

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Chapter 1**

[Docket No. FAR 2018–0001, Sequence No. 3]

**Federal Acquisition Regulation: Federal Acquisition Circular 2005–99; Introduction**

**AGENCY:** 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 (Councils) in this Federal Acquisition Circular (FAC) 2005–99. 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 the separate documents, which follow.

**FOR FURTHER INFORMATION CONTACT:** The analyst whose name appears in the table below in relation to the FAR case. Please cite FAC 2005–99 and the specific FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755.

**RULES LISTED IN FAC 2005–99**

Item	Subject	FAR case	Analyst
I .....	Use of Products and Services of Kaspersky Lab (Interim) .....	2018–010	Francis.
II .....	Violations of Arms Control Treaties or Agreements with the United States (Interim) .....	2017–018	Davis.

**SUPPLEMENTARY INFORMATION:**

Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005–99 amends the FAR as follows:

**Item I—Use of Products and Services of Kaspersky Lab (FAR Case 2018–010)**

This interim rule amends the Federal Acquisition Regulation (FAR) to implement section 1634 of Division A of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2018 (Pub. L. 115–91). Section 1634 of this law prohibits the Federal Government’s use on or after October 1, 2018, of hardware, software, and services developed or provided, in whole or in part, by Kaspersky Lab or related entities.

To implement section 1634, the clause at 52.204–23 prohibits contractors from providing any hardware, software, or services developed or provided by Kaspersky Lab or its related entities, or using any such hardware, software, or services in the development of data or deliverables first produced in the performance of the contract. The contractor must also report any such hardware, software, or services discovered during contract performance; this requirement flows down to subcontractors.

This rule applies to all acquisitions, including acquisitions at or below the simplified acquisition threshold and to acquisitions of commercial items, including commercially available off-the-shelf items. It may have a significant

economic impact on a substantial number of small entities.

This interim rule is being implemented as a national security measure to protect Government information and information systems.

**Item II—Violations of Arms Control Treaties or Agreements With the United States (FAR Case 2017–018)**

This interim rule amends the Federal Acquisition Regulation (FAR) to implement section 1290 of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114–328, codified at 22 U.S.C. 2593e), which addresses measures against persons involved in activities that violate arms control treaties or agreements with the United States. The interim rule adds a certification provision in each solicitation for the acquisition of products or services (including construction) that exceeds the simplified acquisition threshold, except for solicitations for the acquisition of commercial items.

This interim rule will not have a significant economic impact on a substantial number of small entities.

Dated: June 7, 2018.

**William F. Clark,**

*Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.*

Federal Acquisition Circular (FAC) 2005–99 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 2005–99 is effective June 15, 2018 except for item I, which is effective July 16, 2018.

Dated: June 11, 2018.

**Linda W. Neilson,**

*Deputy Director, Defense Procurement and Acquisition Policy (Defense Acquisition Regulations System).*

Dated: June 8, 2018.

**Jeffrey A. Koses,**

*Senior Procurement Executive/Deputy CAO, Office of Acquisition Policy, U.S. General Services Administration.*

Dated: June 11, 2018.

**Monica Y. Manning,**

*Assistant Administrator, Office of Procurement National Aeronautics and Space Administration.*

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