

Secretariat at 202–501–4755. Please cite FAR 2005–59, FAR Case 2012–003.

SUPPLEMENTARY INFORMATION:

I. Background

The Cost Accounting Standards (CAS) Board published a final rule in the **Federal Register** at 76 FR 79545, on December 22, 2011, which revised the threshold for the application of CAS from “\$650,000” to “the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B))” in the CAS provisions and clauses at 48 CFR parts 9901 and 9903. The TINA threshold is adjusted every 5 years for inflation, as required by 41 U.S.C. 1908. Title 41 U.S.C. 1502(b)(1)(B) ties the CAS applicability threshold to the dollar value of the TINA threshold (currently \$700,000). The FAR cites the TINA threshold at FAR 15.403–4(a)(1).

II. Discussion and Analysis

This final rule revises the CAS applicability threshold from \$650,000 to \$700,000 at FAR 30.201–4 and the CAS clauses in the FAR at 52.230–1 through 50.230–5. The FAR replaced “\$650,000” with “\$700,000” rather than the phrase “the Truth in Negotiations Act (TINA) threshold, as adjusted for inflation (41 U.S.C. 1908 and 41 U.S.C. 1502(b)(1)(B))” (the phrase used by the CAS Board in its rule) as applicable. The FAR made this change from the CAS Board’s rule for improved clarity of FAR 30.201–4 and the CAS clauses in the FAR—stating the specific dollar value of the TINA threshold, rather than a reference to the TINA threshold as was done in the CAS Board’s final rule. In so doing, no further action will be required by the CAS Board to implement further adjustments for inflation in the future as permitted by the CAS Board’s rule; the CAS applicability thresholds in the FAR will be revised every 5 years in the future, whenever the TINA threshold is revised in the FAR as part of the statutory revision of the acquisition thresholds.

Publication of This Final Rule for Public Comment Is Not Required by Statute

“Publication of proposed regulations,” 41 U.S.C. 1707, is the statute which applies to the publication of the FAR. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation,

procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it recognizes actions taken by the Cost Accounting Standards Board that have already been published for public comment; the changes in this rule are made to conform the FAR to the CAS Board final rule published in the **Federal Register** at 76 FR 79545, on December 22, 2011.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant FAR revision within the meaning of FAR 1.501–1 and 41 U.S.C. 1707 and does not require publication for public comment.

V. Paperwork Reduction Act

This rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 30 and 52

Government procurement.

Dated: May 3, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 30 and 52 as set forth below:

- 1. The authority citation for 48 CFR parts 30 and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 30—COST ACCOUNTING STANDARDS ADMINISTRATION

30.201–4 [Amended]

- 2. Amend section 30.201–4 by removing from paragraph (b)(1) “\$650,000” and adding “\$700,000” in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.230–1 [Amended]

- 3. Amend section 52.230–1 by revising the date of the provision to read “(MAY 2012)”; and removing from paragraph (a) of the Disclosure Statement I “\$650,000” and adding “\$700,000” in its place.

52.230–2 [Amended]

- 4. Amend section 52.230–2 by revising the date of the clause to read “(MAY 2012)”; and removing from paragraph (d) “\$650,000” and adding “\$700,000” in its place.

52.230–3 [Amended]

- 5. Amend section 52.230–3 by revising the date of the clause to read “(MAY 2012)”; and removing from paragraph (d)(2) “\$650,000” and adding “\$700,000” in its place.

52.230–4 [Amended]

- 6. Amend section 52.230–4 by revising the date of the clause to read “(MAY 2012)”; and removing from paragraph (d)(2) “\$650,000” and adding “\$700,000” in its place.

52.230–5 [Amended]

- 7. Amend section 52.230–5 by revising the date of the clause to read “(MAY 2012)”; and removing from paragraph (d)(2) “\$650,000” and adding “\$700,000” in its place.

[FR Doc. 2012–11151 Filed 5–9–12; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket FAR 2012–0081, Sequence 4]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–59; Small Entity Compliance Guide

AGENCY: 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 DOD, GSA, and NASA. 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) 2005–59, which amends the Federal Acquisition Regulation (FAR). Interested parties may obtain further information regarding this rule by referring to FAC 2005–59, which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

DATES: May 10, 2012.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2005–59 and the FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755.

LIST OF RULES IN FAC 2005–59

Item	Subject	FAR Case	Analyst
I	Prohibition on Contracting with Inverted Domestic Corporations	2012–013	Jackson.
II	Free Trade Agreement—Colombia	2012–012	Davis.
III	Revision of Cost Accounting Standards Threshold	2012–003	Chambers.

SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR cases, refer to the specific item numbers and subject set forth in the documents following these item summaries. FAC 2005–59 amends the FAR as specified below:

Item I—Prohibition on Contracting With Inverted Domestic Corporations (FAR Case 2012–013) (Interim)

This interim rule implements section 738 of Division C of the Consolidated Appropriations Act, 2012 (Pub. L. 112–74), which prohibits the award of contracts using Fiscal Year 2012 appropriated funds to any foreign incorporated entity that is treated as an inverted domestic corporation or to any subsidiary of such an entity. This interim rule extends an existing prohibition that applied to use of Fiscal Years 2008 through 2010 funds. Contracting officers are prohibited from awarding contracts using appropriated

funds to any foreign incorporated entity that is treated as an inverted domestic corporation or to any subsidiary of such entity, unless an exception applies. The exceptions are at FAR 9.108–2. This rule is not expected to have an effect on small business because this rule will only impact an offeror that is an inverted domestic corporation and wants to do business with the Government. Small business concerns are unlikely to have been incorporated in the United States and then reincorporated in a tax haven.

Item II—Free Trade Agreement—Colombia (FAR Case 2012–012)

This interim rule implements a new Free Trade Agreement with Colombia (see the United States-Colombia Trade Promotion Agreement Implementation Act (Pub. L. 112–42) (19 U.S.C. 3805 note)).

This Trade Promotion Agreement is a free trade agreement that provides for mutually non-discriminatory treatment of eligible products and services from

Colombia. This interim rule is not expected to have a significant economic impact on a substantial number of small entities.

Item III—Revision of Cost Accounting Standards Threshold (FAR Case 2012–003)

This final rule revises the cost accounting standards (CAS) threshold in order to implement in the FAR a recent rule of the Cost Accounting Standards Board and statutory requirements. The threshold now equals the Truth in Negotiations Act (TINA) threshold, currently \$700,000. There is no impact on small businesses as they are exempt from CAS pursuant to 48 CFR 9903.201–1(b).

Dated: May 3, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2012–11152 Filed 5–9–12; 8:45 am]

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