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Part III

**Department of Defense
General Services
Administration**

**National Aeronautics and
Space Administration**

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

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Circular 97-25; Introduction

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

ACTION: Summary presentation of interim 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) 97-25. 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 97-25 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	Preference for Performance-Based Contracting	2000-307	Wise.
II	Contractor Personnel in the Procurement of Information Technology Services	2000-609	Nelson.

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.

Federal Acquisition Circular 97-25 amends the FAR as specified below:

ITEM I—Preference for Performance-Based Contracting (FAR Case 2000-307)

This interim rule amends FAR 2.101, Definitions, and 37.102, Policy, to implement Section 821 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398). The rule affects contracting officers that buy services by explicitly establishing a preference for performance-based contracts or task orders.

Item II—Contractor Personnel in the Procurement of Information Technology Services (FAR Case 2000-609)

This interim rule adds FAR 39.104 to implement Section 813 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398). Section 813 prohibits the use of minimum experience or education requirements for contractor personnel in solicitations for the acquisition of information technology services, unless—

1. The contracting officer first determines that the needs of the agency cannot be met without such requirement; or
2. The needs of the agency require the use of a type of contract other than a performance-based contract.

Dated: April 27, 2001.

Al Matera,
Director, Acquisition Policy Division.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 97-25 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administration for the National Aeronautics and Space Administration.

All Federal Acquisition Regulation (FAR) changes and other directive material contained in FAC 97-25 are effective May 2, 2001.

April 5, 2001.
David A. Drabkin,
Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration.

Dated: April 25, 2001.
Deidre A. Lee,
Director, Defense Procurement.

April 6, 2001.
Tom Luedtke,
Associate Administrator for Procurement, National Aeronautics and Space Administration.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2 and 37

[FAC 97-25; FAR Case 2000-307; Item I] RIN 9000-AJ12

Federal Acquisition Regulation; Preference for Performance-Based Contracting

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

ACTION: Interim rule with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to implement Section 821 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001. The FAR rule explicitly establishes a preference for performance-based contracting when acquiring services.

DATES: Effective Date: May 2, 2001.
Comment Date: Interested parties should submit comments to the FAR Secretariat at the address shown below on or before July 2, 2001 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVP), 1800 F Street,