

## PART 242—CONTRACT ADMINISTRATION AND AUDIT SERVICES

■ 5. Revise section 242.503–2 to read as follows:

### 242.503–2 Postaward conference procedure.

DD Form 1484, Post-Award Conference Record, may be used in conducting the conference and in preparing the conference report.

## PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

### 252.234–7003 [Removed and Reserved]

■ 6. Remove and reserve section 252.234–7003.

■ 7. Revise section 252.234–7004 to read as follows:

### 252.234–7004 Cost and Software Data Reporting.

As prescribed in 234.7105(a), use the following basic clause:

#### Cost and Software Data Reporting—Basic (DATE)

(a) *Definition.* As used in this clause—  
*Unfinalized contract action* means any contract action for which the contract terms, specifications, or price are not agreed upon before performance is begun under the action. Examples are letter contracts, orders under basic ordering agreements, and provisioned item orders, for which the price has not been agreed upon before performance has begun.

(b) *Requirements.* In the performance of this contract, the Contractor shall—

(1) Use cost and software data reporting (CSDR) processes and procedures that accomplish the requirements contained in the contract CSDR Plan (DD Form 2794) and applicable data item description(s);

(2) Establish, implement, and maintain processes and procedures that provide for the consistent collection and generation of reliable actual cost data required by the contract CSDR Plan (DD Form 2794) and applicable data item description(s); and

(3)(i) Within 60 days of contract award or the finalization of an unfinalized contract action, complete a CSDR-readiness review with the Cost Assessment and Program Evaluation, Deputy Director for Cost Assessment and the cost estimating component of the relevant military department or defense agency in order to review CSDR requirements.

(ii) During the CSDR-readiness review, the Contractor shall—

(A) Describe the processes and procedures the Contractor will use to—

(1) Provide for the consistent collection and generation of reliable CSDR data; and

(2) Deliver timely CSDR data deliverables required by the contract CSDR Plan (DD Form 2794) and applicable data item description(s);

(B) Identify any subcontractor whose contract is expected to exceed \$50 million; and

(C) Identify any potential revisions to CSDR requirements that may better align data reporting to the Contractor's procedures.

(c) *Notification.* For subcontracts expected to exceed \$50 million, if the Contractor changes subcontractors or awards new subcontracts, the Contractor shall notify the Contracting Officer within 10 days of award.

(d) *Subcontracts.* The Contractor shall include this clause in subcontracts at any tier that are expected to exceed \$50 million.

(End of clause)

*Alternate I.* As prescribed in 234.7105(b), use the following clause, which uses different paragraphs (b)(3)(ii)(B), (c), and (d) than the basic clause:

#### Cost and Software Data Reporting—Alternate I (DATE)

(a) *Definition.* As used in this clause—  
*Unfinalized contract action* means any contract action for which the contract terms, specifications, or price are not agreed upon before performance is begun under the action. Examples are letter contracts, orders under basic ordering agreements, and provisioned item orders, for which the price has not been agreed upon before performance has begun.

(b) *Requirements.* In the performance of this contract, the Contractor shall—

(1) Use cost and software data reporting (CSDR) processes and procedures that accomplish the requirements contained in the contract CSDR Plan (DD Form 2794) and applicable data item description(s);

(2) Establish, implement, and maintain processes and procedures that provide for the consistent collection and generation of reliable actual cost data required by the contract CSDR Plan (DD Form 2794) and applicable data item description(s); and

(3)(i) Within 60 days of contract award or the finalization of an unfinalized contract action, complete a CSDR-readiness review with the Cost Assessment and Program Evaluation, Deputy Director for Cost Assessment and the cost estimating component of the relevant military department or defense agency in order to review CSDR requirements.

(ii) During the CSDR-readiness review, the Contractor shall—

(A) Describe the processes and procedures the Contractor will use to—

(1) Provide for the consistent collection and generation of reliable CSDR data; and

(2) Deliver timely CSDR data deliverables required by the contract CSDR Plan (DD Form 2794) and applicable data item description(s);

(B) Identify any subcontractor whose contract is expected to exceed \$20 million; and

(C) Identify any potential revisions to CSDR requirements that may better align data reporting to the Contractor's procedures.

