

■ d. Removing from paragraph (a)(2) “subsidiary, division, or” and adding “division or” in its place.

■ 15. Add sections 52.209–7 and 52.209–8 to read as follows:

52.209–7 Information Regarding Responsibility Matters.

As prescribed at 9.104–7(b), insert the following provision:

INFORMATION REGARDING RESPONSIBILITY MATTERS (Apr 2010)

(a) *Definitions.* As used in this provision—

Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative Proceedings, Civilian Board of Contract Appeals Proceedings, and Armed Services Board of Contract Appeals Proceedings). This includes administrative proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include agency actions such as contract audits, site visits, corrective plans, or inspection of deliverables.

Federal contracts and grants with total value greater than \$10,000,000 means—

(1) The total value of all current, active contracts and grants, including all priced options; and

(2) The total value of all current, active orders including all priced options under indefinite-delivery, indefinite-quantity, 8(a), or requirements contracts (including task and delivery and multiple-award Schedules).

(b) The offeror [] has [] does not have current active Federal contracts and grants with total value greater than \$10,000,000.

(c) If the offeror checked “has” in paragraph (b) of this provision, the offeror represents, by submission of this offer, that the information it has entered in the Federal Awardee Performance and Integrity Information System (FAPIS) is current, accurate, and complete as of the date of submission of this offer with regard to the following information:

(1) Whether the offeror, and/or any of its principals, has or has not, within the last five years, in connection with the award to or performance by the offeror of a Federal contract or grant, been the subject of a proceeding, at the Federal or State level that resulted in any of the following dispositions:

(i) In a criminal proceeding, a conviction.

(ii) In a civil proceeding, a finding of fault and liability that results in the

payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more.

(iii) In an administrative proceeding, a finding of fault and liability that results in—

(A) The payment of a monetary fine or penalty of \$5,000 or more; or

(B) The payment of a reimbursement, restitution, or damages in excess of \$100,000.

(iv) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the Contractor if the proceeding could have led to any of the outcomes specified in paragraphs (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this provision.

(2) If the offeror has been involved in the last five years in any of the occurrences listed in (c)(1) of this provision, whether the offeror has provided the requested information with regard to each occurrence.

(d) The offeror shall enter the information in paragraphs (c)(1)(i) through (c)(1)(iv) of this provision in FAPIS as required through maintaining an active registration in the Central Contractor Registration database at <http://www.ccr.gov> (see 52.204–7).

Principal means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a division or business segment; and similar positions).

(End of provision)

52.209–8 Updates of Information Regarding Responsibility Matters.

As prescribed at 9.104–7(c), insert the following clause:

UPDATES OF INFORMATION REGARDING RESPONSIBILITY MATTERS (Apr 2010)

(a) The Contractor shall update the information in the Federal Awardee Performance and Integrity Information System (FAPIS) on a semi-annual basis, throughout the life of the contract, by entering the required information in the Central Contractor Registration database at <http://www.ccr.gov> (see 52.204–7).

(b)(1) The Contractor will receive notification when the Government posts new information to the Contractor’s record.

(2) The Contractor will have an opportunity to post comments regarding information that has been posted by the Government. The comments will be retained as long as the associated information is retained, i.e., for a total period of 6 years. Contractor comments will remain a part of the record unless the Contractor revises them.

(3) With the exception of the Contractor, only Government personnel and authorized users performing business on behalf of the Government will be able to view the Contractor’s record in the system. Public requests for system information will be handled under Freedom of Information Act procedures, including, where appropriate, procedures promulgated under E.O. 12600.

(End of clause)

52.212–5 [Amended]

■ 16. Amend section 52.212–5 by—

■ a. Removing from the clause heading “(Feb 2010)” and adding “(Apr 2010)” in its place;

■ b. Removing from paragraphs (b)(2) and (e)(1)(i) “(Dec 2008)” and adding “(Apr 2010)” in its place;

■ c. Removing from Alternate II “(Dec 2009)” and adding “(Apr 2010)” in its place; and

■ d. Removing from Alternate II paragraph (e)(1)(ii)(A) “(Dec 2008)” and adding “(Apr 2010)” in its place.

52.213–4 [Amended]

■ 17. Amend section 52.213–4 by removing from the clause heading and paragraph (a)(2)(vi) “(Dec 2009)” and adding “(Apr 2010)” in its place.

52.244–6 [Amended]

■ 18. Amend section 52.244–6 by removing from the clause heading “(Dec 2009)” and adding “(Apr 2010)” in its place; and removing from paragraph (c)(1)(i) “(Dec 2008)” and adding “(Apr 2010)” in its place.

[FR Doc. 2010–6329 Filed 3–22–10; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket FAR 2010–0077, Sequence 2]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–40; Small Entity Compliance Guide

AGENCIES: 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 the Secretary of Defense, the Administrator of General Services and the

Administrator of the National Aeronautics and Space Administration. 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 the summary of the rule appearing in Federal Acquisition

Circular (FAC) 2005–40 which amends the Federal Acquisition Regulation (FAR). Interested parties may obtain further information regarding this rule by referring to FAC 2005–40 which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below. Please cite FAC 2005–40 and the specific FAR case number. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755.

RULE LISTED IN FAC 2005–40

Subject	FAR case	Analyst
Federal Awardee Performance and Integrity Information System (FAPIIS) ...	2008–027	Gary.

SUPPLEMENTARY INFORMATION: A summary for the FAR rule follows. For the actual revisions and/or amendments made by this FAR case, refer to FAR Case 2008–027.

FAC 2005–40 amends the FAR as specified below:

Federal Awardee Performance and Integrity Information System (FAPIIS) (FAR case 2008–027)

This final rule adopts, with changes, the proposed rule published in the **Federal Register** on September 3, 2009 (74 FR 45579); and amends the FAR to implement section 872 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009. Section 872 requires the establishment of a data system, Federal Awardee Performance and Integrity Information System (FAPIIS), containing specific information on the integrity and performance of covered Federal agency contractors and grantees. FAPIIS is

available for use in award decisions at www.ppirs.gov. Government input to FAPIIS is accomplished at www.cpars.csd.disa.mil.

FAPIIS is intended to significantly enhance the scope of information available to contracting officers as they evaluate the integrity and performance of prospective contractors competing for Federal contracts and to protect taxpayers from doing business with contractors that are not responsible sources. This final rule impacts Government contracting officers and contractors. The Government contracting officers will be required to—

- Check the FAPIIS website, available at www.ppirs.gov, before awarding a contract over the simplified acquisition threshold, consider all the information in FAPIIS and PPIRS when making a responsibility determination, and notify the agency official responsible for initiating debarment or suspension action if the information appears

appropriate for the official's consideration; and

- Enter a non-responsibility determination into FAPIIS.

The contractor will be required to:

1. Confirm, at the time of offer submission, information pertaining to criminal, civil and administrative proceedings through which a requisite determination of fault was made, and report this information into FAPIIS; and

2. Update the information in FAPIIS on a semi-annual basis, throughout the life of the contract, by entering the required information into FAPIIS via the Central Contractor Registration database, available at <http://www.ccr.gov>.

Dated: March 18, 2010.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 2010–6331 Filed 3–22–10; 8:45 am]

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