

**52.208-8 Required Sources for Helium and Helium Usage Data.**

As prescribed in 8.505, insert the following clause:

**Required Sources for Helium and Helium Usage Data (Apr 2002)***(a) Definitions.*

*Bureau of Land Management*, as used in this clause, means the Department of the Interior, Bureau of Land Management, Amarillo Field Office, Helium Operations, located at 801 South Fillmore Street, Suite 500, Amarillo, TX 79101-3545.

*Federal helium supplier* means a private helium vendor that has an in-kind crude helium sales contract with the Bureau of Land Management (BLM) and that is on the BLM Amarillo Field Office's Authorized List of Federal Helium Suppliers available via the Internet at [http://www.nm.blm.gov/www/amfo/amfo\\_home.html](http://www.nm.blm.gov/www/amfo/amfo_home.html).

*Major helium requirement* means an estimated refined helium requirement greater than 200,000 standard cubic feet (scf) (measured at 14.7 pounds per square inch absolute pressure and 70 degrees Fahrenheit temperature) of gaseous helium or 7510 liters of liquid helium delivered to a helium use location per year.

*(b) Requirements—*(1) Contractors must purchase major helium requirements from Federal helium suppliers, to the extent that supplies are available.

(2) The Contractor shall provide to the Contracting Officer the following data within 10 days after the Contractor or subcontractor receives a delivery of helium from a Federal helium supplier—

- (i) The name of the supplier;
- (ii) The amount of helium purchased;
- (iii) The delivery date(s); and
- (iv) The location where the helium was used.

*(c) Subcontracts.* The Contractor shall insert this clause, including this paragraph (c), in any subcontract or order that involves a major helium requirement.

(End of clause)

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**DEPARTMENT OF DEFENSE****GENERAL SERVICES ADMINISTRATION****NATIONAL AERONAUTICS AND SPACE ADMINISTRATION****48 CFR Parts 12, 19, and 52**

[FAC 2001-06; FAR Case 2001-003; Item VI]

RIN 9000-AJ32

**Federal Acquisition Regulation; HUBZone Program Applicability**

**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 that amends the Federal Acquisition Regulation (FAR) to simplify current FAR language that expands the applicability of the HUBZone Program to all agencies covered by the FAR after September 30, 2000.

**DATES:** *Effective Date:* April 4, 2002.

**FOR FURTHER INFORMATION CONTACT:** The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501-4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Rhonda Cundiff, Procurement Analyst, at (202) 501-0044. Please cite FAC 2001-06, FAR case 2001-003.

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

This final rule amends and simplifies language at FAR Parts 12, 19, and 52. Current FAR language expands the applicability of the HUBZone Program to all agencies covered by the FAR after September 30, 2000. Initially, procurements under the HUBZone Program applied to a limited list of Federal agencies. Under Section 602(b) of the HUBZone Act of 1997 (Title VI of Pub. L. 105-135), this initial limited applicability expired on September 30, 2000.

The purpose of the program is to provide Federal contracting assistance for qualified small business concerns located in historically underutilized business zones in an effort to increase employment opportunities, investment, and economic development in these areas. The program provides for set-asides, sole-source awards, and price evaluation preferences for HUBZone small business concerns and establishes goals for awards to such concerns.

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**

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. However, the Councils will consider comments from small entities concerning the affected FAR Parts 12, 19, 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 2001-06, FAR case 2001-003), in correspondence.

**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 12, 19, and 52**

Government procurement.

Dated: March 6, 2002.

**Al Matera,**

*Director, Acquisition Policy Division.*

Therefore, DoD, GSA, and NASA amend 48 CFR parts 12, 19, and 52 as set forth below:

1. The authority citation for 48 CFR parts 12, 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 12—ACQUISITION OF COMMERCIAL ITEMS**

2. Amend section 12.301 by revising the introductory text of paragraph (b) and (b)(2) to read as follows:

**12.301 Solicitation provisions and contract clauses for the acquisition of commercial items.**

\* \* \* \* \*

(b) Insert the following provisions in solicitations for the acquisition of commercial items, and clauses in solicitations and contracts for the acquisition of commercial items:

