

■ 3. Revise section 19.804–5 to read as follows:

19.804–5 Basic ordering agreements and blanket purchase agreements.

(a) The contracting office shall submit an offering letter for, and SBA must accept, each order under a basic ordering agreement (BOA) or a blanket purchase agreement (BPA) issued under part 13 (see 13.303), in addition to the agency offering and SBA accepting the BOA or BPA itself.

(b) SBA will not accept for award on a sole-source basis any order that would cause the total dollar amount of orders issued under a specific BOA or BPA to exceed the competitive threshold amount in 19.805–1.

(c) Once an 8(a) participant's program term expires, the participant otherwise exits the 8(a) program, or becomes other than small for the NAICS code assigned under the BOA or the BPA, SBA will not accept new orders under the BOA or BPA for the participant.

■ 4. Amend section 19.805–2 by—

- a. Revising the second sentence in paragraph (b) introductory text;
- b. Redesignating paragraph (b)(2) as paragraph (b)(3); and
- c. Adding a new paragraph (b)(2).

The revision and addition read as follows:

19.805–2 Procedures.

* * * * *

(b) * * * Eligibility is based on section 8(a) program criteria (see 13 CFR 124.501(g) and 19.816(c)). * * *

(2) For a two-step design-build procurement, an 8(a) participant must be eligible for award under the 8(a) program on the initial date for receipt of phase one offers specified in the solicitation (see 13 CFR 124.507(d)(3)).

* * * * *

■ 5. Amend section 19.808–1 by—

- a. Redesignating paragraph (e) as paragraph (f);
- b. Adding a new paragraph (e); and
- c. Removing from the newly redesignated paragraph (f) the phrase “sole source award” and adding “sole-source award” in its place.

The addition reads as follows:

19.808–1 Sole source.

* * * * *

(e) A concern must be a current participant in the 8(a) program at the time of an 8(a) sole-source award.

* * * * *

■ 6. Revise section 19.808–2 to read as follows:

19.808–2 Competitive.

In competitive 8(a) acquisitions, including follow-on 8(a) acquisitions,

subject to part 15, the contracting officer conducts negotiations directly with the competing 8(a) participants. Conducting competitive negotiations among eligible 8(a) participants prior to SBA's formal acceptance of the acquisition for the 8(a) program may be grounds for the SBA's not accepting the acquisition for the 8(a) program.

■ 7. Amend section 19.810 by adding paragraph (a)(4) to read as follows:

19.810 SBA appeals.

(a) * * *

(4) A contracting officer's decision that an acquisition previously procured under the 8(a) program is a new requirement not subject to the release requirements at 13 CFR 124.504(d)(1) (see 19.815(a) and (d)(1)).

* * * * *

■ 8. Amend section 19.815 by—

- a. Revising the section heading and paragraph (a);
- b. Removing from paragraph (b) the phrase “a non-8(a) procurement” and adding “a follow-on, non-8(a) procurement,” in its place; and
- c. Adding paragraphs (d) through (f).

The revisions and additions read as follows:

19.815 Release and notification requirements for non-8(a) procurement.

(a) Once a requirement has been accepted by SBA into the 8(a) program, any follow-on requirements (see definition at 13 CFR 124.3) shall remain in the 8(a) program unless—

(1) SBA agrees to release the requirement from the 8(a) program for a follow-on, non-8(a) procurement in accordance with 13 CFR 124.504(d) (see paragraph (b) of this section); or

(2) There is a mandatory source (see 8.002 or 8.003; also see paragraph (f) of this section).

* * * * *

(d)(1) When a contracting officer decides that a requirement previously procured under the 8(a) program is a new requirement and not a follow-on requirement to an 8(a) contract(s), the contracting officer shall coordinate with and submit a written notice to the SBA District Office servicing the 8(a) incumbent firm and to the SBA procurement center representative (or, if a procurement center representative is not assigned, see 19.402(a)) indicating that the agency intends to procure the requirement outside the 8(a) program (see 19.810(a)(4)).

(2) The written notice shall include a copy of the acquisition plan, if available; the performance work statement (PWS), statement of work (SOW), or statement of objectives (SOO)

for the new contract requirement; and the values of the existing 8(a) contract(s) and the new contract requirement.

(e)(1) When a contracting officer decides to procure a follow-on requirement to an 8(a) contract using an existing, limited competition contracting vehicle that is not available to all 8(a) participants, and the current or previous 8(a) contract was available to all 8(a) participants, the contracting officer shall coordinate with and submit a written notice to the SBA District Office servicing the 8(a) incumbent firm and to the SBA procurement center representative (or, if a procurement center representative is not assigned, see 19.402(a)) indicating the intent to do so.

