

EFFECTIVE DATE: March 26, 1996.

FOR FURTHER INFORMATION CONTACT:

Ms. Linda Klein at (202) 501-3775 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 90-37, FAR case 92-606.

SUPPLEMENTARY INFORMATION:

A. Background

FAR 19.602-2(b)(3) currently requires that all COC requests over \$500,000 be forwarded to the SBA Central Office for a decision on issuance. The issuance of COC's by the SBA is governed by 13 CFR Part 125, which authorizes regional SBA offices to issue COC's within their delegated authority. This rule merely reflects existing internal SBA procedures.

B. Regulatory Flexibility Act

This 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 comments is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected subpart will be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite FAC 90-37, FAR case 92-606, in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection 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 19

Government procurement.

Dated: January 11, 1996.

Edward C. Loeb,

Acting Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR Part 19 is amended as set forth below:

PART 19—SMALL BUSINESS PROGRAMS

1. The authority citation for 48 CFR Part 19 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).

2. Section 19.602-2 is amended as follows:

(a) The paragraph designation "(a)" is removed;

(b) Paragraph (b) is removed;
(c) Paragraph (c) is redesignated as (d) and revised; and
(d) Paragraphs (a)(1) through (a)(3) are redesignated as (a), (b), and (c), respectively.

19.602-2 Issuing or denying a certificate of competency (COC).

* * * * *

(d) Notify the concern and the contracting officer that the COC is denied or is being issued.

[FR Doc. 96-1023 Filed 1-25-96; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 19 and 52

[FAC 90-37; FAR Case 93-308; Item X]

RIN 9000-AG70

Federal Acquisition Regulation; Mentor Protégé Program

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

ACTION: Interim rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule to allow mentor firms under the Department of Defense Pilot Mentor-Protégé Program to be granted credit toward subcontracting goals under small business subcontracting plans entered into with any executive agency. The rule also will permit mentor firms to award subcontracts on a noncompetitive basis to protégé firms under Department of Defense or other contracts. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

DATES: *Effective Date:* January 26, 1996.

Comment Due Date: To be considered in the formulation of a final rule, comments should be submitted to the address given below on or before March 26, 1996.

ADDRESSES: Comments should be submitted to: General Services Administration, FAR Secretariat, 18th & F Streets NW., Room 4037, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT:

Ms. Linda Klein at (202) 501-3775 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 37, FAR case 93-308.

SUPPLEMENTARY INFORMATION:

A. Background

This rule implements Section 814(c) of Public Law 102-190, which amended the Small Business Act at 15 U.S.C. 637(d)(11) to authorize certain costs incurred by a mentor firm under the Department of Defense Mentor-Protégé Program to be credited toward subcontracting goals for awards to small disadvantaged businesses. This rule also further implements Section 831(f)(2) of Public Law 101-510 which permits mentor firms to award subcontracts on a noncompetitive basis to its protégés under Department of Defense or other contracts.

B. Regulatory Flexibility Act

The interim rule is not expected to have 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 revisions apply to mentor firms under the DOD Pilot Mentor-Protégé Program, and these firms generally are not small entities. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR parts will also be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90-37, FAR case 93-308) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any reporting or recordkeeping requirements which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination to Issue an Interim Rule

A determination has been made under authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA); and the Administrator of the National Aeronautics and Space Administration (NASA) that, pursuant to 41 U.S.C. 418b, urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. However, public comments received in response

to this interim rule will be considered in formulating the final rule. The rule is necessary to further implement Section 814(c) of Public Law 102-190, which amended the Small Business Act at 15 U.S.C. 637(d)(11) to authorize certain costs incurred by a Department of Defense Mentor-Protégé Program firm to be credited toward subcontracting goals for awards to small disadvantaged businesses, and Section 831(f)(2) of Public Law 101-510 which permits mentor firms to award subcontracts on a noncompetitive basis to its protégés under Department of Defense or other contracts.

List of Subjects in 48 CFR Parts 19 and 52

Government procurement.

Dated: January 11, 1996.

Edward C. Loeb,

Acting Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR Parts 19 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 19 and 52 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 19—SMALL BUSINESS PROGRAMS

2. Section 19.702 is amended by adding paragraph (d) to read as follows:

19.702 Statutory requirements.

* * * * *

(d) As authorized by 15 U.S.C. 637(d)(11), certain costs incurred by a mentor firm in providing developmental assistance to a Protégé firm under the Department of Defense Pilot Mentor-Protégé Program, may be credited as subcontract awards to a small disadvantaged business for the purpose of determining whether the mentor firm attains a small disadvantaged business goal under any subcontracting plan entered into with any executive agency. However, the mentor firms must have been approved by the Office of Small and Disadvantaged Business Utilization, Office of the Under Secretary of Defense for Acquisition and Technology, OUSD (A&T)SADBU, Room 2A340, The Pentagon, Washington, DC 20301-3061, (703) 697-1688, before developmental assistance costs may be credited against subcontract goals.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. 52.244-5 is amended by revising the clause to read as follows:

52.244-5 Competition in Subcontracting.

* * * * *

Competition in Subcontracting (Jan 1996)

(a) The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the contract.

(b) If the Contractor is an approved mentor under the Department of Defense Pilot Mentor-Protégé Program (Pub. L. 101-510, section 831 as amended), the Contractor may award subcontracts under this contract on a noncompetitive basis to its protégés.

(End of clause)

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 19 and 52

[FAC 90-37; FAR Case 92-019; Item XI]

RIN 9000-AF45

Federal Acquisition Regulation; Subcontracting Plans

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 amend the Federal Acquisition Regulation (FAR) to expand the circumstances when subcontracting plans may be required from and negotiated with more than the apparently successful offeror and to add a clause alternate for use when subcontracting plans are required with initial proposals. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

EFFECTIVE DATE: March 26, 1996.

FOR FURTHER INFORMATION CONTACT:

Ms. Linda Klein at (202) 501-3775 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 90-37, FAR case 92-019.

SUPPLEMENTARY INFORMATION:

A. Background

An amendment to FAR 19.705-2, 19.708, and 52.219-9 was published in the Federal Register at 59 FR 16390, April 6, 1994, as a proposed rule with a request for comments. Two responses were received. The Councils' analysis of those comments did not result in any revisions to the proposed rule.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because subcontracting plans are not required from small business concerns.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Public Law 96-511) is deemed to apply because the final rule contains information collection requirements. Accordingly, a request for approval of a revised information collection requirement concerning 9000-0006 was submitted to the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*, and approved through March 31, 1998.

List of Subjects in 48 CFR Parts 19 and 52

Government procurement.

Dated: January 11, 1996.

Edward C. Loeb,

Acting Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR Parts 19 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 19 and 52 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 19—SMALL BUSINESS PROGRAMS

2. Section 19.705-2 is amended by revising paragraph (d) to read as follows:

19.705-2 Determining the need for a subcontracting plan.

* * * * *

(d) In solicitations for negotiated acquisitions, the contracting officer may require the submission of subcontracting plans with initial offers, or at any other time prior to award. In determining when subcontracting plans should be required, as well as when and