18.204 Resources.

* * * * *

(b) *OFPP Guidelines.* The Office of Federal Procurement Policy (OFPP) ''Emergency Acquisitions Guide'' is available at *http://www.whitehouse.gov/omb/procurement/guides/emergency__acquisitions__guide.pdf.*

[FR Doc. 07–3797 Filed 8–16–07; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 19, 52, and 53

[FAC 2005–19; FAR Case 2004–017; Item VII; Docket 2007–001; Sequence 6]

RIN 9000–AK18

Federal Acquisition Regulation; FAR Case 2004–017, Small Business Credit for Alaska Native Corporations and Indian Tribes

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 (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to implement section 702 of the Emergency Supplemental Act, 2002, as amended by section 3003 of the 2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States. The law permits subcontracts awarded to Alaska Native Corporations (ANCs) and Indian tribes to be counted towards a contractor's goals for subcontracting with small business (SB) and small disadvantaged business (SDB) concerns.

DATES: *Effective Date*: September 17, 2007.

FOR FURTHER INFORMATION CONTACT: Contact Ms. Rhonda Cundiff, Procurement Analyst, at (202) 501–0044, for clarification of content. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755. Please cite FAC 2005–19, FAR case 2004–017.

SUPPLEMENTARY INFORMATION:

A. Background

Section 702 of the Emergency Supplemental Act, 2002 (Public Law 107–117), as amended by section 3003 of the 2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States (Public Law 107–206)(43 U.S.C. 1626), provides that subcontracts awarded to ANCs that are considered a minority and economically disadvantaged concern under the criteria at 43 U.S.C. 1626(e)(1), and any of their direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of 43 U.S.C. 1626(e)(2), shall be counted towards the satisfaction of a contractor's goal for subcontracting with SB and SDB concerns. The law also provides that subcontracts awarded to Indian tribes that are recognized by the Bureau of Indian Affairs in accordance with 25 U.S.C. 1452(c), and Indian-owned economic enterprises that meet the requirements of 25 U.S.C. 1452(e), may be counted towards the satisfaction of a contractor's goal for subcontracting with SB and SDB concerns. Such credit is taken even where the ANC or Indian tribe may be ''other than small'' under the Small Business Administration (SBA) regulations.

In addition, section 3003 provides that where lower-tier subcontracts exist, the ANC or Indian tribe shall designate the appropriate contractor or contractors to receive credit towards their SB and SDB subcontracting goals. Accordingly, the rule requires that, where one or more subcontractors are in the subcontract tier between the prime contractor and the ANC or Indian tribe, the ANC or Indian tribe shall designate the appropriate contractor(s) to count the subcontract towards its SB and SDB subcontracting goals. In most cases, the appropriate contractor is the contractor that awarded the subcontract to the ANC or Indian tribe. To help avoid possible double counting, the rule requires the ANC or Indian tribe to provide a copy of its written designation to the contracting officer, the prime contractor, and any subcontractors between the prime contractor and ANC or Indian tribe within 30 days of date of award to the ANC or Indian tribe. If the contracting officer does not receive a copy of the ANC or Indian tribe's written designation within 30 days of the subcontract award, the contractor that awarded the subcontract to the ANC or Indian tribe will be considered the designated contractor.

The law does not require the ANC or Indian tribe to be eligible for SDB or 8(a) certification. Similarly, the law does not provide for contractors to count subcontracts awarded to such an entity toward the evaluation of the extent of the participation of SDB concerns in the performance of certain North American Industry Classification System (NAICS) Industry codes unless the entity is certified as an SDB by SBA (FAR Subpart 19.12).

The Councils initially interpreted section 702 of Public Law 107–117, as amended by section 3003 of Public Law 107–206, to allow Indian tribes to be counted towards a contractor's goal for subcontracting with SB concerns but not SDB concerns. Upon further consideration, the Councils believe their initial interpretation was incorrect. Nothing in the plain language of the statute or the legislative history indicates that Congress intended to treat Indian tribes differently than ANCs. In addition, the Councils believe interpreting the statute to treat Indian tribes differently contradicts the intent of other laws (e.g., Small Business Act and Technical Corrections Act of 1994 (Public Law 103–263)) and longstanding Government policy that attempts to eliminate distinctions between the various Indian tribes, including ANCs and Indian-owned economic enterprises. Therefore, the rule allows Indian tribes to also be counted as SDBs.

In addition, the Councils initially interpreted the statute to allow certain entities owned and controlled by ANCs to also be counted towards a contractor's goal for subcontracting with SB and SDB concerns but did not believe the statute authorized entities owned and controlled by Indian tribes to be counted towards a contractor's goal for subcontracting with SB and SDB concerns. Upon further consideration, the Councils believe their initial interpretation was also incorrect. Section 16 of the Indian Reorganization Act of 1934 (25 U.S.C. 476), as amended, prohibits departments or agencies from promulgating any regulation or making any decision or determination that classifies, enhances, or diminishes the privileges and immunities available to an Indian tribe relative to other federally recognized tribes. Excluding entities owned and controlled by Indian tribes from the treatment afforded by section 702 of Public Law 107–117, as amended by section 3003 of Public Law 107–206 (43 U.S.C. 1626) to other federally recognized tribes diminishes the privileges available to entities owned and controlled by Indian tribes and enhances the privileges available to entities owned and controlled by ANCs. Therefore, the rule provides the same

treatment for entities owned and controlled by Indian tribes.

