

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Circular 2001–14; Introduction

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

ACTION: Summary presentation of final rules and technical amendments.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in this Federal Acquisition Circular (FAC) 2001–14. A companion document, the Small Entity Compliance Guide (SECG), follows this FAC. The FAC, including the SECG, is available via 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 2001–14 and specific FAR case number(s). Interested parties may also visit our Web site at <http://www.arnet.gov/far>.

Item	Subject	FAR case	Analyst
I	Geographic Use of the Term “United States”	1999–400	Davis.
II	Miscellaneous Cost Principles	2001–029	Loeb.
III	Prompt Payment Under Cost-Reimbursement Contracts for Services	2000–308	Loeb.
IV	Electronic Signatures	2000–304	Smith.
V	Increased Federal Prison Industries, Inc. Waiver Threshold (Interim)	2003–001	Nelson.
VI	Past Performance Evaluation of Federal Prison Industries Contracts	2001–035	Smith.
VII	Contract Terms and Conditions Required to Implement Statute or Executive Orders—Commercial Items.	2000–009	Moss.
VIII	Technical Amendments.		

SUPPLEMENTARY INFORMATION:

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.

FAC 2001–14 amends the FAR as specified below:

Item I—Geographic Use of the Term “United States” (FAR Case 1999–400)

This final rule amends the FAR to clarify the use of the term “United States,” when used in a geographic sense. The term “United States” is defined in FAR 2.101 to include the 50 States and the District of Columbia. Where a wider area of applicability is intended, the term is redefined in the appropriate part or subpart of the FAR, or supplemented by listing the additional areas of applicability each time the term is used. This rule corrects and updates references to the United States throughout the FAR, including a new definition of “outlying areas” of the United States, a term that encompasses the named outlying commonwealths, territories, and minor outlying islands.

Item II—Miscellaneous Cost Principles (FAR Case 2001–029)

This final rule amends the FAR by deleting the cost principle at FAR 31.205–45, Transportation costs, and streamlining the cost principles at FAR 31.205–10, Cost of money; FAR 31.205–28, Other business expenses; and FAR

31.205–48, Deferred research and development costs. The rule will only affect contracting officers that are required by a contract clause to use cost principles for the determination, negotiation, or allowance of contract costs.

Item III—Prompt Payment Under Cost-Reimbursement Contracts for Services (FAR Case 2000–308)

The interim rule published in the **Federal Register** at 66 FR 53485, October 22, 2001, is converted to a final rule, without change, to implement statutory and regulatory changes related to late payment of an interim payment under a cost-reimbursement contract for services. The rule is of special interest to contracting officers that award or administer these type of contracts.

The **Federal Register** notice published in conjunction with the FAR interim rule stated that “The policy and clause apply to all covered contracts awarded on or after December 15, 2000 * * * agencies may apply the FAR changes made by this rule to contracts awarded prior to December 15, 2000, at their discretion * * *.” This was consistent with OMB regulations. Subsequently, as a result of enactment of the National Defense Authorization Act for Fiscal Year 2002 (Pub. L. 107–107) on December 28, 2001, agencies no longer have this discretion. Section 1007 of Public Law 107–107 states that this policy applies to cost-reimbursement contracts for services awarded before,

on, or after December 15, 2000. Section 1007 retains the prohibition against payment of late payment interest penalty for any period prior to December 15, 2000.

Item IV—Electronic Signatures (FAR Case 2000–304)

Recent laws eliminate legal barriers to using electronic technology in business transactions, such as the formation and signing of contracts. This final rule furthers Government participation in electronic commerce when conducting Government procurements by adding a statement at FAR Subpart 4.5, Electronic Commerce in Contracting, clarifying that agencies are permitted to accept electronic signatures and records in connection with Government contracts.

Item V—Increased Federal Prison Industries, Inc. Waiver Threshold (FAR Case 2003–001)

This interim rule revises the Federal Acquisition Regulation to increase the Federal Prison Industries, Inc.’s (FPI) clearance exception threshold at 8.606(e) from \$25 to \$2,500 and eliminates the criterion that delivery is required within 10 days. Federal agencies will not be required to make purchases from FPI of products on FPI’s Schedule that are at or below this threshold.

