

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket FAR—2007—0002, Sequence 6]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–21; 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) 2005–21 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 2005–21 which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

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

LIST OF RULES IN FAC 2005–21

Item	Subject	FAR case	Analyst
I	SAFETY Act: Implementation of DHS Regulations (Interim)	2006–023	Loeb.
II	Biobased Products Preference Program	2004–032	Clark.
III	FAR Part 27 Rewrite in Plain Language	1999–402	Woodson.
IV	Federal Computer Network (FACNET) Architecture	2006–015	Woodson.
*V	Exemption of Certain Service Contracts from the Service Contract Act (SCA) (interim)	2001–004	Woodson.
VI	Local Community Recovery Act of 2006 (Interim)	2006–014	Clark.
VII	Labor Standards for Contracts Containing Construction Requirements-Contract Pricing Method References.	2007–001	Woodson.
VIII	Technical Amendments		

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 2005–21 amends the FAR as specified below:

Item I—SAFETY Act: Implementation of DHS Regulations (FAR Case 2006–023) (Interim)

This interim rule implements the SAFETY Act in the FAR. The SAFETY Act provides incentives for the development and deployment of anti-terrorism technologies by creating a system of “risk management” and a system of “litigation management.” The purpose of the SAFETY Act is to ensure that the threat of liability does not deter potential manufacturers or sellers of antiterrorism technologies from developing, deploying, and commercializing technologies that could save lives. Examples of Qualified Anti-Terrorism Technologies (QATT) identified by DHS include—

- Vulnerability assessment and countermeasure and counter-terrorism planning tools;
- First responder interoperability solution;
- Marine traffic management system;
- Security services, guidelines, systems, and standards;

- Vehicle and cargo inspection system;
- X-ray inspection system;
- Trace explosives detection systems and associated support services;
- Maintenance and repair of screening equipment;
- Risk assessment platform;
- Explosive and weapon detection equipment and services;
- Biological detection and filtration systems;
- Passenger screening services;
- Baggage screening services;
- Chemical, biological, or radiological agent release detectors;
- Vehicle barriers;
- First responder equipment; and
- Architectural and engineering “hardening” products and services.

Item II—Biobased Products Preference Program(FAR Case 2004–032)

This final rule amends the Federal Acquisition Regulation (FAR) to implement 7 U.S.C. 8102 as enacted by section 9002 of the Farm Security and Rural Investment Act of 2002 (FSRIA), as amended by Sections 205 and 943 of the Energy Policy Act of 2005. Entitled Federal Procurement of Biobased Products, section 7 U.S.C. 8102 requires that a procurement preference be afforded biobased products within items designated by the Secretary of Agriculture. This program applies to acquisitions by Federal agencies using

Federal funds for procurement, as well as Government contractors that use USDA-designated items in performance of a Government contract. It will provide increased opportunities for entities, both large and small, that manufacture or sell biobased products, while decreasing opportunities for businesses that manufacture or sell similar non-biobased products or provide components for the manufacturing of such products. A list of USDA-designated items is available at <http://www.usda.gov/biopreferred>.

Item III—FAR Part 27 Rewrite in Plain Language(FAR Case 1999–402)

This final rule clarifies, streamlines, and updates text and clauses on Patents, Data, and Copyrights (FAR Part 27). This effort focused on rewriting the current FAR language into “plain language,” with the ultimate goal of making the policies and procedures more understandable to the reader. This rewrite was not intended to include substantive changes to Part 27 policies or procedures, except where necessary to comply with current statutory or regulatory requirements, or to resolve internal inconsistencies within FAR Part 27 and its associated clauses.

Item IV—Federal Computer Network (FACNET) Architecture (FAR Case 2006–015)

This final rule amends the Federal Acquisition Regulation (FAR) to remove FACNET references and provide the opportunity to recognize the evolution of alternative technologies, processes, etc. that Federal agencies are using and will use to satisfy their acquisition needs without removing the use of FACNET for Federal agencies that may use the system. Where necessary in the FAR, the term has been replaced with a more appropriate term that incorporates various electronic data interchange systems. The proposed rule published February 1, 2007 is adopted as final without change.

Item V—Exemption of Certain Service Contracts from the Service Contract Act (SCA) (2001–004) (Interim)

This interim rule amends Federal Acquisition Regulation (FAR) Parts 4, 15, 17, 22, and 52 to implement the U.S. Department of Labor's (DoL) final rule issued January 18, 2001 (66 FR 5327) amending the regulations at 29 CFR part 4 to exempt certain contracts for services meeting specific criteria from coverage under the Service Contract Act. This rule imposes the DoL criteria and does not utilize the term "commercial services." The rule

incorporates slight revisions to the current exemption for consistency with the current DoL regulations and clarification of appropriate course of action for the contracting officer.

Item VI—Local Community Recovery Act of 2006 (FAR Case 2006–014) (Interim)

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a second interim rule amending the Federal Acquisition Regulation (FAR) to implement legislative amendments to the Stafford Act at 42 U.S.C. 5150.

The first rule implemented The Local Community Recovery Act of 2006, Pub.L. 109–218, which addressed set-asides for major disaster or emergency assistance acquisitions to businesses that reside or primarily do business in the geographic area affected by the disaster or emergency. This local area set-aside could be done along with a small business set-aside.

After the first rule was published for comments in August, 2006, Congress further amended the same area of the Stafford Act in the Department of Homeland Security Appropriations Act, 2007, Public Law 109–295. The amended statute contains requirements for transitioning work to local firms in

the geographic area affected by the disaster or emergency and for justifications for expenditures to entities outside the major disaster or emergency area. This second interim rule encompasses all of these changes.

Item VII—Labor Standards for Contracts Containing Construction Requirements-Contract Pricing Method References (FAR Case 2007–001)

This final rule amends the Federal Acquisition Regulation (FAR) to revise references to published pricing sources available to the contracting officer in FAR 22.404–12(c)(2). The rule removes the reference to "R.S. Means Cost Estimating System" as a commercial source for pricing data. The revision will provide greater flexibilities for contracting officers when selecting sources of pricing data.

Item VIII—Technical Amendments

Editorial changes are made at FAR 1.106, 25.003, 52.212–5, 52.219–9, 52.225–5, 52.225–17, 53.213, 53.302–347, and 53.302–348 in order to update references.

Dated: October 31, 2007.

Al Matera,

Director, Office of Acquisition Policy.

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