

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Chapter 1****Docket FAR—2006—0023****Federal Acquisition Regulation;
Federal Acquisition Circular 2005—10;
Introduction**

AGENCIES: Department of Defense (DoD),
General Services Administration (GSA),

and National Aeronautics and Space
Administration (NASA).

ACTION: Summary presentation of final
and interim rules, and technical
amendments and corrections.

SUMMARY: This document summarizes
the Federal Acquisition Regulation
(FAR) rules agreed to by the Civilian
Agency Acquisition Council and the
Defense Acquisition Regulations
Council in this Federal Acquisition
Circular (FAC) 2005—10. A companion
document, the Small Entity Compliance
Guide (SECG), follows this FAC. The
FAC, including the SECG, is available

via the Internet at [http://
www.acquisition.gov/far](http://www.acquisition.gov/far).

DATES: For effective dates and comment
dates, see separate documents which
follow.

FOR FURTHER INFORMATION CONTACT For
clarification of content, contact the
analyst whose name appears in the table
below in relation to each FAR case or
subject area. Please cite FAC 2005—10
and specific FAR case number(s).
Interested parties may also visit our
Web site at [http://www.acquisition.gov/
far](http://www.acquisition.gov/far). For information pertaining to status
or publication schedules, contact the
FAR Secretariat at (202) 501—4755.

Item	Subject	FAR case	Analyst
I	Central Contractor Registration —Taxpayer Identification Number (TIN) Validation	2005—007	Jackson.
II	Procedures Related to Procurement Center Representatives	2006—003	Cundiff.
III	Submission of Cost or Pricing Data on Noncommercial Modifications of Commercial Items	2004—035	Olson.
IV	Implementation of Wage Determinations OnLine (WDOL) (Interim)	2005—033	Sochon.
V	Free Trade Agreements—El Salvador, Honduras, and Nicaragua (Interim)	2006—006	Sochon.
VI	Buy-Back of Assets	2004—014	Olson.
VII	Technical Amendments		

SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow.
For the actual revisions and/or
amendments to these FAR cases, refer to
the specific item number and subject set
forth in the documents following these
item summaries.

FAC 2005—10 amends the FAR as
specified below:

**Item I—Central Contractor
Registration—Taxpayer Identification
Number (TIN) Validation (FAR Case
2005—007)**

The rule adds the process of the
government validating a Central
Contractor Registration (CCR)
registrant's taxpayer identification
number (TIN) with the Internal Revenue
Service (IRS) to improve the quality of
data in the CCR and the federal
procurement system. Additionally, the
rule removes outdated language
requiring modifications of contracts
prior to December 31, 2003, regarding
CCR.

**Item II—Procedures Related to
Procurement Center Representatives
(FAR Case 2006—003)**

This final rule amends the Federal
Acquisition Regulation (FAR) to provide
internal procedures to cover situations
when the FAR requires interaction with
a procurement center representative and
one has not been assigned to the
procuring activity or contract
administration office. It primarily
impacts contracting officers and
procurement center representatives.

**Item III—Submission of Cost or Pricing
Data on Noncommercial Modifications
of Commercial Items (FAR Case 2004—
035)**

This final rule amends the interim
rule issued in FAC 2005—004 and
implements an amendment to 10 U.S.C.
2306a. The policy requires that the
exception from the requirement to
obtain certified cost or pricing data for
a commercial item does not apply to
noncommercial modifications of a
commercial item that are expected to
cost, in the aggregate, more than
\$500,000 or 5 percent of the total price
of the contract, whichever is greater.
Section 818 of Public Law 108—375, the
Ronald W. Reagan National Defense
Authorization Act of Fiscal Year 2005
applies to offers submitted, and to
modifications of contracts or
subcontracts made, on or after June 1,
2005. This new policy results from a
statute which changed 10 U.S.C. 2306a.
10 U.S.C. 2306a applies only to
contracts or task or delivery orders
funded by DoD, NASA, and the Coast
Guard. The new policy does, however,
also apply to contracts awarded or task
or delivery orders placed on behalf of
DoD, NASA, or the Coast Guard by an
official of the United States outside of
those agencies, because the statutory
requirement of Section 818 applies to
the funds provided by DoD, NASA, or
the Coast Guard.

The change to the interim rule
clarifies the policy to ensure it is
applied properly. The threshold in the
rule applies to an instant contract

action, not to the total value of all
contract actions and, as applicable to
subcontractors, the threshold applies to
the value of the subcontract, not the
value of the prime contract.

**Item IV—Implementation of Wage
Determinations OnLine (WDOL) (FAR
Case 2005—033) (Interim)**

This interim rule implements the
Department of Labor (DOL) Wage
Determinations OnLine (WDOL)
internet website as the source for
Federal contracting agencies to obtain
wage determinations issued by the DOL
for service contracts subject to the
McNamara-O'Hara Service Contract Act
(SCA) and for construction contracts
subject to the Davis-Bacon Act (DBA).
The rule amends the FAR to direct
Federal contracting agencies to obtain
DBA and SCA wage determinations
from the WDOL website.

