

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket FAR 2010-0076, Sequence 10]

Federal Acquisition Regulation; Federal Acquisition Circular 2005-48; Introduction

AGENCY: Department of Defense (DoD), General Services Administration (GSA),

and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by DOD, GSA, and NASA in this Federal Acquisition Circular (FAC) 2005-48. 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.regulations.gov>.

DATES: For effective dates see separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below in relation to each FAR case. Please cite FAC 2005-48 and the specific FAR case numbers. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501-4755.

LIST OF RULES IN FAC 2005-48

Item	Subject	FAR Case	Analyst
I	Repeal of the Small Business Competitiveness Demonstration Program	2011-005	Morgan.
II	Personal Identity Verification of Contractor Personnel	2009-027	Jackson.
III	Terminating Contracts	2009-031	Parnell.
IV	Payrolls and Basic Records	2009-018	McFadden.

SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR cases, refer to the specific item number and subject set forth in the documents following these item summaries. FAC 2005-48 amends the FAR as specified below:

Item I—Repeal of the Small Business Competitiveness Demonstration Program (FAR Case 2011-005)

This final rule amends the FAR to remove FAR subpart 19.10, Small Business Competitiveness Demonstration Program. This change is necessary to address the requirements of section 1335 of the Small Business Jobs Act of 2010 (Pub. L. 111-240) which repealed the Small Business Competitiveness Demonstration Program.

This final rule also removes the following clauses: FAR 52.219-19, Small Business Concern Representation for the Small Business Competitiveness Demonstration Program; FAR 52.219-20, Notice of Emerging Small Business Set-Aside; and FAR 52.219-21, Small Business Size Representation for Targeted Industry Categories under the Small Business Competitiveness Demonstration Program.

Item II—Personal Identity Verification of Contractor Personnel (FAR Case 2009-027)

This final rule amends the FAR to provide additional regulatory coverage in subpart 4.13 and in FAR clause

52.204-9 to reinforce the requirement of collecting from contractors all forms of Government-provided identification once they are no longer needed to support a contract. The contracting officer may delay final payment under a contract if the contractor fails to comply with these requirements.

Item III— Terminating Contracts (FAR Case 2009-031)

This final rule amends the FAR to clarify procedures regarding the applicability of FAR part 49, Termination of Contracts, to commercial item contracts. Minor changes are made to the proposed rule published in the **Federal Register** at 75 FR 28228 on May 20, 2010.

The rule specifically impacts contracting officers and contractors by clarifying that FAR part 49 does not apply to the acquisition of commercial items when using procedures at FAR part 12. The rule does not have a significant economic impact on small entities because the rule does not impose any additional requirements on small businesses.

Item IV— Payrolls and Basic Records (FAR Case 2009-018)

This rule adopts as final, with a minor change, the interim rule published in the **Federal Register** at 75 FR 34286 on June 16, 2010. The interim rule amended the FAR at 52.222-8, Payrolls and Basic Records to delete the requirement for submission of full social security numbers and home addresses of individual workers on weekly payroll

transmittals by prime contractors. The rule requires contractors and subcontractors to maintain the full social security number and current address of each covered worker, and provide them upon request to the contracting officer, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. The rule recognizes the Department of Labor's finding that complete social security numbers and home addresses for individual workers are personal information to the worker and that any unnecessary disclosure and submittal of such information creates an exposure to identity theft and the invasion of privacy for workers.

Dated: December 22, 2010.
 Millisa Gary,
 Acting Director, Federal Acquisition Policy Division.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 2005-48 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 2005-48 is effective December 30, 2010, except for Items I, II, and III which are effective January 31, 2011.

Dated: December 22, 2010.

Shay D. Assad,

Director, Defense Procurement and Acquisition Policy.

Dated: December 22, 2010.

Joseph A. Neurauter,

Deputy Associate Administrator and Senior Procurement Executive, Office of General Services Acquisition Policy, Integrity, and Workforce, U.S. General Services Administration.

