

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Chapter 1**

[Docket No. FAR 2016–0051, Sequence No. 3]

**Federal Acquisition Regulation;
Federal Acquisition Circular 2005–89;
Introduction**AGENCY: Department of Defense (DoD),
General Services Administration (GSA),and National Aeronautics and Space
Administration (NASA).**ACTION:** Summary presentation of final
rules.**SUMMARY:** This document summarizes
the Federal Acquisition Regulation
(FAR) rules agreed to by the Civilian
Agency Acquisition Council and the
Defense Acquisition Regulations
Council (Councils) in this Federal
Acquisition Circular (FAC) 2005–89. 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.regulations.gov](http://www.regulations.gov).**DATES:** For effective dates see the
separate documents, which follow.**FOR FURTHER INFORMATION CONTACT:** The
analyst whose name appears in the table
below in relation to the FAR case.
Please cite FAC 2005–89 and the
specific FAR case number. For
information pertaining to status or
publication schedules, contact the
Regulatory Secretariat Division at 202–
501–4755.**RULES LISTED IN FAC 2005–89**

Item	Subject	FAR Case	Analyst
I	Small Business Subcontracting Improvements	2014–003	Uddowla.
II	OMB Circular Citation Update	2014–023	Hopkins.
III	FPI Blanket Waiver Threshold	2016–008	Uddowla.
IV	Revision to Standard Forms for Bonds	2015–025	Hopkins.
V	Technical Amendments.		

SUPPLEMENTARY INFORMATION:Summaries for each FAR rule follow.
For the actual revisions and/or
amendments made by these rules, refer
to the specific item numbers and
subjects set forth in the documents
following these item summaries. FAC
2005–89 amends the FAR as follows:**Item I—Small Business Subcontracting
Improvements (FAR Case 2014–003)**This final rule amends the FAR to
implement SBA's final rule published at
78 FR 42391 on July 16, 2013. The rule
will implement the statutory
requirements set forth in section 1321
and 1322 of the Small Business Jobs Act
of 2010, (Pub. L. 111–240), as well as
other requirements aimed at improving
subcontracting regulations to increase
small business opportunities. This rule
accomplishes the following:(1) Requires prime contractors to
make good faith efforts to utilize their
proposed small business subcontractors
during performance of a contract to the
same degree the prime contractor relied
on the small business in preparing and
submitting its bid or proposal. To the
extent a prime contractor is unable to
make a good faith effort to utilize its
small business subcontractors as
described above, the prime contractor is
required to explain, in writing, within
30 days of contract completion, to the
contracting officer the reasons why it
was unable to do so.(2) Authorizes contracting officers to
calculate subcontracting goals in termsof total contract dollars in addition to
the required goals in terms of total
subcontracted dollars.(3) Provides contracting officers with
the discretion to require a
subcontracting plan in instances where
a small business rerepresents its size as
an other than small business.(4) Requires subcontracting plans
even for modifications under the
subcontracting plan threshold if said
modifications would cause the contract
to exceed the plan threshold.(5) Requires prime contractors to
assign (North American Industry
Classification System (NAICS)) codes to
subcontracts.(6) Restricts prime contractors from
prohibiting a subcontractor from
discussing payment or utilization
matters with the contracting officer.(7) Requires prime contractors to
resubmit a corrected subcontracting
report within 30 days of receiving the
contracting officer's notice of report
rejection.(8) Requires prime contractors to
provide the socioeconomic status of the
subcontractor in the notification to
unsuccessful offerors for subcontracts.(9) Requires prime contracts with
subcontracting plans on task and
delivery order contracts to report order
level subcontracting information after
November 2017.(10) Facilitates funding agencies
receiving small business subcontracting
credit.(11) On indefinite-delivery,
indefinite-quantity contracts, allows thecontracting officer to establish
subcontracting goals at the order level
(but not a new subcontracting plan).This rule may have a positive
economic impact on any small business
entity that wishes to participate in the
Federal procurement arena as a
subcontractor.**Item II—OMB Circular Citation Update
(FAR Case 2014–023)**This final rule amends the FAR to
update outdated OMB Circular citation
references. On December 26, 2013, the
Office of Management and Budget
(OMB) published new guidance at 2
CFR part 200 entitled Uniform
Administrative Requirements, Cost
Principles, and Audit Requirements for
Federal Awards, adopted by Federal
agencies as a set of binding regulations
that became effective December 26,
2014. This new guidance supersedes
and streamlines requirements from
OMB Circulars A–21, A–87, A–89, A–
102, A–110, A–122, and A–133, as well
as the guidance in Circular A–50 on
Audit Followup. As such, this final rule
replaces OMB citations in the FAR to
the circulars cited above that have been
superseded. The replacement of these
outdated OMB citations in the FAR will
have no impact on small businesses
since the intent of the OMB guidance
remains unchanged.

