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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 19, and 52

[FAC 2005-54; FAR Case 2009-019; Item III; Docket 2010-0108; Sequence 1]

RIN 9000-AL77

Federal Acquisition Regulation; Small Disadvantaged Business Self-Certification

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

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA have adopted as final, without change, an interim rule amending the Federal Acquisition Regulation (FAR) to incorporate changes made by the Small Business Administration (SBA) to its small disadvantaged business (SDB) program.

Effective Date: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.]

FOR FURTHER INFORMATION CONTACT: Mr. Karlos Morgan, Procurement Analyst, at (202) 501-2364, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501-4755. Please cite FAC 2005-54, FAR Case 2009-019.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published an interim rule in the Federal Register at 75 FR 77737 on December 13, 2010, to implement in the FAR revisions made by the SBA regarding certification of Federal subcontractors. The FAR revisions, as identified in the interim rule, allow for small disadvantaged businesses (SDBs) to self-represent their SDB status to prime contractors in good faith when seeking Federal subcontracting opportunities.

Previously under the FAR, Federal prime contractors were required to confirm that subcontractors representing themselves as small disadvantaged businesses were certified by the SBA as SDB firms. DoD, GSA, and NASA received no comments in response to the interim rule.

II. 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 not a significant regulatory action and, therefore, was not 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.

III. 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 FAR change removes the requirement for Federal prime contractors to confirm that small disadvantaged business subcontractors have obtained SDB certification from the SBA. This change will also be beneficial to SDB firms because they will no longer have to incur the costs associated with the formal certification process.

IV. 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 2, 19, and 52

Government procurement.

Dated: October 21, 2011.

/s/

Laura Auletta,
Acting 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 2, 19, and 52, which was published in the Federal Register at 75 FR 77737 on December 13, 2010, is adopted as a final rule without change.

[BILLING CODE 6820-EP]

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