

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Chapter 1**

[Docket FAR 2011–0077, Sequence 4]

**Federal Acquisition Regulation; Federal Acquisition Circular 2005–52; Small Entity Compliance Guide**

**AGENCY:** 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 DOD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 2005–52, which amend the Federal Acquisition Regulation (FAR). Interested parties may obtain further information regarding these rules by referring to FAC 2005–52,

which precedes this document. These documents are also 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. Please cite FAC 2005–52 and the specific FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755.

**LIST OF RULES IN FAC 2005–52**

Item	Subject	FAR Case	Analyst
I .....	Sustainable Acquisition .....	2010–001	Clark.
II .....	Contract Closeout .....	2008–020	McFadden.
III .....	Prohibition on Contracting with Inverted Domestic Corporations .....	2008–009	Davis.
IV .....	Buy American Exemption for Commercial Information Technology—Construction Material .....	2009–039	Davis.
V .....	Oversight of Contractor Ethics Programs .....	2010–017	Robinson.
VI .....	Technical Amendments.		

**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 numbers and subject set forth in the documents following these item summaries. FAC 2005–52 amends the FAR as specified below:

**Item I—Sustainable Acquisition (FAR Case 2010–001) (Interim)**

This interim rule amends the FAR to implement Executive Order 13514, Federal Leadership in Environmental, Energy, and Economic Performance, and Executive Order 13423, Strengthening Federal Environmental, Energy, and Transportation Management. It requires Federal agencies to leverage agency acquisitions to foster markets for sustainable technologies, materials, products, and services. Federal agencies are additionally required to implement high-performance sustainable building design, construction, renovation, repair, commissioning, operation and maintenance, management, and deconstruction practices in applicable acquisitions. Contractors will be required to support the goals of an agency’s environmental management system.

**Item II—Contract Closeout (FAR Case 2008–020)**

This final rule amends the FAR procedures for closing out contracts. A proposed rule was published August 20,

2009. This rule revises procedures and sets forth a timeframe for clearing final patent reports; updates quick-closeout procedures, including applicable thresholds; sets forth a description of an adequate final indirect cost rate proposal and supporting data; and adds language for withholding fees to protect the Government’s interest and encourage timely submissions of an adequate final indirect cost rate proposal. The rule does not impose any additional requirements on small businesses.

**Item III—Prohibition on Contracting With Inverted Domestic Corporations (FAR Case 2008–009)**

This final rule implements section 740 of Division C of the Consolidated Appropriations Act, 2010 (Pub. L. 111–117) and similar restrictions in 2008 and 2009 appropriations acts, which prohibit the award of contracts using appropriated funds to any foreign incorporated entity that is treated as an inverted domestic corporation or to any subsidiary of one, except as permitted in specific exceptions as set forth in the rule. The rule does not impose any requirements on small businesses.

**Item IV—Buy American Exemption for Commercial Information Technology—Construction Material (FAR Case 2009–039)**

This rule adopts as final, without change, an interim rule. The interim rule amended the FAR to implement

section 615 of Division C, Title VI, of the Consolidated Appropriations Act, 2010 (Pub. L. 111–117). Section 615 authorizes exemption from the Buy American Act for acquisition of information technology that is a commercial item.

**Item V—Oversight of Contractor Ethics Programs (FAR Case 2010–017)**

This final rule modifies FAR 42.302, Contract Administration Functions, to add to the list of contract administration functions, the function of ensuring that contractors have implemented FAR 52.203–13, Contractor Code of Business Ethics and Conduct.

Contracting officers may ask to see a contractor’s code of ethics or a contractor’s ethics program, but the contracting officer is not required to ask for a copy of any documents.

**Item VI—Technical Amendments**

Editorial changes are made at FAR 52.212–3, 53.301–1447, 53.301–1449, and 52.302–347.

Dated: May 18, 2011.

**Millisa Gary,**

*Acting Director, Office of Governmentwide Acquisition Policy.*

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