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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR 2016-0051, Sequence No. 2]

**Federal Acquisition Regulation; Federal Acquisition Circular
2005-88; 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 rules appearing in Federal Acquisition Circular (FAC) 2005-88, 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 2005-88, 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 2005-88 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

<u>Item</u>	<u>Subject</u>	<u>FAR Case</u>	<u>Analyst</u>
*I	High Global Warming Potential Hydrofluorocarbons	2014-026	Gray
*II	Simplified Acquisition Threshold for Overseas Acquisitions in Support of Humanitarian or Peacekeeping Operations	2015-020	Francis
*III	Basic Safeguarding of Contractor Information Systems	2011-020	Davis
*IV	Improvement in Design-Build Construction Process	2015-018	Glover
V	Technical Amendments		

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 2005-88 amends the FAR as follows:

Item I—High Global Warming Potential Hydrofluorocarbons (FAR Case 2014-026)

This final rule implements Executive branch policy in the President’s Climate Action Plan to procure, when

feasible, alternatives to high global warming potential—hydrofluorocarbons (HFCs). The rule also requires contractors to report annually the amount of HFCs contained in equipment delivered to the Government or added or taken out of Government equipment under service contracts. This will allow agencies to better meet the greenhouse gas emission reduction goals and reporting requirements of the Executive Order 13693 on Planning for Sustainability in the Next Decade. This rule applies to small entities because about three-quarters of the affected contractors are small businesses and precluding them would undermine the overall intent of this policy. However, to minimize the impact this rule could have on all businesses, especially small businesses, this rule only requires tracking and reporting on equipment that normally contain 50 or more pounds of HFCs. In addition, this rule does not impose a labeling requirement for products that contain or are manufactured with HFCs, unlike the labeling requirement that is required by statute for ozone-depleting substances.

Item II—Simplified Acquisition Threshold for Overseas Acquisitions in Support of Humanitarian or Peacekeeping Operations (FAR Case 2015-020)

This final rule amends the FAR to implement 41 U.S.C. 153, which establishes a higher simplified acquisition threshold (SAT) for overseas acquisitions in support of humanitarian or peacekeeping operations. When FAR Case

2003-022 was published as a rule in 2004, the definition for SAT at FAR 2.101 was changed, but the drafters of the rule also inadvertently deleted the reference to overseas humanitarian or peacekeeping missions and the requisite doubling of the SAT in those circumstances. This rule reinstates the increased SAT for overseas acquisitions for peacekeeping or humanitarian operations. Accordingly, this rule provides contracting officers with more flexibility when contracting in support of overseas humanitarian or peacekeeping operations. This final rule does not place any new requirements on small entities.

Item III—Basic Safeguarding of Contractor Information Systems (FAR Case 2011-020)

This final rule amends the FAR to add a new FAR subpart 4.19 and contract clause 52.204-21 for the basic safeguarding of covered contractor information systems, i.e., that process, store, or transmit Federal contract information. The clause does not relieve the contractor of any other specific safeguarding requirement specified by Federal agencies and departments as it relates to covered contractor information systems generally or other Federal requirements for safeguarding controlled unclassified information (CUI) as established by Executive Order 13556. Systems that contain classified information, or CUI such as personally identifiable information, require more than the basic level of protection. This rule will not have a

significant economic impact on contractors (including small business concerns) or the Government.

Item IV—Improvement in Design-Build Construction Process

(FAR Case 2015-018)

This final rule revises the FAR to implement section 814 of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015. When a two-phase design-build construction acquisition is valued at greater than \$4 million, section 814 requires the head of the contracting activity to approve a contracting officer determination to select more than five offerors to submit phase-two proposals. The approval level is delegable no lower than the senior contracting official within the contracting activity. This rule change does not place any new requirements on small entities.

Item V-Technical Amendments

Editorial changes are made at FAR 1.106.

Dated: May 5, 2016.

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