\* \* \* \* \*

(2) *The provision at 52.212-3, Offeror Representations and Certifications—Commercial Items.* This provision provides a single, consolidated list of certifications and representations for the acquisition of commercial items and is attached to the solicitation for offerors to complete and return with their offer. This provision may not be tailored except in accordance with Subpart 1.4. Use the provision with its Alternate I in solicitations issued by DoD, NASA, or the Coast Guard that are expected to exceed the threshold at 4.601(a). Use the provision with its Alternate II in solicitations for acquisitions for which small disadvantaged business procurement mechanisms are authorized on a regional basis;

\* \* \* \* \*

**PART 19—SMALL BUSINESS PROGRAMS****19.307 [Amended]**

3. Amend section 19.307 by removing paragraph (a)(2); by redesignating paragraph (a)(3) as (a)(2); in the newly designated paragraph (a)(2) by removing "Alternate II" and adding "Alternate I" in its place; and in paragraph (c) by removing "and contracts".

4. Revise section 19.1302 to read as follows:

**19.1302 Applicability.**

The procedures in this subpart apply to all Federal agencies that employ one or more contracting officers.

**PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

5. Amend section 52.212–3 by revising the date of the provision; by adding paragraph (c)(10); by revising the introductory text of Alternate I; by redesignating paragraph (c)(10) of Alternate I as (c)(11); and by removing Alternate III. The revised and added text reads as follows:

**52.212–3 Offeror Representations and Certifications—Commercial Items.**

\* \* \* \* \*

**Offeror Representations and Certifications—Commercial Items (Apr 2002)**

\* \* \* \* \*

(c) \* \* \*

(10) *HUBZone small business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents, as part of its offer, that—

(i) It [ ] is, [ ] is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal place of ownership, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR part 126; and

(ii) It [ ] is, [ ] is not a joint venture that complies with the requirements of 13 CFR part 126, and the representation in paragraph (c)(10)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating on the joint venture. [The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: \_\_\_\_\_.] Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

\* \* \* \* \*

*Alternate I (Apr 2002).* As prescribed in 12.301(b)(2), add the following paragraph (c)(11) to the basic provision:

\* \* \* \* \*

6. Amend section 52.219–1 by revising the date of the provision; by adding paragraph (b)(6); by removing Alternate I and redesignating Alternate II as Alternate I; and by revising the introductory text of the newly designated Alternate I to read as follows:

**52.219–1 Small Business Program Representations.**

\* \* \* \* \*

**Small Business Program Representations (Apr 2002)**

\* \* \* \* \*

(b) \* \* \*

(6) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents, as part of its offer, that—

(i) It [ ] is, [ ] is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR part 126; and

(ii) It [ ] is, [ ] is not a joint venture that complies with the requirements of 13 CFR part 126, and the representation in paragraph (b)(6)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. [The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: \_\_\_\_\_.] Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

\* \* \* \* \*

*Alternate I (Apr 2002).* As prescribed in 19.307(a)(2), add the following paragraph (b)(7) to the basic provision:

\* \* \* \* \*

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**DEPARTMENT OF DEFENSE****GENERAL SERVICES ADMINISTRATION****NATIONAL AERONAUTICS AND SPACE ADMINISTRATION****48 CFR Part 52**

[FAC 2001–06; FAR Case 1999–612; Item VII]

**RIN 9000–A195**

**Federal Acquisition Regulation; Application of Labor Clauses**

**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) by revising the clause, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items), to clarify the application of labor clauses below the simplified acquisition threshold. The Councils also revised the Equal Opportunity clause to incorporate the exception for work performed outside the United States.

**DATES:** *Effective Date:* April 4, 2002.

**FOR FURTHER INFORMATION CONTACT:** The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, at (202) 501–1900. Please cite FAC 2001–06, FAR case 1999–612.

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

This final rule—

1. Moves the Prohibition of Segregated Facilities clause from the list at paragraph (b), to the list at paragraph (a), of the clause at 52.213–4 and clarifies the existing requirements of 41 CFR 60–1.8, promulgated by the Department of Labor under E.O. 11246. The Prohibition of Segregated Facilities clause must be included in contracts whenever the Equal Opportunity clause (FAR 52.222–26) is included.

2. Moves the Equal Opportunity clause from the list at paragraph (b), to the list at paragraph (a), of the clause at 52.213–4 because the clause must be included in almost all contracts, even those under \$10,000, in accordance with the requirements at FAR 22.802(a)(1)