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 70 FR 32553, June 3, 2005. Twenty-eight respondents submitted comments on the proposed rule which are discussed below.

a. *Comment*: Excluding Indian-owned economic enterprises contradicts the congressional intent underlying a plethora of laws and regulations generally applicable to tribes and Indian-owned economic enterprises. Distinguishing Indian-owned economic enterprises from Indian tribes is a departure from longstanding Government policy which consistently recognizes the practical necessity of tribes operating Indian-owned economic enterprises. Indian tribes only perform contracts through their legally distinct Indian-owned economic enterprises. Excluding these Indian-owned economic enterprises provides little productive assistance to Indian tribes.

Response: Section 16 of the Indian Reorganization Act of 1934 (25 U.S.C. 476), as amended, prohibits departments or agencies from promulgating any regulation or making any decision or determination that classifies, enhances, or diminishes the privileges and immunities available to an Indian tribe relative to other federally recognized tribes. Excluding Indian-owned economic enterprises from the treatment afforded by section 702 of Public Law 107–117, as amended by section 3003 of Public Law 107–206 (43 U.S.C. 1626) to other federally recognized tribes diminishes the privileges available to Indian-owned economic enterprises and enhances the privileges available to ANCs direct and indirect subsidiary corporations, joint ventures, and partnerships. The rule was revised to provide the same treatment for Indian-owned economic enterprises.

b. *Comment*: Allow Indian tribes and Indian-owned economic enterprises to be counted as SB *or SDB* like ANCs. Congress and the SBA have consistently provided ANC, Indian tribes, and entities they own and operate with comparable standing. Nothing in the statute suggests Congress intended to provide less help to Indian tribes.

Response: Nothing in the plain language of the statute or the legislative history indicates that Congress intended to treat Indian tribes differently than ANCs. Interpreting the statute to provide a different treatment for Indian tribes contradicts the intent of provisions of other laws (e.g., Small Business Act, Technical Corrections Act of 1994) and longstanding Government policy that attempts to eliminate distinctions between the various Indian tribes, including ANCs and Indian-owned economic enterprises. The rule was revised to also allow Indian tribes to be counted as SDBs.

c. *Comment*: The rule says the contractor awarding the subcontract is, in most cases, the appropriate contractor to count the subcontract towards its SB or SDB goals. However, the rule does not provide any guidelines or criteria for determining when it might be appropriate to designate the award to a contractor other than the contractor awarding the subcontract. Recommend the Councils establish guidelines and criteria to ensure consistent and equitable decision making on the part of ANCs and Indian tribes.

Response: Neither the statute nor the legislative history addresses when it might be appropriate to designate the credit to a contractor other than the contractor awarding the subcontract and the Councils are unaware of specific situations where it would be appropriate to do so. However, the language of the statute is clear and unambiguous on this point by stating ''where lower tier subcontractors exist, the entity shall designate the appropriate contractor or contractors to receive such credit.'' The Councils invited industry to comment on the feasibility of the proposed approach and any alternatives for complying with the law. No alternatives were identified. In accordance with the statute, the final rule requires the ANC or Indian Tribe to designate the contractor or contractors to receive credit for the award.

d. *Comment*: Identify the mechanism the ANCs and Indian tribes will use to communicate the contractor or contractors that have been designated to receive the small business and/or small disadvantaged business credit. Address whether the designated contractor or contractors are required to retain the designation document in their procurement records.

Response: The rule was revised to require the ANC or Indian tribe to provide copies of the written designation(s) to the contracting officer, prime contractor, and any subcontractors between the prime contractor and ANC or Indian tribe within 30 days of date of award to the ANC or Indian tribe. If the contracting officer does not receive a copy of the ANC or Indian tribe's written designation within 30 days of the subcontract award, the contractor that awarded the subcontract to the ANC or Indian tribe will be considered the designated contractor.

e. *Comment*: The instructions on the proposed Standard Forms (SF) 294 and 295 are ambiguous because the forms show inclusion of ANCs and Indian tribes in the HUBZone category but the language in the proposed rule makes no reference to this provision.

Response: SFs 294 and 295 have been revised and no longer include ANCs and Indian tribes in the HUBZone category.

f. *Comment*: The rule allows large ANCs and Indian tribes to be included in both the SB and Large Business (LB) concerns categories on SFs 294 and 295. This will distort the contractor's total subcontracting base dollars since ''total'' is calculated as ''SB'' plus ''LB.'' Also, the performance percentages for the other subcategories of SB (e.g. service-disabled veteran-owned small business) will be negatively impacted because these figures are stated as a percentage of ''total''. Recommend that subcontract awards to large ANCs and Indian tribes be excluded from the LB category.

Response: The Councils revised SFs 294 and 295 to address this issue.

g. *Comment*: Allow contractors to take credit for awards to entities that obtain their ANC or federally-recognized tribal status in the middle of a Government reporting cycle.

Response: The entity's status at the time of subcontract award is the status to be reported in subsequent periods consistent with the treatment for reporting any other subcontract award.

h. *Comment*: In collaboration with the Bureau of Indian Affairs, develop a single source that identifies ANCs, Indian tribes, and Indian-owned economic enterprises to help industry locate the entities. In the interim, modify the Central Contractor Registration (CCR) database to capture these additional supplier designations.

Response: The Team believes industry can easily locate these entities using market research. In addition, the CCR database already has the necessary categories to capture this data under Native American entities. Vendors can register as Alaska Native Corporation Owned Firms, American Indian Owned, Indian Tribe (Federally Recognized), Tribally Owned Firms, etc. However, only prime contractors are required to be registered in the CCR.

i. *Comment*: Object to the rule. This rule is another step toward eliminating the truly small disadvantaged business in America. Over the past five years special legislation has exempted ANCs and tribally-owned businesses, many of which are multi-billion dollar corporations, from the rules that all other small disadvantaged businesses must comply with – size standards, affiliation rules, sole source limits –

making it difficult to compete with ANCs and tribally-owned businesses.This rule will extend the pattern of ANC dominance to the subcontracting arena. Treating ANCs and Indian Tribes as small businesses when they exceed the size standards for their applicable NAICS codes does a grave disservice to other small businesses that are required to function as large businesses when they exceed the size standard. Instead, the Government should develop new programs that help these entities compete with large business. SBA, GSA and other Government agencies do not monitor and enforce the regulations that provide additional benefits to ANCs. As a result, the benefits extended to ANCs are commonly abused and exaggerated. The rule provides additional benefits to ANCs that the Government is not prepared to monitor or enforce.

