

**Federal Acquisition Regulation
Federal Acquisition Circular 2005-65 Summary of Rules**

<u>Item</u>	<u>Subject</u>	<u>FAR Case</u>
I.	Prohibition on Contracting with Inverted Domestic Corporations	2012-013
II.	Extension of Sunset Date for Protests of Task and Delivery Orders	2012-007
III.	Free Trade Agreement—Colombia	2012-012
IV.	Unallowability of Costs Associated With Foreign Contractor Excise Tax	2011-011
V.	Technical Amendment	

**Item I—Prohibition on Contracting With Inverted Domestic Corporations
(FAR Case 2012–013)**

This rule adopts as final an interim rule implementing section 738 of Division C of the Consolidated Appropriations Act, 2012 (Pub. L. 112–74), which prohibits the award of contracts using Fiscal Year 2012 appropriated funds to any foreign incorporated entity that is treated as an inverted domestic corporation or to any subsidiary of such an entity. The interim rule extended an existing prohibition that applied to the use of Fiscal Year 2008 through 2010 funds. Contracting officers are prohibited from awarding contracts using appropriated funds to any foreign incorporated entity that is treated as an inverted domestic corporation or to any subsidiary of such entity, unless an exception applies. An inverted domestic corporation is one that used to be incorporated in the United States, or used to be a partnership in the United States, but now is incorporated in a foreign country, or is a subsidiary whose parent corporation is incorporated in a foreign country. See the definition of inverted domestic corporation at FAR 9.108–1. This rule will not have any significant economic impact on small businesses because this rule only applies to an offeror that is an inverted domestic corporation and wants to do business with the Government. Small business concerns are unlikely to have been incorporated in the United States and then reincorporated in a tax haven. *Effective:* January 29, 2013.

**Item II—Extension of Sunset Date for Protests of Task and Delivery Orders
(FAR Case 2012–007)**

This final rule adopts the interim rule with change amending the FAR to implement section 825 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Pub. L. 111–383) and section 813 of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112–81). These statutes extend the sunset date for protests against awards of task or delivery orders to September 30, 2016. There is no effect on Government automated systems. *Effective:* January 29, 2013.

**Item III-- Free Trade Agreement—Colombia
(FAR Case 2012-012)**

This final rule adopts, with minor change, the interim rule amending the FAR to implement the United States—Colombia Trade Promotion Agreement. This Trade Promotion Agreement is a

free trade agreement that provides for mutually non-discriminatory treatment of eligible products and services from Colombia. *Effective date:* January 29, 2013.

Item IV—Unallowability of Costs Associated With Foreign Contractor Excise Tax (FAR Case 2011–011)

This final rule amends the FAR to implement certain requirements of section 301 of the James Zadroga 9/11 Health and Compensation Act of 2010, which imposes a 2 percent excise tax on certain Federal procurement payments to foreign persons. First, the statute disallows the cost of the 2 percent excise tax on certain foreign procurements as part of a payment, or as part of a cost-based negotiated price. Second, the statute stipulates that no funds are to be disbursed to any foreign contractor in order to reimburse the tax imposed. This rule will have a minimal economic impact on small businesses because the 2 percent excise tax is applied only to foreign persons that receive Federal procurement payments pursuant to a contract with the Government of the United States for the provision of goods or services, if the goods are manufactured or produced in, or the services are performed in, a country that is not a party to an international procurement agreement with the United States. *Effective date:* February 28, 2013.

Item V—Technical Amendments

Editorial changes are made at FAR 1.106, 2.000, and 31.205–6.
Effective date: January 29, 2013.