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Part V

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Chapter 1
Federal Acquisition Regulations; Final Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Circular 2001–11; 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.

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) 2001–11. 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 2001–11 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	Special Simplified Procedures For Purchases of Commercial Items in Excess of the Simplified Acquisition Threshold.	2002–028	Moss
II	Section 508 Micro-purchase Exception Sunset Provision	2002–012	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.

FAC 2001–11 amends the FAR as specified below:

Item I—Special Simplified Procedures for Purchases of Commercial Items in Excess of the Simplified Acquisition Threshold (FAR Case 2002–028)

This final rule amends FAR Subpart 13.5 to extend the expiration date of the test of special simplified procedures for purchases of commercial items greater than the simplified acquisition threshold but not exceeding $5,000,000 to January 1, 2004. This change implements Section 812 of the National Defense Authorization Act for Fiscal Year 2003 (Pub. L. 107–314). Section 812 amended Section 4202(e) of the Clinger-Cohen Act of 1996 (Divisions D and E of Public Law 104–106; 110 Stat. 654; 10 U.S.C. 2304 note).

Item II—Section 508 Micro-Purchase Exception Sunset Provision (FAR Case 2002–012)

This interim rule extends the Electronic and Information Technology (Section 508) micro-purchase exception to October 1, 2004. This rule is of special interest to contracting officers and other individuals designated in accordance with FAR 1.603–3.

Dated: December 20, 2002.

Jeremy F. Olson,

Acting Director, Acquisition Policy Division.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 2001–11 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 2001–11 are effective January 1, 2003.

Dated: December 20, 2002.

Deidre A. Lee,

Director, Defense Procurement and Acquisition Policy.

Dated: December 19, 2002.

David A. Drabkin,

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

Dated: December 19, 2002.

Tom Luedtke,

Assistant Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. 02–32741 Filed 12–30–02; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 13

[FAC 2001–11;FAR Case 2002–028;Item I]

RIN 9000–AJ52

Federal Acquisition Regulation; Special Simplified Procedures for Purchases of Commercial Items in Excess of the Simplified Acquisition Threshold

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 implement Section 812 of the National Defense Authorization Act for Fiscal Year 2003 (Pub. L. 107–314). Section 812 extends the test of the special simplified procedures for purchases of commercial items greater than the simplified acquisition threshold, but not exceeding $5,000,000, until January 1, 2004.

DATES: *Effective Date:* January 1, 2003.

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 Ms. Victoria Moss, Procurement Analyst, at (202) 501–4764. Please cite FAC 2001–11, FAR case 2002–028.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR Subpart 13.5 to implement Section 812 of the National Defense Authorization Act for Fiscal Year 2003 (Pub. L. 107–314). Section 812 amends Section 4202(e) of the Clinger-Cohen Act of 1996 (Divisions D and E of Pub. L. 104–106; 110 Stat. 654; 10 U.S.C. 2304 note) to extend through January 1, 2004, the expiration of the test of special simplified procedures for purchases of commercial items greater than the simplified acquisition threshold, but not exceeding $5,000,000.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule. This final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comments is not required. However, the Councils will consider comments from small entities concerning the affected FAR Part 13 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 2001–11, FAR case 2002–028), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 13

Government procurement.

Dated: December 20, 2002.

Jeremy F. Olson,

Acting Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR part 13 as set forth below:

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

1. The authority citation for 48 CFR part 13 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).

13.500 [Amended]

2. Amend section 13.500 by removing from the first sentence of paragraph (d) "January 1, 2003" and adding "January 1, 2004" in its place.

[FR Doc. 02–32742 Filed 12–30–02; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 39

[FAC 2001–11; FAR Case 2002–012; Item II]

RIN 9000–AJ53

Federal Acquisition Regulation; Section 508 Micro-Purchase Exception Sunset Provision

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 extend the electronic and information technology (Section 508) micro-purchase exception to October 1, 2004.

DATES: *Effective Date:* January 1, 2003.

Comment Date: Interested parties should submit comments to the FAR Secretariat at the address shown below on or before March 3, 2003 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVA), 1800 F Street, NW., Room 4035, Attn: Ms. Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to: *farcase.2002–012@gsa.gov.*

Please submit comments only and cite FAC 2001–11, FAR case 2002–012, in all correspondence related to this case.

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. The TTY Federal Relay Number for further information is 1–800–877–8973. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, at (202) 501–1900, or Ms. Angelena Moy, Case Manager, at (703) 602–1302. Please cite FAC 2001–11, FAR case 2002–012.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule extends the electronic and information technology (EIT) micro-purchase exception until October 1, 2004. Previously, in incorporating the Access Board standards, the FAR provided an exception from the procurement regulations for micro-purchases until January 1, 2003. The Councils fully expected that many products would conform to the standards within that timeframe and be marketed and labeled by the manufacturer accordingly. However, industry is providing products at varying levels of conformance to the standards, and product packaging does not currently provide Section 508 conformance information, in most cases.

The Government is continuing to make compliance a high priority, and the award of many Federal EIT procurements have hinged on accessibility. While the "Buy Accessible" information on the *Section508.gov* Web site is helpful, not all firms have templates completed for their products making it especially difficult for Government purchase cardholders who are not contracting officers to make informed EIT purchases through reasonable effort.

