



# Federal Register

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**Tuesday,  
March 18, 2003**

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**Part IV**

**Department of  
Defense**

**General Services  
Administration**

**National Aeronautics  
and Space  
Administration**

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**48 CFR Chapter 1, et al.  
Federal Acquisition Regulations; Final  
Rules**

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Chapter 1**

**Federal Acquisition Circular 2001–13; Introduction**

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

**ACTION:** Summary presentation of final rules.

**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) 2001–13. 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 2001–13 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 .....	Contract Types for Commercial Item Acquisitions .....	2000–013	Moss
II .....	Preference for U.S.-Flag Vessels—Subcontracts for Commercial Items .....	1999–024	Klein
III .....	Federal, State, and Local Taxes .....	2000–016	De Stefano
IV .....	Progress Payment Requests .....	2001–006	De Stefano

**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 2001–13 amends the FAR as specified below:

**Item I—Contract Types for Commercial Item Acquisitions (FAR Case 2000–013)**

This final rule amends FAR 12.207, 16.202–1, and 16.203–1 to indicate that award fee and performance or delivery incentives based solely on factors other than cost may be used in conjunction with firm-fixed-price (FFP) contracts and fixed-price contracts with economic price adjustment (FP/EPA) without changing the FFP or FP/EPA nature of the contract. A cross reference to these sections is added to FAR 12.207 to ensure clarity of the revisions relative to commercial item acquisitions.

**Item II—Preference for U.S.-Flag Vessels—Subcontracts for Commercial Items (FAR Case 1999–024)**

This final rule amends FAR Parts 12, 32, 47, and associated clauses to limit the types of subcontracts for which the waiver of cargo preference statutes is applicable. The rule is intended to ensure compliance with cargo preference statutes if ocean cargoes are clearly destined for Government use, while avoiding disruption of commercial delivery systems. This final rule also amends FAR Part 12 by adding 10 U.S.C. 2631, Transportation of Supplies by Sea, to the list of laws

inapplicable to subcontracts for the acquisition of commercial items (except for certain subcontracts). FAR Subpart 47.5 and the clause at FAR 52.247–64 do not generally apply to acquisitions by the Department of Defense.

**Item III—Federal, State, and Local Taxes (FAR Case 2000–016)**

This final rule amends the FAR to clarify the prescriptions at FAR 29.401 for use of FAR clauses pertaining to Federal, State, and local taxes. These clauses, 52.229–3, Federal, State, and Local Taxes; and 52.229–4, Federal, State, and Local Taxes (State and Local Adjustments), are also updated to reflect information previously contained in the clause at FAR 52.229–5, Taxes—Contracts Performed in U.S. Possessions or Puerto Rico. FAR clause 52.229–5 is removed.

**Item IV—Progress Payment Requests Under Indefinite-Delivery Contracts (FAR Case 2001–006)**

This final rule amends the Federal Acquisition Regulation (FAR) to require, under indefinite-delivery contracts, the contractor to account for and submit progress payment requests under individual orders as if each order constitutes a separate contract, unless otherwise specified in the contract. The rule is of special interest to contracting officers that administer indefinite-delivery contracts.

Dated: March 12, 2003.

**Laura G. Smith,**  
*Director, Acquisition Policy Division.*

**Federal Acquisition Circular**

Federal Acquisition Circular (FAC) 2001–13 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 2001–13 are effective April 17, 2003.

Dated: March 10, 2003.

**Deidre A. Lee,**  
*Director, Defense Procurement and Acquisition Policy.*

Dated: March 3, 2003.

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

Dated: February 28, 2003.

**Tom Luedtke,**  
*Assistant Administrator for Procurement, National Aeronautics and Space Administration.*  
[FR Doc. 03–6371 Filed 3–17–03; 8:45 am]

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