

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket FAR—2006–0023, Sequence 7]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–14; 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, and technical amendments and corrections.

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) 2005–14. 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 and comment 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 or subject area. Please cite FAC 2005–14 and specific FAR case number(s). For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755.

LIST OF RULES IN FAC 2005–14

Item	Subject	FAR case	Analyst
I	Common Identification Standard for Contractors	2005–015	Jackson.
II	Removal of Sanctions Against Certain EU Countries	2005–045	Olson.
III	Free Trade Agreements—Bahrain and Guatemala (Interim)	2006–017	Parnell.
IV	Free Trade Agreements—Morocco	2006–001	Parnell.
V	Technical Amendments		

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 2005–14 amends the FAR as specified below:

Item I—Common Identification Standard for Contractors (FAR Case 2005–015)

This rule converts the interim rule published at 71 FR 208, January 3, 2006, to a final rule with changes. The rule amends the Federal Acquisition Regulation (FAR) by addressing the contractor personal identification requirements in Homeland Security Presidential Directive (HSPD) 12, “Policy for a Common Identification Standard for Federal Employees and Contractors,” and Federal Information Processing Standards Publication (FIPS PUB) Number 201, “Personal Identity Verification (PIV) of Federal Employees and Contractors.” The primary objectives of HSPD–12 are to establish a process to enhance security, increase Government efficiency, reduce identity fraud, and protect personal privacy by establishing a mandatory, Governmentwide standard for secure and reliable forms of identification issued by the Federal Government to its employees and contractors who require routine physical access to Federally-controlled facilities, and/or routine

access to Federally-controlled information systems.

Item II—Removal of Sanctions Against Certain EU Countries (FAR Case 2005–045)

This rule converts the interim rule published at 71 FR 20305, April 19, 2006, to a final rule without change. The interim rule removed the sanctions in FAR Part 25 against Austria, Belgium, Denmark, Finland, France, Ireland, Italy, Luxembourg, the Netherlands, Sweden, and the United Kingdom on acquisitions not covered by the World Trade Organization Government Procurement Agreement. These sanctions did not apply to small business set-asides, to acquisition below the simplified acquisition threshold using simplified acquisition procedures, or to acquisitions by the Department of Defense. Contracting officers may now consider offers of end products, services, and construction that were previously prohibited by the sanctions.

Item III—Free Trade Agreements—Bahrain and Guatemala (FAR Case 2006–017) (Interim)

This interim rule allows contracting officers to purchase the goods and services of Guatemala and Bahrain without application of the Buy American Act if the acquisition is subject to the Free Trade Agreements. These trade agreements with Guatemala and Bahrain join the North American Free Trade Agreement (NAFTA), the Australia, Chile, Morocco, and

Singapore Free Trade Agreements, and the CAFTA-DR with respect to El Salvador, Honduras, and Nicaragua, which are already in the FAR. The threshold for applicability of the Dominican Republic—Central America–United States Free Trade Agreement is \$64,786 for supplies and services (the same as other Free Trade Agreements to date except Morocco and Canada) and \$7,407,000 for construction (the same as all other Free Trade Agreements to date except NAFTA). The threshold for applicability of the Bahrain Free Trade Agreement is \$193,000 (the same as the Morocco FTA and the WTO GPA) and \$8,422,165 for construction (the same as NAFTA).

Item IV—Free Trade Agreements—Morocco (FAR Case 2006–001)

This final rule converts the interim rule published in the **Federal Register** at 71 FR 20306, April 19, 2006, to a final rule without change. This rule allows contracting officers to purchase the products of Morocco without application of the Buy American Act if the acquisition is subject to the Morocco Free Trade Agreements. The U.S. Trade Representative negotiated a Free Trade Agreement with Morocco, which went into effect January 1, 2006. This agreement joins the North American Free Trade Agreement (NAFTA) and the Australia, Chile, and Singapore Free Trade Agreements, which are already in the FAR. The threshold for applicability of the Morocco Free Trade Agreement is

\$193,000 for supplies and services and \$7,407,000 for construction.

Item V—Technical Amendments

Editorial changes are made at FAR 15.404-1, 22.1006, 22.1304, 28.202, 52.212-5, 52.222-43, 52.228-15, and 52.228-16, in order to update references.

Dated: November 15, 2006.

