

**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; Introduction**

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA),

and National Aeronautics and Space Administration (NASA).

**ACTION:** Summary presentation of final rule.

**SUMMARY:** This document summarizes the Federal Acquisition Regulation (FAR) rule agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in this Federal Acquisition Circular (FAC) 2005-28. 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 date, see the document following this notice.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact the analyst whose name appears in the table below in relation to the FAR case. Please cite FAC 2005-28, FAR Case 2007-006. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501-4755.

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.*  
 [FR Doc. E8-26810 Filed 11-10-08; 8:45 am]  
**BILLING CODE 6820-EP-P**

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 2, 3, 9, 42 and 52**

[FAC 2005-28; FAR Case 2007-006; Item I; Docket 2007-001; Sequence 11]

RIN 9000-AK80

**Federal Acquisition Regulation; FAR Case 2007-006, Contractor Business Ethics Compliance Program and Disclosure Requirements**

**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 on a final rule amending the Federal Acquisition Regulation (FAR) 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. This final rule implements Pub. L. 110-252, Title VI, Chapter 1.

**DATES:** *Effective Date:* December 12, 2008.

**Applicability:** 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 for commercial item contracts.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ernest Woodson, Procurement Analyst, at (202) 501-3775 for clarification of content. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501-4755. Please cite FAC 2005-28, FAR case 2007-006.

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

- A. Background
- B. Discussion and Analysis
  - 1. Interrelationship of previous final rule, first proposed rule, second proposed rule, and new statute.
  - 2. Mandatory standards for internal control system.
  - 3. Mandatory disclosure to the OIG.
  - 4. Full Cooperation.
  - 5. Suspension/Debarment.
  - 6. Extend to violation of civil False Claims Act.
  - 7. Application to acquisition of commercial items.
  - 8. Application to contracts to be performed outside the United States.
  - 9. Other applicability issues.
  - 10. Additional recommendations.
  - 11. Regulatory Flexibility Act concerns.
  - 12. Paperwork Reduction Act (PRA).
  - 13. E.O. 12866.
- C. Regulatory Flexibility Act
- D. Paperwork Reduction Act