[FR Doc. 95–22778 Filed 9–15–95; 8:45 am]

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48 CFR Part 3

[FAC 90–32; FAR Case 94–803; Item IV]

RIN 9000–AG16

Federal Acquisition Regulation; Whistleblower Protections for Contractor Employees (Ethics)

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

ACTION: Technical amendment to final rule.

SUMMARY: At 60 FR 37774, July 21, 1995, a final rule was issued pursuant to the Federal Acquisition Streamlining Act of 1994, Public Law 103–355 (the Act). The Federal Acquisition Regulatory Council is now issuing an *Applicability Date,* in addition to the *Effective Date,* of the regulation.

DATES: Effective Date: September 19, 1995.

Applicability Date: This regulation will apply to contracts in existence as of September 19, 1995, for reprisals to Government contractor employees occurring on or after that date. The remedy provided by this regulation does not apply to contracts otherwise covered by provisions of 10 U.S.C. 2409a.

FOR FURTHER INFORMATION CONTACT: Mr. Julius Rothlein, Ethics Team Leader, at (703) 697–4349 in reference to this FAR case.

SUPPLEMENTARY INFORMATION:

Background:

FAC 90–30, FAR case 94–803, implemented Sections 6005 and 6006 of the Act, Whistleblower Protections for Contractor Employees. These protections are now virtually identical for contractors employed by both DOD and civilian agencies.

The rule as originally published did not specifically discuss the extent of retroactivity. The rule did not require a contract clause. To clarify this, the FAR Council is establishing the extent of the rule's retroactivity.

Some existing Department of Defense contracts contain a contractor employee whistleblower clause, based on prior statute (10 U.S.C. 2409a). That law was narrower in scope and only applied to certain DoD contracts.

Dated: September 7, 1995.

Edward C. Loeb,

Deputy Project Manager for the Implementation of the Federal Acquisition Streamlining Act of 1994.

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48 CFR Parts 4, 5, 6, 9, 14, 15, 16, 17, 19, 20, 25, 26, 42, 44, 52 and 53

[FAC 90–32; FAR Case 94–780; Item V]

RIN 9000–AG37

Federal Acquisition Regulation; Small Business

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

ACTION: Final rule.

SUMMARY: The Federal Acquisition Regulatory Council has agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to implement sections 7101(a) and 7106 and to augment regulation implementation of Section 10004 of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103–355), dated October 13, 1994. Section 7101(a) of FASA deletes sections 15(e) and (f) from the Small Business Act. Those sections established the priority for award of set-asides and provided the statutory basis for a procurement preference for concerns located in Labor Surplus Areas (LSA). Based on this deletion, this rule removes the LSA set-aside program and LSA subcontracting program from the FAR.

Section 7106 of FASA revises sections 8 and 15 of the Small Business Act to accommodate a Governmentwide goal of 5 percent for women-owned small businesses. This rule deletes existing, separate coverage relating to women-owned businesses and revises existing coverage to place women-owned small businesses on an equal footing with small disadvantaged businesses. In connection with this revision, the Standard Forms 294 and 295 are revised and streamlined.

Section 10004 of FASA, which requires the collection of specified data through the Federal Procurement Data System, is being implemented by FAR case 94–701. This rule augments that coverage by providing a solicitation provision to collect the information on women-owned businesses as required by that FAR case.

This regulatory action was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

EFFECTIVE DATE: October 1, 1995.

FOR FURTHER INFORMATION CONTACT: Ms. Victoria Moss, Small Business Team Leader, at (202) 501–4764 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–32, FAR case 94–780.

SUPPLEMENTARY INFORMATION:

A. Background

The Federal Acquisition Streamlining Act of 1994 (the Act), Pub. L. 103–355, provides authorities that streamline the acquisition process and minimize burdensome Government-unique requirements. The following sections of the Federal Acquisition Streamlining Act are implemented by this final rule:

Section 7101, Repeal of Certain Requirements, paragraph (a), deletes sections 15(e) and (f) from the Small Business Act. These sections established the priority for the award of contracts and subcontracts in carrying out the set-aside programs.

Section 7106, Procurement Goals for Small Business Concerns Owned by Women, establishes a Governmentwide goal for participation by women-owned small business concerns in prime and subcontracts and revises sections 8 and 15 of the Small Business Act to accommodate the goal.

Section 10004, Data Collection through the Federal Procurement Data System, has been implemented in FAR case 94–701. This rule augments that implementation.

These sections are implemented in this final rule by way of the following substantial changes:

Elimination of the Labor Surplus Area (LSA) set-aside program;

Development of coverage giving women-owned small businesses equal standing with small and small disadvantaged business in subcontracting plans;

Issuance of an abbreviated provision to allow firms to represent their status as small, small disadvantaged and/or women-owned small business in one place;

Simplification and streamlining of the Standard Form (SF) 294, Subcontract for Individual Contracts, and SF 295, Summary Subcontract Report;

Inclusion of a solicitation provision collecting information on women-owned businesses.

B. Regulatory Flexibility Act

The changes may 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 the rule requires large business contractors to submit and negotiate a subcontracting plan addressing subcontracting with women-owned small businesses. The rule further provides for imposition of liquidated damages on those firms which do not make a good faith effort to comply with that subcontracting plan. A Final Regulatory Flexibility Analysis (FRFA) has been prepared and will be provided to the Chief Counsel for Advocacy for the Small Business Administration. A copy of the FRFA may be obtained from the FAR Secretariat.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) applies because the final rule contains information collection requirements. Requests for approval of the revised information collection requirements concerning OMB Control Numbers 9000–0006, Subcontracting Plans/Subcontracting Report for Individual Contracts, and 9000–0007, Summary Subcontract Report, were submitted to the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* The information collections were approved through March 31, 1998. Public comments concerning this request were invited through a Federal Register notice published on January 6, 1995. Based on the comments received concerning these information collection requirements, substantial changes were made to SFs 294 and 295. The most significant changes include removal of blocks which collect information not essential to program management, changing the reporting frequency for the SF 295 from quarterly to semi-annually (DOD only), removing signature blocks from the SF 294 (to facilitate electronic submittal) and clarifying the instructions on the reverse.

D. Public Comments

On January 6, 1995, a proposed rule was published in the Federal Register (60 FR 2302). In response to the notice of proposed rulemaking, 114 public comments were received. In order to more effectively implement those sections of the Act addressed in the proposed rule, the proposed rule has been divided into distinguishable segments. Section 4004, Small Business Reservation, has been added to FAR Case 94–770. Section 7102, Contracting Program for Certain Small Business Concerns, remains under consideration in light of the Supreme Court's recent decision in *Adarand Constructors, Inc.* v. *Pena*, 115 S. Ct. 2097 (1995), which set forth a new standard for evaluating the constitutionality of race-based affirmative action programs, and the President's directive of July 19, 1995, that executive agencies review such programs under that standard. Section 7102 has been assigned FAR case 94–781. The comments of all respondents were considered in developing this final rule. As a result, the following changes have been made:

Requirements for acquisition plans were revised to include consideration of women-owned small business concerns.

Use of the provision entitled ''Priority for Labor Surplus Area Concerns'' was limited to sealed bids.

The Standard Forms 294 and 295 were simplified and streamlined.

List of Subjects in 48 CFR Parts 4, 5, 6, 9, 14, 15, 16, 17, 19, 20, 25, 26, 42, 44, 52 and 53

Government procurement.

Dated: September 7, 1995.

Edward C. Loeb,

Deputy Project Manager for the Implementation of the Federal Acquisition Streamlining Act of 1994.

Therefore, 48 CFR Parts 4, 5, 6, 9, 14, 15, 16, 17, 19, 20, 25, 26, 42, 44, 52 and 53 are amended as set forth below:

1. The authority citation for 48 CFR Parts 4, 5, 6, 9, 14, 15, 16, 17, 19, 20, 25, 26, 42, 44, 52 and 53 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 4—ADMINISTRATIVE MATTERS

2. Section 4.602 is amended by revising paragraph (a)(2) to read as follows:

4.602 Federal Procurement Data System.

(a) * * *

(2) A means of measuring and assessing the impact of Federal contracting on the Nation's economy and the extent to which small, small disadvantaged and women-owned small business concerns are sharing in Federal contracts; and

* * * * *

3. Section 4.603 is added to read as follows:

4.603 Solicitation provision.

The contracting officer shall insert the provision at 52.204–5, Women-Owned Business, in all solicitations that are not set aside for small business concerns and that exceed the simplified acquisition threshold in Part 13, when the contract is to be performed inside the United States, its territories or possessions, Puerto Rico, the Trust Territory of the Pacific Islands, or the District of Columbia.

PART 5—PUBLICIZING CONTRACT ACTIONS

5.002 [Amended]

4. Section 5.002 is amended in paragraph (c) by removing ''labor surplus area'' and inserting ''women-owned small business'' in its place.

5.207 [Amended]

5. Section 5.207 is amended in paragraph (c)(2)(xiii) by removing ''and labor surplus area concerns'', and in paragraph (d) by removing ''or labor surplus area (LSA)''.

5.404–1 [Amended]

6. Section 5.404–1 is amended in paragraph (b)(6)(ii) by removing ''or LSA''.

7. Section 5.503 is amended by revising the second sentence of paragraph (a) to read as follows:

5.503 Procedures.

(a) * * * Contracting officers shall give small, small disadvantaged and women-owned small business concerns maximum opportunity to participate in these acquisitions.

* * * * *

PART 6—COMPETITION REQUIREMENTS

8. Section 6.203 is revised to read as follows:

6.203 Set-asides for small business concerns.

(a) To fulfill the statutory requirements relating to small business concerns, contracting officers may set aside solicitations to allow only such business concerns to compete. This includes contract actions conducted under the Small Business Innovation Research Program established under Pub. L. 97–219.

(b) No separate justification or determination and findings is required under this part to set aside a contract action for small business concerns.

(c) Subpart 19.5 prescribes policies and procedures that shall be followed with respect to set-asides.

6.501 [Amended]

9. Section 6.501 is amended in paragraph (c) by removing ''and disadvantaged''.

PART 9—CONTRACTOR QUALIFICATIONS

10. Section 9.104–3 is amended by revising the last sentence of paragraph (c) to read as follows:

9.104–3 Application of standards.

* * * * *

(c) * * * If the pending contract requires a subcontracting plan pursuant to Subpart 19.7, Subcontracting with Small, Small Disadvantaged Business and Women-Owned Small Business Concerns, the contracting officer shall also consider the prospective contractor's compliance with subcontracting plans under recent contracts.

* * * * *

PART 14—SEALED BIDDING

14.205–1 [Amended]

11. Section 14.205–1(e) is amended in the last sentence after the word ''Disadvantaged'' by inserting ''and women-owned''.

14.205–4 [Amended]

12. Section 14.205–4 is amended in the fourth sentence of paragraph (b) by inserting after the word ''small'' the phrase '', small disadvantaged and women-owned small''; and removing ''and labor surplus areas (see 20.104(e) and (f))''; and in the last sentence of paragraph (b) by removing ''parts 19 and 20'' and inserting in its place ''part 19''.

13. Section 14.206 is revised to read as follows:

14.206 Small business set-asides.

(See Part 19.)

14.408–6 [Amended]

14. Section 14.408–6 is amended by removing paragraph (a)(3) and redesignating paragraph (a)(4) as paragraph (a)(3).

14.502 [Amended]

15. Section 14.502(b)(3) is amended by removing the text following the word ''business'' and inserting in its place ''set-aside (see 19.502–2).''

PART 15—CONTRACTING BY NEGOTIATION

15.705 [Amended]

16. Section 15.705 is amended in paragraph (b) by removing ''business and labor surplus area'' and inserting in its place '', small disadvantaged and women-owned small business''.

15.706 [Amended]

17. Section 15.706 is amended at the end of the first sentence of paragraph (b) by removing ''and disadvantaged business utilization'' and inserting in its place ''business''; and in paragraph (d)(4) by removing ''labor surplus area'' and inserting in its place ''women-owned small business''.

15.905–1 [Amended]

18. Section 15.905–1 is amended in the first sentence of paragraph (c) by inserting after the word ''individuals,'' the phrase ''women-owned small businesses,''; and removing the phrase ''labor surplus areas,''.

PART 16—TYPES OF CONTRACTS

16.103 [Amended]

19. Section 16.103 is amended in paragraph (d)(3) by removing the words ''or labor surplus area concerns''.

16.505 [Amended]

20. Section 16.505 is amended in paragraphs (d)(4) and (d)(5)(ii) by removing the phrase ''or labor surplus area''.

PART 17—SPECIAL CONTRACTING METHODS

17.104–1 [Amended]

21. Section 17.104–1 is amended—

a. In paragraph (a) by removing the phrase ''or labor surplus area'',

b. In paragraph (b) by removing the phrase ''or labor surplus area''; and

c. In paragraph (b)(2) by removing ''(Partial labor surplus area set-asides are only authorized for DOD activities at this time.)''.

PART 19—SMALL BUSINESS PROGRAMS

22. The heading of Part 19 is revised to read as set forth above.

* * * * *

23. Section 19.001 is amended by adding, in alphabetical order, the definitions *Labor surplus area, Labor surplus area concern, and Women-owned small business concern* to read as follows:

19.001 Definitions.

* * * * *

Labor surplus area means a geographical area identified by the Department of Labor in accordance with 20 CFR Part 654, Subpart A, as an area of concentrated unemployment or underemployment or an area of labor surplus.

Labor surplus area concern means a concern that together with its first-tier subcontractors will perform substantially in labor surplus areas. Performance is substantially in labor surplus areas if the costs incurred under the contract on account of manufacturing, production, or performance of appropriate services in labor surplus areas exceed 50 percent of the contract price.

* * * * *

Women-owned small business concern means a small business concern—

(a) Which is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(b) Whose management and daily business operations are controlled by one or more women.

24. Section 19.201 is amended by revising paragraphs (a), (b), (c)(9), and (d) to read as follows:

19.201 General policy.

(a) It is the policy of the Government to provide maximum practicable opportunities in its acquisitions to small business concerns, small disadvantaged business concerns, and women-owned small business concerns. Such concerns shall also have the maximum practicable opportunity to participate as subcontractors in the contracts awarded by any executive agency, consistent with efficient contract performance. The Small Business Administration (SBA) counsels and assists small business concerns and assists contracting personnel to ensure that a fair proportion of contracts for supplies and services is placed with small business.

(b) Heads of contracting activities are responsible for effectively implementing the small business programs within their activities, including achieving program goals. They are to ensure that contracting and technical personnel maintain knowledge of small, small disadvantaged and women-owned small business program requirements and take all reasonable action to increase participation in their activities' contracting processes by these businesses.

(c) * * *

(9) Make recommendations in accordance with agency regulations as to whether a particular acquisition should be awarded under Subpart 19.5 as a set-aside, or under Subpart 19.8 as a Section 8(a) award.

(d) Small Business Specialists shall be appointed and act in accordance with agency regulations.

25. Section 19.202 is amended by revising the first sentence to read as follows:

19.202 Specific policies.

In order to further the policy in 19.201(a), contracting officers shall comply with the specific policies listed

in this section and shall consider recommendations of the agency Director of Small and Disadvantaged Business Utilization, or the Director's designee, as to whether a particular acquisition should be awarded under Subpart 19.5 or 19.8. * * *

26. Section 19.202–3 is revised to read as follows:

19.202–3 Equal low bids.

In the event of equal low bids (see 14.408–6), awards shall be made first to small business concerns which are also labor surplus area concerns, and second to small business concerns which are not also labor surplus area concerns.

27. Section 19.202–5 is amended by revising paragraphs (a) and (b) to read as follows:

19.202–5 Data collection and reporting requirements.

* * * * *

(a) Require each prospective contractor to represent whether it is a small business, small disadvantaged business or women-owned small business (see the provision at 52.219–1, Small Business Program Representations).

(b) Accurately measure the extent of participation by small, small disadvantaged, and women-owned small businesses in Government acquisitions in terms of the total value of contracts placed during each fiscal year, and report data to the SBA at the end of each fiscal year (see Subpart 4.6).

* * * * *

28. Section 19.301 is amended by revising the first sentence of paragraph (d) to read as follows:

19.301 Representation by the offeror.

(d) If the SBA determines that the status of a concern as a ''small business,'' a ''small disadvantaged business'' or a ''women-owned small business'' has been misrepresented in order to obtain a set-aside contract, an 8(a) subcontract, a subcontract that is to be included as part or all of a goal contained in a subcontracting plan, or a prime or subcontract to be awarded as a result, or in furtherance of any other provision of Federal law that specifically references Section 8(d) of the Small Business Act for a definition of program eligibility, the SBA may take action as specified in Section 16(d) of the Act. * * *

* * * * *

29. Section 19.304 is revised to read as follows:

19.304 Solicitation provision and contract clause.

(a) The contracting officer shall insert the provision at 52.219–1, Small Business Program Representations, in solicitations exceeding the micro-purchase threshold when the contract is to be performed inside the United States, its territories or possessions, Puerto Rico, the Trust Territory of the Pacific Islands, or the District of Columbia.

(b) When contracting by sealed bidding, the contracting officer shall insert the provision at 52.219–2, Equal Low Bids, in solicitations and contracts when the contract is to be performed inside the United States, its territories or possessions, Puerto Rico, the Trust Territory of the Pacific Islands, or the District of Columbia.

