

¹⁰ SIC code 8731: For research and development contracts requiring the delivery of a manufactured product, the appropriate size standard is that of the manufacturing industry.

(1) Research and Development means laboratory or other physical research and development. It does not include economic, educational, engineering, operations, systems, or other nonphysical research; or computer programming, data processing, commercial and/or medical laboratory testing.

(2) For purposes of the Small Business Innovation Research (SBIR) program only, a different definition has been established by law. See 121.701 of these regulations.

(3) Research and development for guided missiles and space vehicles includes evaluations and simulation, and other services requiring thorough knowledge of complete missiles and spacecraft.

¹¹ Facilities Management, a component of SIC code 8744, includes establishments, not elsewhere classified, which provide overall management and the personnel to perform a variety of related support services in operating a complete facility in or around a specific building, or within another business or Government establishment. Facilities management means furnishing three or more personnel supply services which may include, but are not limited to, secretarial services, typists, telephone answering, reproduction or mimeograph service, mailing service, financial or business management, public relations, conference planning, travel arrangements, word processing, maintaining files and/or libraries, switchboard operation, writers, bookkeeping, minor office equipment maintenance and repair, or use of information systems (not programming).

¹² SIC code 8744: (1) If one of the activities of base maintenance, as defined below, can be identified with a separate industry and that activity (or industry) accounts for 50 percent or more of the value of an entire contract, then the proper size standard is that of the particular industry, and not the base maintenance size standard.

(2) "Base Maintenance" requires the performance of three or more separate activities in the areas of service or special trade construction industries. If services are performed, these activities must each be in a separate SIC code including, but not limited to, Janitorial and Custodial Service, Fire Prevention Service, Messenger Service, Commissary Service, Protective Guard Service, and Grounds Maintenance and Landscaping Service. If the contract requires the use of special trade contractors (plumbing, painting, plastering, carpentry, etc.), all such special trade construction activities are considered a single activity and classified as Base Housing Maintenance. Since Base Housing Maintenance is only one activity, two additional activities are required for a contract to be classified as "Base Maintenance."

¹³ SIC code 8744: (1) For SBA assistance as a small business concern in the industry of Environmental Remediation Services, other than for Government procurement, a concern must be engaged primarily in furnishing a range of services for the remediation of a contaminated environment to an acceptable condition including, but not limited to, preliminary assessment, site inspection, testing, remedial investigation, feasibility studies, remedial design, containment, remedial action, removal of contaminated materials, storage of contaminated materials and security and site closeouts. If one of such activities accounts for 50 percent or more of a concern's total revenues, employees, or other related factors, the concern's primary industry is that of the particular industry and not the Environmental Remediation Services Industry.

(2) For purposes of classifying a Government procurement as Environmental Remediation Services, the general purpose of the procurement must be to restore a contaminated environment and also the procurement must be composed of activities in three or more separate industries with separate SIC codes or, in some instances (e.g., engineering), smaller sub-components of SIC codes with separate, distinct size standards. These activities may include, but are not limited to, separate activities in industries such as: Heavy Construction; Special Trade Construction; Engineering Services; Architectural Services; Management Services; Refuse Systems; Sanitary Services, Not Elsewhere Classified; Local Trucking Without Storage; Testing Laboratories; and Commercial, Physical and Biological Research. If any activity in the procurement can be identified with a separate SIC code, or component of a code with a separate distinct size standard, and that industry accounts for 50 percent or more of the value of the entire procurement, then the proper size standard is the one for that particular industry, and not the Environmental Remediation Service size standard.

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48 CFR Parts 19 and 52

[FAC 90-39; FAR Case 92-039; Item IX]

RIN 9000-AG07

Federal Acquisition Regulation; Master Subcontracting Plans

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 have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to permit master subcontracting plans to be written for a three-year period and to emphasize that it is incumbent upon contractors to maintain and update master plans. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: August 19, 1996.

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 FAC 90-39, FAR case 92-039.

SUPPLEMENTARY INFORMATION:

A. Background

A proposed rule was published in the Federal Register on September 8, 1994 (59 FR 46385). The proposed rule amended FAR 19.704(b) and 52.219-9 to permit master subcontracting plans to be written for a three-year period with contractors making changes/updates to master subcontracting plans as necessary. After evaluating public comments, the Councils have agreed to add language at FAR 19.704(b) stating that changes required to update master subcontracting plans are not effective until approved by the contracting officer.

