

matters when justifying and approving the award of a sole-source 8(a) contract.

#### 6. Potential Impact on Native American-Owned Firms

*Comment:* Several respondents expressed concern regarding the possible impact facing Native American-owned enterprises. The respondents pointed out that the 8(a) program has undergone considerable reform over the last two years and has experienced overwhelming success in achieving its goals. The respondents also emphasized that the vast majority of Native American-owned enterprises have consistently provided high value support to their Government customers. In view of these considerations, the respondents requested that each executive agency send a policy directive to their contracting officers to outline the benefits of the SBA 8(a) program and the positive impact this program has had for Native participants.

*Response:* The benefits of SBA's 8(a) program and the positive impact this program has had for Native participants are promoted by SBA and the Office of Small and Disadvantaged Business Utilization (OSDBU) on a consistent basis throughout the Government. Each Federal agency with contracting authority has established an OSDBU. The OSDBU advocates for small, small disadvantaged (including the 8(a) program), veteran, service-disabled veteran-owned, HUBZone, and women-owned businesses. The OSDBU is charged with promoting increased access for small businesses to procurement opportunities, conducting outreach efforts, and providing liaison support for small and disadvantaged businesses. In addition, the OSDBU works closely with program officers and contracting officers to assist in the accomplishment of the annual Governmentwide 5 percent procurement goals for small disadvantaged businesses.

### III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of

E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

### IV. 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 within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule does not impose any additional requirements on the majority of small businesses. The rule implements the statutory requirements mandated by section 811, Justification and Approval of Sole-Source Contracts, of the National Defense Authorization Act for Fiscal Year 2010. It is recognized that a very small number of businesses that have been awarded 8(a) contracts over the \$20 million threshold may be impacted. However, the rule does not limit the number of contracts or dollars awarded to these businesses. The rule may also indirectly benefit the 8,833 currently certified section 8(a) firms by improving their likelihood of a contract award through increased competition, but this impact is similarly considered not significant.

### V. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

#### List of Subjects in 48 CFR Parts 6, 15, and 19

Government procurement.

Dated: April 11, 2012.

**Laura Auletta,**

*Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.*

#### Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule amending 48 CFR parts 6, 15, and 19, which was published in the **Federal Register** at 76 FR 14559 on March 16, 2011, is adopted as a final rule without change.

[FR Doc. 2012-9204 Filed 4-17-12; 8:45 am]

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 1 and 52

[FAC 2005-58; Item IV; Docket 2012-0079; Sequence 2]

#### Federal Acquisition Regulation; Technical Amendments

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

**ACTION:** Final rule.

**SUMMARY:** This document makes amendments to the Federal Acquisition Regulation (FAR) in order to make editorial changes.

**DATES:** *Effective Date:* April 18, 2012.

**FOR FURTHER INFORMATION CONTACT:** The Regulatory Secretariat, 1275 First Street NE., 7th Floor, Washington, DC 20417, 202-501-4755, for information pertaining to status or publication schedules. Please cite FAC 2005-58, Technical Amendments.

**SUPPLEMENTARY INFORMATION:** In order to update certain elements in 48 CFR parts 1 and 52, this document makes editorial changes to the FAR.

#### List of Subjects in 48 CFR Parts 1 and 52

Government procurement.

Dated: April 11, 2012.

**Laura Auletta,**

*Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.*

Therefore, DoD, GSA, and NASA amend 48 CFR parts 1 and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 1 and 52 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 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

■ 2. Amend section 1.201-1 by revising paragraph (c) to read as follows:

#### 1.201-1 The two councils.

\* \* \* \* \*

(c) The Director of the DAR Council shall be the representative of the Secretary of Defense. The operation of the DAR Council will be as prescribed by the Secretary of Defense.

Membership shall include representatives of the military departments, the Defense Logistics Agency, the Defense Contract Management Agency, and the National Aeronautics and Space Administration.

\* \* \* \* \*

## PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

### 52.212–5 [Amended]

■ 2. Amend section 52.212–5 by removing from paragraph (b)(7) “(Jan 2012)” and adding “(Feb 2012)” in its place; and removing from paragraph (b)(23) “(Apr 2009)” and adding “(Apr 2012)” in its place.

■ 3. Amend section 52.219–28 by revising the date of the clause, and removing from paragraph (c) “<http://www.sba.gov/services/contractingopportunities/sizestandardstocps/>” and adding “<http://www.sba.gov/content/table-small-business-size-standards>” in its place.

The revised text reads as follows:

### 52.219–28 Post-Award Small Business Program Rerepresentation.

\* \* \* \* \*

### Post-Award Small Business Program Rerepresentation (Apr 2012)

\* \* \* \* \*

[FR Doc. 2012–9206 Filed 4–17–12; 8:45 am]

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 48 CFR Chapter 1

[Docket FAR 2012–0081, Sequence 3]

### Federal Acquisition Regulation; Federal Acquisition Circular 2005–58; Small Entity Compliance Guide

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

### LIST OF RULES IN FAC 2005–58

Item	Subject	FAR case	Analyst
I *	Biobased Procurements	2010–004	Clark.
II	Representation Regarding Export of Sensitive Technology to Iran	2010–018	Davis.
III	Justification and Approval of Sole-Source 8(a) Contracts	2009–038	Morgan.
IV	Technical Amendments.		

### SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR cases, refer to the specific item numbers and subject set forth in the documents following these item summaries. FAC 2005–58 amends the FAR as specified below:

#### Item I—Biobased Procurements (FAR Case 2010–004)

This final rule amends the FAR to implement changes that require contractors to report the biobased products purchased under service and construction contracts. The Farm Security and Rural Investment Act (7 U.S.C. 8102) requires agencies to report this information to the Office of Federal Procurement Policy. This reporting will enable agencies to monitor compliance with the Federal preference for purchasing biobased products. Contractors may need to create an inventory management system to track the biobased products purchased for each contract. However,

this rule may enhance small business biobased product suppliers’ participation in this market.

#### Item II—Representation Regarding Export of Sensitive Technology to Iran (FAR Case 2010–018)

This final rule adopts, with minor changes, an interim rule which added a representation to implement section 106 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010. Section 106 imposes a procurement prohibition relating to contracts with persons that export certain sensitive technology to Iran. This rule has no significant impact on small business concerns.

#### Item III—Justification and Approval of Sole-Source 8(a) Contracts (FAR Case 2009–038)

This rule adopts as final, without change, an interim rule published in the **Federal Register** at 76 FR 14559 on March 16, 2011, which implemented section 811 of the National Defense Authorization Act for Fiscal Year 2010

**ACTION:** Small Entity Compliance Guide.

**SUMMARY:** This document is issued under the joint authority of DOD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rule appearing in Federal Acquisition Circular (FAC) 2005–58, which amends the Federal Acquisition Regulation (FAR). An asterisk (\*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding this rule by referring to FAC 2005–58, which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

**DATES:** April 18, 2012.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2005–58 and the FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755.

(Pub. L. 111–84). Section 811 prohibits the award of a sole-source contract in an amount over \$20 million under the 8(a) program authority (15 U.S.C. 637(a)) without first obtaining a written Justification and Approval (J&A) approved by an appropriate official, and making public the J&A and related information. This internal Government requirement for the development and approval of a sole-source J&A for 8(a) sole-source awards over \$20 million neither prohibits such awards nor increases the qualifications required of 8(a) firms.

#### Item IV—Technical Amendments

Editorial changes are made at FAR 1.201–1, 52.212–5, and 52.219–28.

Dated: April 11, 2012.

**Laura Auletta,**

*Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.*

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