purpose of the HUBZone Program is to provide Federal contracting assistance for qualified small business concerns located in distressed communities in an effort to increase employment opportunities, investment, and economic development in these communities. The Program provides for set-asides for firms that meet the definition of a HUBZone small business concern (SBC), sole source awards to HUBZone SBCs, and price evaluation preferences for HUBZone SBCs in acquisitions conducted using full and open competition; and establishes a Governmentwide goal for HUBZone awards. Until September 30, 2000, ten Government agencies are required to comply with the prime contract HUBZone Program. After that date, the Program will apply to all Federal