

FEDERAL ACQUISITION CIRCULAR 2005-07

I Transportation, Standard Industry Practice - This rule is amending the Federal Acquisition Regulation (FAR) to implement changes to the Interstate Commerce Act, which abolished tariff-filing requirements for motor carriers of freight and the Interstate Commerce Commission (ICC). Also, the rule implements changes to the Federal Management Regulation that require use of commercial bills of lading for domestic shipments.

II Common Identification Standard for Contractors - This rule is amending the Federal Acquisition Regulation (FAR) to address the contractor personal identification requirements in Homeland Security Presidential Directive (HSPD-12), "Policy for a Common Identification Standard for Federal Employees and Contractors," and Federal Information Processing Standards Publication (FIPS PUB) Number 201, "Personal Identity Verification (PIV) of Federal Employees and Contractors." See Acquisition Letter 2005-16 dated October 4, 2005.

III Change to Performance-based Acquisition - This rule is amending the Federal Acquisition Regulation (FAR) by changing the terms "performance-based contracting (PBC)" and "performance-based service contracting (PBSC)" to "performance-based acquisition (PBA)" throughout the FAR; adding applicable PBA definitions of "Performance Work Statement (PWS)" and "Statement of Objectives (SOO)" and describing their uses; clarifying the order of precedence for requirements; eliminating redundancy where found; modifying the regulation to broaden the scope of PBA and give agencies more flexibility in applying PBA methods to contracts and orders of varying complexity; and reducing the burden of force-fitting contracts and orders into PBA, when it is not appropriate. The title of the rule has also been changed to reflect the deletion of "service." The Department will be modifying its supplemental guidance to reflect this change.

IV Free Trade Agreements - This rule is amending new Free Trade Agreements with Australia and Morocco as approved by Congress (Public Laws 108-286 and 108-302). These Free Trade Agreements were scheduled to become effective on or after January 1, 2005. However, the Moroccan Free Trade Agreement has not yet been implemented and is therefore removed from this final rule. The rule also established a table of services excluded from the coverage of the various trade agreements, corrected the threshold for Canadian services, revised the list of Least Developed Countries, revised FAR terminology relating to international trade agreements and the Trade Agreements Act (TAA), and revised the FAR clauses that implement application of the Buy American Act (41 U.S.C. 10a, 10b, 10b-1, and 10c) and trade agreements to construction material. Acquisition Letter 2002-06 may be updated or a Policy Flash will be issued to explain the change.

V Deletion of the Very Small Business Pilot Program - This rule is amending the Federal Acquisition Regulation (FAR) to delete the Very Small Business Pilot Program. Under the pilot program, contracting officers were required to set-aside for very small business concerns certain acquisitions with an anticipated dollar value between \$2,500 and \$50,000. The Councils

removed the FAR provisions because the legislative authority for the program terminated on September 30, 2003. See Acquisition Letter 2005-08 dated June 10, 2005. The next Small Business related AL will reflect this change.

VI Purchases from Federal Prison Industries, Requirement for Market Research - This rule is amending the Federal Acquisition Regulation (FAR) to implement Section 637 of Division H of the Consolidated Appropriations Act, 2005. Section 637 provides that no funds made available under the Consolidated Appropriations Act for fiscal year 2005, or under any other Act for fiscal year 2005 and each fiscal year thereafter, shall be expended for purchase of a product or service offered by Federal Prison Industries, Inc., unless the agency making the purchase determines that the offered product or service provides the best value to the buying agency. See Policy Flash 2004-14 dated April 5, 2004.

VII Exception from Buy American Act, Commercial Information Technology - This rule is implementing Section 517 of Division H, Title V of the Consolidated Appropriations Act, 2005 (Pub. L. 108-447). Section 517 authorizes exemption from the Buy American Act for acquisitions of information technology that are commercial items.

VIII Removal of Sanctions Against Libya - This rule implements Executive Order 13357 which removed sanctions against Libya.

IX Elimination of Certain Subcontract Notification Requirements - This rule is amending the Federal Acquisition Regulation (FAR) to modify the language regarding advance notification requirements. The change eliminates the requirement for advance notification of certain subcontract awards if the contractor has an approved subcontracting program. This change is required to implement Section 842 of the National Defense Authorization Act for Fiscal Year 2004, Public Law 108-136, which resulted in revisions to 10 U.S.C. 2306(e).

X Annual Representations and Certifications, NAICS Code/Size Standards - This rule amended the Federal Acquisition Regulation (FAR) to modify the provision regarding Annual Representations and Certifications to include a section whereby the contracting officer can insert the appropriate North American Industry Classification System (NAICS) code and small business size standard for the procurement. Its exclusion in the original drafting of the subject provision was an oversight. When the FAR provision is included in a solicitation, the provision regarding Small Business Program Representations, where this information is normally placed, is not included. Without this change, there is no standard way in which the NAICS code and small business size standard can be communicated to the vendor.

XI Technical Amendments - This rule makes amendments to the Federal Acquisition Regulation (FAR) in order to make editorial corrections and updates.