

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket FAR—2008—0003, Sequence 1]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–25; 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 of 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. It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 2005–25 which amend

the FAR. An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding these rules by referring to FAC 2005–25 which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Diedra Wingate, FAR Secretariat, (202) 208-4052. For clarification of content, contact the analyst whose name appears in the table below.

LIST OF RULES IN FAC 2005–25

Item	Subject	FAR case	Analyst
I	Federal Procurement Data System Reporting (Interim)	2004–038	Woodson.
II	Electronic Subcontracting Reporting System (eSRS) (Interim)	2005–040	Cundiff.
III	Revisions to the Defense Priorities and Allocations System (DPAS)	2006–033	Davis.
*IV	Use of Products Containing Recovered Materials in Service and Construction Contracts	2005–039	Clark.
V	Representations and Certifications - Tax Delinquencies	2006–011	Murphy.
VI	Enhanced Access for Small Business	2006–031	Murphy.
VII	Technical Amendment.		

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 2005–25 amends the FAR as specified below:

Item I—Federal Procurement Data System Reporting (FAR Case 2004–038) (Interim)

This interim rule amends the Federal Acquisition Regulation (FAR) Subpart 4.6 to revise the process for reporting contract actions to the Federal Procurement Data System (FPDS). FPDS will allow agencies to obtain Federal procurement reports as well as several workload reports designed specifically for first-line supervisors. The use of the Federal reports will alleviate the need for individual agencies to collect, verify, and distribute statistics for a host of requirements such as the Small Business Goaling Report (SBGR), the Performance-Based Acquisition (PBA) report, the Central Contractor Registration (CCR), and the Resource Conservation and Recovery Act (RCRA) report. The rule provides questions and answers to facilitate the public’s understanding of the changes proposed in the interim for reporting contract actions under FAR Subpart 4.6.

Item II—Electronic Subcontracting Reporting System (eSRS) (FAR Case 2005–040) (Interim)

This interim rule amends the Federal Acquisition Regulation to require that small business subcontract reports be submitted using the Electronic Subcontracting Reporting System (eSRS), rather than Standard Form 294 - Subcontract Report for Individual Contracts and Standard Form 295 - Summary Subcontract Report. The eSRS is a web-based system managed by the Integrated Acquisition Environment. The eSRS is intended to streamline the small business subcontracting program reporting process and provide the data to agencies in a manner that will enable them to more effectively manage the program.

Item III—Revisions to the Defense Priorities and Allocations System (DPAS) (FAR Case 2006–033)

This final rule amends the language in the Federal Acquisition Regulation (FAR) to reflect the President’s delegation of the Defense Production Act’s priorities and allocations authorities in Executive Order 12919, and the current provisions of the Defense Priorities and Allocations System (DPAS) regulations of the Department of Commerce in 15 CFR Part 700.

FAR changes incorporated in parts 2, 11, 18, 52, and 53 benefit both the Government and industry in the

receiving of timely and proper delivery of industrial resources. Contracting officers should take notice of the changes in the FAR especially the changes to the Standard Form (SF) 26, Award/Contract and SF 1447, Solicitation/Contract, and use the revised SF 26 and SF 1447 that reflects the 15 CFR 700 citation and 2008 edition date change.

Item IV—Use of Products Containing Recovered Materials in Service and Construction Contracts (FAR Case 2005–039)

This final rule amends the Federal Acquisition Regulation (FAR) to clarify language within the FAR regarding the use of products containing recovered materials, pursuant to the Resource Conservation and Recovery Act of 1976, and Executive Order 13101 “Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition.” The rule also prescribes a new clause for use in service or construction contracts, to ensure that contractors deliver and make maximum use of products containing recovered material.

Item V—Representations and Certifications - Tax Delinquencies (FAR Case 2006–011)

This final rule amends the Federal Acquisition Regulation (FAR) to add conditions regarding refusal to pay delinquent Federal taxes to standards of

contractor responsibility, causes for suspension and debarment, and the certifications regarding debarment, suspension, and proposed debarment. The changes are intended to add clarity regarding the specific circumstances under which tax delinquencies are so serious that suspension or debarment should be considered. The changes originated in response to a request from the Senate Permanent Subcommittee on Investigations.

Item VI—Enhanced Access for Small Business (FAR Case 2006–031)

This final rule creates a different, higher dollar ceiling enabling small businesses to use the small claims procedure for appealing a contracting officer's final decision. Section 857 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109–364) changed the ceiling under the Contract Disputes Act from \$50,000 or less to \$150,000 or less for small businesses. The ceiling remains at

\$50,000 or less for other types of businesses. The change to 41 U.S.C. 608 is a ceiling change only.

Item VII—Technical Amendment

An editorial change is made at FAR 1.603–1.

Dated: April 4, 2008.

Al Matera,

Director, Office of Acquisition Policy.

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