19.401 [Amended]

30. Section 19.401 is amended in paragraph (a) by removing the phrase ''and small disadvantaged business''.

31. Section 19.402 is amended by revising paragraph (c)(1)(ii) to read as follows:

19.402 Small Business Administration procurement center representatives.

* * * * *

(c) * * *

(1) * * *

(ii) New qualified small, small disadvantaged and women-owned small business sources, and

* * * * *

32. Section 19.501 is amended in the third sentence of paragraph (a) by removing ''or, except for the Department of Defense, restricted to small businesses located in labor surplus areas''; and by revising the first sentence of paragraph (h) to read as follows:

19.501 General.

* * * * *

(h) Section 305 of Public Law 103–403 authorizes public and private organizations for the handicapped to participate for fiscal year 1995 in acquisitions set-aside for small business concerns. * * *

* * * * *

19.504 [Reserved]

33. Section 19.504 is removed and reserved.

34. Section 19.505 is revised to read as follows:

19.505 Rejecting Small Business Administration recommendations.

(a) If the contracting officer rejects a recommendation of the SBA procurement center representative or breakout procurement center representative, written notice shall be furnished to the appropriate SBA center representative within 5 working days of the contracting officer's receipt of the recommendation.

(b) The SBA procurement center representative may appeal the contracting officer's rejection to the head of the contracting activity (or designee) within 2 working days after receiving the notice. The head of the contracting activity (or designee) shall render a decision in writing, and provide it to the SBA representative within 7 working days. Pending issuance of a decision to the SBA procurement center representative, the contracting officer shall suspend action on the acquisition.

(c) If the head of the contracting activity agrees that the contracting officer's rejection was appropriate, the SBA procurement center representative may—

(1) Within 1 working day, request the contracting officer to suspend action on the acquisition until the SBA Administrator appeals to the agency head (see paragraph (f) of this section); and

(2) The SBA shall be allowed 15 working days after making such a written request, within which the Administrator of SBA

(i) May appeal to the Secretary of the Department concerned, and

(ii) Shall notify the contracting officer whether the further appeal has, in fact, been taken.

If notification is not received by the contracting officer within the 15-day period, it shall be deemed that the SBA request to suspend contracting action has been withdrawn and that an appeal to the Secretary was not taken.

(d) When the contracting officer has been notified within the 15-day period that the SBA has appealed to the agency head, the head of the contracting activity (or designee) shall forward justification for its decision to the agency head. The contracting officer shall suspend contract action until notification is received that the SBA appeal has been settled.

(e) The agency head shall reply to the SBA within 30 working days after receiving the appeal. The decision of the agency head shall be final.

(f) A request to suspend action on an acquisition need not be honored if the contracting officer determines that proceeding to contract award and performance is in the public interest. The contracting officer shall include in the contract file a statement of the facts justifying the determination, and shall promptly notify the SBA representative of the determination and provide a copy of the justification.

35. Section 19.506 is revised to read as follows:

19.506 Withdrawing or modifying set-asides.

(a) If, before award of a contract involving a set-aside, the contracting officer considers that award would be detrimental to the public interest, (*e.g.*, payment of more than a fair market price), the contracting officer may withdraw the set-aside determination whether it was unilateral or joint. The contracting officer shall initiate a withdrawal of an individual set-aside by giving written notice to the agency small business specialist and the SBA procurement center representative, if one is assigned, stating the reasons. In a similar manner, the contracting officer may modify a unilateral or joint class set-aside to withdraw one or more individual acquisitions.

(b) If the agency small business specialist does not agree to a withdrawal or modification, the case shall be promptly referred to the SBA representative (if one is assigned) for review. If an SBA representative is not assigned, disagreements between the agency small business specialist and the contracting officer shall be resolved using agency procedures. However, the procedures are not applicable to automatic dissolutions of set-asides (see 19.507) or dissolution of set-asides under $100,000.

(c) The contracting officer shall prepare a written statement supporting any withdrawal or modification of a set-aside and include it in the contract file.

19.508 [Amended]

36. Section 19.508 is amended by removing and reserving paragraph (b).

Subpart 19.7—Subcontracting With Small Business, Small Disadvantaged Business and Women-Owned Small Business Concerns

37. The heading of Subpart 19.7 is revised to read as set forth above.

38. Section 19.702 is amended by revising the introductory text and paragraph (b)(4) to read as follows:

19.702 Statutory requirements.

Any contractor receiving a contract for more than the simplified acquisition threshold in Part 13 shall agree in the contract that small business concerns, small disadvantaged business concerns and women-owned small business concerns shall have the maximum practicable opportunity to participate in contract performance consistent with its efficient performance. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, small disadvantaged business concerns and women-owned small business concerns.

* * * * *

(b) * * *

(4) For modifications to contracts that do not contain the clause at 52.219–8, Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns (or equivalent prior clauses).

* * * * *

39. Section 19.703 is amended by revising paragraph (a) introductory text, (a)(1), and (b) to read as follows:

19.703 Eligibility requirements for participating in the program.

(a) To be eligible as a subcontractor under the program, a concern must represent itself as a small business concern, small disadvantaged business concern or a woman-owned small business concern.

(1) To represent itself as a small business concern or a women-owned small business concern, a concern must meet the appropriate definition in 19.001.

* * * * *

(b) A contractor acting in good faith may rely on the written representation of its subcontractor regarding the subcontractor's status. The contractor, the contracting officer, or any other interested party can challenge a subcontractor's size status representation by filing a protest, in accordance with 13 CFR 121.1601 through 121.1608. Protests challenging a subcontractor's disadvantaged status representation shall be filed in accordance with 13 CFR 124.601 through 124.610. Protests challenging a subcontractor's status as a women-owned small business concern shall be filed in accordance with Small Business Administration procedures.

40. Section 19.704 is amended by revising paragraphs (a)(1), (a)(3), (a)(4), (a)(6), and (b) to read as follows:

19.704 Subcontracting plan requirements.

(a) * * *

(1) Separate percentage goals for using small business concerns, small disadvantaged business concerns and women-owned small business concerns as subcontractors;

* * * * *

(3) A description of the efforts the offeror will make to ensure that small business concerns, small disadvantaged business concerns and women-owned small business concerns will have an equitable opportunity to compete for subcontracts;

(4) Assurances that the offeror will include the clause at 52.219–8, Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns (see 19.708(b)), in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of $500,000 ($1,000,000 for construction) to adopt a plan similar to the plan required by the clause at 52.219–9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (see 19.708(c));

* * * * *

(6) A recitation of the types of records the offeror will maintain to demonstrate procedures adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small, small disadvantaged and women-owned small business concerns and to award subcontracts to them.

(b) Contractors may establish, on a plant or division-wide basis, a master subcontracting plan which contains all the elements required by the clause at 52.219–9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan, except goals. Master plans shall be effective for a 1-year period after approval by the contracting officer; however, a master plan when incorporated in an individual plan shall apply to that contract throughout the life of the contract.

* * * * *

19.705–1 [Amended]

41. Section 19.705–1 is amended in the first sentence by removing the phrase ''for Small and Small Disadvantaged Business Concerns''.

19.705–2 [Amended]

42. Section 19.705–2 is amended in the first sentence of paragraph (d) introductory text by removing the words ''small business and small disadvantaged'' and inserting in their place, ''small, small disadvantaged and women-owned small''.

43. Section 19.705–4 is amended by revising the last sentence of paragraph (b), the second and last sentences of paragraph (c); the first sentence of paragraphs (d)(1) and (d)(5); and paragraphs (d)(4) and (d)(6) to read as follows:

19.705–4 Reviewing the subcontracting plan.

* * * * *

(b) * * * If the plan, although responsive, evidences the bidder's intention not to comply with its obligations under the clause at 52.219–

8, Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns, the contracting officer may find the bidder nonresponsible.

(c) * * * Subcontracting goals should be set at a level that the parties reasonably expect can result from the offeror expending good faith efforts to use small, small disadvantaged and women-owned small business subcontractors to the maximum practicable extent. * * * An incentive subcontracting clause (see 52.219–10, Incentive Subcontracting Program), may be used when additional and unique contract effort, such as providing technical assistance, could significantly increase subcontract awards to small, small disadvantaged or women-owned small businesses.

(d) * * *

(1) Evaluate the offeror's past performance in awarding subcontracts for the same or similar products or services to small, small disadvantaged and women-owned small business concerns. * * *

* * * * *

(4) Evaluate subcontracting potential, considering the offeror's make-or-buy policies or programs, the nature of the products or services to be subcontracted, the known availability of small, small disadvantaged and women-owned small business concerns in the geographical area where the work will be performed, and the potential contractor's long-standing contractual relationship with its suppliers.

(5) Advise the offeror of available sources of information on potential small, small disadvantaged and women-owned small business subcontractors, as well as any specific concerns known to be potential subcontractors. * * *

(6) Obtain advice and recommendations from the SBA procurement center representative (if any) and the agency small business specialist.

