



# Federal Register

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**Wednesday,  
November 12, 2008**

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## **Part III**

### **Department of Defense**

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#### **General Services Administration**

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#### **National Aeronautics and Space Administration**

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**48 CFR Chapter 1, Parts 2, 3, et al.  
Federal Acquisition Regulation; Final  
Rules**

**DEPARTMENT OF DEFENSE****GENERAL SERVICES  
ADMINISTRATION****NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION****48 CFR Chapter 1****[Docket FAR 2008–0003, Sequence 3]****Federal Acquisition Regulation;  
Federal Acquisition Circular 2005–28;  
Introduction****AGENCIES:** Department of Defense (DoD),  
General Services Administration (GSA),and National Aeronautics and Space  
Administration (NASA).**ACTION:** Summary presentation of final  
rule.**SUMMARY:** This document summarizes  
the Federal Acquisition Regulation  
(FAR) rule agreed to by the Civilian  
Agency Acquisition Council and the  
Defense Acquisition Regulations  
Council in this Federal Acquisition  
Circular (FAC) 2005–28. A companion  
document, the Small Entity Compliance  
Guide (SECG), follows this FAC. The  
FAC, including the SECG, is available  
via the Internet at [http://](http://www.regulations.gov)  
[www.regulations.gov](http://www.regulations.gov).**DATES:** For effective date, *see* the  
document following this notice.**FOR FURTHER INFORMATION CONTACT:** For  
clarification of content, contact the  
analyst whose name appears in the table  
below in relation to the FAR case.  
Please cite FAC 2005–28, FAR Case  
2007–006. For information pertaining to  
status or publication schedules, contact  
the FAR Secretariat at (202) 501–4755.

Rule listed in FAC 2005–28.

Item	Subject	FAR case	Analyst
I .....	Contractor Business Ethics Compliance Program and Disclosure Requirements .....	2007–006	Woodson.

**SUPPLEMENTARY INFORMATION:** A  
summary of the FAR rule follows. For  
the actual revisions and/or amendments  
to this FAR case, refer to FAR Case  
2007–006.FAC 2005–28 amends the FAR as  
specified below: Item I—Contractor  
Business Ethics Compliance Program  
and Disclosure Requirements (FAR Case  
2007–006).

This final rule amends the Federal Acquisition Regulation to amplify the requirements for a contractor code of business ethics and conduct, an internal control system, and disclosure to the Government of certain violations of criminal law, violations of the civil False Claims Act, or significant overpayments. The rule provides for the suspension or debarment of a contractor for knowing failure by a principal to timely disclose, in writing, to the agency Office of the Inspector General, with a copy to the contracting officer, certain violations of criminal law, violations of the civil False Claims Act, or significant overpayments. The final rule implements “The Close the Contractor Fraud Loophole Act,” Public Law 110–252, Title VI, Chapter 1. The statute defines a covered contract to mean “any contract in an amount greater than \$5,000,000 and more than 120 days in duration.” The final rule also provides that the contractor’s Internal Control System shall be established within 90 days after contract award, unless the Contracting Officer establishes a longer time period (*See* FAR 52.203–13(c)). The internal control system is not required for small businesses or commercial item contracts.

Dated: November 5, 2008.

**Al Matera,***Director, Office of Acquisition Policy.*

[FR Doc. E8–26810 Filed 11–10–08; 8:45 am]

**BILLING CODE 6820–EP–P****DEPARTMENT OF DEFENSE****GENERAL SERVICES  
ADMINISTRATION****NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION****48 CFR Parts 2, 3, 9, 42 and 52****[FAC 2005–28; FAR Case 2007–006;  
Item I; Docket 2007–001; Sequence 11]****RIN 9000–AK80****Federal Acquisition Regulation; FAR  
Case 2007–006, Contractor Business  
Ethics Compliance Program and  
Disclosure Requirements****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 amplify the  
requirements for a contractor code of  
business ethics and conduct, an internal  
control system, and disclosure to the  
Government of certain violations of  
criminal law, violations of the civil  
False Claims Act, or significant  
overpayments. This final rule  
implements Pub. L. 110–252, Title VI,  
Chapter 1.**DATES:** *Effective Date:* December 12,  
2008.*Applicability:* The Contractor’s  
Internal Control System shall be  
established within 90 days after contract  
award, unless the Contracting Officer  
establishes a longer time period (*See*  
FAR 52.203–13(c)). The Internal Control  
System is not required for small  
businesses or for commercial item  
contracts.**FOR FURTHER INFORMATION CONTACT:** Mr.  
Ernest Woodson, Procurement Analyst,  
at (202) 501–3775 for clarification of  
content. For information pertaining to  
status or publication schedules, contact  
the FAR Secretariat at (202) 501–4755.  
Please cite FAC 2005–28, FAR case  
2007–006.**SUPPLEMENTARY INFORMATION:****Table of Contents**

- A. Background
- B. Discussion and Analysis
  - 1. Interrelationship of previous final rule, first proposed rule, second proposed rule, and new statute.
  - 2. Mandatory standards for internal control system.
  - 3. Mandatory disclosure to the OIG.
  - 4. Full Cooperation.
  - 5. Suspension/Debarment.
  - 6. Extend to violation of civil False Claims Act.
  - 7. Application to acquisition of commercial items.
  - 8. Application to contracts to be performed outside the United States.
  - 9. Other applicability issues.
  - 10. Additional recommendations.
  - 11. Regulatory Flexibility Act concerns.
  - 12. Paperwork Reduction Act (PRA).
  - 13. E.O. 12866.
- C. Regulatory Flexibility Act
- D. Paperwork Reduction Act