

**Authority:** 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

**PART 32—CONTRACT FINANCING**

2. Amend section 32.503–5 by adding a sentence to the end of paragraph (c) to read as follows:

**32.503–5 Administration of progress payments.**

\* \* \* \* \*  
 (c) \* \* \* When the contract will be administered by an agency other than the awarding agency, the contracting officer shall coordinate with the contract administration office if the awarding agency wants the administration of progress payments to be on a basis other than order—by—order.

**PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

- 3. Amend section 52.232–16 by—
  - a. Revising the date of the clause;
  - b. Adding paragraph (m);
  - c. Revising the date and introductory text of Alternate II;
  - d. Redesignating paragraphs (m) and (n) of Alternate II as (n) and (o), respectively;
  - e. Revising the introductory text of the newly designated paragraph (n), and paragraph (n)(3);
  - f. Revising the date and the introductory text of Alternate III; and
  - g. Redesignating paragraph (m) of Alternate III as paragraph (n).

**52.232–16 Progress Payments.**

\* \* \* \* \*

**Progress Payments (April 2003)**

\* \* \* \* \*

(m) *Progress payments under indefinite—delivery contracts.* The Contractor shall account for and submit progress payment

requests under individual orders as if the order constituted a separate contract, unless otherwise specified in this contract. (End of clause)

\* \* \* \* \*

*Alternate II (Apr 2003).* If the contract is a letter contract, add paragraphs (n) and (o). The amount specified in paragraph (o) shall not exceed 80 percent of the maximum liability of the Government under the letter contract. The contracting officer may specify separate limits for separate parts of the work.

(n) The Contracting Officer will liquidate progress payments made under this letter contract, unless previously liquidated under paragraph (b) of this clause, using the following procedures:

- (1) \* \* \*
- (2) \* \* \*

(3) If this letter contract is partly terminated and partly superseded by a contract, the Government will allocate the unliquidated progress payments to the terminated and unterminated portions as the Government deems equitable, and will liquidate each portion under the relevant procedure in paragraphs (n)(1) and (n)(2) of this clause.

\* \* \* \* \*

*Alternate III (Apr 2003).* As prescribed in 32.502–4(d), add the following paragraph (n) to the basic clause. If Alternate II is also being used, redesignate the following paragraph as paragraph (p):

\* \* \* \* \*

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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 the rules appearing in Federal Acquisition Circular (FAC) 2001–13 which amends 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 2001–13 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 2001–13**

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

**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.*

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