

Federal Acquisition Circular (FAC) 2005-55

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Item I--Preventing Abuse of Interagency Contracts (FAR Case 2008-032)

This rule adopts as final, with changes, an interim rule that implemented section 865, Preventing Abuse of Interagency Contracts, of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110-417). This final rule further amends FAR subpart 17.5 to make it clear that this rule only applies to interagency acquisitions when an agency needing supplies or services obtains them using another agency's contract; or when an agency uses another agency to provide acquisition assistance, such as awarding and administering a contract, a task order, or delivery order. A business case analysis must be developed for the establishment and renewal of Government wide acquisition contracts as well as for multi-agency contracts. Additionally, FAR 35.017 clarifies determination requirements when using a Federally Funded Research and Development Center.

Item II--Transition to the System for Award Management (SAM) (FAR Case 2011-021)

The Integrated Acquisition Environment (IAE) systems are being transitioned to a new System for Award Management (SAM) architecture. This effort will transition the Central Contractor Registration (CCR) database, the Excluded Parties Listing System (EPLS), and the Online Representations and Certifications Application (ORCA) to SAM. The FAR change will indicate that these IAE systems and the Disaster Response Registry will now be accessed through <http://www.acquisition.gov>.

Item III--Brand-Name Specifications (FAR Case 2005-037)

This final rule adopts, with changes, the interim rule that amended the FAR to fully implement Office of Management and Budget memoranda and policies on the use of brand-name specifications. The final rule clarifies that when applicable, the documentation or justification and posting requirements for brand name items only apply to the portion of the acquisition that requires the brand name item. The final rule also adds a requirement to screen the brand name documentation or justification for contractor proprietary data. Further, the final rule requires the

contracting officer to post the justifications for an order peculiar to one manufacturer under indefinite-delivery contracts.

Item IV--Time-and-Materials and Labor-Hour Contracts for Commercial Items (FAR Case 2009-043)

This final rule amends the FAR to implement recommendations from the Government Accountability Office to:

(1) Ensure that time-and-materials (T&M) and labor-hour (LH) contracts are used to acquire commercial services only when no other contract type is suitable, and (2) instill discipline in the determination of contract type with a view toward managing the risk to the Government. The requirement for a determination and findings when no other contract type is suitable is added to FAR 8.404, Use of Federal Supply Schedules. FAR 8.404 has also been amended to address increases in the order ceiling price of T&M and LH contracts, to more closely conform to the language at FAR 12.207. In addition, FAR 16.201 is modified and FAR 16.600 is added to clarify that T&M and LH contracts are not types of fixed-price contracts. This rule will not have a significant economic impact on a substantial number of small entities.

Item V--Public Access to the Federal Awardee Performance and Integrity Information System (FAR Case 2010-016)

This rule adopts as final, with changes, an interim rule. The interim rule implemented section 3010 of the Supplemental Appropriations Act, 2010 (Pub. L. 111-212), enacted July 29, 2010. Section 3010 requires that the information in the Federal Awardee Performance and Integrity Information System (FAPIIS), excluding past performance reviews, shall be made publicly available. The interim rule notified contractors of this new statutory requirement for public access to FAPIIS. A Correction Notice was issued to state that the date of applicability for this change is January 17, 2012.

In response to public comments, the final rule allows a 14-calendar-day delay before making the data available to the public. Contractors have 7 calendar days within those 14 calendar days to assert a disclosure exemption under the Freedom of Information Act. In addition, the FAPIIS system has been modified to allow more space for contractor comments.

Item VI--Updated Financial Accounting Standards Board Accounting References (FAR Case 2010-005)

This final rule amends the FAR sections 31.205-11, 31.205-36, 52.204-10, 52.212-5, and 52.213-4 to update references to authoritative accounting standards owing to the Financial Accounting Standards Board's Accounting Standards Codification of Generally Accepted Accounting Principles ("Codification of GAAP"). These revisions have no effect other than to simply replace the superseded references with updated references.

Item VII--Technical Amendments

Editorial changes are made at FAR 4.603, 8.402, 8.405-5, 8.703, 15.402, 15.403-1, 19.102, 19.402, 22.404-1, 22.1304, 22.1306, 23.205, 23.401, 28.203-3, 42.203, 52.202-1, 52.212-3, 52.219-22, and 52.228-11.