

DEPARTMENT OF DEFENSE

**GENERAL SERVICES
ADMINISTRATION**

**NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION**

48 CFR Chapter 1

[Docket No. FAR 2016–0051, Sequence No. 8]

**Federal Acquisition Regulation;
Federal Acquisition Circular 2005–93;
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
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)
2005–94, 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 2005–94,
which precedes this document. These
documents are also available via the
Internet at <http://www.regulations.gov>.

DATES: December 20, 2016.

FOR FURTHER INFORMATION CONTACT: For
clarification of content, contact the
analyst whose name appears in the table
below. Please cite FAC 2005–94 and the
FAR case number. For information
pertaining to status or publication
schedules, contact the Regulatory
Secretariat Division at 202–501–4755.

RULES LISTED IN FAC 2005–94

Item	Subject	FAR Case	Analyst
* I	Privacy Training	2010–013	Gray.
* II	Payment of Subcontractors	2014–004	Glover.

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
2005–94 amends the FAR as follows:

**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.

**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 (FAPIS).
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.

Dated: December 9, 2016.

William F. Clark,

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

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