

## **Federal Acquisition Circular 2005-17**

### **Government Property**

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) published a final rule amending the Federal Acquisition Regulation (FAR) to simplify procedures, clarify language, and eliminate obsolete requirements related to the management and disposition of Government property in the possession of contractors. FAR parts are amended to implement a policy that improves the management of Government property while fostering efficiency, flexibility, innovation and creativity by adopting property practices typically used in the commercial arena while continuing to protect the Government's interest. In addition, the rule simplifies requirements on contractors by reducing the number of FAR clauses from nineteen clauses to three overarching clauses. The final rule specifically impacts contracting officers, property administrators, and contractors responsible for the management of Government property.

Anyone requiring a detailed listing of the individual changes made by this case may refer to the listing of changes in the May 14, 2007 issue of the *Federal Register* at page 27365.

The Department is drafting a rulemaking to update the DEAR. Please contact Jerry Hanley (202) 287-1563 if you have questions about this.

## **Federal Acquisition Circular 2005-18**

### **Small Business Size Representation**

This interim rule implements the SBA final rule published on November 15, 2006 (71 FR 66434), entitled "Small Business Size Regulations; Size for Purposes of Government-wide Acquisition Contracts, Multiple Award Schedule Contracts and Other Long-Term Contracts; 8(a) Business Development/Small Disadvantaged Business; Business Status Determinations." The purpose of the SBA rule is to improve the accuracy of small business size status reporting, at the prime contract level, over the life of certain contracts. It is intended to address situations where a concern was small at time of award but, over the course of the contract, has become other than small. Under current regulations, in these situations, funds obligated under the contract continue to be reported as awarded to small business for the life of the contract, regardless of whether the size status of the concern has changed.

This interim rule requires a concern that represented it was a small business prior to award of a contract to represent its size status again for that existing contract (re-represent) upon the occurrence of any of the following:

(1) Within 30 days after execution of a novation agreement, or within 30 days after modification of the contract to include the clause at 52.219-28, Post-Award Small Business Program Re-representation, if the novation agreement was executed prior to inclusion of that clause in the contract.

(2) Within 30 days after a merger or acquisition that does not require a novation or within 30 days after modification of the contract to include the clause at 52.219-28, if the merger or acquisition occurred prior to inclusion of that clause in the contract.

(3) For long-term contracts—

(i) Within 60 to 120 days prior to the end of the fifth year of the contract;  
and

(ii) Within 60 to 120 days prior to the exercise date specified in the contract for any option thereafter. If a concern represents that it is now other than small, the agency must ensure that updated size status is reflected in its reporting system, and, from that point forward, may no longer include the value of options exercised or orders issued against the contract in its small business prime contracting achievements.

This interim rule also implements the portions of the SBA rule that state that a change in size status does not change the terms and conditions of the contract, and a contracting officer is not required to terminate the contract when, as a result of a protest, the concern is found to be other than small.

Although not addressed in the SBA rule, this interim rule strengthens the requirement for a contracting officer to document in the contract file the date that the contractor verified its representations in the Government's Online Representations and Certifications Application (ORCA), or include a paper copy of those representations in the contract file. The SBA requested this clarification to provide greater assurance that the contracting officer is documenting the ORCA certifications and representations of small business offerors.

The Department previously issued guidance on this subject through Acquisition Letter 2007-11. Questions on this subject may be addressed to Stephen Zvolensky (202) 287-1307.

## **Federal Acquisition Circular 2005-19**

See Policy Flash 2007-58 for information on this Circular.

## **Federal Acquisition Circular 2005-20**

### **Federal Funding Accountability and Transparency Act**

Federal Funding Accountability and Transparency Act (FFATA) -  
Reporting Requirement of Subcontractor Award Data (FAR Case 2006-029)

This final rule amends the Federal Acquisition Regulation (FAR) to require that contractors report specific subcontract awards to a public database. The Federal Funding Accountability and Transparency Act of 2006 (FFATA) (Pub. L. 109-282) requires the existence and operation of a searchable website that provides public access to information about Federal expenditures. This final rule establishes a pilot program to test the collection and accession of subcontract award data. As a result, subcontracts awarded and funded with Federal appropriated funds will eventually be disclosed to the public in a single searchable website. However, information reported under the pilot program will not be disclosed to the public.

Questions on this topic may be addressed to Jacqueline Kniskern on (202) 287-1342.