

**DEPARTMENT OF DEFENSE****GENERAL SERVICES  
ADMINISTRATION****NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION****48 CFR Chapter 1****[Docket FAR 2009–0012, Sequence 1]****Federal Acquisition Regulation;  
Federal Acquisition Circular 2005–30;  
Introduction****AGENCIES:** Department of Defense (DoD),  
General Services Administration (GSA),and National Aeronautics and Space  
Administration (NASA).**ACTION:** Summary presentation of rules.**SUMMARY:** This document summarizes  
the Federal Acquisition Regulation  
(FAR) rules agreed to by the Civilian  
Agency Acquisition Council and the  
Defense Acquisition Regulations  
Council in this Federal Acquisition  
Circular (FAC) 2005–30. 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 dates and comment  
dates, see separate documents, which  
follow.**FOR FURTHER INFORMATION CONTACT:** The  
analyst whose name appears in the table  
below in relation to each FAR case.  
Please cite FAC 2005–30 and the  
specific FAR case numbers. For  
information pertaining to status or  
publication schedules, contact the FAR  
Secretariat at (202) 501–4755.**LIST OF RULES IN FAC 2005–30**

Item	Subject	FAR case	Analyst
I .....	Federal Procurement Data System (FPDS) .....	2004–038	Woodson.
II .....	Commercially Available Off-the-Shelf (COTS) Items .....	2000–305	Jackson.
III .....	Exemption of Certain Service Contracts from the Service Contract Act (SCA) .....	2001–004	Woodson.
IV .....	Public Disclosure of Justification and Approval Documents for Noncompetitive Contracts—Section 844 of the National Defense Authorization Act for Fiscal Year 2008 (Interim) .....	2008–003	Woodson.
V .....	SAFETY Act: Implementation of DHS Regulations .....	2006–023	Chambers.
VI .....	Electronic Products Environmental Assessment Tool (EPEAT) .....	2006–030	Clark.
VII .....	Combating Trafficking in Persons .....	2005–012	Woodson.
VIII .....	Trade Agreements—New Thresholds .....	2007–016	Murphy.
IX .....	Technical Amendment .....		

**SUPPLEMENTARY INFORMATION:**Summaries for each FAR rule follow.  
For the actual revisions and/or  
amendments to these FAR cases, refer to  
the specific item number and subject set  
forth in the documents following these  
item summaries.FAC 2005–30 amends the FAR as  
specified below:**Item I—Federal Procurement Data  
System (FPDS) (FAR Case 2004–038)**This final rule amends the Federal  
Acquisition Regulation (FAR) Subpart  
4.6 to revise the process for reporting  
contract actions to the Federal  
Procurement Data System (FPDS). The  
rule establishes FPDS as the single  
authoritative source of all procurement  
data for a host of applications and  
reports, such as the Central Contractor  
Registration (CCR), the Electronic  
Subcontracting Reporting System  
(eSRS), the Small Business Goaling  
Report (SRGR), and Resource  
Conservation and Recovery Act (RCRA)  
data. The rule requires Contracting  
Officers to verify the accuracy of  
contract award data prior to reporting  
the data in FPDS. The rule does not  
require any reporting by the vendor  
community, as the FPDS reporting  
requirement is accomplished by  
Government contracting activities.**Item II—Commercially Available Off-  
the-Shelf (COTS) Items (FAR Case  
2000–305)**This final rule amends the Federal  
Acquisition Regulation (FAR) to  
implement Section 4203 of the Clinger-  
Cohen Act of 1996 (41 U.S.C. 431) with  
respect to the inapplicability of certain  
laws to contracts and subcontracts for  
the acquisition of commercially  
available off-the-shelf (COTS) items. A  
new FAR section 12.103 outlines the  
treatment of COTS items. This rule will  
reduce the burden on contractors that  
provide commercially available off-the-  
shelf EPA-designated products that  
contain recovered materials and  
contractors that provide construction  
material or end products that are COTS  
items manufactured in the United  
States. Contracting officers will need to  
become acquainted with the new  
definition of “commercially available  
off-the-shelf item” and understand the  
revised definitions of “domestic end  
product” and “domestic construction  
material.”**Item III—Exemption of Certain Service  
Contracts from the Service Contract Act  
(SCA). (FAR Case 2001–004)**This rule finalizes, with changes, the  
interim rule that was published in the  
**Federal Register** at 72 FR 63076 on  
November 7, 2007. This rule is requiredto implement the U.S. Department of  
Labor's final rule published in the  
**Federal Register** at 66 FR 5327 on  
January 18, 2001, amending 29 CFR Part  
4. This rule revises the current Service  
Contract Act (SCA) exemption in the  
FAR and adds an SCA exemption for  
contracts for certain additional services  
that meet specific criteria. The rule also  
adds to the Annual Representations and  
Certifications FAR clause at 52.204–8,  
the conditions under which each listed  
provision applies, or for the more  
complex cases, a check-off for the  
contracting officer to indicate whether  
the provision is applicable to the  
solicitation. The rule encourages  
broader participation of Government  
procurement by companies doing  
business in the commercial sector, and  
reinforces the Government's  
commitment to reduce Government-  
unique terms and conditions, without  
compromising the purpose of the SCA  
to protect prevailing labor standards.**Item IV—Public Disclosure of  
Justification and Approval Documents  
for Noncompetitive Contracts—Section  
844 of the National Defense  
Authorization Act for Fiscal Year 2008  
(Interim) (FAR Case 2008–003)**This interim rule amends FAR 6.305  
to require agencies to make available for  
public inspection within 14 days after  
contract award the justification required