19.705–7 [Amended]

44. Section 19.705–7 is amended—

a. In the first sentence of paragraph (a) by removing the word ''and'' the first time it appears and inserting a comma in its place; and adding the phrase ''and women-owned small'' after the word ''disadvantaged'';

b. In the third sentence of paragraph (d) by removing the words ''business and'' and replacing them with a comma; and adding the phrase ''and women-owned small'' after the word ''disadvantaged'';

c. In the fourth sentence of paragraph (d) by removing the phrase ''business or'' and inserting a comma in its place; and adding the phrase ''or woman-owned small'' after the word ''disadvantaged'';

d. In paragraph (f) by removing the words ''Business and'' and replacing them with a comma; and adding the phrase ''and Women-Owned Small'' after the word ''Disadvantaged''.

45. Section 19.706 is amended by revising paragraphs (a)(2) and (a)(3) to read as follows:

19.706 Responsibilities of the cognizant administrative contracting officer.

(a) * * *

(2) Information on the extent to which the contractor is meeting the plan's goals for subcontracting with eligible small, small disadvantaged and women-owned small business concerns;

(3) Information on whether the contractor's efforts to ensure the participation of small, small disadvantaged and women-owned small business concerns are in accordance with its subcontracting plan;

* * * * *

46. Section 19.708 is amended by revising paragraph (a) introductory text, (b) and (c) to read as follows:

19.708 Solicitation provisions and contract clauses.

(a) The contracting officer shall insert the clause at 52.219–8, Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns, in solicitations and contracts when the contract amount is expected to be over the simplified acquisition threshold in Part 13 unless—

* * * * *

(b)(1) The contracting officer shall, when contracting by negotiation, insert the clause at 52.219–9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan, in solicitations and contracts that

(i) Offer subcontracting possibilities,

(ii) Are expected to exceed $500,000 ($1,000,000 for construction of any public facility), and

(iii) Are required to include the clause at 52.219–8, Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns, unless the acquisition has been set aside or is to be accomplished under the 8(a) program. When contracting by sealed bidding rather than by negotiation, the contracting officer shall use the clause with its Alternate I.

(2) The contracting officer shall insert the clause at 52.219–16, Liquidated Damages—Subcontracting Plan, in all solicitations and contracts containing the clause at 52.219–9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan, or its Alternate I.

(c)(1) The contracting officer may, when contracting by negotiation, insert in solicitations and contracts a clause substantially the same as the clause at 52.219–10, Incentive Subcontracting Program, when a subcontracting plan is required (see 19.702(a)(1)), and inclusion of a monetary incentive is, in the judgment of the contracting officer, necessary to increase subcontracting opportunities for small, small disadvantaged and women-owned small business concerns, and is commensurate with the efficient and economical performance of the contract; unless the conditions in paragraph (c)(3) of this section are applicable. The contracting officer may vary the terms of the clause as specified in paragraph (c)(2) of this section.

(2) Various approaches may be used in the development of small, small disadvantaged and women-owned small business concerns' subcontracting incentives. They can take many forms, from a fully quantified schedule of payments based on actual subcontract achievement to an award fee approach employing subjective evaluation criteria (see paragraph (c)(3) of this section). The incentive should not reward the contractor for results other than those that are attributable to the contractor's efforts under the incentive subcontracting program.

(3) As specified in paragraph (c)(2) of this section, the contracting officer may include small, small disadvantaged and women-owned small business subcontracting as one of the factors to be considered in determining the award fee in a cost-plus-award-fee contract; in such cases, however, the contracting officer shall not use the clause at 52.219–10, Incentive Subcontracting Program.

19.811–3 [Amended]

47. Section 19.811–3(d)(3) is amended by removing the citation ''19.502–2(b)'' and inserting ''19.502–2(c)'' in its place.

Subpart 19.9 [Remove and Reserved]

48. Subpart 19.9, consisting of sections 19.901 and 19.902, is removed and reserved.

PART 20 [REMOVED AND RESERVED]

49. Part 20 is removed and reserved.

PART 25—FOREIGN ACQUISITION

25.105 [Amended]

50. Section 25.105 is amended in paragraph (a)(1) by removing the phrase ''that is not a labor surplus area concern''; and in paragraph (a)(2) by

removing the phrase ''or any labor surplus area concern''.

25.404 [REMOVED AND RESERVED]

51. Section 25.404 is removed and reserved.

PART 26—OTHER SOCIOECONOMIC PROGRAMS

52. The Note to Part 26 is amended by removing ''20,''.

26.104 [Amended]

53. Section 26.104 is amended in paragraphs (a) and (b) by removing ''Business and'' and inserting a comma in its place; and inserting after the word ''Disadvantaged'' the phrase ''and Women-Owned Small''.

PART 42—CONTRACT ADMINISTRATION

54. Section 42.302 is amended by revising paragraphs (a)(52) through (a)(55) to read as follows:

42.302 Contract administration functions.

* * * * *

(a) * * *

(52) Review, evaluate, and approve plant or division-wide small, small disadvantaged and women-owned small business master subcontracting plans.

(53) Obtain the contractor's currently approved company- or division-wide plans for small, small disadvantaged and women-owned small business subcontracting for its commercial products, or, if there is no currently approved plan, assist the contracting officer in evaluating the plans for those products.

(54) Assist the contracting officer, upon request, in evaluating an offeror's proposed small, small disadvantaged and women-owned small business subcontracting plans, including documentation of compliance with similar plans under prior contracts.

(55) By periodic surveillance, ensure the contractor's compliance with small, small disadvantaged and women-owned small business subcontracting plans and any labor surplus area contractual requirements; maintain documentation of the contractor's performance under and compliance with these plans and requirements; and provide advice and assistance to the firms involved, as appropriate.

* * * * *

42.501 [Amended]

55. Section 42.501 is amended in paragraph (b) by removing the word ''and'' and inserting a comma in its place; and inserting after the word ''disadvantaged'' the phrase ''and women-owned small''.

56. Section 42.502 is amended by revising paragraphs (i) and (j) to read as follows:

42.502 Selecting contracts for postaward orientation.

* * * * *

(i) Contractor's status, if any, as a small business, small disadvantaged or women-owned small business concern;

(j) Contractor's performance history with small, small disadvantaged and women-owned small business subcontracting programs;

* * * * *

PART 44—SUBCONTRACTING POLICIES AND PROCEDURES

44.202–2 [Amended]

57. Section 44.202–2 is amended in paragraph (a)(4) by removing the phrase ''labor surplus area or''; removing the phrase ''business concerns and'' and inserting a comma in its place; and inserting after the word ''disadvantaged'' the phrase ''and women-owned small''.

44.303 [Amended]

58. Section 44.303 is amended in paragraph (e) by removing the phrase ''labor surplus area concerns and''; and inserting after the word ''disadvantaged'' the phrase ''and women-owned small''.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

59. Section 52.204–5 is added to read as follows:

52.204–5 Women-Owned Business.

As prescribed in 4.603, insert the following provision:

Women-Owned Business (Oct 1995)

(a) *Representation.* The offeror represents that it ☐ is, ☐ is not a women-owned business concern.

(b) *Definition.* ''Women-owned business concern,'' as used in this provision, means a concern which is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

(End of provision)

52.216–21 [Amended]

60. Section 52.216–21 is amended by revising the clause date to read (OCT 1995), in Alternates III and IV by revising the dates to read ''(OCT 1995)'' and by removing the phrase ''or labor surplus area'' from the introductory texts.

61. Section 52.219–1 is revised to read as follows:

52.219–1 Small Business Program Representations.

As prescribed in 19.304(a), insert the following provision:

Small Business Program Representations (Oct 1995)

(a)(1) The standard industrial classification (SIC) code for this acquisition is _____ *(insert SIC code).*

(2) The small business size standard is _____ *(insert size standard).*

(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

(b) *Representations.* (1) The offeror represents and certifies as part of its offer that it ☐ is, ☐ is not a small business concern.

(2) (Complete only if offeror represented itself as a small business concern in block (b)(1) of this section.) The offeror represents as part of its offer that it ☐ is, ☐ is not a small disadvantaged business concern.

(3) (Complete only if offeror represented itself as a small business concern in block (b)(1) of this section.) The offeror represents as part of its offer that it ☐ is, ☐ is not a women-owned small business concern.

(c) *Definitions. Small business concern,* as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and the size standard in paragraph (a) of this provision.

Small disadvantaged business concern, as used in this provision, means a small business concern that (1) is at least 51 percent unconditionally owned by one or more individuals who are both socially and economically disadvantaged, or a publicly owned business having at least 51 percent of its stock unconditionally owned by one or more socially and economically disadvantaged individuals, and (2) has its management and daily business controlled by one or more such individuals. This term also means a small business concern that is at least 51 percent unconditionally owned by an economically disadvantaged Indian tribe or Native Hawaiian Organization, or a publicly owned business having at least 51 percent of its stock unconditionally owned by one or more of these entities, which has its management and daily business controlled by members of an economically disadvantaged Indian tribe or Native Hawaiian Organization, and which meets the requirements of 13 CFR Part 124.

Women-owned small business concern, as used in this provision, means a small business concern—

(1) Which is at least 51 percent owned by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

(d) *Notice.* (1) If this solicitation is for supplies and has been set aside, in whole or

in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.

(2) Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small or small disadvantaged business concern in order to obtain a contract to be awarded under the preference programs established pursuant to sections 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall—

(i) Be punished by imposition of fine, imprisonment, or both;

(ii) Be subject to administrative remedies, including suspension and debarment; and

(iii) Be ineligible for participation in programs conducted under the authority of the Act.

(End of provision)

52.219–2 [Removed]

52.220–1 [Redesignated as 52.219]

62. Section 52.219–2 is removed and 52.220–1 is redesignated in its place and is revised to read as follows:

52.219–2 Equal Low Bids.

As prescribed in 19.304(b), insert the following provision:

Equal Low Bids (Oct 1995)

(a) This provision applies to small business concerns only.

(b) The bidder's status as a labor surplus area (LSA) concern may affect entitlement to award in case of tie bids. If the bidder wishes to be considered for this priority, the bidder must identify, in the following space, the LSA in which the costs to be incurred on account of manufacturing or production (by the bidder or the first-tier subcontractors) amount to more than 50 percent of the contract price.

(c) Failure to identify the labor surplus areas as specified in paragraph (b) of this provision will preclude the bidder from receiving priority consideration. If the bidder is awarded a contract as a result of receiving priority consideration under this provision and would not have otherwise received award, the bidder shall perform the contract or cause the contract to be performed in accordance with the obligations of an LSA concern.

(End of provision)

52.219–3 and 52.219–5 [Removed and reserved]

63. Sections 52.219–3 and 52.219–5 are removed and reserved.

64. Section 52.219–6 is amended by revising Alternate I to read as follows:

52.219–6 Notice of Total Small Business Set-Aside.

* * * * *

Alternate I (OCT 1995). When the acquisition is for a product in a class for which the Small Business Administration has determined that there are no small business manufacturers or processors in the Federal market in accordance with 19.502–2(c), delete paragraph (c).

65. Section 52.219–7 is amended by revising the date of the clause; in paragraph (a) by removing the definitions *Labor surplus area*, *Labor surplus area concern*, and *Perform substantially in labor surplus areas*; and by revising paragraphs (b)(4) and (c) and Alternate I to read as follows:

52.219–7 Notice of Partial Small Business Set-Aside.

* * * * *

Notice of Partial Small Business Set-Aside (Oct 1995)

* * * * *

(b) * * *

(4) The contractor(s) for the set-aside portion will be selected from among the small business concerns that submitted responsive offers on the non-set-aside portion. Negotiations will be conducted with the concern that submitted the lowest responsive offer on the non-set-aside portion. If the negotiations are not successful or if only part of the set-aside portion is awarded to that concern, negotiations will be conducted with the concern that submitted the second-lowest responsive offer on the non-set-aside portion. This process will continue until a contract or contracts are awarded for the entire set-aside portion.

* * * * *

(c) *Agreement.* For the set-aside portion of the acquisition, a manufacturer or regular dealer submitting an offer in its own name agrees to furnish, in performing the contract, only end items manufactured or produced by small business concerns inside the United States, its territories and possessions, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, or the District of Columbia. However, this requirement does not apply in connection with construction or service contracts.

(End of clause)

Alternate I (OCT 1995). When the acquisition is for a product in a class for which the Small Business Administration has determined that there are no small business manufacturers or processors in the Federal market in accordance with 19.502–2(c), delete paragraph (c).

66. Section 52.219–8 is amended by revising the section heading; the clause heading and date; paragraph (a); redesignating paragraph (d) as (e) and revising it; and adding a new paragraph (d) to read as follows:

52.219–8 Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns.

* * * * *

Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns (Oct 1995)

(a) It is the policy of the United States that small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals and small business concerns owned and controlled by women shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals and small business concerns owned and controlled by women.

* * * * *

(d) The term ''small business concern owned and controlled by women'' shall mean a small business concern (i) which is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women, and (ii) whose management and daily business operations are controlled by one or more women; and

(e) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a small business concern owned and controlled by socially and economically disadvantaged individuals or a small business concern owned and controlled by women.

(End of clause)

67. Section 52.219–9 is amended by revising—

a. The section heading;

b. The clause heading and date;

c. The first two sentences of paragraph (c);

d. Paragraphs (d), (e), (i), and Alternate I to read as follows:

52.219–9 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan.

* * * * *

Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (Oct 1995)

* * * * *

(c) The offeror, upon request by the Contracting Officer, shall submit and negotiate a subcontracting plan, where applicable, which separately addresses subcontracting with small business concerns, with small disadvantaged business concerns and with women-owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small business concerns, small disadvantaged business concerns, and women-owned small

business concerns with a separate part for the basic contract and separate parts for each option (if any). * * *

(d) The offeror's subcontracting plan shall include the following:

(1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business concerns, small disadvantaged business concerns and women-owned small business concerns as subcontractors. The offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs.

(2) A statement of—

(i) Total dollars planned to be subcontracted;

(ii) Total dollars planned to be subcontracted to small business concerns;

(iii) Total dollars planned to be subcontracted to small disadvantaged business concerns; and

(iv) Total dollars planned to be subcontracted to women-owned small business concerns.

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to (i) small business concerns, (ii) small disadvantaged business concerns and (iii) women-owned small business concerns.

(4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.

(5) A description of the method used to identify potential sources for solicitation purposes (*e.g.,* existing company source lists, the Procurement Automated Source System (PASS) of the Small Business Administration, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, small disadvantaged and women-owned small business concerns trade associations). A firm may rely on the information contained in PASS as an accurate representation of a concern's size and ownership characteristics for purposes of maintaining a small business source list. A firm may rely on PASS as its small business source list. Use of the PASS as its source list does not relieve a firm of its responsibilities (*e.g.,* outreach, assistance, counseling, publicizing subcontracting opportunities) in this clause.

(6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with (i) small business concerns, (ii) small disadvantaged business concerns, and (iii) women-owned small business concerns.

(7) The name of the individual employed by the offeror who will administer the offeror's subcontracting program, and a description of the duties of the individual.

(8) A description of the efforts the offeror will make to assure that small, small disadvantaged and women-owned small business concerns have an equitable opportunity to compete for subcontracts.

(9) Assurances that the offeror will include the clause in this contract entitled ''Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns'' in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) who receive subcontracts in excess of $500,000 ($1,000,000 for construction of any public facility) to adopt a plan similar to the plan agreed to by the offeror.

(10) Assurances that the offeror will (i) cooperate in any studies or surveys as may be required, (ii) submit periodic reports in order to allow the Government to determine the extent of compliance by the offeror with the subcontracting plan, (iii) submit Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and/or SF 295, Summary Subcontract Report, in accordance with the instructions on the forms, and (iv) ensure that its subcontractors agree to submit Standard Forms 294 and 295.

(11) A recitation of the types of records the offeror will maintain to demonstrate procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of its efforts to locate small, small disadvantaged and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

(i) Source lists (e.g., PASS), guides, and other data that identify small, small disadvantaged and women-owned small business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small, small disadvantaged or women-owned small business concerns.

(iii) Records on each subcontract solicitation resulting in an award of more than $100,000, indicating (A) whether small business concerns were solicited and if not, why not, (B) whether small disadvantaged business concerns were solicited and if not, why not, (C) whether women-owned small business concerns were solicited and if not, why not, and (D) if applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact (A) trade associations, (B) business development organizations, and (C) conferences and trade fairs to locate small, small disadvantaged and women-owned small business sources.

(v) Records of internal guidance and encouragement provided to buyers through (A) workshops, seminars, training, etc., and (B) monitoring performance to evaluate compliance with the program's requirements.

(vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having company or division-wide annual plans need not comply with this requirement.

(e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:

(1) Assist small, small disadvantaged and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the contractor's lists of potential small, small disadvantaged and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

(2) Provide adequate and timely consideration of the potentialities of small, small disadvantaged and women-owned small business concerns in all ''make-or-buy'' decisions.

(3) Counsel and discuss subcontracting opportunities with representatives of small, small disadvantaged and women-owned small business firms.

(4) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, small disadvantaged or women-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.

* * * * *

(i) The failure of the Contractor or subcontractor to comply in good faith with (1) the clause of this contract entitled ''Utilization Of Small, Small Disadvantaged and Women-Owned Small Business Concerns,'' or (2) an approved plan required by this clause, shall be a material breach of the contract.

(End of clause)

Alternate I (OCT 1995). When contracting by sealed bidding rather than by negotiation, substitute the following paragraph (c) for paragraph (c) of the basic clause:

(c) The apparent low bidder, upon request by the Contracting Officer, shall submit a subcontracting plan, where applicable, which separately addresses subcontracting with small business concerns, with small disadvantaged business concerns and with women-owned small business concerns. If the bidder is submitting an individual contract plan, the plan must separately address subcontracting with small business concerns, small disadvantaged business concerns and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be submitted within the time specified by the Contracting Officer. Failure to submit the subcontracting plan shall make the bidder ineligible for the award of a contract.

52.219–10 [Amended]

68. Section 52.219–10 is amended in—

(a) The section heading and clause heading by removing ''for Small and Small Disadvantaged Business Concerns'' and revising the clause date to read ''Oct. 1995''.

(b) The introductory text by removing the text following ''19.708(c)(1),'' and

inserting in its place ''insert the following clause:''; and

(c) Paragraph (a) of the clause by removing ''and'', inserting a comma, and removing the period at the end of the sentence and inserting ''and a certain percentage to women-owned small business concerns.''

52.219–13 [Removed and reserved]

69. Section 52.219–13 is removed and reserved.

70. Section 52.219–16 is amended by revising the section heading, clause heading and date; paragraph (a); the first sentence of paragraph (b); and paragraphs (d) and (f) to read as follows:

52.219–16 Liquidated Damages—Subcontracting Plan.

* * * * *

Liquidated Damages—Subcontracting Plan (Oct 1995)

(a) *Failure to make a good faith effort to comply with the subcontracting plan,* as used in this clause, means a willful or intentional failure to perform in accordance with the requirements of the subcontracting plan approved under the clause in this contract entitled ''Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan,'' or willful or intentional action to frustrate the plan.

(b) If, at contract completion, or in the case of a commercial product plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract entitled ''Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan,'' the Contractor shall pay the Government liquidated damages in an amount stated. * * *

* * * * *

(d) With respect to commercial product plans; *i.e.,* company-wide or division-wide subcontracting plans approved under paragraph (g) of the clause in this contract entitled ''Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan,'' the Contracting Officer of the agency that originally approved the plan will exercise the functions of the Contracting Officer under this clause on behalf of all agencies that awarded contracts covered by that commercial product plan.

* * * * *

(f) Liquidated damages shall be in addition to any other remedies that the Government may have.

(End of clause)

71. Section 52.219–18 is amended by revising Alternate III to read as follows:

52.219–18 Notification of Competition Limited to Eligible 8(a) Concerns.

* * * * *

Alternate III (OCT 1995). When the acquisition is for a product in a class for which the Small Business Administration has determined that there are no small business manufacturers or processors in the Federal market in accordance with 19.502–2(c), delete paragraph (d).

52.219–22 [Removed and reserved]

72. Section 52.219–22 is removed and reserved.

52.220–2, 52.220–3, and 52.220–4 [Removed]

73. Sections 52.220–2, 52.220–3, and 52.220–4 are removed.

PART 53—FORMS

74. Section 53.219 is revised to read as follows:

53.219 Small business programs.

The following standard forms are prescribed for use in reporting small, small disadvantaged and women-owned small business subcontracting data, as specified in Part 19:

(a) *SF 294 (REV OCT 1995), Subcontracting Report for Individual Contracts.* (See 19.704(a)(5).)

(b) *SF 295 (REV OCT 1995), Summary Subcontract Report.* (See 19.704(a)(5).) SF 295 is authorized for local reproduction and a copy is furnished for this purpose in Part 53 of the loose-leaf edition of the FAR.

75. Sections 53.301–294 and 53.301–295 are revised to read as follows:

BILLING CODE 6820–EP–P

53.301–294 Subcontracting Report for Individual Contracts.

SUBCONTRACTING REPORT FOR INDIVIDUAL CONTRACTS
(See instructions on reverse)

OMB No.: 9000-0006
Expires: 03/31/98

Public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (VRS), Office of Federal Acquisition Policy, GSA, Washington, DC 20405.

1. CORPORATION, COMPANY OR SUBDIVISION COVERED
a. COMPANY NAME
b. STREET ADDRESS
c. CITY | d. STATE | e. ZIP CODE
2. CONTRACTOR'S ESTABLISHMENT CODE

3. DATE SUBMITTED
4. REPORTING PERIOD FROM INCEPTION OF CONTRACT THRU:
☐ MAR 31 ☐ SEPT 30 YEAR
5. TYPE OF REPORT
☐ REGULAR ☐ FINAL ☐ REVISED

6. ADMINISTERING ACTIVITY *(Please check applicable box)*
☐ ARMY ☐ NAVY ☐ AIR FORCE
☐ GSA ☐ DOE ☐ DEFENSE LOGISTICS AGENCY
☐ NASA ☐ OTHER FEDERAL AGENCY *(Specify)*

7. REPORT SUBMITTED AS *(Check one and provide appropriate number)*
☐ PRIME CONTRACTOR — PRIME CONTRACT NUMBER
☐ SUBCONTRACTOR — SUBCONTRACT NUMBER

8. AGENCY OR CONTRACTOR AWARDING CONTRACT
a. AGENCY'S OR CONTRACTOR'S NAME
b. STREET ADDRESS
c. CITY | d. STATE | e. ZIP CODE

9. DOLLARS AND PERCENTAGES IN THE FOLLOWING BLOCKS:
☐ DO INCLUDE INDIRECT COSTS ☐ DO NOT INCLUDE INDIRECT COSTS

SUBCONTRACT AWARDS

TYPE	CURRENT GOAL		ACTUAL CUMULATIVE	
	WHOLE DOLLARS	PERCENT	WHOLE DOLLARS	PERCENT
10a. SMALL BUSINESS CONCERNS *(Include SDB, WOSB, HBCU/MI) (Dollar Amount and Percent of 10c.)*				
10b. LARGE BUSINESS CONCERNS *(Dollar Amount and Percent of 10c.)*				
10c. TOTAL *(Sum of 10a and 10b.)*		100.0%		100.0%
11. SMALL DISADVANTAGED (SDB) CONCERNS *(Include HBCU/MI) (Dollar Amount and Percent of 10c.)*				
12. WOMEN-OWNED SMALL BUSINESS (WOSB) CONCERNS *(Dollar Amount and Percent of 10c.)*				

13. REMARKS

14a. NAME OF INDIVIDUAL ADMINISTERING SUBCONTRACTING PLAN
14b. TELEPHONE NUMBER — AREA CODE | NUMBER

AUTHORIZED FOR LOCAL REPRODUCTION
Previous edition is not usable

STANDARD FORM 294 (REV. 10-95)
Prescribed by GSA-FAR (48 CFR) 53.219(a)

GENERAL INSTRUCTIONS

1. This report is not required from small businesses.

2. This report is not required for commercial products for which a company-wide annual plan (i.e., a Commercial Products Plan) has been approved, nor from large businesses in the Department of Defense (DOD) Test Program for Negotiation of Comprehensive Subcontracting Plans. The Summary Subcontract Report (SF 295) is required for contractors operating under one of these two conditions and should be submitted to the Government in accordance with the instructions on that form.

3. This form collects subcontract award data from prime contractors/subcontractors that: (a) hold one or more contracts over $500,000 (over $1,000,000 for construction of a public facility); and (b) are required to report subcontracts awarded to Small Business (SB), Small Disadvantaged Business (SDB), and Women-Owned Small Business (WOSB) concerns under a subcontracting plan. For the Department of Defense (DOD), the National Aeronautics and Space Administration (NASA), and the Coast Guard, this form also collects subcontract award data for Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs).

4. This report is required for each contract containing a subcontracting plan and must be submitted to the administrative contracting officer (ACO) or contracting officer if no ACO is assigned, semi-annually during contract performance for the periods ended March 31st and September 30th. A separate report is required for each contract at contract completion. Reports are due 30 days after the close of each reporting period unless otherwise directed by the contracting officer. Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or since the previous report.

5. Only subcontracts involving performance within the U.S., its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands should be included in this report.

6. Purchases from a corporation, company, or subdivision that is an affiliate of the prime/subcontractor are not included in this report.

7. Subcontract award data reported on this form by prime contractors/subcontractors shall be limited to awards made to their immediate subcontractors. Credit cannot be taken for awards made to lower tier subcontractors.

SPECIFIC INSTRUCTIONS

BLOCK 2: Enter the nine-position Contractor Establishment Code (CEC) that identifies the specific contractor establishment. (The CEC consists of eight digits followed by one letter. It is the responsibility of the contracting activity to obtain the CEC for a company that does not have one. The CEC is to coincide with the address in Block 1.)

BLOCK 4: Check only one. Note that all subcontract award data reported on this form represents activity since the inception of the contract through the date indicated in this block.

BLOCK 5: Check whether this report is a "Regular," "Final," and/or "Revised" report. A "Final" report should be checked only if the contractor has completed the contract or subcontract reported in Block 7. A "Revised" report is a change to a report previously submitted for the same period.

BLOCK 6: Identify the department or agency administering the majority of subcontracting plans.

BLOCK 7: Indicate whether the reporting contractor is submitting this report as a prime contractor or subcontractor and the prime contract or subcontract number.

