

Acquisition Policy
DOT DASH
2012-03

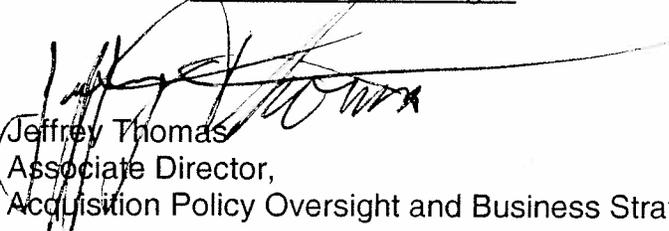
Date: November 30, 2011
To: Chief of the Contracting Office (COCO)
Acquisition Personnel
From: Office of the Senior Procurement Executive
Subject: Federal Acquisition Circular 2005-54

Summary: Federal Acquisition Circular 2005-54, which makes changes to the Federal Acquisition Regulation (FAR), was published in the November 2, 2011, issue of the Federal Register.

This DASH and its attachment will be available online at the following website:
<http://www.dot.gov/ost/m60>, under Breaking News or Quick Picks, Policy DASHES.

Unless otherwise specified, all FAR and other directive material contained in FAC 2005-54 is effective November 2, 2011, except for Items II, VII, and IX which are effective December 2, 2011.

Questions concerning this policy DASH should be directed to Lenita Ahmadi at (202) 366-4974 or lenita.ahmadi@dot.gov.



Jeffrey Thomas
Associate Director,
Acquisition Policy Oversight and Business Strategies

Attachment

ATTACHMENT (1)

Federal Acquisition Regulation Circular (FAC) 2005-54 amends the Federal Acquisition Regulation (FAR) as specified below:

List of Rules in FAC 2005-54

- I. Notification of Employee Rights Under the National Labor Relations Act
- II. Preventing Personal Conflicts of Interest for Contractor Employees Performing Acquisition Functions
- III. Small Disadvantaged Business Program Self-Certification
- IV. Certification Requirement and Procurement Prohibition Relating to Iran Sanctions
- V. Representation Regarding Export of Sensitive Technology to Iran (Interim)
- VI. Set-Asides for Small Business (Interim)
- VII. Sudan Waiver
- VIII. Successor Entities to the Netherlands Antilles
- IX. Labor Relations Costs
- X. Technical Amendment

FAC 2005-54 SUMMARY OF ITEMS

Federal Acquisition Circular (FAC) 2005-54 amends the Federal Acquisition Regulation (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 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 conflicts 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 published in the *Federal Register* at 75 FR 77737 on December 13, 2010, with an effective date of 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, specifically section 106 of 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 (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 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—Netherlands Antilles dissolved on October 10, 2010. The rule does not impose any requirements on small businesses.