

Federal Acquisition Regulation; Federal Acquisition Circular 2005-21

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in this Federal Acquisition Circular (FAC) 2005-21.

List of Rules in FAC 2005-21

- I.....SAFETY Act: Implementation of DHS Regulations Interim Rule.
- II.....Biobased Products Preference Program Final Rule.
- III.....FAR Part 27 Rewrite in Plain Language Final Rule.
- IV.....Federal Computer Network (FACNET) Architecture Final Rule
- V.....Exemption of Certain Service Contracts from the Service Contract Act (SCA) Interim Rule.
- VI.....Local Community Recovery Act of 2006 Interim Rule.
- VII.....Labor Standards for Contracts Containing Construction Requirements-Contract Pricing Method References Final Rule.
- VIII.....Technical Amendments Final Rule

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. DOE's General Counsel and The Office of Procurement and Assistance Policy are now working on a Part 927 rewrite to clarify the supplemental DEAR patent provisions.

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) (FAR Case 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 exempting 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 the 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 performed along with a small business set-aside. After the first rule was published for comments in August, 2006, Congress further amended the same provisions 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 under 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.