Response: This rule implements section 702 of Public Law 107–117, as amended by section 3003 of Public Law 107–206. It permits subcontracts awarded to certain ANCs and Indian tribes to be counted towards a contractor's SB and SDB goals even though those businesses may not be small or certified SDBs. We have modified SFs 294 and 295 to help ensure that subcontract award information is reported.

j. *Comment*: Restrict the percent of the SDB goal that can be satisfied by awards to ANCs to prevent a wholesale takeover of the SDB subcontracting program by ANCs.

Response: The statute contained no such limits. Therefore, the Councils have no authority to restrict the percent of the SDB goal that can be satisfied by awards to ANCs.

k. *Comment*: Allowing a contractor, other than the contractor awarding the subcontract, to receive SB or SDB credit for awards by one of its lower-tier subcontractors will be a disincentive to prime contractor's outreach efforts.

Response: The statute requires the ANC or Indian tribe to designate the appropriate contractor or contractors to receive credit towards their subcontracting goals.

l. *Comment*: The same rule should apply to Native Hawaiian Organizations (NHOs), Native Hawaiian-owned small businesses, Native Hawaiian-owned 8(a) small disadvantaged businesses and Native Hawaiian certified 8(a) firms. Under section 8021 of the 2004 Appropriations Act, NHOs were afforded the same eligibility for certain types of non-competitively awarded contracts as Alaska Native Corporations and Indian tribally-owned 8(a) firms.

Response: The statute only addressed ANC and Indian tribes. Statutory authority would be required to expand the authority to Hawaiian entities.

m. *Comment*: Distinguish the 562 not-for-profit Indian tribes from the 13 for-profit ANCs in the Regulatory Flexibility Act statement. The 562 federally recognized Indian tribes formed under the Indian Reorganization Act, as amended, are all *not-for-profit entities* organized *under the Federal Government*. An additional 13 regional ANC established pursuant to the Alaska Native Claims Settlement Act (ANSCA) of 1971, as amended, are *for-profit businesses* organized under the *State of Alaska laws*.

Response: Whether the Indian tribe or ANC is a not-for-profit entity or a for-profit business does not affect the implementation of section 702 of Public Law 107–117.

n. *Comment*: Require ANCs to provide the Indian tribe(s) within their region copies of the Subcontract Report on Individual Contracts (SF 294) because the tribes have an interest in ANC activities within their regions.

Response: The Indian tribes are not a party to the contracts that require submission of the SF 294. Therefore, the Councils lack the authority to require the ANCs to provide copies of the SF 294 to the Indian tribes.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, applies to this final rule. The Councils prepared a Final Regulatory Flexibility Analysis (FRFA), and it is summarized as follows:

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 law allows other than SB Federal contractors to receive SDB and SB subcontract credit for subcontracts awarded to Indian tribes and ANCs, regardless of whether they are a SB or are SDB certified. SBs and certified SDBs may be adversely impacted, to the extent that there are Indian tribes or ANCs that are large businesses and may now be more likely to be used as subcontractors or suppliers on Federal contracts.

Section 702 of Public Law 107–117, as amended by section 3003 of Public Law 107–206 (43 U.S.C. 1626) provides that subcontracts awarded to an ANC that is considered a minority and economically disadvantaged concern under the criteria at 43 U.S.C. 1626(e)(1), and any of its direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of 43 U.S.C. 1626(e)(2), or Indian tribes, and any Indian-owned economic enterprises meeting the requirements of 25 U.S.C. 1452 can be counted towards a contractor's goal for subcontracting with SB and SDB concerns. Such credit can be taken even where the ANC or Indian tribe may be ''other than small'' under the Small Business Administration (SBA) regulations or is not certified as an SDB pursuant to SBA's regulations.

According to the Department of Interior, there are approximately 550 Indian tribes and ANCs. Information was not available on the number of these entities that were large business, small business or small disadvantaged business. One comment received on the summary of the IRFA that was in the **Federal Register** Notice for the proposed rule was that there are 562 Indian tribes, some of which are Alaska Native and all of which are non-profit, and 12 ANCs, all of which are for profit. No information was provided in the comment on the number of Indian tribes or ANCs that are small entities.

The FAR Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration. Interested parties may obtain a copy from the FAR Secretariat. The Councils will consider comments from small entities concerning the affected FAR Parts in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610, *et seq.* (FAC 2005–19, FAR Case 2004–017), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Public Law 104–13) applies because this final rule contains information collection requirements. Accordingly, the FAR Secretariat will forward a request for approval of a revision to the information collection requirements concerning OMB Clearances 9000–0006 (Standard Form 294) and 9000–0007 (Standard Form 295) to the Office of Management and Budget under 44 U.S.C. 3501, *et seq*. Public comments concerning this request will be invited through a subsequent **Federal Register** Notice.

List of Subjects in 48 CFR Parts 19, 52, and 53

Government procurement.

Dated: July 30, 2007.