by 6.303–1, on the website of the agency and at the Governmentwide Point of Entry ([www.fedbizopps.gov](http://www.fedbizopps.gov)). In the case of a contract award permitted under FAR 6.302–2, the rule requires that the justification be posted within 30 days after contract award. The rule requires that contracting officers shall carefully screen all justifications for contractor proprietary data and remove all such data, and such references and citations as are necessary to protect the proprietary data, before making the justifications available for public inspection. This rule implements Section 844 of the National Defense Authorization Act for Fiscal Year 2008.

**Item V—SAFETY Act: Implementation of DHS Regulations (FAR Case 2006–023)**

This final rule converts the interim rule published in the **Federal Register** at 72 FR 63027, November 7, 2007 to a final rule with changes. This final rule implements the SAFETY Act in the FAR. The SAFETY Act provides incentives for the development and deployment of anti-terrorism technologies by creating a system of “risk management” and a system of “litigation management.” The purpose of the SAFETY Act is to ensure that the threat of liability does not deter potential manufacturers or sellers of antiterrorism technologies from developing, deploying, and commercializing technologies that could save lives. Examples of Qualified Anti-Terrorism Technologies (QATT) identified by DHS include—

- Vulnerability assessment and countermeasure and counter-terrorism planning tools;
- First responder interoperability solution;
- Marine traffic management system;
- Security services, guidelines, systems, and standards;
- Vehicle and cargo inspection system;
- X-ray inspection system;
- Trace explosives detection systems and associated support services;
- Maintenance and repair of screening equipment;
- Risk assessment platform;
- Explosive and weapon detection equipment and services;
- Biological detection and filtration systems;
- Passenger screening services;
- Baggage screening services;
- Chemical, biological, or radiological agent release detectors;
- Vehicle barriers;
- First responder equipment; and
- Architectural and engineering “hardening” products and services.

**Item VI—Electronic Products Environmental Assessment Tool (EPEAT) (FAR Case 2006–030)**

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have adopted as final, without change, the interim rule that amended the Federal Acquisition Regulation (FAR) to require use of the Electronic Products Environmental Assessment Tool (EPEAT) when acquiring personal computer products such as desktops, notebooks (also known as laptops), and monitors pursuant to the Energy Policy Act of 2005 and Executive Order 13423, “Strengthening Federal Environmental, Energy, and Transportation Management.” The interim rule revised Subpart 23.7, and prescribed a clause at 52.223–16 (also included in 52.212–5 for acquisition of commercial items) in all solicitations and contracts for the acquisition of personal computer products, services that require furnishing of personal computer products for use by the Government, and services for contractor operation of Government owned facilities.

**Item VII—Combating Trafficking in Persons (FAR Case 2005–012)**

This final rule implements Section 3(b) of the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003 (Combating Trafficking In Persons). TVPRA addresses the victimization of countless men, women, and children in the United States and abroad. The United States Government believes that its contractors can help combat trafficking in persons. The statute, codified at 22 U.S.C. 7104(g), requires that contracts contain a clause allowing the agency to terminate the contract if a contractor, contractor employees, subcontractor, or subcontractor employees engage in severe forms of trafficking in persons or procures a commercial sex act during the period of performance of the contract, or uses forced labor in the performance of the contract. The rule provides that the contracting officer may consider whether the contractor had a Trafficking in Persons awareness program at the time of a violation as a mitigating factor when determining remedies; and a website where the contractor may obtain additional information about Trafficking in Persons and examples of awareness programs.

**Item VIII—Trade Agreements—New Thresholds (FAR Case 2007–016)**

This final rule converts the interim rule published in the **Federal Register** at 73 FR 10962 on February 28, 2008, and

amended at 73 FR 16747 on March 28, 2008, to a final rule without change.

The rule adjusts the thresholds for application of the World Trade Organization Government Procurement Agreement and the Free Trade Agreements as determined by the United States Trade Representative, according to a formula set forth in the agreements.

**Item IX—Technical Amendment**

An editorial change is made at FAR 15.101–2.

Dated: December 24, 2008.

**Edward Loeb,**

*Acting Director, Office of Acquisition Policy.*

**Federal Acquisition Circular**

Federal Acquisition Circular (FAC) 2005-30 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 2005-30 is effective February 17, 2009, except for Items VIII and IX, which are effective **January 15, 2009**.

Dated: December 22, 2008.

**Shay D. Assad,**

*Director, Defense Procurement.*

Dated: December 24, 2008.

**David A. Drabkin,**

*Senior Procurement Executive & Deputy Chief Acquisition Officer, Office of the Chief Acquisition Officer, U.S. General Services Administration.*

Dated: December 22, 2008.

**William P. McNally,**

*Assistant Administrator for Procurement, National Aeronautics and Space Administration.*

[FR Doc. E9–553 Filed 1–14–09; 8:45 am]

**BILLING CODE 6820–EP–S**