

DEPARTMENT OF DEFENSE

**GENERAL SERVICES
ADMINISTRATION**

**NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION**

48 CFR Chapter 1

**Federal Acquisition Circular 90-27;
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 with request for comment.

SUMMARY: This document summarizes the FAR rules which follow it in the order listed below. The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are issuing Federal Acquisition Circular (FAC) 90-27 to amend the Federal Acquisition Regulation (FAR).

DATES: For effective dates and comment dates, see separate documents which follow. Please cite FAC 90-27 and the appropriate FAR case number(s) in all

correspondence related to the following documents.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears (in the table above) in relation to each FAR case or subject area. For general information, contact the FAR Secretariat, Room 4037, GS building, Washington, DC 20405, (202) 501-4755. Please cite FAC 90-27 and specific FAR case number(s).

SUPPLEMENTARY INFORMATION: Federal Acquisition Circular 90-27 amends the Federal Acquisition Regulation (FAR) as specified below:

Item and subject	FAR Case	Analyst
I: Double-Sided Copying (Interim)	92-50	DeStefano.
II: Environmentally Preferable Products (Interim)	92-54	DeStefano.
III: Ozone Executive Order (Interim)	93-307	DeStefano.
IV: Addition of Three European Community Countries	95-601	McAndrew.
V: Trade Sanctions-Germany	94-5	O'Such.
VI: Interdivisional Transfers (Interim)	94-9	Olson.

Item I—Double-Sided Copying (FAR Case 92-50)

This interim rule amends FAR Part 4 and a new contract clause, Printing/Copying Double-Sided on Recycled Paper, is added at 52.204-4 to encourage contractors to maximize the use of double-sided copying on recycled paper when submitting written documents related to an acquisition.

Item II—Environmentally Preferable Products (FAR Case 92-54)

This interim rule amends FAR Parts 7, 10, 11, 15, 23, 36, 42, and 52 to clearly reflect the Government's preference for the acquisition of environmentally-sound and energy-efficient products and services and to establish an affirmative procurement program favoring items containing the maximum practicable content of recovered materials. Changes include addition of: (1) Definitions of "new" and "other than new" at 10.001, in the clauses at 52.210-5 and 52.210-7, and in the provision at 52.210-6; (2) a new section at 23.404(b) requiring that acquisitions of certain items meet the Environmental Protection Agency's minimum standards for recovered material content, unless approval is granted by an official designated by the agency head; (3) a new provision and clause at 52.223-8 and 52.223-9 requiring offerors and contractors to provide information regarding the percentage of recovered materials in certain items proposed for use and actually used in contract performance; and (4) a new clause at 52.223-10 requiring contractors operating Government-owned or leased facilities

to establish cost-effective waste reduction programs.

Item III—Ozone Executive Order (FAR Case 93-307)

This interim rule implements Executive Order 12843, Procurement Requirements and Policies for Federal Agencies for Ozone-Depleting Substances, and Environmental Protection Agency Clean Air Act Title VI regulations, Protection of Stratospheric Ozone (40 CFR Part 82). A new subpart is added at FAR 23.8 to provide policy for the acquisition of items which contain, use, or are manufactured with ozone-depleting substances. Two new clauses are added: 52.223-11, Ozone—Depleting Substances, and 52.223-12, Refrigeration Equipment and Air Conditioners. The clause at 52.223-11 requires contractors to label products which contain or are manufactured with class I or class II ozone-depleting substances. The clause at 52.223-12 requires contractors to comply with Sections 608 and 609 of the Clean Air Act (42 U.S.C. 7671g and 7671h) as each or both apply to the contract. 42 U.S.C. 7671g addresses a national recycling and emission reduction program, and 42 U.S.C. 7671h addresses servicing of motor vehicle air conditioners.

Item IV—Addition of Three European Community Countries (FAR Case 95-601)

This final rule adds three countries, Austria, Finland and Sweden, to the definition of "EC Country" in section 25.401 and in the clauses at 52.225-15 and 52.225-17, and adds the definition

of "sanctioned member state of the EC" in section 25.1001 and in the clauses at 52.225-18 and 52.225-19 of the FAR. These countries joined the EC on January 1, 1995.

Item V—Trade Sanctions—Germany

This final rule amends the definition of "sanctioned member state of the European Community" to remove the "Federal Republic of Germany" from FAR 25.1001 and the clauses at 52.225-18 and 52.225-19. These revisions are based on the Office of the United States Trade Representative's determination, which was published in the **Federal Register** at 59 FR 11360, March 10, 1994.

Item VI—Interdivisional Transfers (FAR Case 94-9)

This interim rule amends the cost principle criteria for the cost of interdivisional transfers to permit interdivisional transfers at price rather than cost under criteria that more closely approximate those applied to subcontracts eligible for exemption or waiver of cost or pricing data.

Dated: May 24, 1995.

C. Allen Olson,

Director, Office of Federal Acquisition Policy.

Federal Acquisition Circular

Number 90-27

Federal Acquisition Circular (FAC) 90-27 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 90-27 are effective May 31, 1995.

Dated: May 2, 1995.

Ida M. Ustad,

Associate Administrator for Acquisition Policy, General Services Administration.

Eleanor R. Spector,

Director, Defense Procurement Department of Defense.

Dated: April 24, 1995.

Tom Luedtke,

Deputy Associate Administrator for Procurement, NASA.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 4 and 52

[FAC 90-27, FAR Case 92-50, Item I]

RIN 9000-AG41

Federal Acquisition Regulation; Double-Sided Copying

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

ACTION: Interim rule with request for comment.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule amending the Federal Acquisition Regulation (FAR) to encourage contractors to maximize the use of double-sided copying on recycled paper when submitting documents related to an acquisition. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

DATES: Effective Date: May 31, 1995.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before July 31, 1995 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW, Room 4035, Attn: Ms Beverly Fayson, Washington, DC 20405.

Please cite FAC 90-27, FAR case 92-50 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT:

Mr. Ralph DeStefano at (202) 501-1758 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-27, FAR case 92-50.

SUPPLEMENTARY INFORMATION:

A. Background

Executive Order 12873, Federal Acquisition, Recycling, and Waste Prevention, dated October 20, 1993 (58 FR 54911), encourages the use of double-sided copying on recycled paper for documents printed within the Government and under Government contracts.

B. Regulatory Flexibility Act

This interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the requirements under the rule are best efforts requirements. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90-27, FAR Case 92-50), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because the rule implements Executive Order 12873, which required FAR revisions by April 18, 1994. However, pursuant to Public Law 98-577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 4 and 52

Government procurement.

Dated: May 24, 1995.

C. Allen Olson,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR Parts 4 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 4 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 4—ADMINISTRATIVE MATTERS

2. Section 4.000 is revised to read as follows:

4.000 Scope of part.

This part prescribes policies and procedures relating to the administrative aspects of contract execution, contractor-submitted paper documents, distribution, reporting, retention, and files.

3. Subpart 4.3 is added to read as follows:

Subpart 4.3—Paper Documents

Sec.

- 4.300 Scope of subpart.
- 4.301 Authority.
- 4.302 Definition.
- 4.303 Policy.
- 4.304 Contract clause.

Subpart 4.3—Paper Documents

4.300 Scope of subpart.

This subpart provides policies and procedures on contractor-submitted paper documents.

4.301 Authority.

The authority for this subpart is established in Executive Order 12873, Sections 402(d) and 504, October 20, 1993.

4.302 Definition.

Printing/copying double-sided, as used in this subpart, means printing or reproducing a document so that information is on both sides of a sheet of paper.

4.303 Policy.

It is the policy of the Government that a contractor submitting paper documents to the Government relating to an acquisition should, if possible, submit those documents printed/copied double-sided on recycled paper. If the contractor can only print/copy double-sided or use recycled paper, the contractor should accomplish whichever one the contractor has the ability to achieve.