(c) *Notification.* For subcontracts expected to exceed \$20 million, if the Contractor changes subcontractors or awards new

subcontracts, the Contractor shall notify the Contracting Officer within 10 days of award.

(d) *Subcontracts.* The Contractor shall include this clause in subcontracts at any tier that are expected to exceed \$20 million.

(End of clause)

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Part 252

[Docket DARS–2024–0032]

RIN 0750–AM22

### Defense Federal Acquisition Regulation Supplement: 8(a) Program (DFARS Case 2024–D025)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Proposed rule.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to revise joint venture eligibility requirements and nonmanufacturer rule applicability to 8(a) contracts awarded pursuant to the 8(a) Partnership Agreement between DoD and the Small Business Administration. These changes are necessary to align the DFARS with the Federal Acquisition Regulation (FAR).

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before December 9, 2024, to be considered in the formation of a final rule.

**ADDRESSES:** Submit comments identified by DFARS Case 2024–D025, using either of the following methods:

○ *Federal eRulemaking Portal:* <https://www.regulations.gov>. Search for DFARS Case 2024–D025. Select “Comment” and follow the instructions to submit a comment. Please include “DFARS Case 2024–D025” on any attached documents.

○ *Email:* [osd.dfars@mail.mil](mailto:osd.dfars@mail.mil). Include DFARS Case 2024–D025 in the subject line of the message.

Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check <https://www.regulations.gov>, approximately two to three days after submission to verify posting.

**FOR FURTHER INFORMATION CONTACT:**  
Jeanette Snyder, telephone 703-508-7524.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

DoD is proposing to revise the DFARS to align with changes made to the FAR via the final rules published in the **Federal Register** on August 11, 2021 (86 FR 44233) and on September 23, 2022 (87 FR 58219). The final rule for FAR Case 2016-011, Revision of Limitations on Subcontracting, published on August 11, 2021, standardized the application of the nonmanufacturer rule requirements for the socioeconomic programs identified at FAR 19.000(a)(3). The final rule for FAR Case 2017-019, Policy on Joint Ventures, published on September 23, 2022, clarified the eligibility of joint ventures under the 8(a) Program.

This rule is also proposing to revise the DFARS to align with the proposed rule for FAR Case 2021-020, Limitations on Subcontracting Revisions, published on January 17, 2024 (89 FR 2910). This FAR rule proposed to remove the nonmanufacturer rule requirements for 8(a) participants from FAR 19.809-2 as was intended to be accomplished via the final rule published on August 11, 2021, and to remove the kit assembler rule set from the nonmanufacturer rule. This DFARS rule proposes to make similar changes.

**II. Discussion and Analysis**

This rule proposes to modify the contract clause at DFARS 225.219-7010, Notification of Competition Limited to Eligible 8(a) Participants—Partnership Agreement, to add joint ventures to the list of concerns from whom offers are solicited for 8(a) Program acquisitions that are processed in accordance with the 8(a) Partnership Agreement between DoD and the Small Business Administration (SBA) (the Agreement). This proposed rule also includes the removal of the kit assembler rule set and the nonmanufacturer rule requirements addressed in paragraphs (d)(1), (d)(2), and (d)(3) of the clause at DFARS 252.219-7010 to align with the clause at FAR 52.219-33, Nonmanufacturer Rule, which specifies the nonmanufacturer rule requirements for all socioeconomic categories.

**III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT), for Commercial Products (Including Commercially Available Off-the-Shelf (COTS) Items), and for Commercial Services**

This proposed rule amends the clause at DFARS 225.219-7010, Notification of

Competition Limited to Eligible 8(a) Participants—Partnership Agreement; however, this proposed rule does not impose any new requirements on contracts at or below the SAT, for commercial products including COTS items, or for commercial services. The clause will continue to not apply to acquisitions at or below the SAT and will continue to apply to acquisitions of commercial products including COTS items, and to acquisitions of commercial services.

**IV. Expected Impact of the Rule**

This proposed rule, when finalized, is expected to impact 8(a) participants, including 8(a) joint ventures, who enter into contracts with DoD that are processed in accordance with the Agreement. These participants will be required to comply with the nonmanufacturer rule requirements in the clause at FAR 52.219-33. As a result, DoD may see an increase in the number of 8(a) participants that submit proposals for contracts processed in accordance with the Agreement, which may expand the defense industrial base.

