

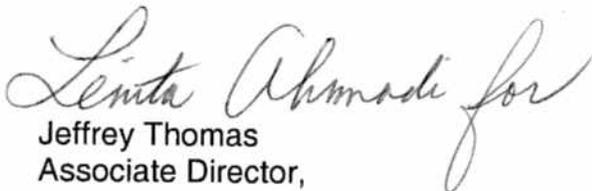
Acquisition Policy
DOT DASH
2012-14

Date: August 14, 2012
To: Chief of the Contracting Office (COCO)
Acquisition Personnel
From: Office of the Senior Procurement Executive
Subject: Federal Acquisition Circular 2005-60

Summary: Federal Acquisition Circular 2005-60, which makes changes to the Federal Acquisition Regulation (FAR), was published in the July 26, 2012, issue of the Federal Register. Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005-60 are effective July 26, 2012, except for Items I, II, IV and V which are effective August 27, 2012.

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.

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



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Attachment

FAC 2005-59 SUMMARY OF ITEMS

Item Title Page

- I. Reporting Executive Compensation and First-Tier Subcontract Awards
- II. Payments Under Time-and-Materials and Labor-Hour Contracts
- III. Extension of Sunset Date for Protests of Task and Delivery Orders (Interim)
- IV. DARPA-New Mexico Tax Agreement
- V. Clarification of Standards for Computer Generation of Forms

FAC 2005-60 SUMMARY OF ITEMS

Federal Acquisition Circular (FAC) 2005-60 amends the Federal Acquisition Regulation (FAR) as specified below:

Item I- Reporting Executive Compensation and First-Tier Subcontract Awards (FAR Case 2008-039)

The interim rule published in the *Federal Register* at 75 FR 39414 on July 8, 2010, is adopted as final with changes. This rule implements section 2 of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), which requires the Office of Management and Budget to establish a free, public, website containing full disclosure of all Federal contract award information. The interim rule required contractors to report executive compensation and first-tier subcontract awards on contracts expected to be \$25,000 or more. This information is available to the public. The final rule removes the exception for inserting the clause in classified solicitations and contracts, or solicitations or contracts with individuals. Classified information is not required to be disclosed. The clause is not prescribed for contracts unless they are required to be reported in the Federal Procurement Data System (FPDS). The final rule clarifies the responsibility of contracting officers to correct data originating from FPDS found by the contractor to be in error when the contractor completes the subcontract report. The definition of first-tier subcontractor is revised to allow contractors greater flexibility to determine their first-tier subcontractors. The rule also clarifies that a contractor must enter Transparency Act data when registering in the Central Contractor Registration (CCR) database and the contractor is required to report its executive compensation in CCR as a part of its annual registration requirement in CCR.

EFFECTIVE DATE OF August 27, 2012.

Item II-Payments Under Time-and-Materials and Labor-Hour Contracts (FAR Case 2011-003)

This final rule amends the FAR with regard to payments under time-and-materials and labor-hour contracts. First, the rule harmonizes payment provisions under commercial time-and-materials and labor-hour contracts and non-commercial time-and-materials and labor-hour contracts, largely by having commercial time-and materials and labor-hour contracts adopt the payment provisions of non-commercial time-and-materials and labor-hour contracts. Second, the rule harmonizes conflicting provisions of the "Allowable Cost and Payment" and "Payments Under Time-and-Materials" and "Labor-Hour Contracts" clauses, which are both prescribed under non-commercial time-and-materials contracts and labor-hour contracts, by using the same periods for invoicing, and submission of the completion voucher as those set forth in the "Allowable Cost and Payment" clause. This harmonization will serve to benefit small businesses under time-and-materials and labor-hour contracts by permitting bi-weekly rather than monthly

invoicing, and providing contracting officers with the discretion to authorize even more frequent payments.

EFFECTIVE DATE OF August 27, 2012.

Item III-Extension of Sunset Dates for Protests of Task and Delivery Orders (FAR Case 2012-007) (Interim)

This interim rule amends 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.

Item IV-DARPA-New Mexico Tax Agreement (FAR Case 2012-019)

This final rule amends the FAR to add the United States Defense Advanced Research Projects Agency (DARPA) to the list of agencies that have entered into an agreement with the State of New Mexico. The agreement eliminates the double taxation of Government cost-reimbursement contracts when contractors and their subcontractors purchase tangible personal property to be used in performing services in whole or in part in the State of New Mexico, and for which title to such property will pass to the United States upon delivery of the property to the contractor and its subcontractors by the vendor. Small businesses benefit from this agreement because they will no longer have the administrative effort and cost associated with collecting this tax.

EFFECTIVE DATE OF August 27, 2012.

Item V- Clarification of Standards for Computer Generation of Forms (FAR Case 2011-022)

DoD, GSA, and NASA published a proposed rule in the *Federal Register* at 76 FR 79609 on December 22, 2011, to implement the removal of Federal Information Processing Standard (FIPS) 161. FIPS 161 is being removed based on the notice posted in the *Federal Register* at 73 FR 51276 on September 2, 2008, by the Department of Commerce. This is a technical change acknowledging the removal by the Department of Commerce of FIPS 161 and replacement with the American National Standards Institute (ANSI) X12 set of standards. There is no impact to the Government or contractors in establishing ANSI X12 as the new standard. Small businesses will continue to be able to generate forms by computer. No public comments were received on the proposed rule, therefore, the final rule will be published with no changes.

EFFECTIVE DATE OF August 27, 2012.