The Contracting Officer (CO) will be
able to check the WDOL website ([http://
www.wdol.gov](http://www.wdol.gov)) to find the applicable
wage determination for a contract action
subject to the SCA or DBA. If the WDOL
database does not contain the applicable
wage determination for a SCA contract
action, the CO must use the e98 process
to request a wage determination from
DOL. The e98 means a DOL approved
electronic application, (available at
<http://www.wdol.gov>), whereby a
contracting officer submits pertinent
information to the DOL and requests a
wage determination directly from the
Wage and Hour Division. With regard to
DBA requirements, if the WDOL

database does not contain the applicable wage determination for a DBA contract action, the CO must request a wage determination by submitting SF-308 to DOL.

The WDOL and e98 processes replace the paper Standard Forms 98 and 98a. In addition, Standard Forms 99, 98, and 98a are deleted from FAR Part 53. This interim rule also incorporates new geographical jurisdictions for DOL's Wage and Hour Regional Offices and eliminates FAR references to the Government Printing Office (GPO) publication of general wage determinations.

Item V—Free Trade Agreements—El Salvador, Honduras, and Nicaragua (FAR Case 2006-006) (Interim)

This interim rule allows contracting officers to purchase the goods and services of El Salvador, Honduras, and Nicaragua without application of the Buy American Act, if the acquisition is subject to the Free Trade Agreements. The U.S. Trade Representative negotiated the Dominican Republic—Central America-United States Free Trade Agreement with Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and the Dominican Republic. However, the agreements will not all take effect at the same time. This agreement with El Salvador, Honduras, and Nicaragua joins the North American Free Trade Agreement (NAFTA) and the Australia, Chile, Morocco, and Singapore Free Trade Agreements which are already in the FAR. The threshold for applicability of the Dominican Republic—Central America—United States Free Trade Agreement is \$64,786 for supplies and services (the same as other Free Trade Agreements to date except Morocco and Canada) and \$7,407,000 for construction (the same as all other Free Trade Agreements to date except NAFTA).

Item VI—Buy-Back of Assets (FAR Case 2004-014)

This final rule amends the Federal Acquisition Regulation (FAR) contract cost principle for depreciation costs. The final rule adds language which addresses the allowability of depreciation costs of reacquired assets involved in a sale and leaseback arrangement.

Item VII—Technical Amendments

Editorial changes are made at FAR 8.714, 33.102, and 52.225-11 in order to update references.

Dated: June 20, 2006.

Ralph De Stefano,

Director, Contract Policy Division.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 2005-10 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005-10 is effective, July 28, 2006 except for Items IV, V, and VII which are effective June 28, 2006.

Dated: June 19, 2006.

Shay D. Assad,

Director, Defense Procurement and Acquisition Policy.

Dated: June 20, 2006.

Roger D. Waldron,

Acting Senior Procurement Executive, Office of the Chief Acquisition Officer, General Services Administration.

Dated: June 19, 2006.

Tom Luedtke,

Assistant Administrator for Procurement, National Aeronautics and Space Administration.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 4, and 52

[FAC 2005-10; FAR Case 2005-007; Item I; Docket 2006-0020, Sequence 9]

RIN 9000-AK33

Federal Acquisition Regulation; FAR Case 2005-007, Central Contractor Registration—Taxpayer Identification Number (TIN) Validation

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to include the process of validating a Central Contractor Registration (CCR) registrant's taxpayer

identification number (TIN) with the Internal Revenue Service (IRS) to improve the quality of data in the Federal procurement system. Additionally, the amendment removes outdated language requiring modifications of contracts prior to December 31, 2003, regarding CCR.

DATES: *Effective Date:* July 28, 2006.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Michael O. Jackson, Procurement Analyst, at (202) 208-4949. Please cite FAC 2005-10, FAR case 2005-007. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501-4755.

SUPPLEMENTARY INFORMATION:

A. Background

Vendor registration in the CCR as a pre-requisite for receiving a contract has been required in the Department of Defense since 1998, and in civilian agencies since 2003. Since CCR's inception, validation of a registrant's TIN with the IRS has been contemplated in order to improve the quality of data throughout the Federal procurement system. This capability, although actively pursued, was never implemented as the Internal Revenue Code (I.R.C.) restricted disclosure of TINs without the taxpayer's consent, which due to technology at the time, would have been costly and inefficient to pursue. However, in its Fall 2004 "Report to Senate Committee on Governmental Affairs Permanent Subcommittee on Investigations," the Federal Contractor Tax Compliance Task Force (which included the Office of Management and Budget, the Department of Treasury, the Department of Defense, the General Services Administration, the Department of Justice, and the IRS) recommended that "... a consent-based TIN validation under I.R.C. § 6103 should be instituted." The capability for an event driven, near real-time, or real-time, web-based solution integrating the CCR with an IRS validation is now possible due to advances in technology. The Task Force recommended updating the FAR to specifically identify the validation of the TIN as a part of CCR registration. In August 2005, a computer matching agreement was established between the IRS, as manager of the TIN database; GSA, as manager of the Integrated Acquisition Environment (IAE) Federal eGov initiative; and DOD, as executive agent for CCR.

Additionally, FAR Subpart 4.11, Central Contractor Registration, contains language that was included when this subpart was implemented in the FAR in