BLOCK 8: Enter the name and address of the Federal department or agency awarding the contract or the prime contractor awarding the subcontract.

BLOCK 9: Check the appropriate block to indicate whether indirect costs are included in the dollar amounts in blocks 10a through 12. To ensure comparability between the goal and actual columns, the contractor may include indirect costs in the actual column only if the subcontracting plan included indirect costs in the goal.

BLOCKS 10a through 12: Under "Current Goal," enter the dollar and percent goals in each category (SB, SDB, and, WOSB) from the subcontracting plan approved for this contract. (If the original goals agreed upon at contract award have been revised as a result of contract modifications, enter the original goals in Block 13. The amounts entered in Blocks 10a through 12 should reflect the revised goals.) Under "Actual Cumulative," enter actual subcontract achievements (dollar and percent) from the inception of the contract through the date of the report shown in Block 4. In cases where indirect costs are included, the amounts should include both direct awards and an appropriate prorated portion of indirect awards.

BLOCK 10a: Report all subcontracts awarded to SBs including subcontracts to SDBs and WOSBs. For DOD, NASA, and Coast Guard contracts, include subcontracting awards to HBCUs and MIs.

BLOCK 10b: Report all subcontracts awarded to large businesses (LBs).

BLOCK 10c: Report on this line the total of all subcontracts awarded under this contract (the sum of lines 10a and 10b).

BLOCKS 11 and 12: Each of these items is a subcategory of Block 10a. Note that in some cases the same dollars may be reported in both Block 11 and Block 12 (i.e., SDBs owned by women).

BLOCK 11: Report all subcontracts awarded to SDBs (including women-owned SDBs). For DOD, NASA, and Coast Guard contracts, include subcontract awards to HBCUs and MIs.

BLOCK 12: Report all subcontracts awarded to Women-Owned firms (including SDBs owned by women).

BLOCK 13: Enter a short narrative explanation if (a) SB, SDB, or WOSB accomplishments fall below that which would be expected using a straight-line projection of goals through the period of contract performance; or (b) if this is a final report, any one of the three goals was not met.

SPECIAL INSTRUCTIONS FOR COMMERCIAL PRODUCTS PLANS

DEFINITIONS

1. Commercial products means products sold in substantial quantities to the general public and/or industry at established catalog or market prices.

2. Subcontract means a contract, purchase order, amendment, or other legal obligation executed by the prime contractor/subcontractor calling for supplies or services required for the performance of the original contract or subcontract.

3. Direct Subcontract Awards are those that are identified with the performance of one or more specific Government contract(s).

4. Indirect costs are those which, because of incurrence for common or joint purposes, are not identified with specific Government contracts; these awards are related to Government contract performance but remain for allocation after direct awards have been determined and identified to specific Government contracts.

DISTRIBUTION OF THIS REPORT

For the Awarding Agency or Contractor:

The original copy of this report should be provided to the contracting officer at the agency or contractor identified in Block 8. For contracts with DOD, a copy should also be provided to the Defense Logistics Agency (DLA) at the cognizant Defense Contract Management Area Operations (DCMAO) office.

For the Small Business Administration (SBA):

A copy of this report must be provided to the cognizant Commerical Market Representative (CMR) at the time of a compliance review. It is NOT necessary to mail the SF 294 to SBA unless specifically requested by the CMR.

STANDARD FORM 294 (REV. 10-95) **BACK**

BILLING CODE 6820–EP–C

53.301–295 Summary Subcontract Report.

SUMMARY SUBCONTRACT REPORT
(See instructions on reverse)

OMB No.: 9000-0007
Expires: 03/31/98

Public reporting burden for this collection of information is estimated to average 13 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (VRS), Office of Federal Acquisition Policy, GSA, Washington, DC 20405.

1. CORPORATION, COMPANY OR SUBDIVISION COVERED
a. COMPANY NAME
b. STREET ADDRESS
c. CITY | d. STATE | e. ZIP CODE
2. CONTRACTOR'S ESTABLISHMENT CODE

3. DATE SUBMITTED

4. REPORTING PERIOD FROM INCEPTION OF CONTRACT THRU
☐ OCT 1 - MAR 31 ☐ OCT 1 - SEPT 30 YEAR

5. TYPE OF REPORT
☐ REGULAR ☐ FINAL ☐ REVISED

6. ADMINISTERING ACTIVITY *(Please check applicable box)*
☐ ARMY ☐ NAVY ☐ AIR FORCE ☐ DEFENSE LOGISTICS AGENCY ☐ NASA ☐ GSA ☐ DOE ☐ OTHER FEDERAL AGENCY *(Specify)*

7. REPORT SUBMITTED AS *(Check one)*
☐ PRIME CONTRACTOR ☐ BOTH ☐ SUBCONTRACTOR

8. TYPE OF PLAN
☐ INDIVIDUAL ☐ COMMERCIAL PRODUCTS
IF PLAN IS A COMMERCIAL PRODUCT PLAN, SPECIFY THE PERCENTAGE OF THE DOLLARS ON THIS REPORT ATTRIBUTABLE TO THIS AGENCY. ▶

9. CONTRACTOR'S MAJOR PRODUCTS OR SERVICE LINES

a		c	
b		d	

CUMULATIVE FISCAL YEAR SUBCONTRACT AWARDS
(Report cumulative figures for reporting period in Block 4)

TYPE	WHOLE DOLLARS	PERCENT (To nearest tenth of a %)
10a. SMALL BUSINESS CONCERNS *(Include SDB, WOSB, HBCU/MI) (Dollar Amount and Percent of 10c.)*		
10b. LARGE BUSINESS CONCERNS *(Dollar Amount and Percent of 10c.)*		
10c. TOTAL *(Sum of 10a and 10b.)*		100.0%
11. SMALL DISADVANTAGED (SDB) CONCERNS *(Dollar Amount and Percent of 10c.)*		
12. WOMEN-OWNED SMALL BUSINESS (WOSB) CONCERNS *(Dollar Amount and Percent of 10c.)*		
13. HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (HBCU) AND MINORITY INSTITUTIONS (MI) *(If applicable) (Dollar Amount and Percent of 10c.)*		

14. REMARKS

15. CONTRACTOR'S OFFICIAL WHO ADMINISTERS SUBCONTRACTING PROGRAM
a. NAME | b. TITLE | c. TELEPHONE NUMBER: AREA CODE | NUMBER

16. CHIEF EXECUTIVE OFFICER
a. NAME | c. SIGNATURE
b. TITLE | d. DATE

AUTHORIZED FOR LOCAL REPRODUCTION
Previous edition is not usable

STANDARD FORM 295 (REV. 10-95)
Prescribed by GSA - FAR (48 CFR) 53.219(a)

GENERAL INSTRUCTIONS

1. This report is not required from small businesses.

2. This form collects subcontract award data from prime contractors/subcontractors that: (a) hold one or more contracts over $500,000 (over $1,000,000 for construction of a public facility); and (b) are required to report subcontracts awarded to Small Business (SB), Small Disadvantaged Business (SDB), and Women-Owned Small Business (WOSB) concerns under a subcontracting plan. For the Department of Defense (DOD), the National Aeronautics and Space Administration (NASA), and the Coast Guard, this form also collects subcontract award data for Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs).

3. This report must be submitted semi-annually (for the six months ended March 31st and the twelve months ended September 30th) for contracts with the Department of Defense (DOD) and annually (for the twelve months ended September 30th) for contracts with civilian agencies, except for contracts covered by an approved Commercial Products Plan (see special instructions in right-hand column). Reports are due 30 days after the close of each reporting period.

4. This report may be submitted on a corporate, company, or subdivision (e.g., plant or division operating on a separate profit center) basis, unless otherwise directed by the agency awarding the contract.

5. If a prime contractor/subcontractor is performing work for more than one Federal agency, a separate report shall be submitted to each agency covering only that agency's contracts, provided at least one of that agency's contracts is over $500,000 (over $1,000,000 for construction of a public facility) and contains a subcontracting plan. (Note that DOD is considered to be a single agency; see next instruction.)

6. For DOD, a consolidated report should be submitted for all contracts awarded by military departments/agencies and/or subcontracts awarded by DOD prime contractors. However, DOD contractors involved in construction and related maintenance and repair must submit a separate report for each DOD component.

7. Only subcontracts involving performance within the U.S., its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands should be included in this report.

8. Purchases from a corporation, company, or subdivision that is an affiliate of the prime/subcontractor are not included in this report.

9. Subcontract award data reported on this form by prime contractors/subcontractors shall be limited to awards made to their immediate subcontractors. Credit cannot be taken for awards made to lower tier subcontractors.

10. See special instructions in right-hand column for Commercial Products Plans.

SPECIFIC INSTRUCTIONS

BLOCK 2: Enter the nine-position Contractor Establishment Code (CEC) that identifies the specific contractor establishment. (The CEC consists of eight digits followed by one letter. It is the responsibility of the contracting activity to obtain the CEC for a company that does not have one. The CEC is to coincide with the address in Block 1.)