Al Matera,

Acting Director, Contract Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 19, 52, and 53 as set forth below:

■ 1. The authority citation for 48 CFR parts 19, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 19—SMALL BUSINESS PROGRAMS

■ 2. Amend section 19.701 by adding in alphabetical order, the definitions ''Alaska Native Corporation (ANC)'' and ''Indian tribe'' to read as follows:

19.701 Definitions.

* * * * *

Alaska Native Corporation (ANC) means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C.A. 1601, *et seq.*) and which is considered a minority and economically disadvantaged concern under the criteria at 43 U.S.C. 1626(e)(1). This definition also includes ANC direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of 43 U.S.C. 1626(e)(2).

* * * * *

Indian tribe means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act (43 U.S.C.A. 1601 *et seq.*), that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs in accordance with 25 U.S.C. 1452(c). This definition also includes Indian-owned economic enterprises that meet the requirements of 25 U.S.C. 1452(e).

* * * * *

■ 3. Amend section 19.703 in the introductory text of paragraph (a) by removing the word ''To'' and adding ''Except as provided in paragraph (c) of this section to'' in its place; by redesignating paragraph (c) as paragraph (d); and by adding new paragraph (c) to read as follows:

19.703 Eligibility requirements for participating in the program.

* * * * *

(c)(1) In accordance with 43 U.S.C. 1626, the following procedures apply:

(i) Subcontracts awarded to an ANC or Indian tribe shall be counted towards the subcontracting goals for small business and small disadvantaged business (SDB) concerns, regardless of the size or Small Business Administration certification status of the ANC or Indian tribe.

(ii) Where one or more subcontractors are in the subcontract tier between the prime contractor and the ANC or Indian tribe, the ANC or Indian tribe shall designate the appropriate contractor(s) to count the subcontract towards its small business and small disadvantaged business subcontracting goals.

(A) In most cases, the appropriate contractor is the contractor that awarded the subcontract to the ANC or Indian tribe.

(B) If the ANC or Indian tribe designates more than one contractor to count the subcontract toward its goals, the ANC or Indian tribe shall designate only a portion of the total subcontract award to each contractor. The sum of the amounts designated to various contractors cannot exceed the total value of the subcontract.

(C) The ANC or Indian tribe shall give a copy of the written designation to the contracting officer, the prime contractor, and the subcontractors in between the prime contractor and the ANC or Indian tribe within 30 days of the date of the subcontract award.

(D) If the contracting officer does not receive a copy of the ANC's or the Indian tribe's written designation within 30 days of the subcontract award, the contractor that awarded the subcontract to the ANC or Indian tribe will be considered the designated contractor.

(2) A contractor acting in good faith may rely on the written representation of an ANC or an Indian tribe as to the status of the ANC or Indian tribe unless an interested party challenges its status or the contracting officer has independent reason to question its status. In the event of a challenge of a representation of an ANC or Indian tribe, the interested parties shall follow the procedures at 26.103(b) through (e).

* * * * *

■ 4. Amend section 19.704 by revising paragraphs (a)(1), (a)(2), (a)(3), and (a)(6) to read as follows:

19.704 Subcontracting plan requirements.

(a) * * *

(1) Separate percentage goals for using small business (including ANCs and Indian tribes), veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business (including ANCs and Indian tribes) and women-owned small business concerns as subcontractors;

(2) A statement of the total dollars planned to be subcontracted and a statement of the total dollars planned to be subcontracted to small business (including ANCs and Indian tribes), veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business (including ANCs and Indian tribes) and women-owned small business concerns;

(3) A description of the principal types of supplies and services to be subcontracted and an identification of types planned for subcontracting to small business (including ANCs and Indian tribes), veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business (including ANCs and Indian tribes), and women-owned small business concerns;

* * * * *

(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 small business (including ANCs and Indian tribes), veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business (including ANCs and Indian tribes), and women-owned small business concerns;

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 5. Amend section 52.212–5 by revising the clause date and revising paragraph (b)(8)(i) to read as follows:

52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

* * * * *

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL ITEMS (SEP 2007)

* * * * *

(b) * * *

(8)(i) 52.219–9, Small Business Subcontracting Plan (SEP 2007) (15 U.S.C. 637(d)(4).)

* * * * *

■ 6. Amend section 52.219–9 by—

■ a. Revising the clause date;

■ b. Adding in paragraph (b), in alphabetical order, the definitions ''Alaska native Corporation (ANC'') and ''Indian tribe''; and

■ c. Revising paragraphs (d)(1), (d)(2)(ii) and (vi), and (d)(6)(i) and (v) to read as follows:

52.219–9 Small Business Subcontracting Plan.

* * * * *

SMALL BUSINESS SUBCONTRACTING PLAN (SEP 2007)

(b) * * *

Alaska Native Corporation (ANC) means any Regional Corporation, Village Corporation, Urban Corporation, or Group

Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, *et seq.*) and which is considered a minority and economically disadvantaged concern under the criteria at 43 U.S.C. 1626(e)(1). This definition also includes ANC direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of 43 U.S.C. 1626(e)(2).

* * * * *

Indian tribe means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act (43 U.S.C.A. 1601 *et seq.*), that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs in accordance with 25 U.S.C. 1452(c). This definition also includes Indian-owned economic enterprises that meet the requirements of 25 U.S.C. 1452(e).

* * * * *

(d) * * *

(1) In accordance with 43 U.S.C. 1626:

(i) Subcontracts awarded to an ANC or Indian tribe shall be counted towards the subcontracting goals for small business and small disadvantaged business (SDB) concerns, regardless of the size or Small Business Administration certification status of the ANC or Indian tribe.

(ii) Where one or more subcontractors are in the subcontract tier between the prime contractor and the ANC or Indian tribe, the ANC or Indian tribe shall designate the appropriate contractor(s) to count the subcontract towards its small business and small disadvantaged business subcontracting goals.