**V. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, as amended.

**VI. Regulatory Flexibility Act**

DoD does not expect this proposed rule, when finalized, to 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 merely updates the DFARS to align with the FAR. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

This proposed rule is necessary to revise the contract clause at DFARS 252.219-7010, Notification of Competition Limited to Eligible 8(a) Participants—Partnership Agreement, to align with changes made to the FAR regarding joint venture eligibility for

8(a) Program acquisitions processed in accordance with the 8(a) Partnership Agreement between DoD and the Small Business Administration (SBA). This proposed rule also removes the nonmanufacturer rule requirements from the clause to align with changes made to the FAR.

The objective of the rule is to revise the DFARS to align with amendments made to the FAR. The legal basis for the rule is 41 U.S.C. 1303.

According to data from the Procurement Business Intelligence Service, in the last three fiscal years DoD awarded contracts that included the clause at DFARS 252.219-7010 to unique small entities as follows: 848 in fiscal year 2021; 553 in fiscal year 2022; 600 in fiscal year 2023. This averages out to 667 per fiscal year. Therefore, DoD estimates that the number of small entities to which this rule will apply is approximately 667.

This proposed rule does not impose any new reporting, recordkeeping, or other compliance requirements for small entities.

This proposed rule does not duplicate, overlap, or conflict with any other Federal rules.

DoD did not identify any significant alternatives to the proposed rule. Any impact is expected to be beneficial.

DoD invites comments from small business concerns and other interested parties on the expected impact of this proposed rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this proposed rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2024-D025), in correspondence.

**VII. Paperwork Reduction Act**

This proposed 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 252**

Government procurement.

**Jennifer D. Johnson,**  
*Editor/Publisher, Defense Acquisition Regulations System.*

Therefore, the Defense Acquisition Regulations System proposes to amend 48 CFR part 252 as follows:

**PART 252—SOLICITATION  
PROVISIONS AND CONTRACT  
CLAUSES**

■ 1. The authority citation for 48 CFR part 252 continues to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. Revise and republish section 252.219–7010 to read as follows:

**252.219–7010 Notification of Competition Limited to Eligible 8(a) Participants—Partnership Agreement.**

As prescribed in 219.811–3(2), use the following clause:

**Notification of Competition Limited to Eligible 8(a) Participants—Partnership Agreement (DATE)**

(a) Offers are solicited only from—  
(1) Small business concerns expressly certified by the Small Business Administration (SBA) for participation in SBA's 8(a) Program and which meet the

following criteria at the time of submission of offer:

(i) The Offeror is in conformance with the 8(a) support limitation set forth in its approved business plan.

(ii) The Offeror is in conformance with the Business Activity Targets set forth in its approved business plan or any remedial action directed by SBA.

(iii) If the competition is to be limited to 8(a) concerns within one or more specific SBA regions or districts, then the Offeror's approved business plan is on file and serviced by \_\_\_\_\_. *[Contracting Officer completes by inserting the appropriate SBA District and/or Regional Office(s) as identified by SBA.]*

(2) A joint venture, in which at least one of the 8(a) program participants that is a party to the joint venture complies with the criteria set forth in paragraph (a)(1) of this clause, and that has a joint venture agreement that complies with 13 CFR 124.513(c); or

(3) A joint venture—

(i) That is comprised of a mentor and an 8(a) protégé with an approved mentor-protégé agreement under an SBA mentor-protégé program;

(ii) In which at least one of the 8(a) program participants that is a party to the joint venture complies with the criteria set forth in paragraph (a)(1) of this clause; and

(iii) With a joint venture agreement that complies with 13 CFR 124.513(c).

(b) By submission of its offer, the Offeror represents that it meets the applicable criteria set forth in paragraph (a) of this clause.

(c) Any award resulting from this solicitation will be made directly by the Contracting Officer to the successful 8(a) offeror selected through the evaluation criteria set forth in this solicitation.

(d) The \_\_\_\_\_ *[insert name of SBA's contractor]* will notify the \_\_\_\_\_ *[insert name of contracting agency]* Contracting Officer in writing immediately upon entering an agreement (either oral or written) to transfer all or part of its stock or other ownership interest to any other party.

(End of clause)

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