

Paragraph	Remove	Insert
Alternate V	Paragraph "(k)" designation	Paragraph "(l)" designation

9. Section 52.249-11 is amended by revising the introductory text and clause date; redesignating paragraphs (c) through (k) as (d) through (l), respectively; and adding a new paragraph (c) to read as follows:

52.249-11 Termination of Work (Consolidated Facilities or Facilities Acquisition).

As prescribed in 49.505(a), insert the following clause:

TERMINATION OF WORK
(CONSOLIDATED FACILITIES OR
FACILITIES ACQUISITION) (SEP 1996)
* * * * *

(c) The Contractor shall submit complete termination inventory schedules no later

than 120 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 120-day period.

* * * * *

9b. In addition to the amendments set forth above, 52.249-11 is further amended in the newly designated paragraphs by revising internal references to read as follows:

Paragraph	Remove	Insert
(b)(9)	"subparagraph (6) above"	"subparagraph (b)(6) of this clause".
(f)	"paragraph (d) above"	"paragraph (e) of this clause".
(g)(2)	"subparagraph (1) above"	"subparagraph (g)(1) of this clause".
(i)	"paragraph (d) or (f) above" both times it appears.	"paragraph (e) or (g) of this clause".
Alternate I	"paragraph (d) above"	"paragraph (e) of this clause".
	"(APR 1984)"	"(SEP 1996)".
	"subparagraph (j)(2)"	"subparagraph (k)(2)".

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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 as the Federal Acquisition Regulation (FAR) Council. 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) 90-40 which amend the FAR. The rules marked with an asterisk (*) are those for which a final regulatory flexibility analysis has been prepared in accordance with 5 U.S.C. 604. Further information regarding these rules may be obtained by referring to FAC 90-40 which precedes this notice. This document may be obtained from the Internet at <http://www.gsa.gov/far/compliance>.

FOR FURTHER INFORMATION CONTACT:
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501-4755.

LIST OF RULES IN FAC 90-40

Item	Subject	FAR case
I	Contingent Fee Representation	93-009
II	Simplified Acquisition Threshold/Federal Acquisition Computer Network; and Micro-Purchase Procedures	*94-770 *94-771
III	Gratuities	96-300
IV	Disaster Relief Act	93-303
V	Responsibility Determinations	95-007
VI	Task and Delivery Orders	*94-711
VII	Multiyear Contracting	*94-712
VIII	Small Business/Simplified Acquisition Threshold	*94-782
IX	Indian-Owned Economic Enterprises	*91-028
X	General Agreement on Tariffs and Trade Patent Authorization	95-308
XI	Performance and Payment Bonds	91-027
XII	Employee Compensation Costs	93-005
XIII	Agency Procurement Protests	95-309
XIV	Value Engineering	96-315
XV	Termination Inventory Schedules	*94-003

Item I—Contingent Fee Representation (FAR Case 93-009)

This final rule amends FAR Subpart 3.4 to remove the requirement for prospective contractors to provide certain information regarding contingent fee arrangements. Accordingly, the provision at 52.203-4, Contingent Fee Representation and Agreement, and Standard Form 119, Statement of Contingent or Other Fees, are also removed. The underlying policy pertaining to contingent fee arrangements, as set forth in Subpart 3.4, remains the same.

Item II—Simplified Acquisition Threshold/Federal Acquisition Computer Network; and Micro-Purchase Procedures (FAR Cases 94-770 and 94-771)

The interim rules published as Item II of FAC 90-24 and Item III of FAC 90-29 are amended and adopted as final. The rules implement the micro-purchase, simplified acquisition, and Federal Acquisition Computer Network (FACNET) provisions of the Federal Acquisition Streamlining Act of 1994 (Public Law 103-355), and Section 4302(b) of the Federal Acquisition Reform Act of 1996 (Public Law 104-106). The final rules differ from the interim rules in that they (1) move definitions pertaining to micro-purchases, simplified acquisition procedures, and FACNET from Parts 4 and 13 to Part 2; (2) remove the requirement for interim FACNET certification before a contracting office may use simplified acquisition procedures for contract actions exceeding \$50,000; (3) remove the clause at 52.222-40, Service Contract Act of 1965, as Amended—Contracts of \$2,500 or Less, based upon a change in Department of Labor regulations; and (4) provide a telephone number for information regarding FACNET at 4.503.

Item III—Gratuities (FAR Case 96-300)

This interim rule amends FAR 3.202 and 52.203-3 to implement Section 801 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106). Section 801 amends 10 U.S.C. 2207, generally referred to as the Gratuities Act, to exempt contracts which do not exceed the simplified acquisition threshold from application of the Act. Therefore, the clause at 52.203-3, Gratuities, is now prescribed for inclusion in only those contracts which exceed the simplified acquisition threshold.

Item IV—Disaster Relief Act (FAR Case 93-303)

This final rule amends FAR 6.302-5, and adds FAR Subpart 26.2, to implement the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5150). Section 5150 establishes a preference for local sources in the award of contracts for major disaster or emergency assistance activities.