(A) In most cases, the appropriate Contractor is the Contractor that awarded the subcontract to the ANC or Indian tribe.

(B) If the ANC or Indian tribe designates more than one Contractor to count the subcontract toward its goals, the ANC or Indian tribe shall designate only a portion of the total subcontract award to each Contractor. The sum of the amounts designated to various Contractors cannot exceed the total value of the subcontract.

(C) The ANC or Indian tribe shall give a copy of the written designation to the Contracting Officer, the prime Contractor, and the subcontractors in between the prime Contractor and the ANC or Indian tribe within 30 days of the date of the subcontract award.

(D) If the Contracting Officer does not receive a copy of the ANC's or the Indian tribe's written designation within 30 days of the subcontract award, the Contractor that awarded the subcontract to the ANC or Indian tribe will be considered the designated Contractor.

(2) * * *

(ii) Total dollars planned to be subcontracted to small business concerns (including ANC and Indian tribes);

* * * * *

(vi) Total dollars planned to be subcontracted to small disadvantaged business concerns (including ANCs and Indian tribes); and

* * * * *

(6) * * *

(i) Small business concerns (including ANC and Indian tribes);

* * * * *

(v) Small disadvantaged business concerns (including ANC and Indian tribes); and

* * * * *

PART 53—FORMS

53.219 [Amended]

■ 7. Amend section 53.219 by removing from paragraphs (a) and (b) ''SEP 2006'' and adding (SEP 2007) in its place.

■ 8. Revise section 53.301–294 to read as follows:

BILLING CODE 6820–EP–S

53.301–294 Subcontracting Report for Individual Contracts.

SUBCONTRACTING REPORT FOR INDIVIDUAL CONTRACTS
(See instructions on reverse)

OMB No: **9000-0006**
Expires: 08/31/2007

Public reporting burden for this collection of information is estimated to average 55.34 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 (VIR), Regulatory and Federal Assistance Division, 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 IDENTIFICATION NUMBER

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 ☐ GSA ☐ NASA
☐ NAVY ☐ DOE ☐ OTHER FEDERAL AGENCY *(Specify)*
☐ AIR FORCE ☐ DEFENSE CONTRACT MANAGEMENT AGENCY

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 *(Dollar Amount and Percent of 10c.)* (SEE SPECIFIC INSTRUCTIONS)				
10b. LARGE BUSINESS CONCERNS *(Dollar Amount and Percent of 10c.)* (SEE SPECIFIC INSTRUCTIONS)				
10c. TOTAL *(Sum of 10a and 10b.)*		100.0%		100.0%
11. SMALL DISADVANTAGED BUSINESS (SDB) CONCERNS *(Dollar Amount and Percent of 10c.)* (SEE SPECIFIC INSTRUCTIONS)				
12. WOMEN-OWNED SMALL BUSINESS (WOSB) CONCERNS *(Dollar Amount and Percent of 10c.)* (SEE SPECIFIC INSTRUCTIONS)				
13. HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (HBCU) AND MINORITY INSTITUTIONS (MI) *(If applicable) (Dollar Amount and Percent of 10c.)* (SEE SPECIFIC INSTRUCTIONS)				
14. HUBZone SMALL BUSINESS (HUBZone SB) CONCERNS *(Dollar Amount and Percent of 10c.)* (SEE SPECIFIC INSTRUCTIONS)				
15. VETERAN-OWNED SMALL BUSINESS CONCERNS *(Dollar Amount and Percent of 10c.)* (SEE SPECIFIC INSTRUCTIONS)				
16. SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS CONCERNS *(Dollar Amount and Percent of 10c)* (SEE SPECIFIC INSTRUCTIONS)				
17. ALASKA NATIVE CORPORATIONS (ANCs) AND INDIAN TRIBES THAT HAVE NOT BEEN CERTIFIED BY THE SMALL BUSINESS ADMINISTRATION AS SMALL DISADVANTAGED BUSINESSES *(Dollar Amount)* (SEE SPECIFIC INSTRUCTIONS)				
18. ALASKA NATIVE CORPORATIONS (ANCs) AND INDIAN TRIBES THAT ARE NOT SMALL BUSINESSES *(Dollar Amount)* (SEE SPECIFIC INSTRUCTIONS)				

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STANDARD FORM 294 (REV. 9/2007)
Prescribed by GSA-FAR (48 CFR 53.219(a))

19. REMARKS

20a. NAME OF INDIVIDUAL ADMINISTERING SUBCONTRACTING PLAN	20b. TELEPHONE NUMBER	
	AREA CODE	NUMBER

GENERAL INSTRUCTIONS

1. This report is not required for small businesses.

2. This report is not required for commercial items for which a commercial 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 $550,000 (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), Women-Owned Small Business (WOSB), HUBZone Small Business (HUBZone SB), Veteran-Owned Small Business (VOSB) and Service-Disabled Veteran-Owned Small Business 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 in the U.S. or its outlying areas 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 unless you have been designated to receive an SB and SDB credit from an Alaska Native Corporation (ANC) or Indian tribe.

8. FAR 19.703 sets forth the eligibility requirements for participating in the subcontracting program.

9. Actual achievements must be reported on the same basis as the goals set forth in the contract. For example, if goals in the plan do not include indirect and overhead items, the achievements shown on this report should not include them either.

SPECIFIC INSTRUCTIONS

BLOCK 2: For the Contractor Identification Number, enter the nine-digit Data Universal Numbering System (DUNS) number that identifies the specific contractor establishment. If there is no DUNS number available that identifies the exact name and address entered in Block 1, contact Dun and Bradstreet Information Services at 1-866-705-5711 or via the Internet at http://www.dnb.com. The contractor should be prepared to provide the following information: (i) Company legal business name. (ii) Tradestyle, doing business, or other name by which your entity is commonly recognized. (iii) Company physical street address, city, state and ZIP Code. (iv) Company mailing address, city, state and ZIP Code (if separate from physical). (v) Company telephone number. (vi) Date the company was started. (vii) Number of employees at your location. (viii) Chief executive officer/key manager. (ix) Line of business (industry). (x) Company Headquarters name and address (reporting relationship within your entity).

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 on 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 16. 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 18: Under "Current Goal," enter the dollar and percent goals in each category (SB, SDB, WOSB, VOSB, service-disabled VOSB, and HUBZone SB) 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 19. The amounts entered in Blocks 10a through 16 should reflect the revised goals.) There are no goals for Blocks 17 and 18. Under "Actual Cumulative," enter actual subcontract achievements (dollars 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. However, the dollar amounts reported under "Actual Cumulative" must be for the same period of time as the dollar amounts shown under "Current Goal." For a contract with options, the current goal should represent the aggregate goal since the inception of the contract. For example, if the contractor is submitting the report during Option 2 of a multiple year contract, the current goal would be the cumulative goal for the base period plus the goal for Option 1 and the goal for Option 2.

BLOCK 10a: Report all subcontracts awarded to SBs including subcontracts to SDBs, WOSB, VOSB, service-disabled VOSB, and HUBZone SBs. For DOD, NASA, and Coast Guard contracts, include subcontracting awards to HBCUs and MIs. Include subcontracts awarded to ANCs and Indian tribes that are not small businesses and that are not certified by the SBA as SDBs where you have been designated to receive their SB and SDB credit. Where your company and other companies have been designated by an ANC or Indian tribe to receive SB and SDB credit for a subcontract awarded to the ANC or Indian tribe, report only the portion of the total amount of the subcontract that has been designated to your company.

BLOCK 10b: Report all subcontracts awarded to large businesses (LBs) and any other-than-small businesses. Do not include subcontracts awarded to ANCs and Indian tribes that have been reported in 10a above.

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

BLOCKS 11 - 16: Each of these items is a subcategory of Block 10a. Note that in some cases the same dollars may be reported in more than one block (e.g., SDBs owned by women or veterans).

BLOCK 11: Report all subcontracts awarded to SDBs (including WOSB, VOSB, service-disabled VOSBs, and HUBZone SB SDBs). Include subcontracts awarded to ANCs and Indian tribes that have not been certified by SBA as SDBs where you have been designated to receive their SDB credit. Where your company and other companies have been designated by an ANC or Indian tribe to receive their SDB credit for a subcontract awarded to the ANC or Indian tribe, report only the portion of the total amount of the subcontract that has been designated to your company. For DoD, NASA, and Coast Guard contracts, include subcontracting awards to HBCUs and MIs.

BLOCK 12: Report all subcontracts awarded to WOSBs (including SDBs, VOSBs (including service-disabled VOSBs), and HUBZone SBs that are also WOSBs).

BLOCK 13: (For contracts with DoD, NASA, and Coast Guard): Report all subcontracts with HBCUs/MIs. Complete the column under "Current Goal" only when the subcontracting plan establishes a goal.

BLOCK 14: Report all subcontracts awarded to HUBZone SBs (including WOSBs, VOSBs (including service-disabled VOSBs), and SDBs that are also HUBZone SBs).

BLOCK 15: Report all subcontracts awarded to VOSBs including service-disabled VOSBs (and including SDBs, WOSBs, and HUBZone SBs that are also VOSBs).

BLOCK 16: Report all subcontracts awarded to service-disabled VOSBs (including SDBs, WOSBs, and HUBZone SBs that are also service-disabled VOSBs).

BLOCK 17: Report all subcontracts awarded to ANCs and Indian tribes that are reported in Block 11, but have not been certified by SBA as SDBs.

BLOCK 18: Report all subcontracts awarded to ANCs and Indian tribes that are reported in Block 10a, but are not small businesses.

BLOCK 19: Enter a short narrative explanation if (a) SB, SDB, WOSB, VOSB, service-disabled VOSB, or HUBZone SB 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 six goals were not met.

DEFINITIONS

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

2. 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 Contract Management Agency (DCMA) 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 Commercial 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. 9/2007) **PAGE 4**

■ 9. Revise section 53.301–295 to read as follows:

53.301–295 Summary Subcontract Report.

SUMMARY SUBCONTRACT REPORT
(See instructions on reverse)

OMB No.: **9000-0007**
Expires: 2/28/2010

Public reporting burden for this collection of information is estimated to average 16.2 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 (VIR), Regulatory and Federal Assistance Division, 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 IDENTIFICATION NUMBER

3. DATE SUBMITTED

4. REPORTING PERIOD:
☐ OCT 1 - MAR 31 ☐ OCT 1 - SEPT 30 YEAR

5. TYPE OF REPORT
☐ REGULAR ☐ FINAL ☐ REVISED

6. ADMINISTERING ACTIVITY *(Please check applicable box)*

	ARMY		DEFENSE CONTRACT MANAGEMENT AGENCY		DOE
	NAVY		NASA		OTHER FEDERAL AGENCY *(Specify)*
	AIR FORCE		GSA		

7. REPORT SUBMITTED AS *(Check one)*		8. TYPE OF PLAN		
	PRIME CONTRACTOR		INDIVIDUAL	IF PLAN IS A COMMERCIAL PLAN, SPECIFY THE PERCENTAGE OF THE DOLLARS ON THIS REPORT ATTRIBUTABLE TO THIS AGENCY.
	SUBCONTRACTOR			
	BOTH		COMMERCIAL PRODUCTS	

9. CONTRACTOR'S MAJOR PRODUCTS OR SERVICE LINES

a | b

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 *(Dollar Amount and Percent of 10c).* (SEE SPECIFIC INSTRUCTIONS)		
10b.	LARGE BUSINESS CONCERNS *(Dollar Amount and Percent of 10c).* (SEE SPECIFIC INSTRUCTIONS)		
10c.	TOTAL *(Sum of 10a and 10b).*		100.0%
11.	SMALL DISADVANTAGED BUSINESS CONCERNS (SDB) *(Dollar Amount and Percent of 10c).* (SEE SPECIFIC INSTRUCTIONS)		
12.	WOMEN-OWNED SMALL BUSINESS (WOSB) CONCERNS *(Dollar Amount and Percent of 10c).* (SEE SPECIFIC INSTRUCTIONS)		
13.	HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (HBCU) AND MINORITY INSTITUTIONS *(If Applicable) (Dollar Amount and Percent of 10c).* (SEE SPECIFIC INSTRUCTIONS)		
14.	HUBZONE SMALL BUSINESS (HUBZone SB) CONCERNS *(Dollar Amount and Percent of 10c).* (SEE SPECIFIC INSTRUCTIONS)		
15.	VETERAN-OWNED SMALL BUSINESS (VOSB) CONCERNS *(Dollar Amount and Percent of 10c).* (SEE SPECIFIC INSTRUCTIONS)		
16.	SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS CONCERNS *(Dollar Amount and Percent of 10c).* (SEE SPECIFIC INSTRUCTIONS)		
17.	ALASKA NATIVE CORPORATIONS (ANCs) AND INDIAN TRIBES THAT HAVE NOT BEEN CERTIFIED BY THE SMALL BUSINESS ADMINISTRATION AS SMALL DISADVANTAGED BUSINESSES *(Dollar Amount)* (SEE SPECIFIC INSTRUCTIONS)		
18.	ALASKA NATIVE CORPORATIONS (ANCs) AND INDIAN TRIBES THAT ARE NOT SMALL BUSINESSES *(Dollar Amount)* (SEE SPECIFIC INSTRUCTIONS)		

19. CONTRACTOR'S OFFICIAL WHO ADMINISTERS SUBCONTRACTING PROGRAM

a. NAME	b. TITLE	c. TELEPHONE NUMBER	
		AREA CODE	NUMBER

AUTHORIZED FOR LOCAL REPRODUCTION
PREVIOUS EDITION IS NOT USABLE

STANDARD FORM 295 (REV. 9/2007)
Prescribed by GSA - FAR (48 CFR) 53.219 (b)

20. REMARKS

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

GENERAL INSTRUCTIONS

1. This report is not required from small businesses.

2. This form collects subcontract data from prime contractors/subcontractors that: (a) hold one or more contracts over $550,000 (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), Women-Owned Small Business (WOSB), Veteran-Owned Small Business (VOSB), Service-Disabled Veteran Owned Small Business, and HUBZone Small Business (HUBZone SB) 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 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 $550,000 (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 in the U.S. or its outlying areas 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 unless you have been designated to receive SB and SDB credit from an Alaska Native Corporation (ANC) or Indian tribe.

10. FAR 19.703 sets forth the eligibility requirements for participation in the subcontracting program.

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

SPECIFIC INSTRUCTIONS

BLOCK 2: For the Contractor Identification Number, enter the nine-digit Data Universal Numbering System (DUNS) number that identifies the specific contractor establishment. If there is no DUNS number available that identifies the exact name and address entered in Block 1, contact Dun and Bradstreet Information Services at 1-866-705-5711 or via the Internet at http://www.dnb.com. The contractor should be prepared to provide the following information: (i) Company legal business name. (ii) Tradestyle, doing business, or other name by which your entity is commonly recognized. (iii) Company physical street address, city, state and ZIP Code. (iv) Company mailing address, city, state and ZIP Code (if separate from physical). (v) Company telephone number. (vi) Date the company was started. (vii) Number of employees at your location. (viii) Chief executive officer/key manager. (ix) Line of business (industry). (x) Company Headquarters name and address (reporting relationship within your entity).

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.

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 Plan" only if this report is under an approved Commercial Plan. For a Commercial Plan, the contractor must specify the percentage of dollars in Blocks 10a through 16 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 18: These entries must 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 must 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" is checked in Block 8 (see Special Instructions for Commercial 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, WOSBs, VOSBs, service-disabled VOSBs, and HUBZone SBs. Include subcontracts awarded to ANCs and Indian tribes that are not small businesses and that are not certified by the SBA as SDBs where you have been designated to receive their SB and SDB credit. Where your company and other companies have been designated by an ANC or Indian tribe to receive SB and SDB credit for a subcontract awarded to the ANC or Indian tribe, report only the portion of the total amount of the subcontract that has been designated to your company. For DOD, NASA, and Coast Guard contracts, include subcontracting awards to HBCUs and MIs.

BLOCK 10b: Report all subcontracts awarded to large businesses and any other-than-small businesses. Do not include subcontracts awarded to ANCs and Indian tribes that have been reported in 10a above.

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

BLOCKS 11 through 16: Each of these items is a subcategory of Block 10a. Note that in some cases the same dollars may be reported in more than one block (e.g., 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 WOSB, VOSB, service-disabled VOSBs, and HUBZone SB SDBs). Include subcontracts awarded to ANCs and Indian tribes that have not been certified by SBA as SDBs where you have been designated to receive their SDB credit. Where your company and other companies have been designated by an ANC or Indian tribe to receive SDB credit for a subcontract awarded to the ANC or Indian tribe, report only the portion of the total amount of the subcontract that has been designated to your company. For DOD, NASA, and Coast Guard contracts, include subcontract awards to HBCUs and MIs.