Dated: December 21, 2010.

Sheryl J. Goddard,

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

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DEPARTMENT OF DEFENSE

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 4, 12, 19, 22, 52, and 53

[FAC 2005-48; FAR Case 2011-005; Item I; Docket 2010-0112, Sequence 1]

RIN 9000-AL87

Federal Acquisition Regulation; Repeal of the Small Business Competitiveness Demonstration Program

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

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to remove FAR coverage of the Small Business Competitiveness Demonstration Program, to meet the requirements of section 1335 of the Small Business Jobs Act of 2010.

DATES: *Effective Date:* January 31, 2011.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Karlos Morgan, Procurement Analyst, at (202) 501-2364. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501-4755. Please cite FAC 2005-48, FAR Case 2011-005.

SUPPLEMENTARY INFORMATION:

I. Background

This final rule amends the FAR to delete subpart 19.10 to meet the requirements of section 1335 of the Small Business Jobs Act of 2010 (Pub.

L. 111-240), referred to as the Act. Section 1335 of the Act amended the Business Opportunity Development Reform Act of 1988 (Pub. L. 100-656) by striking Title VII (15 U.S.C. 644 note), the Small Business Competitiveness Demonstration Program. In accordance with the Act, the repeal of the Small Business Competitiveness Demonstration Program became immediately effective upon the enactment of the Act and it will apply to the first full fiscal year after the September 27, 2010, date of enactment. This change will remove the policy, procedures, provisions, clauses, and the information collection and recordkeeping requirements associated with the Small Business Competitiveness Demonstration Program, and will update forms deleting any references to the program.

II. Executive Order 12866

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.

III. 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 1.501-3(a) and 41 U.S.C. 418b, and publication for public comments is not required.

IV. Paperwork Reduction Act

The final rule removes the information collection requirements associated with the Small Business Competitiveness Demonstration Program under OMB Clearance 9000-0100, and does not contain any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. chapter 35.

List of Subjects in 48 CFR Parts 1, 4, 12, 19, 22, 52, and 53

Government procurement.

Dated: December 22, 2010.

Millisa Gary,

Acting Director, Federal Acquisition Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 1, 4, 12, 19, 22, 52, and 53 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 4, 12, 19, 22, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

■ 2. Amend section 1.106, in the table following the introductory paragraph, by removing FAR segments 52.219-19, 52.219-20, and 52.219-21, and their corresponding OMB Control Number 9000-0100.

PART 4—ADMINISTRATIVE MATTERS

■ 3. Amend section 4.603 by revising paragraph (b) to read as follows:

4.603 Policy.

* * * * *

(b) Executive agencies shall use FPDS to maintain publicly available information about all contract actions exceeding the micro-purchase threshold, and any modifications to those actions that change previously reported contract action report data, regardless of dollar value.

* * * * *

4.606 [Amended]

■ 4. Amend section 4.606 by removing paragraph (a)(2); and redesignating paragraphs (a)(3) and (a)(4) as paragraphs (a)(2) and (a)(3), respectively.

4.1202 [Amended]

■ 5. Amend section 4.1202 by removing paragraphs (k) and (l); and redesignating paragraphs (m) through (ee) as paragraphs (k) through (cc), respectively.

PART 12—ACQUISITION OF COMMERCIAL ITEMS

12.303 [Amended]

■ 6. Amend section 12.303 by removing from the end of paragraph (b)(1) “, or if set aside for emerging small businesses”.

12.603 [Amended]

■ 7. Amend section 12.603 by removing the second sentence of paragraph (c)(2)(iv).

PART 19—SMALL BUSINESS PROGRAMS

19.304 [Amended]

■ 8. Amend section 19.304 by removing from the first sentence in the introductory text in paragraph (c) “52.212-3(c)(9)” and adding “52.212-3(c)(8)” in its place.

■ 9. Amend section 19.502-2 by revising the last sentence in paragraph (a); and by removing paragraph (d).

The revised text reads as follows: