

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

31.205–6 [Amended]

■ 2. Amend section 31.205–6 by removing from paragraph (p)(2)(ii) “January 1, 1998” and adding “January 1, 2012” in its place, (two times).

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Revise section 52.202–1 to read as follows:

52.202–1 Definitions.

As prescribed in 2.201, insert the following clause:

Definitions (Nov 2013)

When a solicitation provision or contract clause uses a word or term that is defined in the Federal Acquisition Regulation (FAR), the word or term has the same meaning as the definition in FAR 2.101 in effect at the time the solicitation was issued, unless—

(a) The solicitation, or amended solicitation, provides a different definition;

(b) The contracting parties agree to a different definition;

(c) The part, subpart, or section of the FAR where the provision or clause is prescribed provides a different meaning; or

(d) The word or term is defined in FAR Part 31, for use in the cost principles and procedures.

(End of clause)

■ 4. Amend section 52.212–3 by revising the date of the provision and paragraphs (g)(5) and (h)(3) to read as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

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Offeror Representations and Certifications—Commercial Items (Nov 2013)

* * * * *

(g) * * *

(5) *Trade Agreements Certificate.* (Applies only if the clause at FAR 52.225–5, Trade Agreements, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (g)(5)(ii) of this provision, is a U.S.-made or designated country end product, as defined in the clause of this solicitation entitled “Trade Agreements”.

(ii) The offeror shall list as other end products those end products that are not U.S.-made or designated country end products.

Other End Products:

Line item No.	Country of origin
_____	_____
_____	_____
_____	_____

[List as necessary]

(iii) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25. For line items covered by the WTO GPA, the Government will evaluate offers of U.S.-made or designated country end products without regard to the restrictions of the Buy American Act. The Government will consider for award only offers of U.S.-made or designated country end products unless the Contracting Officer determines that there are no offers for such products or that the offers for such products are insufficient to fulfill the requirements of the solicitation.

(h) * * *

(3) Are, are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses enumerated in paragraph (h)(2) of this clause; and

* * * * *

■ 5. Amend section 52.212–5 by—

■ a. Revising the date of the clause;

■ b. Revising paragraphs (b)(34) and (e)(1)(xii); and

■ c. Amending Alternate II by revising the date of the Alternate and paragraph (e)(1)(ii)(L).

The revised text reads as follows:

52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

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Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items (Nov 2013)

* * * * *

(b) * * *

(34) 52.222–54, Employment Eligibility Verification (Aug 2013). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)

* * * * *

(e) * * *

(1) * * *

(xii) 52.222–54, Employment Eligibility Verification (Aug 2013).

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Alternate II (Nov 2013). * * *

(e)(1) * * *

(ii) * * *
(L) 52.222–54, Employment Eligibility Verification (Aug 2013).

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■ 6. Amend section 52.213–4 by—

■ a. Revising the date of the clause;

■ b. Redesignating paragraphs (a)(2)(v) through (a)(2)(viii) as paragraphs (a)(2)(vi) through (a)(2)(ix);

■ c. Adding a new paragraph (a)(2)(v);

■ d. Removing the newly redesignated paragraph (a)(2)(ix); and

■ e. Revising paragraph (b)(2)(i).

The revised and added text reads as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (Nov 2013)

(a) * * *

(2) * * *

(v) 52.232–39, Unenforceability of Unauthorized Obligations (Jun 2013).

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(b) * * *

(2) * * *

(i) 52.209–6, Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Aug 2013) (Applies to contracts over \$30,000).

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR 2013–0078, Sequence No. 7]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–71; Small Entity Compliance Guide

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

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of DOD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the

Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rules appearing in Federal Acquisition Circular (FAC) 2005-71, which amends the Federal Acquisition Regulation (FAR). An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been

prepared. Interested parties may obtain further information regarding these rules by referring to FAC 2005-71, which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

DATES: November 25, 2013.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2005-71 and the FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755.

RULES LISTED IN FAC 2005-71

Item	Subject	FAR Case	Analyst
*I	Accelerated Payments to Small Business Subcontractors	2012-031	Chambers.
II	New Designated Country—Croatia	2013-019	Davis.
III	Technical Amendments.		

SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR cases, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005-71 amends the FAR as specified below:

Item I—Accelerated Payments to Small Business Subcontractors (FAR Case 2012-031)

This final rule amends the FAR to add a new clause, Providing Accelerated Payments to Small Business Subcontractors, as part of the implementation of OMB Memorandum M-12-16, Providing Prompt Payment to Small Business Subcontractors (as extended by OMB Memorandum M-13-15, Extension of Policy to Provide Accelerated Payment to Small Business Subcontractors). This new clause requires the prime contractor, upon receipt of accelerated payments from the Government, to make accelerated payments to small business subcontractors, to the maximum extent

practicable, after receipt of a proper invoice and all proper documentation from small business subcontractors. This clause will be inserted into all new solicitations issued after the effective date of this rule and resultant contracts, including solicitations and contracts for the acquisition of commercial items. This rule does not provide any new rights under the Prompt Payment Act and does not affect the application of the Prompt Payment Act late payment interest provisions. Small businesses benefit from this clause in that they should be paid more expeditiously by their prime contractor, which should improve small businesses overall cash flow.

Item II—New Designated Country—Croatia (FAR Case 2013-019)

This final rule amends the FAR to add Croatia as a new designated country under the World Trade Organization Government Procurement Agreement (WTO GPA). Croatia joined the European Union on July 1, 2013, which is a party to the WTO GPA.

Therefore, this rule adds Croatia to the list of WTO GPA countries wherever it appears in the FAR, whether as a separate definition, part of the definition of “designated country,” the definition of “Recovery Act designated country,” or as part of the list of countries exempt from the prohibition of acquisition of products produced by forced or indentured child labor. As a member of the European Union, Croatia also is a party to the Agreement on Trade in Civil Aircraft.

This final rule will not have a significant economic impact on small entities.

Item III—Technical Amendments

Editorial changes are made at FAR 31.205-6, 52.202-1, 52.212-3, 52.212-5, and 52.213-4.

Dated: November 18, 2013.

William Clark,
Acting Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

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