

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.

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Offeror Representations and Certifications—Commercial Items (Feb 2002)

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(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.

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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).

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

(a) * * *

(2) * * *

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

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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.

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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.

VII Technical Amendments

Item I—Definitions for Classified Acquisitions (FAR Case 2000-404)

This final rule amends the FAR to clarify definitions that are used for classified procurements. The final rule—

- Moves the definitions of “classified acquisition,” “classified contract,” and “classified information” from FAR 4.401 to FAR 2.101, because the definitions apply to more than one FAR part;
- Amends those definitions in accordance for clarity;
- Amends the definition of “classified information” to reflect classification of privately generated restricted data in accordance with Department of Energy regulations; and
- Amends the policy regarding bid openings for classified acquisitions at FAR 14.402-2 for clarity.

Item II—Special Simplified Procedures for Purchases of Commercial Items in Excess of the Simplified Acquisition Threshold (FAR Case 2002-002)

This rule amends FAR Subpart 13.5 to implement Section 823 of the National Defense Authorization Act for Fiscal Year 2002 (Pub. L. 107-107). Section 823 amends Section 4202(e) of the Clinger-Cohen Act of 1996 (Divisions D and E of Pub. L. 104-106; 110 Stat. 654; 10 U.S.C. 2304 note) to extend, through January 1, 2003, the expiration of the test of special simplified procedures for purchases of commercial items greater than the simplified acquisition threshold, but not exceeding \$5,000,000.

Item III—Notification of Noncompliance with Cost Accounting Standards (FAR Case 2001-013)

This final rule amends Table 15-2, Instructions for Submitting Cost/Price Proposals When Cost or Pricing Data are Required, located at FAR 15.4, Contract pricing. The rule removes the requirement for a contractor to notify the contracting officer when there is a noncompliance that has an immaterial cost impact. The rule affects contracting officers that require cost or pricing data

on cost accounting standard-covered contracts.

Item IV—Executive Order 13204, Revocation of Executive Order on Nondisplacement of Qualified Workers Under Certain Contracts (FAR Case 2001-017)

The interim rule published in the **Federal Register** at 66 FR 27416, May 16, 2001, is converted to a final rule without change. This rule finalizes the implementation of Executive Order (E.O.) 13204, Revocation of Executive Order on Nondisplacement of Qualified Workers Under Certain Contracts, signed by the President on February 17, 2001. The E.O. requires that any rules implementing E.O. 12933, Nondisplacement of Qualified Workers Under Certain Contracts, be promptly rescinded. As a result, Subpart 22.12 and the clause at 52.222-50 was removed and reserved. The clause at 52.212-5 was amended by revising the date and removing paragraph (c)(6). Contracting officers should not take any action on any complaint filed under former FAR Subpart 22.12.

Item V—Caribbean Basin Country End Products (FAR Case 2000-306)

This interim rule amends FAR 25.003, 25.400, 25.404, and the clause at 52.225-5, Trade Agreements, to implement the determination of the United States Trade Representative (USTR) to renew the treatment of Caribbean Basin country end products as eligible products under the Trade Agreements Act (TAA), with the exception of end products from the Dominican Republic, Honduras, and Panama. This rule applies only if an acquisition is subject to the TAA (see FAR 25.403). The Dominican Republic and Honduras were already removed from the definition of Caribbean Basin countries in FAC 97-17, FAR case 2000-003, published in the **Federal Register** at 65 FR 24321, April 25, 2000. This rule now removes Panama. Offers of end products from these countries are no longer acceptable under acquisitions subject to the TAA unless the contracting officer does not receive any offers of U.S.-made end products or

eligible products (designated, Caribbean Basin, or NAFTA country end products).

This interim rule also amends the definition of “Caribbean Basin country end product” at FAR 25.003 and in the clause at 52.225-5, Trade Agreements, to implement Section 211 of the United States—Caribbean Basin Trade Partnership Act and the determinations of the USTR as to which countries qualify for the enhanced trade benefits under that Act. Offerors of end products from the Caribbean Basin must understand the revised definition in order to certify whether the products that they are offering qualify as Caribbean Basin country end products. The definition of “Caribbean Basin country end product” excludes products that do not qualify for duty-free treatment. Information provided in this rule helps offerors determine the duty-free status of a product by review of the Harmonized Tariff Schedule of the United States.

Item VI—Final Contract Voucher Submission (FAR Case 1999-026)

This final rule amends FAR 42.705, Final indirect cost rates, and FAR 52.216-7, Allowable Cost and Payment, to explicitly state the right of the contracting officer to unilaterally determine the final contract payment amount when the contractor does not submit the final invoice or voucher within the time specified in the contract. The rule is applicable to contracting officers that administer contract closeout procedures.

Item VII—Technical Amendments

These amendments update sections and make editorial changes at sections 3.807, 9.203, 12.301, 13.301, 14.205-2, 14.409-1, 15.404-4, 31.002, 31.205-17, 36.606, 42.705-1, 46.202-4, 51.101, 52.212-3, 52.213-4, 52.219-21, and 52.222-44.

Dated: February 1, 2002.

Al Matera,

Director, Acquisition Policy Division.

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