

**DEPARTMENT OF DEFENSE****GENERAL SERVICES  
ADMINISTRATION****NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION****48 CFR Parts 26 and 52**

[FAR Case 95-306]

RIN 9000-AH02

**Federal Acquisition Regulation;  
Collection of Historically Black  
Colleges and Universities/ Minority  
Institutions Award Data**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the Federal Acquisition Regulation (FAR) to implement Executive Order 12928, which states that agencies will provide periodic reporting on their progress made in awards to Historically Black Colleges and Universities and Minority Institutions. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

**DATES:** Comments should be submitted on or before August 19, 1996 to be considered in the formulation of a final rule.

**ADDRESSES:** Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVRs), 18th & F Streets, NW, Room 4037, Washington, DC 20405.

Please cite FAR case 95-306 in all correspondence related to this case.

**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 FAR case 95-306.

**SUPPLEMENTARY INFORMATION:****A. Background**

This proposed rule adds a new subpart to FAR Part 26 and a solicitation provision to Part 52 to implement Executive Order 12928, which states that agencies will provide periodic reporting on their progress made in awards to Historically Black Colleges

and Universities and Minority Institutions.

**B. Regulatory Flexibility Act**

This proposed 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.*, because the rule primarily pertains to Government reporting requirements and merely requires offerors to provide certain identification information with their offers. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610 of the Act. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 95-306), in correspondence.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the proposed 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 the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 26 and 52

Government procurement.

Dated: June 6, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, it is proposed that 48 CFR Parts 26 and 52 be amended as set forth below:

1. The authority citation for 48 CFR Parts 26 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 26—OTHER SOCIOECONOMIC  
PROGRAMS**

2. Part 26 is amended by adding Subpart 26.2 to read as follows:

**Subpart 26.2—Historically Black Colleges  
and Universities and Minority Institutions**

Sec.

26.200 Scope of subpart.

26.201 Definitions.

26.202 General policy.

26.203 Data collection and reporting requirements.

26.204 Solicitation provision.

**Subpart 26.2—Historically Black  
Colleges and Universities and Minority  
Institutions****26.200 Scope of subpart.**

(a) This subpart implements the provisions of Executive Order 12928 of September 16, 1994, which promote participation of Historically Black Colleges and Universities (HBCU) and Minority Institutions (MI) in Federal procurement.

(b) This subpart does not pertain to contracts performed entirely outside the United States, its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands.

**26.201 Definitions.**

As used in this subpart—

*Historically Black College or University* means an institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2.

*Minority Institution* means an institution of higher education meeting the requirements of Section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3)) which for the purpose of this subpart includes a Hispanic-serving institution of higher education as defined in Section 316(b)(1) of the Act (20 U.S.C. 1059c(b)(1)).

**26.202 General policy.**

It is the policy of the Government to promote participation of HBCUs and MIs in Federal procurement.

**26.203 Data collection and reporting  
requirements.**

Executive Order 12928 requires periodic reporting to the President on the progress of departments and agencies in complying with the laws and requirements mentioned in the Executive Order.

**26.204 Solicitation provision.**

The contracting officer shall insert the provision at 52.226-xx, Historically Black College or University and Minority Institution Representation, in solicitations exceeding the micropurchase threshold, for research, studies, supplies or services of the type normally acquired from higher educational institutions.

**Part 52—Solicitation Provisions and  
Contract Clauses**

3. Section 52.226-xx is added to read as follows:

**52.226-xx Historically Black College or University and Minority Institution Representation.**

As prescribed in 26.204, insert the following provision:

Historically Black College or University and Minority Institution Representation (Date)

(a) Definitions.

Historically Black College or University means an institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2.

*Minority Institution* means an institution of higher education meeting the requirements of Section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1135(d)-5(3)) which for the purpose of this subpart includes a Hispanic-serving institution of higher education as defined in Section 316(b)(1) of the Act (20 U.S.C. 1059c(b)(1)).

(b) *Representation*. The offeror represents that it—

☐ is, ☐ is not a Historically Black College or University;

☐ is, ☐ is not a Minority Institution.

(End of provision)

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