Ralph De Stefano,

Director, Contract Policy Division.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 2005-14 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 2005-14 is effective November 22, 2006.

Dated: November 12, 2006.

Shay D. Assad,

Director, Defense Procurement and Acquisition Policy.

Dated: November 8, 2006.

Roger D. Waldron,

Acting Senior Procurement Executive, General Services Administration.

Dated: November 6, 2006.

Tom Luedtke,

Assistant 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, 4, 7, and 52

[FAC 2005-14; FAR Case 2005-015; Item I; Docket 2006-0020, Sequence 19]

RIN 9000-AJ91

Federal Acquisition Regulation; FAR Case 2005-015, Common Identification Standard for Contractors

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 to convert the interim rule published in the **Federal Register** at 71 FR 208 on January 3, 2006, to a final rule with changes. This final rule is amending the Federal Acquisition Regulation (FAR) to add the contractor personal identification requirements identified in the Homeland Security Presidential Directive (HSPD) 12, "Policy for a Common Identification Standard for Federal Employees and Contractors," and Federal Information Processing Standards (FIPS) Number 201, "Personal Identity Verification (PIV) of Federal Employees and Contractors," as amended.

DATES: *Effective Date:* November 22, 2006.

Applicability Date: This rule applies to solicitations and contracts issued or awarded on or after November 22, 2006. Contracts awarded before October 27, 2005 requiring contractors to have routine physical access to a Federally-controlled facility and/or routine access to a Federally-controlled information system must be modified to ensure that credentials are issued by October 27, 2007, pursuant to FAR Subpart 4.13 in accordance with agency implementation of FIPS PUB 201 and OMB guidance M-05-24, as amended.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Michael Jackson, Procurement Analyst, at (202) 208-4949. Please cite FAC 2005-14, FAR case 2005-015. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501-4755.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends the Federal Acquisition Regulation to require contracting officers to incorporate the requirement for contractors to comply with agency verification procedures that implement Homeland Security Presidential Directive-12 (HSPD-12), Office of Management and Budget (OMB) guidance M-05-24, and Federal Information Processing Standards Publication (FIPS PUB) Number 201 when applicable to the work to be performed under the contract.

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 71 FR 208 on January 3, 2006. The 60-day comment period for the interim rule ended March 6, 2006. Five respondents provided comments. Most comments pointed out areas of concern and language that required clarification. The substantive comments are discussed below.

Public Comments

Comment: One respondent requested the Government clarify/elaborate on the requirements to have subcontractors properly cleared.

Response: Implementation of Homeland Security Presidential Directive (HSPD) 12 required by OMB memorandum M-05-24, Policy for a Common Identification Standard for Federal Employees and Contractors, follows the Federal Information Processing Standard Publication (FIPS PUB) 201 when individuals under contract with a Federal department or agency, requiring routine access to Federally-controlled facilities and/or Federally-controlled information systems, require identity credentials consistent with existing agency security policies. The need to have contractors meet the requirements of FIPS PUB 201, including background investigations, applies equally to contractors and subcontractors to the extent that subcontractors require routine access to Federally-controlled facilities and/or Federally-controlled information systems. As such, the Councils have revised the final rule to add the term "routine" to clarify that personal identity verification does not apply to all contractors and/or subcontractors.

Comment: One respondent stated there is an overlap with Department of Defense Instruction (DoDI) 3020.41 (October 3, 2005) paragraph 6.2.7.3 which states "contingency contractor personnel shall be issued a standard Geneva Convention Card...U.S. citizens and selected other CDF will be issued a DoD Uniformed Services Identification and Privilege Card...", and points out that FAC 2005-07 requires agencies to adopt and accredit a registration process consistent with the identity proofing, registrations and accreditation requirements in section 2.2 of FIPS [PUB] 201. The respondent asks will the requirement in DoDI 3020.41 satisfy the requirements of FAC 2005-07 for providing a personal identity card for contingency contractors? The respondent also asks does FAC 2005-07 duplicate or supplement the requirement in DoDI 3020.41 or does it depend on the contingency status of the contractor?

Response: Those contingency contractor personnel who receive a common access card (CAC), including those who receive a CAC based on the eligibility for a Geneva Conventions card, must comply with the identity proofing and vetting requirements of FIPS PUB 201, as the CAC represents DoD's implementation of the Personal Identity Verification (PIV) for Federal