Item III—FPI Blanket Waiver Threshold (FAR Case 2016–008)

This final rule amends the FAR to increase the blanket waiver threshold for small dollar-value purchases from Federal Prison Industries (FPI) by Federal agencies from \$3,000 to \$3,500. No waiver is required to buy from an alternative source below \$3,500. Customers may, however, still purchase from FPI at, or below, this threshold, if they so choose.

Item IV—Revision to Standard Forms for Bonds (FAR Case 2015–025)

This rule amends the FAR to revise five Standard Forms prescribed for contracts involving bonds and other financial protections. The revisions, aimed at clarifying liability limitations and expanding the options for organization types, are made to Standard Forms 24, 25, 25A, 34, and 35. These changes will minimize questions from industry to the contracting officer.

This final rule does not place any new requirements on small entities.

Item V—Technical Amendments

Editorial changes are made at FAR 4.1801, 4.1803, 52.204–16, 52.204–17, 52.204–18, 52.204–20, and 52.212–3.

Dated: June 30, 2016.

William Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Federal Acquisition Circular (FAC) 2005–89 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 2005–89 is effective July 14, 2016 except for item I which is effective November 1, 2016, and items II, III, and IV, which are effective August 15, 2016.

Dated: July 1, 2016.

Claire M. Grady,

Director, Defense Procurement and Acquisition Policy

Dated: July 1, 2016.

Jeffrey A. Koses,

Senior Procurement Executive/Deputy CAO, Office of Acquisition Policy, U.S. General Services Administration.

Dated: June 29, 2016.

William G. Roets,

Acting Assistant Administrator, Office of Procurement National Aeronautics and Space Administration.

[FR Doc. 2016–16244 Filed 7–13–16; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE**GENERAL SERVICES ADMINISTRATION****NATIONAL AERONAUTICS AND SPACE ADMINISTRATION****48 CFR Parts 1, 2, 15, 19, and 52**

[FAC 2005–89; FAR Case 2014–003; Item I; Docket No. 2014–0003; Sequence No. 1]

RIN 9000–AM91

Federal Acquisition Regulation; Small Business Subcontracting Improvements

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

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the Small Business Administration, which provide for a Governmentwide policy on small business subcontracting.

DATES: *Effective:* November 1, 2016.

FOR FURTHER INFORMATION CONTACT: Ms. Mahruba Uddowla, Procurement Analyst, at 703–605–2868 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite FAC 2005–89, FAR Case 2014–003.

SUPPLEMENTARY INFORMATION:**I. Background**

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 80 FR 32909 on June 10, 2015. The proposed rule discussed regulatory changes made by the Small Business Administration (SBA) in its final rule published at 78 FR 42391, on July 16, 2013, concerning small business subcontracting. SBA's final rule implements the statutory requirements in sections 1321 and 1322 of the Small Business Jobs Act of 2010 (Pub. L. 111–240), as well as other changes aimed at improving subcontracting regulations to increase small business opportunities. The changes being implemented in this final rule include the following:

(1) Requiring prime contractors to make good faith efforts to utilize their proposed small business subcontractors during performance of a contract to the same degree the prime contractor relied on the small business in preparing and submitting its bid or proposal. To the extent a prime contractor is unable to

make a good faith effort to utilize its small business subcontractors as described above, the prime contractor is required to explain, in writing, within 30 days of contract completion, to the contracting officer the reasons why it is unable to do so.

(2) Authorizing contracting officers to calculate subcontracting goals in terms of total contract dollars in addition to the required goals in terms of total subcontracted dollars.

(3) Providing contracting officers with the discretion to require a subcontracting plan in instances where a small business rerepresents its size as an other than small business.

(4) Requiring subcontracting plans even for modifications under the subcontracting plan threshold if said modifications would cause the contract to exceed the plan threshold.

(5) Requiring prime contractors to assign North American Industry Classification System (NAICS) codes to subcontracts.

(6) Restricting prime contractors from prohibiting a subcontractor from discussing payment or utilization matters with the contracting officer.

(7) Requiring prime contractors to resubmit a corrected subcontracting report within 30 days of receiving the contracting officer's notice of report rejection.

(8) Requiring prime contractors to provide the socioeconomic status of the subcontractor in the notification to unsuccessful offerors for subcontracts.

(9) Requiring prime contracts with subcontracting plans on task and delivery order contracts to report order level subcontracting information after November 2017.

(10) Funding agencies receiving small business subcontracting credit.

(11) On indefinite-delivery, indefinite-quantity contracts, the contracting officer may establish subcontracting goals at the order level (but not a new subcontracting plan).

Twenty-seven respondents submitted comments on the proposed rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the development of the final rule. A discussion of the comments received and the changes made to the rule as a result of those comments are provided as follows:

A. Summary of Significant Changes

This final rule makes the following significant changes from the proposed rule: