

(1) The contractor or any contractor employee engages in severe forms of trafficking in persons;

(2) Any contractor employee procures a commercial sex act during the period of performance of the contract;

(3) The contractor or any contractor employee uses forced labor in the performance of the contract; or

(4) The contractor fails to comply with the requirements of the clause at 52.222–50, Combating Trafficking in Persons.

(b) *Remedies.* After determining in writing that adequate evidence exists to suspect any of the violations at paragraph (a) of this section, the contracting officer may pursue any of the remedies specified in paragraph (e) of the clause at 52.222–50, Combating Trafficking in Persons. These remedies are in addition to any other remedies available to the Government.

#### 22.1705 Contract clause.

Insert the clause at 52.222–50, Combating Trafficking in Persons, in all solicitations and contracts for the acquisition of services (except commercial services under Part 12).

### PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Add section 52.222–50 to read as follows:

#### 52.222–50 Combating Trafficking in Persons.

As prescribed in 22.1705, insert the following clause:

##### COMBATING TRAFFICKING IN PERSONS (APR 2006)

(a) *Definitions.* As used in this clause—  
*Coercion* means—

(1) Threats of serious harm to or physical restraint against any person;

(2) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(3) The abuse or threatened abuse of the legal process.

*Commercial sex act* means any sex act on account of which anything of value is given to or received by any person.

*Debt bondage* means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

*Employee* means an employee of a Contractor directly engaged in the performance of work under a Government contract, including all direct cost employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance.

*Individual* means a Contractor that has no more than one employee including the Contractor.

*Involuntary servitude* includes a condition of servitude induced by means of—

(1) Any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such conditions, that person or another person would suffer serious harm or physical restraint; or

(2) The abuse or threatened abuse of the legal process.

*Severe forms of trafficking in persons* means—

(1) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

*Sex trafficking* means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

(b) *Policy.* The United States Government has adopted a zero tolerance policy regarding Contractors and Contractor employees that engage in or support severe forms of trafficking in persons, procurement of commercial sex acts, or use of forced labor. During the performance of this contract, the Contractor shall ensure that its employees do not violate this policy.

(c) *Contractor requirements.* The Contractor, if other than an individual, shall establish policies and procedures for ensuring that its employees do not engage in or support severe forms of trafficking in persons, procure commercial sex acts, or use forced labor in the performance of this contract. At a minimum, the Contractor shall—

(1) Publish a statement notifying its employees of the United States Government's zero tolerance policy described in paragraph (b) of this clause and specifying the actions that will be taken against employees for violations of this policy. Such actions may include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment;

(2) Establish an awareness program to inform employees about—  
(i) The Contractor's policy of ensuring that employees do not engage in severe forms of trafficking in persons, procure commercial sex acts, or use forced labor;

(ii) The actions that will be taken against employees for violation of such policy;

(iii) Regulations applying to conduct if performance of the contract is outside the U.S., including—

(A) All host country Government laws and regulations relating to severe forms of trafficking in persons, procurement of commercial sex acts, and use of forced labor; and

(B) All United States laws and regulations on severe forms of trafficking in persons, procurement of commercial sex acts, and use

of forced labor which may apply to its employees' conduct in the host nation, including those laws for which jurisdiction is established by the Military Extraterritorial Jurisdiction Act of 2000 (18 U.S.C. 3261–3267), and 18 U.S.C. 3271, Trafficking in Persons Offenses Committed by Persons Employed by or Accompanying the Federal Government Outside the United States;

(3) Provide all employees directly engaged in performance of the contract with a copy of the statement required by paragraph (c)(1) of this clause and obtain written agreement from the employee that the employee shall abide by the terms of the statement; and

(4) Take appropriate action, up to and including termination, against employees or subcontractors that violate the policy in paragraph (b) of this clause.

(d) *Notification.* The Contractor shall inform the contracting officer immediately of—

(1) Any information it receives from any source (including host country law enforcement) that alleges a contract employee has engaged in conduct that violates this policy; and

(2) Any actions taken against employees pursuant to this clause.

(e) *Remedies.* In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraphs (c) or (d) of this clause may render the Contractor subject to—

(1) Required removal of a Contractor employee or employees from the performance of the contract;

(2) Required subcontractor termination;

(3) Suspension of contract payments;

(4) Loss of award fee for the performance period in which the Government determined Contractor non-compliance;

(5) Termination of the contract for default, in accordance with the termination clause of this contract; or

(6) Suspension or debarment.

(f) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (f), in all subcontracts for the acquisition of services.

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 19 and 52

[FAC 2005–09; FAR Case 2005–009; Item V; Docket FAR–2006–0020]

RIN 9000–AK22

### Federal Acquisition Regulation; FAR Case 2005–009, Confirmation of HUBZone Certification

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 to adopt as final without change, the interim rule amending the Federal Acquisition Regulation (FAR) to clarify that prime contractors must confirm that a subcontractor representing itself as a Historically Underutilized Business Zone (HUBZone) small business concern is certified, consistent with the requirements of 15 U.S.C. 632 *et seq.*, as amended.

**DATES:** *Effective Date:* April 19, 2006.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact Ms. Rhonda Cundiff, Procurement Analyst, at (202) 501-0044. Please cite FAC 2005-09, FAR case 2005-009. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501-4755.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 70 FR 43581, July 27, 2005, with request for comments. No public comments were received on the interim rule. The Councils agreed to convert the interim rule to a final rule without change.

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 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 this final rule will have a positive effect on small businesses who are certified HUBZone small business concerns and are losing subcontracting opportunities taken by another company falsely claiming to be a certified HUBZone small business concern.

The FAR Secretariat has submitted a copy of the Final Regulatory Flexibility Analysis to the Chief Counsel for Advocacy of the Small Business Administration. The analysis is summarized as follows:

**Final Regulatory Flexibility Analysis**

A Department of Defense Inspector General report D-2003-019 "DoD Contractor Subcontracting With Historically

Underutilized Business Zones (HUBZones) Small Businesses" found that prime contractors were overstating their HUBZone accomplishments because subcontractor's representations were not being verified. This final rule revises the Federal Acquisition Regulation to require a prime contractor to verify that its HUBZone subcontractors are certified as required by 15 U.S.C. 632 *et seq.*, as amended.

Interested parties may obtain a copy from the FAR Secretariat.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

**List of Subjects in 48 CFR Parts 19 and 52**

Government procurement.

Dated: April 12, 2006.

**Gerald Zaffos,**

*Director, Contract Policy Division.*

**Interim Rule Adopted as Final Without Change**

■ Accordingly, the interim rule amending 48 CFR parts 19 and 52, which was published at 70 FR 43581, July 27, 2005, is adopted as a final rule without change.

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**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES  
ADMINISTRATION**

**NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION**

**48 CFR Parts 19 and 52**

[FAC 2005-09; FAR Case 2005-002; Item VI; Docket FAR-2006-0020]

**RIN 9000-AK28**

**Federal Acquisition Regulation; FAR  
Case 2005-002; Expiration of the Price  
Evaluation Adjustment**

**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 to adopt as final, without change, the interim rule published in the **Federal Register** at 70

FR 57462, September 30, 2005, to cancel for civilian agencies (except NASA and Coast Guard) the Small Disadvantaged Business (SDB) price evaluation adjustment which was originally authorized under the Federal Acquisition Streamlining Act of 1994. Civilian agencies (except NASA and Coast Guard) are not authorized to apply the price evaluation adjustment to their acquisitions.

**DATES:** *Effective Date:* April 19, 2006.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact Ms. Rhonda Cundiff, Procurement Analyst, at (202) 501-0044. Please cite FAC 2005-09, FAR case 2005-002. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501-4755.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

DoD, GSA, and NASA published an interim rule at 70 FR 57462 on September 30, 2005, to cancel for civilian agencies (except NASA and Coast Guard) the Small Disadvantaged Business (SDB) price evaluation adjustment which was originally authorized under the Federal Acquisition Streamlining Act of 1994. The Councils received no comments on the interim rule. Therefore, the Councils have adopted the interim rule as a final rule without change.

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:

**Final Regulatory Flexibility Analysis**

The small disadvantaged business price evaluation adjustment for civilian agencies other than National Aeronautics and Space Administration (NASA) and Coast Guard, originally authorized under the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103-355, Sec. 7102) expired. This provision, as implemented in Federal Acquisition Regulation, authorized agencies to apply the price evaluation adjustment to benefit certain small disadvantaged business concerns in competitive acquisitions. As a result of its expiration for civilian agencies with the exception of NASA and Coast Guard, these agencies have no statutory authority to apply the small disadvantaged business price evaluation adjustment to their acquisitions.

This change will have a significant economic impact on a substantial number of