

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (DEC 2008) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note).
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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket FAR 2008-0003, Sequence 3]

Federal Acquisition Regulation; Federal Acquisition Circular 2005-28; 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 the rule appearing in Federal Acquisition Circular (FAC) 2005-28 which amends the FAR. An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding this rule by referring to FAC 2005-28 which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Laurieann Duarte, Regulatory Secretariat, (202) 501-4225. For clarification of content, contact the analyst whose name appears in the table below.

RULE LISTED IN FAC 2005-28

Item	Subject	FAR case	Analyst
*I	Contractor Business Ethics Compliance Program and Disclosure Requirements	2007-006	Woodson.

SUPPLEMENTARY INFORMATION: A summary of the FAR rule follows. For the actual revisions and/or amendments to this FAR case, refer to FAR Case 2007-006.

FAC 2005-28 amends the FAR as specified below: Item I—Contractor Business Ethics Compliance Program and Disclosure Requirements (FAR Case 2007-006)

This final rule amends the Federal Acquisition Regulation to amplify the requirements for a contractor code of business ethics and conduct, an internal control system, and disclosure to the Government of certain violations of

criminal law, violations of the civil False Claims Act, or significant overpayments. The rule provides for the suspension or debarment of a contractor for knowing failure by a principal to timely disclose, in writing, to the agency Office of the Inspector General, with a copy to the contracting officer, certain violations of criminal law, violations of the civil False Claims Act, or significant overpayments. The final rule implements “The Close the Contractor Fraud Loophole Act,” Public Law 110-252, Title VI, Chapter 1. The statute defines a covered contract to mean “any contract in an amount greater than

\$5,000,000 and more than 120 days in duration.” The final rule also provides that the contractor’s Internal Control System shall be established within 90 days after contract award, unless the Contracting Officer establishes a longer time period (See FAR 52.203-13(c)). The internal control system is not required for small businesses or commercial item contracts.

Dated: November 5, 2008.

Al Matera,

Director, Office of Acquisition Policy.

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