(2) The written notice shall include a copy of the acquisition plan, if available; the PWS, SOW, or SOO for the new contract requirement; and the values of both contracts.

(f)(1) When a mandatory source will be used for a follow-on requirement to an 8(a) contract, the contracting officer should submit a written notice to the SBA Associate Administrator for Business Development of the intent to do so at least 30 days prior to the end of the contract or order in accordance with 13 CFR 124.504(d)(4)(ii).

(2) The written notice should include a written determination that a mandatory source will be used to fulfill the requirement.

19.816 [Amended]

■ 9. Amend section 19.816 by removing from paragraph (c) the word “criteria” and adding “criteria (see 13 CFR 124.507(d))” in its place.

[FR Doc. 2023–21322 Filed 10–4–23; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[FAC 2023–06; Item IV; Docket No. FAR–2023–0052; Sequence No. 4]

Federal Acquisition Regulation; Technical Amendments

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

ACTION: Final rule.

SUMMARY: This document makes an amendment to the Federal Acquisition

Regulation (FAR) in order to make needed editorial changes.

DATES: Effective November 6, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Lois Mandell, Regulatory Secretariat Division (MVCB), at 202-501-4755 or GSARegSec@gsa.gov. Please cite FAC 2023-06, Technical Amendments.

SUPPLEMENTARY INFORMATION: This document makes editorial changes to 48 CFR part 52.

List of Subjects in 48 CFR Part 52

Government procurement.

William F. Clark,

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

Therefore, DoD, GSA, and NASA amend 48 CFR part 52 as set forth below:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 48 CFR part 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

- 2. Amend section 52.212-3 by—
- a. Revising the date of the provision;
- b. Removing from paragraph (k)(1) introductory text “(1) ☐ Maintenance”

and adding “☐ (1) Maintenance” in its place; and

■ c. Removing from paragraph (k)(2) introductory text “(2) ☐ Certain” and adding “☐ (2) Certain” in its place.

The revision reads as follows:

52.212-3 Offeror Representations and Certifications—Commercial Products and Commercial Services.

* * * * *

Offeror Representations and Certifications—Commercial Products and Commercial Services (NOV 2023)

* * * * *

[FR Doc. 2023-21323 Filed 10-4-23; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR-2023-0051, Sequence No. 5]

Federal Acquisition Regulation; Federal Acquisition Circular 2023-06; 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) 2023-06, which amends the Federal Acquisition Regulation (FAR).

Interested parties may obtain further information regarding these rules by referring to FAC 2023-06, which precedes this document.

DATES: October 5, 2023.

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 2023-06 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 2023-06

Item	Subject	FAR case	Analyst
I *	Implementation of Federal Acquisition Supply Chain Security Act (FASCSA) Orders.	2020-011	Ryba.
II *	Whistleblower Protection for Contractor Employees	2017-005	Jones.
III *	8(a) Program	2021-012	Bowman.
IV	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 2023-06 amends the FAR as follows:

Item I—Implementation of Federal Acquisition Supply Chain Security Act (FASCSA) Orders (FAR Case 2020-011)

This interim rule amends the Federal Acquisition Regulation (FAR) to implement supply chain risk information sharing and exclusion or removal orders required by the Federal Acquisition Supply Chain Security Act of 2018 and a final rule issued by the Federal Acquisition Security Council (FASC).

The FAR is being amended to implement applicable exclusion or removal orders recommended by the FASC when they are issued by the Secretary of Homeland Security, the Secretary of Defense, or the Director of National Intelligence. Offerors will be required to check both the System for Award Management and individual solicitations for applicable exclusion orders.

This rule applies to all acquisitions, including acquisitions at or below the simplified acquisition threshold and to acquisitions of commercial items, including commercially available off-the-shelf items. It may have a significant economic impact on a substantial number of small entities.

Item II—Whistleblower Protection for Contractor Employees (FAR Case 2017-005)

This final rule amends the FAR to implement Public Law 114-261 (41 U.S.C. 4712). The rule enhances whistleblower protection for contractor employees by making permanent the protection for disclosure of certain information. It also clarifies that the FAR 31.205-47 prohibition on reimbursement for legal fees accrued in defense against reprisal claims applies to subcontractors, as well as contractors.

DoD, NASA and the Coast Guard have a different whistleblower program for contractor employees.

This final rule will not have a significant economic impact on a substantial number of small entities.