Item V—Responsibility Determinations (FAR Case 95-007)

This final rule amends FAR Subpart 9.1 to emphasize the use of commercial sources of information for determining the responsibility of prospective contractors, and to clarify that preaward surveys normally should be requested only when information on hand or readily available is not sufficient.

Item VI—Task and Delivery Orders (FAR Case 94-711)

The interim rule published as Item III of FAC 90-33 is amended and adopted as final. The interim rule added FAR Section 16.500 to define the scope of the multiple award preference established by Subpart 16.5 for indefinite-quantity contracts. The final rule differs from the interim rule in that it amends Section 16.500 to clarify that the multiple award preference does not apply to architect-engineer contracts subject to the procedures in Subpart 36.6. However, agencies are not precluded from making multiple awards for architect-engineer services, provided the selection of contractors and placement of orders is consistent with Subpart 36.6. The rule also amends Section 16.504 to clarify procedures for determining if multiple awards are appropriate.

Item VII—Multiyear Contracting (FAR Case 94-712)

This final rule revises FAR Subpart 17.1, removes the clause at 52.217-1, and revises the clause at 52.217-2 to implement Sections 1022 and 1072 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103-355). Sections 1022 and 1072 provide for use of multiyear contracting in a manner that will encourage competition or promote economy in administration, performance, and operation of an agency's programs.

Item VIII—Small Business/Simplified Acquisition Threshold (FAR Case 94-782)

This final rule amends FAR Part 19 and the clauses at 52.219-6, 52.219-7, and 52.219-18 to implement Section 4004 of the Federal Acquisition Streamlining Act of 1994 (Public Law

103-355). Section 4004 amends Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) to reserve each contract for supplies or services that has an anticipated value greater than \$2,500, but not greater than \$100,000, for exclusive participation by small business concerns, unless the contracting officer is unable to obtain offers from two or more small business concerns that are competitive with regard to price, quality, and delivery. This rule also reflects a final rule published by the Small Business Administration at 13 CFR 121.406, which provides that, where the procurement of a manufactured item is processed under FAR Part 13 procedures, set aside for small business concerns, and not expected to exceed \$25,000, an offeror need not supply the end product of a small business concern as long as the product is manufactured or produced in the United States.

Item IX—Indian-Owned Economic Enterprises (FAR Case 91-028)

The interim rule published as Item VIII of FAC 90-7 is amended and adopted as final. The rule implements 25 U.S.C. 1544, which provides for payment of incentives to prime contractors who use Indian organizations or Indian-owned economic enterprises as subcontractors. The principal difference between the interim rule and the final rule is the method of incentive payment contained in each. The interim rule permitted prime contractors to recover certain costs of subcontracting with Indian organizations and Indian-owned economic enterprises based on the difference in price between the acceptable low non-Indian subcontractor and the acceptable low Indian subcontractor, when the Indian subcontractor's price exceeded the price of the non-Indian subcontractor. The final rule instead permits an incentive payment to the prime contractor in an amount which equals 5 percent of the amount of the subcontract awarded to the Indian organization or Indian-owned economic enterprise. The applicable amendments are in Subpart 26.1 and the clause at 52.226-1.

Item X—General Agreement on Tariffs and Trade Patent Authorization (FAR Case 95-308)

This final rule adds FAR Section 27.209 to provide guidance pertaining to the use of patented technology under the General Agreement on Tariffs and Trade.

Item XI—Performance and Payment Bonds (FAR Case 91-027)

This final rule amends FAR Subpart 28.1 and the clause at 52.228-1, and adds two clauses at 52.228-15 and 52.228-16, and new SF 1418 to update, clarify, and standardize policy pertaining to bid guarantees and performance and payment bonds.

Item XII—Employee Compensation Costs (FAR Case 93-005)

This final rule amends FAR Part 31 to clarify the allowability of personal services compensation costs. The rule adds definitions at 31.001; clarifies the standard for reasonableness of labor-management compensation agreements at 31.205-6(b); revises 31.205-6(b)(1)(i) to clearly allow offsets of allowable elements of employee compensation packages among jobs of the same grade

or level; and revises 31.205-6(i) to provide a general allowability rule pertaining to corporate securities.

Item XIII—Agency Procurement Protests (FAR Case 95-309)

This interim rule revises FAR 33.103 to implement Executive Order 12979, Agency Procurement Protests. Executive Order 12979 provides for inexpensive, informal, procedurally simple, and expeditious resolution of agency protests, including, where appropriate and permitted by law, the use of alternative dispute resolution techniques, third party neutrals, and another agency's personnel.

Item XIV—Value Engineering (FAR Case 96-315)

This final rule amends FAR Part 48 to revise the definition of value engineering and to require agencies to

establish and maintain cost-effective value engineering procedures and processes. The rule implements Section 4306 of the Federal Acquisition Reform Act of 1996 (Public Law 104-106).

Item XV—Termination Inventory Schedules (FAR Case 94-003)

This final rule amends FAR Part 49 and the clauses at 52.249-2, 52.249-3, 52.249-5, 52.249-6, and 52.249-11 to require contractors under terminated contracts to submit termination inventory schedules within 120 days from the date of termination, unless this period is extended by the contracting officer.

Dated: July 16, 1996.
Edward C. Loeb,
Director, Federal Acquisition Policy Division.
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