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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. 8]

**Federal Acquisition Regulation; Federal Acquisition Circular
2005-94; 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) 2005-94. 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 2005-94 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 2005-94

<u>Item</u>	<u>Subject</u>	<u>FAR Case</u>	<u>Analyst</u>
I	Privacy Training	2010-013	Gray
II	Payment of Subcontractors	2014-004	Glover

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 2005-94 amends the FAR as follows:

Item I—Privacy Training (FAR Case 2010-013)

This final rule amends the Federal Acquisition Regulation to clarify the training requirements for contractors whose employees will have access to a system of records on individuals or handle personally identifiable information. These training requirements are consistent with the Privacy Act of 1974, 5 U.S.C. 552a, and OMB Circular A-130, Managing Federal Information as a Strategic Resource. Prime contractors are required to flow down these requirements to all applicable subcontracts.

Item II—Payment of Subcontractors (FAR Case 2014-004)

This final rule amends the Federal Acquisition Regulation (FAR) to implement section 1334 of the Small Business Jobs Act of 2010 and the Small Business

Administration's (SBA) final rule, published July 16, 2013.

If a contract requires a subcontracting plan, the prime contractor must notify the contracting officer in writing if the prime contractor pays a reduced payment to a small business subcontractor, or an untimely payment if the payment to a small business subcontractor is more than 90 days past due for supplies or services for which the Government has paid the contractor. The contractor is also to include the reason for the reduction in payment or failure to pay. A contracting officer will then use his or her best judgment in determining whether the reduced or untimely payments were justified. The contracting officer must record the identity of a prime contractor with a history of three or more unjustified reduced or untimely payments to subcontractors within a 12-month period under a single contract, in the Federal Awardee Performance and Integrity Information System (FAPIIS). This regulation will benefit small business subcontractors by encouraging large business prime contractors to pay small business

subcontractors in a timely manner and at the agreed upon contractual price.

Dated: December 9, 2016.

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

Federal Acquisition Circular (FAC) 2005-94 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 2005-94 is effective [***insert date of publication in the Federal Register***] except for items I, and II, which are effective January 19, 2017.

Dated: December 9, 2016.

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

Dated: December 8, 2016.

Jeffrey A. Koses,
Senior Procurement Executive/Deputy CAO,
Office of Acquisition Policy,
U.S. General Services Administration.

Dated: December 8, 2016.

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

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