



Federal Register

**Monday,
April 5, 2004**

Part II

**Department of
Defense
General Services
Administration
National Aeronautics
and Space
Administration**

**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 2001–22; Introduction

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

ACTION: Summary presentation of final and interim rules, and technical amendments and corrections.

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) 2001–22. 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, at (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 2001–22 and specific FAR case number(s). Interested parties may also visit our website at <http://www.arnet.gov/far>.

Item	Subject	FAR case	Analyst
I	Government Property Disposal	1995–013	Parnell
II	General Provisions of the Cost Principles	2001–034	Loeb
III	Unique Contract and Order Identifier Numbers	2002–025	Zaffos
IV	Unsolicited Proposals	2002–027	Wise
V	New Mexico Tax—United States Missile Defense Agency	2003–020	Loeb
VI	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 2001–22 amends the FAR as specified below:

Item I—Government Property Disposal (FAR Case 1995–013)

This final rule amends FAR Parts 1, 2, 8, 45, 49, 52, and 53 to simplify procedures, reduce recordkeeping, and eliminate requirements related to the disposition of Government property in the possession of contractors.

Item II—General Provisions of the Cost Principles (FAR Case 2001–034)

This final rule amends the FAR to revise certain general provisions of the cost principles contained at FAR 31.201–1, Composition of total cost; FAR 31.201–2, Determining allowability; FAR 31.202, Direct costs; and FAR 31.203, Indirect costs. The rule revises the cost principles by improving clarity and structure, and removing unnecessary and duplicative language. The final rule also adds the definition of “direct cost” and revises the definition of “indirect cost” at FAR 2.101, Definitions, to be consistent with the terminology used in the cost accounting standards (CAS). The case was initiated as a result of comments and recommendations received from industry and Government representatives during a series of public meetings. This rule is of particular

interest to contractors and contracting officers who use cost analysis to price contracts and modifications, and who determine or negotiate reasonable costs in accordance with a clause of a contract, e.g., price revision of fixed-price incentive contracts, terminated contracts, or indirect cost rates.

Item III—Unique Contract and Order Identifier Numbers (FAR Case 2002–025)

The interim rule published in the **Federal Register** at 68 FR 56679, October 1, 2003, is converted to a final rule, without change, to require each reporting agency to assign a unique procurement instrument identifier (PIID) for every contract, purchase order, BOA, Basic Agreement, and BPA reported to the Federal Procurement Data System; and to have in place a process that will ensure that each PIID reported to FPDS is unique, Governmentwide, and will remain so for at least 20 years from the date of contract award.

Item IV—Unsolicited Proposals (FAR Case 2002–027)

This final rule amends the FAR to implement section 834 of the Homeland Security Act of 2002 (Pub. L. 107–296). Section 834 adds new considerations concerning the submission, receipt, evaluation, and acceptance or rejection of unsolicited proposals. The rule will require that a valid unsolicited proposal not address a previously published agency requirement. It also requires that, before initiating a comprehensive evaluation, the agency must determine

that the proposal contains sufficient cost related or price related information for evaluation, and that it has overall scientific, technical, or socioeconomic merit.

Item V—New Mexico Tax—United States Missile Defense Agency (FAR Case 2003–020)

This final rule amends FAR 29.401–4(c) to incorporate the Defense Missile Agency as a participating agency within the terms and conditions stipulated in FAR 29.401–4, New Mexico Gross Receipts and Compensating Tax. This provision aims to eliminate the double taxation of Government cost reimbursement contracts when contractors and their subcontractors purchase tangible personal property to be used in performing services in the State of New Mexico and for which such property will pass to the United States.

Item VI—Technical Amendments

This amendment makes editorial changes at FAR 52.212–5(b)(24) and 52.213–4(a)(1)(iv).

Dated: March 26, 2004.

Laura Auletta,
Director, Acquisition Policy Division.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 2001–22 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 2001–22 are effective April 5, 2004, except for Items I, II, and IV which are effective May 5, 2004.

Dated: March 26, 2004.

Deidre A. Lee,

Director, Defense Procurement and Acquisition Policy.

Dated: March 19, 2004.

David A. Drabkin,

Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration.

Dated: March 19, 2004.

Anne Guenther,

Acting Assistant Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. 04–7404 Filed 4–2–04; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 2, 8, 45, 49, 52, and 53

[FAC 2001–22; FAR Case 1995–013; Item I]

RIN 9000–AH60

Federal Acquisition Regulation; Government Property Disposal

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 simplify procedures, reduce recordkeeping, and eliminate requirements related to the disposition of Government property in the possession of contractors.

