INSTRUCTIONS

1. This form is authorized for use in the acquisition of supplies and services, excluding construction, in lieu of Standard Form 25 (Performance Bond). Any deviation from this form will require the written approval of the Administrator of General Services.

2. Insert the full legal name and business address of the Principal in the space designated “Principal” on the face of the form. An authorized person shall sign the bond. Any person signing in a representative capacity (e.g., an attorney-in-fact) must furnish evidence of authority if that representative is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved.

3. (a) Corporations executing the bond as sureties must appear on the Department of the Treasury’s list of approved sureties and must act within the limitations listed therein.

(b) When individual sureties are involved, a completed Affidavit of Individual Surety (Standard Form 26) for each individual surety shall accompany the bond. The Government may require the surety to furnish additional substantiating information concerning its financial capability.

4. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word “Corporate Seal”, and shall affix an adhesive seal if executed in Maine, New Hampshire, or any other jurisdiction requiring adhesive seals.

5. Type the name and title of each person signing this bond in the space provided.

6. In its application to negotiated contracts, the terms “bid” and “bidder” shall include “proposal” and “offeror”.

PART 4—ADMINISTRATIVE MATTERS

2. Amend section 4.1801 by revising the definition of “Commercial and Government Entity (CAGE) code” to read as follows:

Commercial and Government Entity (CAGE) code means—

(1) An identifier assigned to entities located in the United States or its outlying areas by the Defense Logistics Agency (DLA) Commercial and Government Entity (CAGE) Branch to identify a commercial or government entity; or

(2) An identifier assigned by a member of the North Atlantic Treaty Organization (NATO) or by the NATO Support and Procurement Agency (NSPA) to entities located outside the United States and its outlying areas that the DLA Commercial and Government Entity (CAGE) Branch records and maintains in the CAGE master file. This type of code is known as a NATO CAGE (NCAGE) code.
3. Amend section 4.1803 by revising paragraph (b) to read as follows:

4.1803 Verifying CAGE codes prior to award.
* * * * *
(b) For entities not required to be registered in SAM, the contracting officer shall validate the CAGE code using the CAGE code search feature at https://cage.dla.mil.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Amend section 52.204–16 by—

■ a. Revising the date of the provision; and
■ b. In paragraph (a), revising the definition of “Commercial and Government Entity (CAGE) code”;
■ c. Removing from paragraph (c)(1) the word “Contractor” and adding “Commercial” in its place; and
■ d. Revising paragraphs (c)(2) and (3), and (d).

The revisions read as follows:

52.204–16 Commercial and Government Entity Code Reporting.
* * * * *

Commercial and Government Entity Code Reporting (Jul 2016)
* * * * *

Commercial and Government Entity (CAGE) code means—

1. An identifier assigned to entities located in the United States or its outlying areas by the Defense Logistics Agency (DLA) Commercial and Government Entity (CAGE) Branch to identify a commercial or government entity; or
2. An identifier assigned by a member of the North Atlantic Treaty Organization (NATO) or by the NATO Support and Procurement Agency (NSPA) to entities located outside the United States and its outlying areas that the DLA Commercial and Government Entity (CAGE) Branch records and maintains in the CAGE master file. This type of code is known as a NATO CAGE (NCAGE) code.

(c) * * *

(2) The DLA Commercial and Government Entity (CAGE) Branch. If registration in SAM is not required for the subject procurement, and the offeror does not otherwise register in SAM, an offeror located in the United States or its outlying areas may request that a CAGE code be assigned by submitting a request at https://cage.dla.mil.

(3) The appropriate country codification bureau. Entities located outside the United States and its outlying areas may obtain an NCAGE code by contacting the Codification Bureau in the foreign entity’s country if that country is a member of NATO or a sponsored nation. NCAGE codes may be obtained from the NSPA at https://eportal.nspa.nato.int/AC135Public/scage/CageList.aspx if the foreign entity’s country is not a member of NATO or a sponsored nation. Points of contact for codification bureaus, as well as additional information on obtaining NCAGE codes, are available at http://www.nato.int/structure/AC/135/main/links/contacts.htm.

5. Amend section 52.204–17 by—

■ a. Revising the date of the provision; and
■ b. In paragraph (a), revising the definition of “Commercial and Government Entity (CAGE) code”.

The revisions read as follows:

52.204–17 Ownership or Control of Offeror.
* * * * *

Ownership or Control of Offeror (Jul 2016)
* * * * *

Commercial and Government Entity (CAGE) code means—

1. An identifier assigned to entities located in the United States or its outlying areas by the Defense Logistics Agency (DLA) Commercial and Government Entity (CAGE) Branch to identify a commercial or government entity; or
2. An identifier assigned by a member of the North Atlantic Treaty Organization (NATO) or by the NATO Support and Procurement Agency (NSPA) to entities located outside the United States and its outlying areas that the DLA Commercial and Government Entity (CAGE) Branch records and maintains in the CAGE master file. This type of code is known as a NATO CAGE (NCAGE) code.

