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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; 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) 2005-95, 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 2005-95, 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 2005-95 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 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,
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