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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**

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 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: [Insert date of publication in the **FEDERAL REGISTER**.]

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

<u>Item</u>	<u>Subject</u>	<u>FAR Case</u>	<u>Analyst</u>
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,
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