B. 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 small businesses are exempt from

subcontracting plan requirements, and the rule does not change the contractor's obligation to maximize subcontracting opportunities for small business concerns. No comments were received on the impact of this rule on small entities during the public comment period.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (Public Law 104-13) is deemed to apply because the final rule contains information collection requirements. This final rule will result in an estimated reduction in the number of subcontract plans per year and associated hours. Consequently, a revised clearance for OMB Control Number 9000-0006 was submitted to OMB. The revised clearance has been approved through October 31, 1997. OMB Control Number 9000-0006 has recently been further revised by FAR case 94-780, and approval has been extended through March 31, 1998.

List of Subjects in 48 CFR Parts 19 and 52

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,
Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 19 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 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 19—SMALL BUSINESS PROGRAMS

2. Section 19.704 is amended in paragraph (b) by revising the second sentence and adding a third and fourth sentence to read as follows:

19.704 Subcontracting plan requirements.

* * * * *

(b) * * * Master plans shall be effective for a 3-year period after approval by the contracting officer; however, it is incumbent upon contractors to maintain and update master plans. Changes required to update master plans are not effective until approved by the contracting officer. A master plan, when incorporated in an individual plan, shall apply to that contract throughout the life of the contract.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 52.219-9 is amended by revising the date of the clause to read "(AUG 1996)"; in paragraph (f) introductory text by removing "(d) above," and inserting "paragraph (d) of this clause," in its place; and revising paragraph (f)(2) of the clause to read as follows:

52.219-9 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan.

* * * * *

Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (Aug 1996)

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(f) * * *
(2) the offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer, and

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48 CFR Part 19

[FAC 90-39; FAR Case 92-302; Item X]

RIN 9000-AG10

Federal Acquisition Regulation; Small Business Competitiveness Demonstration Program

AGENCIES: Department of Defense (DOD), General Services Administration (GSA),

and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule adopted as final.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to finalize without change the interim rule which was published at 59 FR 67036, December 28, 1994 (FAC 90-23, Item XIII), amending the Federal Acquisition Regulation (FAR) Part 19 to (1) extend the Small Business Competitiveness Demonstration Program through September 30, 1996; (2) specify that agencies may reinstate the use of small business set-asides as necessary to meet assigned goals, but only within the organizational unit(s) that failed to meet the small business goals; and (3) revise the description of Architectural and Engineering services as a designated industry group. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: June 20, 1996.

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 FAC 90-39, FAR case 92-302.

SUPPLEMENTARY INFORMATION:

A. Background

This rule finalizes the interim rule, which implements Title II of Public Law 102-366, the Small Business Credit and Business Opportunity Enhancement Act of 1992, which revised Title VII of Public Law 100-656, Small Business Competitiveness Demonstration Program. The Office of Federal Procurement Policy published an interim policy directive in the Federal Register at 58 FR 19849, April 16, 1993, revising the current directive dated August 31, 1989, to include revisions based on Title II.

On December 28, 1994, the interim rule was published in the Federal Register with a request for comment. Two responses were received. No changes were made to the interim rule as a result of the responses. The interim rule has been adopted as a final rule without change.

B. Regulatory Flexibility Act

The final rule implements statutory revisions included in the revisions to the OFPP policy directive. OFPP prepared the appropriate regulatory

flexibility statements as part of the revisions to the OFPP policy directive published in the Federal Register.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the 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 Part 19

Government procurement.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR Part 19, which was published at 59 FR 67036, December 28, 1994 (FAC 90-23, Item XIII), is adopted as a final rule without change.

The authority citation for 48 CFR Part 19 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).

Dated: June 4, 1996.

Edward C. Loeb,
Director, Federal Acquisition Policy Division.
[FR Doc. 96-14525 Filed 6-19-96; 8:45 am]

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48 CFR Parts 22 and 52

[FAC 90-39; FAR Case 93-615; Item XI]

RIN 9000-AG02

Federal Acquisition Regulation; Use of Convict Labor

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 have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to reflect changes in the statutory restrictions on employment of convict labor in the performance of Government contracts. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: August 19, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501-3856 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building,