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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket FAR 2011-0077; Sequence 6]

Federal Acquisition Regulation; Federal Acquisition Circular
2005-54; 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 rules appearing in Federal Acquisition Circular (FAC) 2005-54, which amend the Federal Acquisition Regulation (FAR). Interested parties may obtain further information regarding these rules by referring to FAC 2005-54, which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

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

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below. Please cite FAC 2005-54 and the

specific FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501-4755.

List of Rules in FAC 2005-54

<u>Item</u>	<u>Subject</u>	<u>FAR Case</u>	<u>Analyst</u>
I	Notification of Employee Rights Under the National Labor Relations Act	2010-006	McFadden
II	Preventing Personal Conflicts of Interest for Contractor Employees Performing Acquisition Functions	2008-025	Robinson
III	Small Disadvantaged Business Program Self-Certification	2009-019	Morgan
IV	Certification Requirement and Procurement Prohibition Relating to Iran Sanctions	2010-012	Davis
V	Representation Regarding Export of Sensitive Technology to Iran (Interim)	2010-018	Davis
VI	Set-Asides for Small Business (Interim)	2011-024	Morgan
VII	Sudan Waiver Process	2009-041	Davis
VIII	Successor Entities to the Netherlands Antilles	2011-014	Davis
IX	Labor Relations Costs	2009-006	Chambers
X	Technical Amendments		

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 2005-54 amends the FAR as specified below:

Item I—Notification of Employee Rights Under the National Labor Relations Act (FAR Case 2010-006)

This rule adopts as final, without change, the interim rule that published in the Federal Register at 75 FR 77723 on December 13, 2010, implementing Executive Order (E.O.) 13496, Notification of Employee Rights Under Federal Labor Laws, as implemented by the Department of Labor (DOL). The E.O. requires contractors to display a notice for employees of their rights under Federal labor laws, and the DOL has determined that the notice shall include employee rights under the National Labor Relations Act.

Item II—Preventing Personal Conflicts of Interest for Contractor Employees Performing Acquisition Functions (FAR Case 2008-025)

This final rule amends the FAR to address personal conflicts of interest by employees of Government contractors, as required by section 841(a) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110-417) (now codified at 41 U.S.C. 2303). This rule requires the contractor to take the steps necessary to identify and prevent personal conflicts of interest for employees that perform acquisition functions closely associated with inherently governmental functions. The contracting officer shall consult with agency legal counsel for advice and recommendations on a course of action when the contractor reports a personal

conflict of interest violation by a covered employee or when the contractor violates the clause requirements.

Item III—Small Disadvantaged Business Program Self-Certification (FAR Case 2009-019)

This rule adopts as final, without change, an interim rule that implements revisions made by the Small Business Administration (SBA) in its Small Disadvantaged Business (SDB) regulations. The FAR interim rule was published in the Federal Register at 75 FR 77737 on December 13, 2010, to allow SDBs to self-represent their SDB status to prime contractors in good faith when seeking Federal subcontracting opportunities. This FAR revision removed an administrative burden for SDB subcontractors to obtain SBA certification, as well as prime contractors, who were required to confirm that SDB subcontractors had obtained SBA certification.

Item IV—Certification Requirement and Procurement Prohibition Relating to Iran Sanctions (FAR Case 2010-012)

This rule adopts as final, with minor changes, an interim rule. The interim rule implemented sections 102 and 106 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010. Section 102 requires certification that each offeror, and any person owned or controlled by the offeror, does not engage in any activity for which sanctions may be imposed under section 5 of the Iran Sanctions Act of 1996. Section 106 imposes a procurement prohibition relating

to contracts with persons that export certain sensitive technology to Iran. This rule will have little effect on domestic small business concerns, because such dealings with Iran are already generally prohibited under U.S. law.

Item V—Representation Regarding Export of Sensitive Technology to Iran (FAR Case 2010-018) (Interim)

This interim rule amends the FAR to include additional requirements to implement section 106 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, Pub. L. 111-195. To enhance enforcement of section 106, the FAR will require each offeror to complete a representation that the offeror does not export certain sensitive technology to the government of Iran or any entities or individuals owned or controlled by or acting on behalf or at the direction of the government of Iran. This rule will have little effect on domestic small business concerns, because such dealings with Iran are already generally prohibited in the United States.

Item VI—Set-Asides for Small Business (FAR Case 2011-024) (Interim)

This interim rule amends the FAR to implement section 1331 of Pub. L. 111-240, the Small Business Jobs Act of 2010, providing agencies with the legal authority to set aside or reserve multiple-award contracts and orders.

Specifically, section 1331 authorizes agencies to (1) set aside part or parts of multiple-award contracts; (2) set aside

orders placed against multiple-award contracts; and (3) reserve one or more multiple-award contracts for small business concerns that are awarded using full and open competition.

The interim rule gives agencies an additional procurement tool to increase opportunities for small businesses to compete in the Federal marketplace.

Item VII—Sudan Waiver Process (FAR Case 2009-041)

This final rule amends the FAR to revise section 25.702, Prohibition on contracting with entities that conduct restricted business operations in Sudan. The rule adds specific criteria, including foreign policy aspects, that an agency must address when applying to the President or his appointed designee for a waiver of the prohibition on awarding a contract to a contractor that conducts restricted business operations in Sudan, in accordance with the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110-174). The rule also describes the consultation process that will be used by the Office of Federal Procurement Policy in support of the waiver review. The rule does not impose any requirements on small businesses.

Item VIII—Successor Entities to the Netherlands Antilles (FAR Case 2011-014)

This final rule amends FAR parts 25 and 52 to revise the definitions of "Caribbean Basin country" and "designated

country" due to the change in status of the islands that comprised the Netherlands Antilles. On October 10, 2010, the Netherlands Antilles dissolved into five separate successor entities. The rule does not impose any requirements on small businesses.

Item IX—Labor Relations Costs (FAR Case 2009-006)

This final rule amends the FAR to implement Executive Order (E.O.) 13494, Economy in Government Contracting, issued on January 30, 2009, and amended on October 30, 2009. This E.O. treats as unallowable the costs of any activities undertaken to persuade employees, whether employees of the recipient of Federal disbursements or of any other entity, to exercise or not to exercise, or concerning the manner of exercising, the right to organize and bargain collectively through representatives of the employee's own choosing.

Item X—Technical Amendments

Editorial changes are made at FAR 1.106, 4.604, and 8.501.

Dated: October 21, 2011.

/s/

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