

FEDERAL ACQUISITION CIRCULAR

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Loose-leaf pages

Federal Acquisition Circular (FAC) 2005-94 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 2005-94 is effective December 20, 2016 except for Items I and II, which are effective January 19, 2017.

FAC 2005-94 List of Subjects

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FAC 2005-94 SUMMARY OF ITEMS

Federal Acquisition Circular (FAC) 2005-94 amends the Federal Acquisition Regulation (FAR) as specified below:

Item I- Privacy Training (FAR Case 2010-013)

This final rule amends the Federal Acquisition Regulation to clarify the training requirements for contractors whose employees will have access to a system of records on individuals or handle personally identifiable information. These training requirements are consistent with the Privacy Act of 1974, 5 U.S.C. 552a, and OMB Circular A-130, Managing Federal Information as a Strategic Resource. Prime contractors are required to flow down these requirements to all applicable subcontracts.

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Item II-Payment of Subcontractors (FAR Case 2014-004)

This final rule amends the Federal Acquisition Regulation (FAR) to implement section 1334 of the Small Business Jobs Act of 2010 and the Small Business Administration's (SBA) final rule, published July 16, 2013. If a contract requires a subcontracting plan, the prime contractor must notify the contracting officer in writing if the prime contractor pays a reduced payment to a small business subcontractor, or an untimely payment if the payment to a small business subcontractor is more than 90 days past due for supplies or services for which the Government has paid the contractor. The contractor is also to include the reason for the reduction in payment or failure to pay. A contracting officer will then use his or her best judgment in determining whether the reduced or untimely payments were justified. The contracting officer must record the identity of a prime contractor with a history of three or more unjustified reduced or untimely payments to subcontractors within a 12-month period under a single contract, in the Federal Awardee Performance and Integrity Information System (FAPIIS). This regulation will benefit small business subcontractors by encouraging large business prime contractors to pay small business subcontractors in a timely manner and at the agreed upon contractual price.

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