DATES: *Effective Date:* May 5, 2004.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Ms. Jeritta Parnell, Procurement Analyst, at (202) 501–4082. Please cite FAC 2001–22, FAR case 1995–013.

SUPPLEMENTARY INFORMATION:

A. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 65 FR 1438, January 10, 2000, to simplify the management and disposition of Government property in the possession of contractors. The FAR Council agreed to publish a final rule revising FAR Subpart 45.6, entitled Reporting, Reutilization, and Disposal. Comments on the other portions of the proposed Part 45 rewrite are still being evaluated.

Forty-five respondents provided public comments. Nineteen of the forty-five respondents provided comments on the reporting, reutilization, and disposal of Government property provisions in the proposed rule, and those comments were considered in drafting the final rule. Consideration of these comments resulted in only minor changes to the rule. The streamlining of the disposal process and the reductions in reporting requirements made it imperative that we finalize this FAR subpart. The resolution of the significant categories of comments concerning reporting, reutilization, and disposal of Government property follows:

Summary of Comments Received/Disposition

PR: Proposed Rule; FR: Final Rule

1. PR: 45.001, 52.245–2, and 52.245–7. FR: 45.601, 52.245–2(i), 52.245–5(i). Recommend you revisit your definition of “sensitive property” and separate the different types of materials, similar to the separate inventory disposal schedules called for in 52.245–2(g)(3)(B)(iii) and 52.245–7(g)(3)(B)(iii). Nonconcur. Under this final rule, the inventory disposal schedules do not separate the different types of materials.

2. Allow contractors to return Government property to the Government and have the Government dispose of the property. Nonconcur. Government cost would be prohibitive if all property was returned (shipping, packing, crating & handling).

3. PR: 45.506. FR: 45.603, 45.604–2. Do not allow unilateral abandonment by the Government on contractor premises. Nonconcur. Abandonment is consistent with current policy and to do otherwise would increase costs to the Government.

4. FR: 45.605–1, 52.245–2(i)(8)(iii), 52.245–5(i)(8)(iii). Do not impose demilitarization on the contractor. Nonconcur. Items have to be demilitarized. It is more cost effective for the Government to require the contractor to perform or be responsible for demilitarization of the property on a reimbursable basis than ship the property to the Government and have

the Government demilitarize the property.

5. PR: 45.507–2(b)(1). FR: 45.606–3(b), 52.245–2(i)(8)(i), 52.245–5(i)(8)(i). Disposition of scrap. Recommend changing to 30 days. Partially concur. We revised the timeframe for disposition instructions from 60 days to 45 days.

6. PR: 52.245–2(g)(2)(i). FR: 45.602–1(c), 52.245–2(i)(2)(i), 52.245–5(i)(2)(i). Delete. The cost burden of attempting to have vendors accept “returned inventory” far out-weighs the costs saved in this exercise. Nonconcur. Government experience has shown that property is returned both before and after being reported excess to plant clearance demonstrating cost recovery (it only applies to new property). This is the current FAR requirement.

7. PR: 52.245–2(g)(4)(i). FR: 52.245–2(i)(4)(i), 52.245–5(i)(4)(i). Thirty days following the contractor’s determination that a Government property item is no longer required for performance of the contract is too frequent. Nonconcur. We believe these timeframes are reasonable and will instill discipline to the process and is consistent with commercial practices. This is an effort to expedite the process and reduce costs.

8. PR: 52.245–2(g)(5). FR: 52.245–2(i)(5), 52.245–5(i)(5). Quantity reductions found after inventory schedule has been submitted should not be grounds for rejecting an inventory schedule. Nonconcur. The contractor is expected to submit accurate inventory disposal schedules. Adjustment or rejections are based on the severity or number of errors on a particular schedule.

9. PR: 52.245–2(g)(6). FR: 52.245–2(i)(6), 52.245–5(i)(6). The proposed statement reads; “The Contractor shall provide the Plant Clearance Officer (PLCO) at least 10 working days advance written notice of its intent to remove a property item from an approved inventory disposal schedule.” Delete timeframe. Revise statement to read: “The Contractor shall provide the Plant Clearance Officer written notice of its intent to remove a property item from an approved inventory disposal schedule.” Nonconcur. The property belongs to Government agencies. The time is needed to coordinate with the owning agency. It is a Government decision to delete property off the schedule.

10. Several contractors questioned why or how the Government performed internal Government processes. Response. After reviewing these comments the Government decided the Government internal processes are appropriate as stated.