(c) Contractors located in the United States or its outlying areas that are not registered in SAM shall submit written change requests to the DLA Commercial and Government Entity (CAGE) Branch. Requests for changes shall be provided at https://cage.dla.mil. Change requests to the CAGE master file are accepted from the entity identified by the code.

(d) Contractors located outside the United States and its outlying areas that are not registered in SAM shall contact the appropriate National Codification Bureau (points of contact available at http://www.nato.int/structure/AC/135/main/links/contacts.htm) or NSPA at https://eportal.nspa.nato.int/AC135Public/scage/CageList.aspx to request CAGE changes.

(e) Additional guidance for maintaining CAGE codes is available at https://cage.dla.mil.

7. Amend section 52.204–20 by—

■ a. Revising the date of the provision; and
■ b. In paragraph (a), revising the definition “Commercial and Government Entity (CAGE) code”.

The revisions read as follows:

52.204–20 Predecessor Offeror.
* * * * *

Predecessor Offeror (Jul 2016)
* * * * *

Commercial and Government Entity (CAGE) code means—

1. An identifier assigned to entities located in the United States or its outlying areas by the Defense Logistics Agency (DLA) Commercial and Government Entity (CAGE) Branch to identify a commercial or government entity; or
2. An identifier assigned by a member of the North Atlantic Treaty Organization (NATO) or by the NATO Support and Procurement Agency (NSPA) to entities located outside the United States and its outlying areas that the DLA Commercial and Government Entity (CAGE) Branch records and maintains in the CAGE master file. This type of code is known as a NATO CAGE (NCAGE) code.

(c) * * *

(2) The DLA Commercial and Government Entity (CAGE) Branch. If registration in SAM is not required for the subject procurement, and the offeror does not otherwise register in SAM, an offeror located in the United States or its outlying areas may request that a CAGE code be assigned by submitting a request at https://cage.dla.mil.

(3) The appropriate country codification bureau. Entities located outside the United States and its outlying areas may obtain an NCAGE code by contacting the Codification Bureau in the foreign entity’s country if that country is a member of NATO or a sponsored nation. NCAGE codes may be obtained from the NSPA at https://eportal.nspa.nato.int/AC135Public/scage/CageList.aspx if the foreign entity’s country is not a member of NATO or a sponsored nation. Points of contact for codification bureaus, as well as additional information on obtaining NCAGE codes, are available at http://www.nato.int/structure/AC/135/main/links/contacts.htm.


The revision reads as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.
* * * * *
DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR 2016–0051, Sequence No. 3]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–89; 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 rules appearing in Federal Acquisition Circular (FAC) 2005–89, which amends the Federal Acquisition Regulation (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 2005–89, which precedes this document. These documents are also available via the Internet at http://www.regulations.gov.

DATES: July 14, 2016.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2005–89 and the FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755.

RULES LISTED IN FAC 2005–89

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SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005–89 amends the FAR as follows:

Item I—Small Business Subcontracting Improvements (FAR Case 2014–003)

This final rule amends the FAR to implement SBA’s final rule published at 78 FR 42391 on July 16, 2013. The rule will implement the statutory requirements set forth in section 1321 and 1322 of the Small Business Jobs Act of 2010, (Pub. L. 111–240), as well as other requirements aimed at improving subcontracting regulations to increase small business opportunities. This rule accomplishes the following:

(1) Requires prime contractors to make good faith efforts to utilize their proposed small business subcontractors during performance of a contract to the same degree the prime contractor relied on the small business in preparing and submitting its bid or proposal. To the extent a prime contractor is unable to make a good faith effort to utilize its small business subcontractors as described above, the prime contractor is required to explain, in writing, within 30 days of contract completion, to the contracting officer the reasons why it was unable to do so.

(2) Authorizes contracting officers to calculate subcontracting goals in terms of total contract dollars in addition to the required goals in terms of total subcontracted dollars.

(3) Provides contracting officers with the discretion to require a subcontracting plan in instances where a small business represents its size as an other than small business.

(4) Requires subcontracting plans even for modifications under the subcontracting plan threshold if said modifications would cause the contract to exceed the plan threshold.

(5) Requires prime contractors to assign North American Industry Classification System (NAICS) codes to subcontracts.

(6) Restricts prime contractors from prohibiting a subcontractor from discussing payment or utilization matters with the contracting officer.

(7) Requires prime contractors to resubmit a corrected subcontracting report within 30 days of receiving the contracting officer’s notice of report rejection.

(8) Requires prime contractors to provide the socioeconomic status of the subcontractor in the notification to unsuccessful offerors for subcontracts.

(9) Requires prime contracts with subcontracting plans on task and delivery order contracts to report order level subcontracting information after November 2017.

(10) Facilitates funding agencies receiving small business subcontracting credit.

(11) On indefinite-delivery, indefinite-quantity contracts, allows the contracting officer to establish subcontracting goals at the order level (but not a new subcontracting plan).

This rule may have a positive economic impact on any small business entity that wishes to participate in the Federal procurement arena as a subcontractor.

Item II—OMB Circular Citation Update (FAR Case 2014–023)

This final rule amends the FAR to update outdated OMB Circular citation references. On December 26, 2013, the Office of Management and Budget (OMB) published new guidance at 2