

PART 19—SMALL BUSINESS PROGRAMS

19.102 [Amended]

■ 3. Amend section 19.102 by removing from paragraphs (b)(2)(i) and (b)(2)(ii) introductory text the date “October 1, 2022” and adding the date “October 1, 2025” in their places, respectively.

19.309 [Amended]

■ 4. Amend section 19.309 by removing from paragraphs (a)(3) and (c)(2) the date “October 1, 2022” and adding the date “October 1, 2025” in their places, respectively.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR–2022–0051, Sequence No. 5]

Federal Acquisition Regulation; Federal Acquisition Circular 2022–08; 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 (SECG).

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 the rules appearing in Federal Acquisition Circular (FAC) 2022–08, which amends the Federal Acquisition Regulation (FAR). Interested parties may obtain further information regarding these rules by referring to FAC 2022–08, which precedes this document.

DATES: September 23, 2022.

ADDRESSES: The FAC, including the SECG, is available at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2022–08 and the FAR Case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or GSARegSec@gsa.gov. An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared.

RULES LISTED IN FAC 2022–08

| Item | Subject | FAR case | Analyst |
|-------|--|----------|---------|
| * I | Policy on Joint Ventures | 2017–019 | Jones. |
| * II | Construction Contract Administration | 2018–020 | Bowman. |
| * III | Update of Historically Underutilized Business Zone Program | 2019–007 | Jones. |
| * IV | Certification of Women-Owned Small Business | 2020–013 | Jones. |
| V | Technical Amendments. | | |

SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2022–08 amends the FAR as follows:

Item I—Policy on Joint Ventures (FAR Case 2017–019)

This final rule amends the Federal Acquisition Regulation (FAR) to align with the Small Business Administration (SBA) regulations regarding mentor-protégé joint ventures and to provide clarification regarding joint ventures under the 8(a) Program. The changes will allow mentor-protégé joint ventures to qualify as small businesses, or to qualify under a socioeconomic program for the purposes of participation in procurements under FAR part 19. In addition, this rule provides consistent guidance to contracting officers on how to handle joint ventures under the 8(a) Program and the small business socioeconomic programs.

Item II—Construction Contract Administration (FAR Case 2018–020)

This final rule amends the FAR to implement section 855 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115–232), codified at 15 U.S.C. 644(w) in the Small Business Act. Section 855 requires Federal agencies to provide a notice, along with solicitations for construction contracts anticipated to be awarded to small businesses, to prospective offerors that includes information about the agency’s policies or practices in complying with FAR requirements related to the timely definitization of requests for equitable adjustment on construction contracts. The notice must include data regarding the time it took the agency to definitize requests for equitable adjustment on construction contracts for the three-year period preceding the issuance of the notice.

The final FAR rule requires contracting officers to transmit in the solicitation notice on the Governmentwide point of entry information in construction solicitations anticipated to be awarded to a small

business pursuant to part 19, that includes a description of agency-specific policies or procedures regarding definitization of equitable adjustments for change orders under construction contracts. Additionally, agencies are required to include past performance data in the solicitation notice, for the three fiscal years preceding the issuance of the solicitation notice, regarding the time required to definitize equitable adjustments for change orders under construction contracts using the table format provided in the FAR text, or provide the address of an agency-specific, publicly accessible website containing this information. The final rule also describes an adequate change order definitization proposal as containing sufficient information to enable the contracting officer to conduct meaningful analyses and audits of the information contained in the proposal.

Item III—Update of Historically Underutilized Business Zone Program (FAR Case 2019–007)

This final rule amends the FAR to implement changes to the SBA regulations for the Historically

Underutilized Business Zone (HUBZone) Program. This rule specifies that SBA now certifies HUBZone small business concerns and HUBZone entities are no longer required to represent their HUBZone status with each offer. In addition, contracting officers may now award HUBZone set-aside and sole-source contracts at or below the simplified acquisition threshold. This rule also makes minor changes to the HUBZone protest procedures.

Item IV—Certification of Women-Owned Small Businesses (FAR Case 2020–013)

This final rule amends the FAR to align with SBA's regulations regarding certification of economically

disadvantaged women-owned small business (EDWOSB) concerns and women-owned small business (WOSB) concerns. This rule requires EDWOSBs and WOSBs participating in the Women-Owned Small Business Program (the Program) to apply for certification through SBA or a SBA-approved third-party certifier to be eligible for WOSB or EDWOSB set-aside or sole-source contracts. EDWOSB and WOSB concerns that are not certified will not be eligible for set-aside and sole-source contracts under the Program. WOSBs that do not participate in the Program may continue to represent their status, be awarded contracts outside the Program, and these contracts will continue to count toward an agency's goal for awards to WOSBs.

Item V—Technical Amendments

Administrative changes are made at FAR 4.1202, 19.102, and 19.309. The date change is to provide additional time to implement the policy addressing the assignment of North American Industry Classification System codes to orders placed under multiple award contracts, as covered by changes made by FAR case 2014–002, Set-Asides Under Multiple Award Contracts.

William F. Clark,

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

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