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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. 9]

**Federal Acquisition Regulation; Federal Acquisition Circular
2005-95; Introduction**

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2005-95. A companion document, the Small Entity Compliance Guide (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at <http://www.regulations.gov>.

DATES: For effective dates see the separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below in relation to the FAR case. Please cite FAC 2005-95 and the specific FAR case number. For information pertaining to status or publication

schedules, contact the Regulatory Secretariat Division at 202-501-4755.

Rules Listed in FAC 2005-95

<u>Item</u>	<u>Subject</u>	<u>FAR Case</u>	<u>Analyst</u>
I	Uniform Use of Line Items	2013-014	Francis
II	Acquisition Threshold for Special Emergency Procurement Authority	2016-004	Francis
III	Contractor Employee Internal Confidentiality Agreements or Statements	2015-012	Davis
IV	Contracts Under the Small Business Administration 8(a) Program	2012-022	Uddowla
V	Prohibition on Reimbursement for Congressional Investigations and Inquiries	2015-016	Delgado

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 2005-95 amends the FAR as follows:

Item I—Uniform Use of Line Items (FAR Case 2013-014)

This final rule amends the FAR to establish standards for the uniform use of line items in Federal procurement. These standards are designed to improve the accuracy, traceability, and usability of procurement data. The implementation of these standards will facilitate the identification and traceability of spending from

appropriation through expenditure, supporting automated collection of information using key identifiers. The implementation date for FAR 4.1002 through 4.1008 will be October 1, 2019.

The requirements in the rule have the potential to impact any entity, small or large, that does business with the Federal Government because the proposed rule would apply to purchases of items, including commercial items and commercially available off-the-shelf items, and purchases under the simplified acquisition threshold. Any small business that contracts with a Federal agency could be impacted to at least some extent.

Item II—Acquisition Threshold for Special Emergency Procurement Authority (FAR Case 2016-004)

This final rule amends the FAR by increasing the simplified acquisition threshold (SAT) for special emergency procurement authority from \$300,000 to \$750,000 (within the United States) and from \$1 million to \$1.5 million (outside the United States) for acquisitions of supplies or services that, as determined by the head of the agency, are to be used to support a contingency operation or to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack. This change implements Section 816 of the National Defense Authorization Act for Fiscal Year 2016 (Pub. L. 114-92). This rule provides

contracting officers with more flexibility when contracting in support of contingency operations.

The rule is not anticipated to have a significant economic impact on small business entities, because the rule raises the SAT for special emergency procurements, an arena in which a smaller percentage of small businesses participate, as compared to larger businesses. This final rule does not place any new requirements on small entities.

Item III—Contractor Employee Internal Confidentiality

Agreements or Statements (FAR Case 2015-012)

This final rule revises the FAR to implement section 743 of division E, title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and successor provisions in subsequent appropriations acts. Section 743 prohibits the use of funds appropriated or otherwise made available by Division E or any other act, for a contract with an entity that requires employees and subcontractors of such entity to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting waste, fraud, or abuse, to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information (e.g., agency office of the Inspector General). This rule

is not expected to have a significant impact on small entities contracting with the Government.

Item IV—Contracts Under the Small Business Administration

8(a) Program (FAR Case 2012-022)

This final rule amends the Federal Acquisition Regulation (FAR) to implement clarifications made by the Small Business Administration in its final rule, which published in the Federal Register at 76 FR 8222 on February 11, 2011. This final rule clarifies in the FAR the procedures and requirements used when contracting under the 8(a) program. Clarifications include the evaluation, offering, and acceptance process, procedures for acquiring SBA's consent to procure an 8(a) requirement outside the 8(a) program, and the impact of exiting the 8(a) program in terms of the firm's ability to receive future 8(a) requirements and its current contractual commitments.

This final rule does not place any new requirements, financial or otherwise, on small entities, and serves mainly to provide more explicit guidance to Federal contracting officials.

Item V—Prohibition on Reimbursement for Congressional Investigations and Inquiries (FAR Case 2015-016)

This rule amends the FAR to implement section 857 of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015. Section 857 imposes

additional requirements relative to the allowability of costs incurred by a contractor in connection with a congressional investigation or inquiry. Contracting officers need to be aware of these new restrictions on certain costs, which cannot be charged under contracts. Although small businesses subject to FAR part 31 will need to maintain accounting records, this rule does not place any new requirements on small entities.

Dated: December 21, 2016.

William F. Clark,
Director,
Office of Government-wide
Acquisition Policy,
Office of Acquisition Policy,
Office of Government-wide Policy.

Federal Acquisition Circular (FAC) 2005-95 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005-95 is effective [***insert date of publication in the Federal Register***] except for item III, which is effective January 19, 2017.

Dated: December 21, 2016.

Claire M. Grady,
Director, Defense Procurement
and Acquisition Policy

Dated: December 21, 2016.

William F. Clark,
Acting, Senior Procurement Executive,
Office of Acquisition Policy,
U.S. General Services Administration.

Dated: December 19, 2016.

William P. McNally,
Assistant Administrator, Office of Procurement
National Aeronautics and Space Administration.

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