

(ii) Ordinarily within 30 days of the submission of the Contractor's payment request to the Government.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 7 and 19

[FAC 2001-10; Item V]

Federal Acquisition Regulation; Technical Amendments

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

ACTION: Final rule.

SUMMARY: This document makes amendments to the Federal Acquisition Regulation (FAR) in order to update references and make editorial changes.

DATES: *Effective Date:* November 22, 2002.

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. Please cite FAC 2001-10, Technical Amendments.

List of Subjects in 48 CFR Parts 7 and 19

Government procurement.

Dated: November 12, 2002.

Al Matera,
Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 7 and 19 as set forth below:

1. The authority citation for 48 CFR parts 7 and 19 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 7—ACQUISITION PLANNING

2. Amend section 7.105 by adding a sentence to the end of paragraph (b)(4)(i) to read as follows:

7.105 Contents of written acquisition plans.

* * * * *

(b) * * *

(4) *Acquisition considerations.* (i)

* * * Provide rationale if a performance-based contract will not be used or if a performance-based contract for services is contemplated on other than a firm-fixed-price basis (see 37.102(a) and 16.505(a)(3)).

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PART 19—SMALL BUSINESS PROGRAMS

19.502-2 [Amended]

3. Amend section 19.502-2 in the first sentence of paragraph (a) by removing “13.202(g)” and adding “13.201(g)” 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) 2001-10 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 2001-10 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 2001-10

Item	Subject	FAR case	Analyst
I	General Records Schedule	2002-016	Nelson
II	Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal And Federally Funded Construction Projects.	2001-016	Nelson
III	Caribbean Basin Country End Products	2000-306	Davis
IV	Financing Policies	2000-007	Olson
V	Technical Amendments.		

Item I—General Records Schedule (FAR Case 2002-016)

This final rule amends the FAR to reflect the previous language of FAR 4.705-2 exactly as it was written prior to revision of this subsection by FAC 97-18, Item IV, General Records Schedule (FAR case 1999-615) published in the **Federal Register** on

June 6, 2000 (65 FR 36012). It was brought to the attention of the Councils that the prior change to FAR 4.705-2 made in FAC 97-18 inadvertently resulted in longer record retention periods for contractors and subcontractors. This final rule—

- Revises the subsection title of FAR 4.705-2 to read “Pay administration

records” instead of “Construction contract pay administration records,” thus, making all record retention requirements in the entire subsection applicable to all contracts rather than limiting it to construction contracts;

- Revises FAR 4.705-2(a) to change from a record retention period of 3 years after completion of contract unless

contract performance is the subject of enforcement action, to 4 years after generation of the records.

For the period from June 6, 2000, through the effective date of this final rule, compliance with either the record retention requirements contained in this rule or the requirements published in FAC 97-18 is acceptable.

Item II—Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects (FAR Case 2001-016)

This final rule terminates the stay and adopts the May 16, 2001, interim rule as final without change. The rule amends FAR parts 17, 22, and 36 to implement Executive Order 13202, as amended by Executive Order 13208. Contracting officers, or any construction manager acting on behalf of the Government, may not require or prohibit offerors, contractors, or subcontractors from entering into or adhering to project labor agreements with one or more labor organizations. It also permits agency heads to exempt a project from the requirements of the Executive order under special circumstances, but the exemption may not be related to the

possibility of, or an actual, labor dispute.

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

The interim rule published in the **Federal Register** as Item V of FAC 2001-04 (67 FR 6116, February 8, 2002), is converted to a final rule with changes. The interim rule implemented the determination of the United States Trade Representative (USTR) to extend the treatment of certain end products, from countries designated by the President as beneficiaries under the Caribbean Basin Economic Recovery Act, as eligible products under the Trade Agreements Act, with the exception of end products from the Dominican Republic, Honduras, and Panama. It also implemented Section 211 of the United States—Caribbean Basin Trade Partnership Act and the determination of the USTR as to which countries qualify for the enhanced trade benefits under that Act. However, on July 12, 2002, the USTR published a notice in the **Federal Register** to reinstate the treatment on Government procurement of products from Honduras. The notice stated that products of Honduras shall be treated as eligible products for purposes of section 1-101 of Executive Order 12260. Such treatment shall not apply to products

originating in Honduras that are excluded from duty-free treatment under 19 U.S.C. 2703(b). The determination to reinstate Honduras as published by the USTR has been incorporated in this final rule.

Item IV—Financing Policies (FAR Case 2000-007)

This final rule revises certain financing policies at FAR part 32, Contract Financing, and related contract provisions at FAR part 52. The rule—

- Removes the restriction on use of performance-based payments on fixed-price contracts prior to definitization; and
- Permits large businesses, in their billings to the Government, to include certain vendor and subcontractor costs that have been incurred, but not actually paid, provided that, ordinarily, they pay the subcontractor within 30 days.

Item V—Technical Amendments

These amendments update references and make editorial changes at FAR 7.105(b)(4)(i) and 19.502-2(a).

Dated: November 12, 2002.

Al Matera,

Director, Acquisition Policy Division.

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