Typically, Government personnel who are not warranted contracting officers use the purchase card to purchase commercial-off-the-shelf items. Use of the purchase card makes it generally impractical to comply with the EIT accessibility standards unless commercial-off-the-shelf products are labeled for Section 508 standards compliance. The Councils recognize the fact that almost all micro-purchases are made using the Governmentwide commercial purchase cards, but also recognize that the Government purchases $52 billion per year for EIT products and services, of which only a very small percentage are acquired through the micro-purchase process with credit cards. Most Government desktop personal computers and other infrastructure are purchased and controlled through large agency acquisitions.

By October 1, 2004, we are hopeful that vendors will provide statements related to product conformance to the Section 508 standards as part of their marketing information and their outer

packaging labeling. As this occurs, Federal Government cardholders can make informed EIT purchases that conform to the Access Board's standards, and the micro-purchase exception will no longer be needed.

Without the extension of the micro-purchase exception, all micro-purchases may have to go through a special evaluation to ensure they comply with EIT Standards. EIT micro-purchases would be forwarded to contracting offices for purchase. This would significantly increase the workload in procurement offices and the finance offices, causing a reduction in efficiency and delivery (increased procurement lead-times). The potential costs to industry cannot be measured.

The Councils realized there might be some concern within the disability advocacy groups and the Government that extending the micro-purchase exemption will signal that the Government is relaxing the implementation period. That is not the case. It is only intended to deal with the small portion of EIT that is acquired with credit cards (micro-purchases) and the practical reality that the lack of package labeling, or other manufacturer accessibility information, makes informed decision making by cardholders especially difficult. To help in determining the appropriate next steps for addressing the accessibility of EIT micro-purchases, the Councils invite respondents to address the following questions in addition to providing comments on the rule.

Any and all comments related to this rule are welcomed. Note that public comments provided in response to this notice will be available in their entirety to any requester, including any requester under the Freedom of Information Act (5 U.S.C. 552). Therefore, we caution respondents not to provide proprietary or other business sensitive information. Under no circumstances should respondents provide any information unless they do so with a clear understanding that it will be made available to the public.

1. For EIT industry respondents, please include in your comments responses to the following questions:

a. What type of training is your company employing to educate your developers (hardware and software) and salespersons regarding the section 508 requirements?

b. What mechanisms or approaches should the Government consider to ensure EIT micro-purchases (products and services) are accessible?

c. Do you anticipate your company will label its EIT products with buyer information regarding the accessibility aspects of the product being offered for sale? If so, when?

d. Do you offer a complete template of accessibility information for each of your EIT products and services on your Web site? If no, why not?

e. Currently, what process does your company employ to provide information to potential Government purchasers regarding the accessibility features of the products manufactured or sold?

2. For other respondents, please include in your comments responses to the following questions:

a. What mechanisms or approaches should the Government consider to ensure EIT micro-purchases (products and services) are accessible?

b. Currently, what type of training is being employed by your organization to educate purchasers and users regarding the Section 508 requirements? Is any training specifically geared towards cardholders and micro-purchases? If so, how do you explain and communicate the Section 508 requirements?

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because for purchases under $2,500 (a "micro-purchase"), no competitive quotations have to be obtained and micro-purchases are no longer reserved exclusively for small firms. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. The Councils will consider comments from small entities concerning the affected FAR Part in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 2001–11, FAR case 2002–012), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because the rule extends an exception that would otherwise impose burdens that the Government and contractors are not prepared to meet. However, pursuant to Public Law 98–577 and FAR 1.501, the Councils will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Part 39

Government procurement.

Dated: December 20, 2002.

Jeremy F. Olson,

Acting Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR part 39 as set forth below:

PART 39—ACQUISITION OF INFORMATION TECHNOLOGY

1. The authority citation for 48 CFR part 39 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).

39.204 [Amended]

2. Amend section 39.204 in the first sentence of paragraph (a) by removing "January 1, 2003" and adding "October 1, 2004" in its place.

[FR Doc. 02–32743 Filed 12–30–02; 8:45 am]

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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) 2001–11 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 2001–11 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 2001–11

Item	Subject	FAR Case	Analyst
I	Special Simplified Procedures For Purchases Of Commercial Items in Excess of the Simplified Acquisition Threshold.	2002–028	Moss.
II	Section 508 Micro-purchase Exception Sunset Provision	2002–012	Nelson.

Item I—Special Simplified Procedures for Purchases of Commercial Items in Excess of the Simplified Acquisition Threshold (FAR Case 2002–028)

This final rule amends FAR Subpart 13.5 to extend the expiration date of the test of special simplified procedures for purchases of commercial items greater than the simplified acquisition threshold but not exceeding $5,000,000 to January 1, 2004. This change implements Section 812 of the National Defense Authorization Act for Fiscal Year 2003 (Pub. L. 107–314). Section 812 amended Section 4202(e) of the Clinger-Cohen Act of 1996 (Divisions D and E of Public Law 104–106; 110 Stat. 654; 10 U.S.C. 2304 note).

Item II—Section 508 Micro-purchase Exception Sunset Provision (FAR Case 2002–012)

This interim rule extends the Electronic and Information Technology (Section 508) micro-purchase exception to October 1, 2004. This rule is of special interest to contracting officers and other individuals designated in accordance with FAR 1.603–3.

Dated: December 20, 2002.

Jeremy F. Olson,

Acting Director, Acquisition Policy Division.

[FR Doc. 02–32740 Filed 12–30–02; 8:45 am]

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