BLOCK 12: Report all subcontracts awarded to WOSBs (including SDBs, VOSBs (including service-disabled VOSBs), and HUBZone SBs that are also WOSBs).

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

BLOCK 14: Report all subcontracts awarded to HUBZone SBs (including WOSBs, VOSBs (including service-disabled VOSBs), and SDBs that are also HUBZone SBs).

BLOCK 15: Report all subcontracts awarded to VOSBs, including service-disabled VOSBs (and including SDBs, WOSBs, and HUBZone SBs that are also VOSBs).

BLOCK 16: Report all subcontracts awarded to service-disabled VOSBs (including SDBs, WOSBs, and HUBZone SBs that are also service-disabled VOSBs).

BLOCK 17: Report all subcontracts awarded to ANCs and Indian tribes that are reported in Block 11, but have not been certified by SBA as SDBs.

BLOCK 18: Report all subcontracts awarded to ANCs and Indian tribes that are reported in Block 10a but are not small businesses.

SPECIAL INSTRUCTIONS FOR COMMERCIAL PLANS

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

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

3. Enter in Blocks 10a through 16 the total of all subcontract awards under the contractor's Commercial 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 items covered by an approved Commercial Plan were received.

DEFINITIONS

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

2. 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 the awarding agency:

1. NASA: Forward reports to NASA, Office of Procurement (HS), 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 the correct address if unknown.

[FR Doc. 07–3798 Filed 8–16–07; 8:45 am]
BILLING CODE 6820–EP–C

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 22, 25, and 52

[FAC 2005–19; FAR Case 2006–028; Item VIII; Docket 2007–0001, Sequence 01]

RIN 9000–AK77

Federal Acquisition Regulation; FAR Case 2006–028, New Designated Countries—Bulgaria, Dominican Republic, and Romania

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

ACTION: Interim rule with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to implement the Dominican Republic—Central America—United States Free Trade Agreement with respect to the Dominican Republic. The rule also adds Bulgaria and Romania to the list of World Trade Organization Government Procurement Agreement countries.

DATES: *Effective Date:* August 17, 2007.

Comment Date: Interested parties should submit written comments to the FAR Secretariat on or before October 16, 2007 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAC 2005–19, FAR case 2006–028, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Search for any document by first selecting the proper document types and selecting ''Federal Acquisition Regulation'' as the agency of choice. At the ''Keyword'' prompt, type in the FAR case number (for example, FAR case 2006–028) and click on the ''Submit'' button. Please include your name and company name (if any) inside the document.

You may also search for any document by clicking on the ''Advanced search/document search'' tab at the top of the screen, selecting from the agency field ''Federal Acquisition Regulation'', and typing the FAR case number in the keyword field. Select the ''Submit'' button.

- Fax: 202–501–4067.
- Mail: General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW, Room 4035, ATTN: Laurieann Duarte, Washington, DC 20405.

Instructions: Please submit comments only and cite FAC 2005–19, FAR case 2006–028, in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov*, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Meredith Murphy, Procurement Analyst, at (202) 208–6925 for clarification of content. Please cite FAC 2005–19, FAR case 2006–028. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Background

This rule amends FAR Part 25 and the corresponding clauses in Part 52 to implement the Dominican Republic—Central America—United States Free Trade Agreement (CAFTA-DR) with respect to the Dominican Republic. Congress approved this trade agreement in the Dominican Republic—Central America—United States Free Trade Agreement Implementation Act (Public Law 109–53). This trade agreement waives the applicability of the Buy American Act for some foreign supplies and construction materials from the Dominican Republic and specifies procurement procedures designed to ensure fairness in the acquisition of supplies and services.

This interim rule adds the Dominican Republic to the definition of ''Free Trade Agreement country.'' The rule also deletes the Dominican Republic from the definition of ''Caribbean Basin country'' because, in accordance with Section 201(a)(3) of Pub. L. 109–53, when the CAFTA-DR agreement enters into force with respect to a country, that country is no longer designated as a beneficiary country for purposes of the Caribbean Basin Economic Recovery Act.

The Councils changed the heading for excluded service on line 6 of the table at 25.401(b) to read ''Transportation, travel, and relocation services. . .'' as being reflective of the wording of the majority of the Free Trade Agreements, including the CAFTA-DR.

The Dominican Republic has the same thresholds as the other CAFTA-DR countries ($64,786 for supply and service contracts, $7,407,000 for construction contracts).

This rule also adds Bulgaria and Romania to the list of World Trade Organization Government Procurement Agreement countries in wherever it appears, whether as a separate definition, part of the definition of designated countries, or as part of the list of countries exempt from the prohibition of acquisition of products produced by forced or indentured child labor (22.1503, 25.003, 52.222–19, 52.225–5, and 52.225–11).

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The interim rule is not expected 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.* Although the rule opens up Government procurement to the goods and services of Bulgaria, the Dominican Republic, and Romania, the Councils do not anticipate any significant economic impact on U.S. small businesses. The Department of Defense only applies the trade agreements to the non-defense items listed at DFARS 225.401–70, and acquisitions that are set aside for small businesses are exempt. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. The Councils will consider comments from small entities concerning the affected FAR Parts 22, 25, and 52 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 601, *et seq.* (FAC 2005–19, FAR case 2006–028), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does apply; however, these changes to the FAR do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Numbers 9000–0025, 9000–0130, 9000–0136, and 9000–0141 respectively. The interim rule affects the certification and information collection requirements in the provisions at FAR 52.212–3, 52.225–4, 52.225–6, and 52.225–11.

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense