

been relocated to FAR 49.002. FAR 49.002(a) is reformatted by adding “(1)” to existing language for sequencing. Additionally, new language was added in (a)(2) to clarify that FAR part 49 does not apply to the acquisition of commercial items when using procedures at FAR part 12.

2. *Comment:* The respondent recommends simplifying FAR 49.502(a) by removing and relocating the reference to the exceptions for FAR 52.212–4 and 52.213–4 to FAR 49.002.

Response: The Councils agree. The language pertaining to FAR 52.212–4 was relocated to FAR 49.002 as addressed under the first comment. Reference to FAR 52.213–4 remains in FAR 49.501.

II. Executive Order 12866

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

DoD, GSA, and NASA certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule does not impose any additional requirements on small entities. The rule merely clarifies that FAR part 49 does not apply to the acquisition of commercial items when using procedures in FAR part 12.

IV. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 49

Government procurement.

Dated: December 22, 2010.

Millisa Gary,

Acting Director, Federal Acquisition Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR part 49 as set forth below:

PART 49—TERMINATION OF CONTRACTS

■ 1. The authority citation for 48 CFR part 49 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

■ 2. Amend section 49.002 by revising paragraph (a) to read as follows:

49.002 Applicability.

(a)(1) This part applies to contracts that provide for termination for the convenience of the Government or for the default of the contractor (see also 12.403 and 13.302–4).

(2) This part does not apply to commercial item contracts awarded using part 12 procedures. See 12.403 for termination policies for contracts for the acquisition of commercial items.

However, for contracts for the acquisition of commercial items, this part provides administrative guidance which may be followed unless it is inconsistent with the requirements and procedures in 12.403, Termination, and the clause at 52.212–4, Contract Terms and Conditions—Commercial Items.

* * * * *

■ 3. Revise section 49.501 to read as follows:

49.501 General.

This subpart prescribes the principal contract termination clauses. This subpart does not apply to contracts that use the clause at 52.213–4, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items). In appropriate cases, agencies may authorize the use of special purpose clauses, if consistent with this chapter.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 52 and 53

[FAC 2005–48; FAR Case 2009–018; Item IV; Docket 2010–0082, Sequence 1]

RIN 9000–AL53

Federal Acquisition Regulation; Payrolls and Basic Records

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

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA have adopted as final, with one change, the interim rule amending the Federal Acquisition Regulation (FAR) to revise the FAR clause, Payrolls and Basic Records. This revision implements a Department of Labor rule that protects the privacy of workers.

DATES: *Effective Date:* December 30, 2010.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Clare McFadden, Procurement Analyst, at (202) 501–0044. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755. Please cite FAC 2005–48, FAR Case 2009–018.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 75 FR 34286 on June 16, 2010. The interim rule implemented changes from the Department of Labor’s (DOL’s) final rule, Protecting the Privacy of Workers: Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction, published in the **Federal Register** at 73 FR 77504 on December 19, 2008, that removed the requirement to submit complete social security numbers and home addresses of individual workers in weekly payroll submissions. DOL concluded that such disclosure of personal information from the prime contractor was unnecessary and created an increased risk of privacy violations. The public comment period closed on August 16, 2010. No comments were received and, as a result, DoD, GSA, and NASA have determined to adopt the interim rule as final with a minor change to add a DOL updated form WH–347 found at FAR 53.303–WH–347.

II. Executive Order 12866

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

DoD, GSA, and NASA certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because this rule provides relief for contractors from submitting more personal information than is necessary in the weekly payroll submissions and will not impose any measurable costs on contractors.

IV. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does apply; however, these changes to the FAR do not impose additional information collection requirements to the paperwork burden

previously approved under OMB Control Number 1215–0149, Davis-Bacon Certified Payroll, assigned to the DOL.

List of Subjects in 48 CFR Parts 52 and 53

Government procurement.

Dated: December 22, 2010.

Millisa Gary,

Acting Director, Federal Acquisition Policy Division.

■ Accordingly, the interim rule published in the **Federal Register** at 75 FR 34286 on June 16, 2010, is adopted as a final rule with the following change:

PART 53—FORMS

■ 1. The authority citation for 48 CFR part 53 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

■ 2. Amend section 53.303–WH–347 by revising the form to read as follows:

53.303–WH–347 Department of Labor Form WH–347, Payroll (For Contractor's Optional Use).

BILLING CODE 6820–EP–P



U.S. Department of Labor
Wage and Hour Division

(For Contractor's Optional Use; See Instructions at www.dol.gov/whd/forms/wh347instr.htm)

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

PAYROLL

OMB No.: 1215-0149
Expires: 12/31/2011

ADDRESS

NAME OF CONTRACTOR ☐ OR SUBCONTRACTOR ☐

NAME OF CONTRACTOR

PROJECT OR CONTRACT NO.

PROJECT AND LOCATION

FOR WEEK ENDING

PAYROLL NO.

[illegible]

While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(iv) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W.

(over)

Date _____

I, _____ (Name of Signatory Party) _____ (Title)
do hereby state:

(1) That I pay or supervise the payment of the persons employed by

_____ on the _____
(Contractor or Subcontractor)

_____ that during the payroll period commencing on the _____
(Building or Work)

_____ day of _____, and ending the _____ day of _____,
all persons employed on said project have been paid the full weekly wages earned, that no rebates have
been or will be made either directly or indirectly to or on behalf of said

_____ from the full _____
(Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly
from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part
3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948,
63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

(2) That any payrolls otherwise under this contract required to be submitted for the above period are
correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the
applicable wage rates contained in any wage determination incorporated into the contract; that the
classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide
apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of
Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a
State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

☐ — in addition to the basic hourly wage rates paid to each laborer or mechanic listed in
the above referenced payroll, payments of fringe benefits as listed in the contract
have been or will be made to appropriate programs for the benefit of such
employees, except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

☐ — Each laborer or mechanic listed in the above referenced payroll has been paid,
as indicated on the payroll, an amount not less than the sum of the applicable
basic hourly wage rate plus the amount of the required fringe benefits as listed
in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

NAME AND TITLE	SIGNATURE
THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.	

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BILLING CODE 6820-EP-C

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Chapter 1****[Docket FAR 2010-0077, Sequence 10]****Federal Acquisition Regulation;
Federal Acquisition Circular 2005-48;
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 rules appearing in Federal Acquisition Circular (FAC) 2005-48, which amend the Federal Acquisition Regulation (FAR). Interested parties may obtain further information regarding these rules by referring to FAC 2005-48, which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

DATES: For effective dates see separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below. Please cite FAC 2005-48 and the specific FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501-4755.

LIST OF RULES IN FAC 2005-48

Item	Subject	FAR Case	Analyst
I	Repeal of the Small Business Competitiveness Demonstration Program.	2011-005	Morgan.
II	Personal Identity Verification of Contractor Personnel	2009-027	Jackson.
III	Terminating Contracts	2009-031	Parnell.
IV	Payrolls and Basic Records	2009-018	McFadden.

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 number and subject set forth in the documents following these item summaries. FAC 2005-48 amends the FAR as specified below:

**Item I—Repeal of the Small Business
Competitiveness Demonstration
Program (FAR Case 2011-005)**

This final rule amends the FAR to remove FAR subpart 19.10, Small Business Competitiveness Demonstration Program. This change is necessary to address the requirements of section 1335 of the Small Business Jobs Act of 2010 (Pub. L. 111-240) which repealed the Small Business Competitiveness Demonstration Program.

This final rule also removes the following clauses: FAR 52.219-19, Small Business Concern Representation for the Small Business Competitiveness Demonstration Program; FAR 52.219-20, Notice of Emerging Small Business Set-Aside; and FAR 52.219-21, Small Business Size Representation for Targeted Industry Categories under the Small Business Competitiveness Demonstration Program.

**Item II—Personal Identity Verification
of Contractor Personnel (FAR Case
2009-027)**

This final rule amends the FAR to provide additional regulatory coverage in subpart 4.13 and in FAR clause 52.204-9 to reinforce the requirement of collecting from contractors all forms of Government-provided identification once they are no longer needed to support a contract. The contracting officer may delay final payment under a contract if the contractor fails to comply with these requirements.

**Item III—Terminating Contracts (FAR
Case 2009-031)**

This final rule amends the FAR to clarify procedures regarding the applicability of FAR part 49, Termination of Contracts, to commercial item contracts. Minor changes are made to the proposed rule published in the **Federal Register** at 75 FR 28228 on May 20, 2010.

The rule specifically impacts contracting officers and contractors by clarifying that FAR part 49 does not apply to the acquisition of commercial items when using procedures at FAR part 12. The rule does not have a significant economic impact on small entities because the rule does not impose any additional requirements on small businesses.

**Item IV—Payrolls and Basic Records
(FAR Case 2009-018)**

This rule adopts as final, with a minor change, the interim rule published in the **Federal Register** at 75 FR 34286 on June 16, 2010. The interim rule amended the FAR at 52.222-8, Payrolls and Basic Records to delete the requirement for submission of full social security numbers and home addresses of individual workers on weekly payroll transmittals by prime contractors. The rule requires contractors and subcontractors to maintain the full social security number and current address of each covered worker, and provide them upon request to the contracting officer, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. The rule recognizes the Department of Labor's finding that complete social security numbers and home addresses for individual workers are personal information to the worker and that any unnecessary disclosure and submittal of such information creates an exposure to identity theft and the invasion of privacy for workers.