Item VI—Past Performance Evaluation of Federal Prison Industries Contracts (FAR Case 2001–035)

This final rule requires agencies to evaluate Federal Prison Industries (FPI) contract performance. This change will permit Federal customers to rate FPI performance, compare FPI to private sector providers, and give FPI important feedback on previously awarded contracts. It is expected that this change will give FPI the same opportunity that we give private sector providers, to improve their customer satisfaction, in general, and their performance on delivery, price, and quality, specifically.

Item VII—Contract Terms and Conditions Required to Implement Statute or Executive Orders—Commercial Items (FAR Case 2000–009)

This final rule amends the clause at 52.212–5, Contract Terms and Conditions Required to Implement Statute or Executive Orders—Commercial Items, to ensure that required statutes enacted subsequent to FASA that contain civil or criminal penalties or specifically cite their applicability to commercial items are included on the list, and to ensure that any post-FASA items that did not meet this criteria are deleted from the list. In addition, the pre-FASA clauses and alternates that were inadvertently left off the list are added. The date of each clause is added to the list to identify what revision of the listed clause applies when this clause is added to a contract.

Item VIII—Technical Amendments

These amendments update references and make editorial changes at FAR 52.213–4(a)(2)(vi), 52.244–6 section and clause headings, and 52.247–64(a).

Dated: May 13, 2003.

Laura G. Smith,

Director, Acquisition Policy Division.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 2001–14 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 2001–14 are effective June 23, 2003, except for Items III, V and VIII which are effective May 22, 2003.

Dated: May 9, 2003.

Deidre A. Lee,

Director, Defense Procurement and Acquisition Policy.

Dated: May 5, 2003.

David A. Drabkin,
Deputy of Acquisition Policy, General Services Administration.

Dated: May 5, 2003.

Tom Luedtke,
Assistant Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. 03–12300 Filed 5–21–03; 8:45 am]

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DEPARTMENT OF DEFENSE

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48 CFR Parts 2, 3, 4, 5, 6, 8, 9, 14, 19, 22, 23, 25, 26, 28, 29, 31, 35, 36, 42, 45, 47, 52, and 53

[FAC 2001–14; FAR Case 1999–400; Item I]

RIN 9000–AI99

Federal Acquisition Regulation; Geographic Use of the Term “United States”

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 (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to clarify the use of the term “United States” in the FAR, in accordance with the FAR Drafting Guide.

DATES: *Effective Date:* June 23, 2003.

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. Cecelia Davis, Procurement Analyst, at (202) 219–0202. Please cite FAC 2001–14, FAR case 1999–400.

SUPPLEMENTARY INFORMATION:

A. Background

This rule amends the FAR to clarify the use of the term “United States,” when used in a geographic sense. The term “United States” is defined in FAR 2.101 to include the 50 States and the District of Columbia. Where a wider area of applicability is intended, the term is redefined in the appropriate part

or subpart of the FAR, or supplemented by listing the additional areas of applicability each time the term is used. This rule corrects and updates references to the United States throughout the FAR, including a new definition of “outlying areas” of the United States, a term that encompasses all outlying commonwealths, territories, and minor outlying islands.

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 66 FR 39230, July 27, 2001. No public comments were received. The Councils have agreed to convert the proposed rule to a final rule with only minor editorial changes.

This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not 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 rule simply standardizes terminology and clarifies existing meaning. This rule is not intended to make policy changes.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 2, 3, 4, 5, 6, 8, 9, 14, 19, 22, 23, 25, 26, 28, 29, 31, 35, 36, 42, 45, 47, 52, and 53

Government procurement.

Dated: May 13, 2003.

Laura G. Smith,

Director, Acquisition Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 2, 3, 4, 5, 6, 8, 9, 14, 19, 22, 23, 25, 26, 28, 29, 31, 35, 36, 42, 45, 47, 52, and 53 as set forth below:

■ 1. The authority citation for 48 CFR parts 2, 3, 4, 5, 6, 8, 9, 14, 19, 22, 23, 25, 26, 28, 29, 31, 35, 36, 42, 45, 47, 52, and 53 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).