BLOCK 4: Check only one. Note that March 31 represents the six months from October 1st and that September 30th represents the twelve months from October 1st. Enter the year of the reporting period, (i.e., Mar 31 or Sept 30).

BLOCK 5: Check whether this report is a "Regular," "Final," and/or "Revised" report. A "Final" report should be checked only if the contractor has completed all the contracts containing subcontracting plans awarded by the agency to which it is reporting. A "Revised" report is a change to a report previously submitted for the same period.

BLOCK 6: Identify the department or agency administering the majority of subcontracting plans.

BLOCK 7: This report encompasses all contracts with the Federal Government for the agency to which it is submitted, including subcontracts received from other large businesses that have contracts with the same agency. Indicate in this block whether the contractor is a prime contractor, subcontractor, or both (check only one).

BLOCK 8: Check only one. Check "Commercial Products Plan" only if this report is under an approved Commercial Products Plan. For a Commercial Products Plan, the contractor must specify the percentage of dollars in Blocks 10a through 13 attributable to the agency to which this report is being submitted.

BLOCK 9: Identify the major product or service lines of the reporting organization.

BLOCKS 10a through 13: These entries should include all subcontract awards resulting from contracts or subcontracts, regardless of dollar amount, received from the agency to which this report is submitted. If reporting as a subcontractor, report all subcontracts awarded under prime contracts. Amounts should include both direct awards and an appropriate prorated portion of indirect awards. (The indirect portion is based on the percentage of work being performed for the organization to which the report is being submitted in relation to other work being performed by the prime contractor/subcontractor.) Do not include awards made in support of commercial business unless "Commercial Products" is checked in Block 8 (see Special instructions for Commercial products Plans in right hand column).

Report only those dollars subcontracted this fiscal year for the period indicated in Block 4.-

BLOCK 10a: Report all subcontracts awarded to SBs including subcontracts to SDBs and WOSBs. For DOD, NASA, and Coast Guard contracts, include subcontracting awards to HBCUs and MIs.

BLOCK 10b: Report all subcontracts awarded to large businesses (LBs).

BLOCK 10c: Report on this line the grand total of all subcontracts (the sum of lines 10a and 10b).

BLOCKS 11 and 13: Each of these items is a subcategory of Block 10a. Note that in some cases the same dollars may be reported on both Block 11 and Block 12 (i.e., SDBs owned by women); likewise subcontracts to HBCUs or MIs should be reported on both Block 11 and 13.

BLOCK 11: Report all subcontracts awarded to SDBs (including women-owned SDBs). For DOD, NASA, and Coast Guard contracts, include subcontract awards to HBCUs and MIs.

BLOCK 12: Report all subcontracts awarded to Women-Owned Small Business firms (including SDBs owned by women).

BLOCK 13 (For contracts with DOD, NASA, and Coast Guard): Enter the dollar value of all subcontracts with HBCUs/MIs.

SPECIAL INSTRUCTIONS FOR COMMERCIAL PRODUCTS PLANS

1. This report is due on October 30th each year for the previous fiscal year ended September 30th.

2. The annual report submitted by reporting organizations that have an approved company-wide annual subcontracting plan for commercial products shall include all subcontracting activity under commercial products plans in effect during the year and shall be submitted in addition to the required reports for other-than-commercial products, if any.

3. Enter in Blocks 10a through 13 the total of all subcontract awards under the contractor's Commercial Products Plan. Show in Block 8 the percentage of this total that is attributable to the agency to which this report is being submitted. This report must be submitted to each agency from which contracts for commercial products covered by an approved Commercial Products Plan were received.

DEFINITIONS

1. Commercial products means products sold in substantial quantities to the general public and/or industry at established catalog or market prices.

2. Subcontract means a contract, purchase order, amendment, or other legal obligation executed by the prime contractor/subcontractor calling for supplies or services required for the performance of the original contract or subcontract.

3. Direct Subcontract Awards are those that are identified with the performance of one or more specific Government contract(s).

4. Indirect Subcontract Awards are those which, because of incurrence for common or joint purposes, are not identified with specific Government contracts; these awards are related to Government contract performance but remain for allocation after direct awards have been determined and identified to specific Government contracts.

SUBMITTAL ADDRESSES FOR ORIGINAL REPORT

For DOD Contractors, send reports to the cognizant contract administration office as stated in the contract.

For Civilian Agency Contractors, send reports to awarding agency:

1. NASA: Forward reports to NASA, Office of Procurement (HC), Washington, DC 20546

2. OTHER FEDERAL DEPARTMENTS OR AGENCIES: Forward report to the OSDBU Director unless otherwise provided for in instructions by the Department or Agency.

FOR ALL CONTRACTORS:

SMALL BUSINESS ADMINISTRATION (SBA): Send "info copy" to the cognizant Commercial Market Representative (CMR) at the address provided by SBA. Call SBA Headquarters in Washington, DC at (202) 205-6475 for correct address if unknown.

[FR Doc. 95–22780 Filed 9–15–95; 8:45 am]
BILLING CODE 6820–EP–C

48 CFR Part 5

[FAC 90–32; FAR Case 95–606; Item VI]

RIN 9000–AG60

Federal Acquisition Regulation; Publicizing Contract Actions

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to a final rule to revise FAR section 5.207(b)(4), Preparation and transmittal of synopses. The revision deletes the requirement for the Federal Information Processing Standard (FIPS) Number in Commerce Business Daily synopses and, in lieu thereof, requests Government Printing Office (GPO) Billing Account Code information.

EFFECTIVE DATE: October 1, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph De Stefano at (202) 501–1758 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–32, FAR case 95–606, Publicizing Contract Actions.

SUPPLEMENTARY INFORMATION:

A. Background

For approximately 45 years, the Commerce Business Daily (CBD) has provided free printing services to the agencies. During this period, printing expenses were paid with appropriated funds. Beginning October 1, 1995, the CBD will no longer receive appropriated funds for this purpose, and the Department of Commerce will be required to charge agencies a fee for printing services. The cost will be a flat rate of $18 per notice and bills will be sent to the agency that issues the notice. The Government Printing Office (GPO) has agreed to provide billing and collection services and, in order to facilitate this, agencies will need to include their GPO account number in all CBD notices. The proposed changes to the FAR will enable GPO to properly bill and collect from the individual agency that has placed a CBD notice.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577 and publication for public comment is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610 of the Act. Such comments must be submitted separately and cite FAR case 95–606 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) does not apply because this final rule imposes no new reporting requirements or collections of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 5

Government procurement.

Dated: September 7, 1995.

C. Allen Olson,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR Part 5 is amended as set forth below:

1. The authority citation for 48 CFR Part 5 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 5—PUBLICIZING CONTRACT ACTIONS

2. Section 5.207 is amended by revising paragraph (b)(4), Item 4, and paragraph (b)(6), Item 4, to read as follows:

5.207 Preparation and transmittal of synopses.

* * * * *

(b)(4) * * *

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4. GOVERNMENT PRINTING OFFICE (GPO) BILLING ACCOUNT CODE.

(The originating office's account number used by the GPO for billing and collection purposes. The field length is nine alpha-numeric characters. The first three characters entered are ''GPO'' and then the following six characters are the numeric account number. Agencies should contact the GPO's Office of Comptroller for additional information. Enter N/A if an account number has not been assigned.)

* * * * *

(b)(6) * * *

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4. GPO123456!!

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[FR Doc. 95–22781 Filed 9–15–95; 8:45 am]
BILLING CODE 6820–EP–P

48 CFR Parts 28, 32, and 52

[FAC 90–32; FAR Case 94–762; Item VII]

RIN 9000–AG35

Federal Acquisition Regulation; Subcontractor Payments

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

ACTION: Final rule.

SUMMARY: This final rule is issued pursuant to the Federal Acquisition Streamlining Act of 1994, Public Law 103–355 (the Act). The Federal Acquisition Regulatory Council is amending the Federal Acquisition Regulation (FAR) to implement Sections 2091 and 8105 of the Act which address subcontractor payments, requests for information, and bonds. This regulatory action was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

EFFECTIVE DATE: October 1, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. John S. Galbraith, Finance/Payment Team Leader, at (703) 697–6710, in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–32, FAR case 94–762.

SUPPLEMENTARY INFORMATION:

A. Background

The Federal Acquisition Streamlining Act of 1994, Pub. L. 103–355 (the Act), provides authorities that streamline the acquisition process and minimize burdensome government-unique requirements.

This notice announces revisions developed under FAR case 94–762. The following sections of the Federal Acquisition Streamlining Act are implemented by this final rule:

Section 2091 of the Act changed section 806, subsection (c), of the Fiscal Years 1992 and 1993 Defense Authorization Act by striking the existing subsection (c) and inserting a