

(2) For example, financial interests referred to in paragraph (1) of this definition may arise from—

- (i) Compensation, including wages, salaries, commissions, professional fees, or fees for business referrals;
- (ii) Consulting relationships (including commercial and professional consulting and service arrangements, scientific and technical advisory board memberships, or serving as an expert witness in litigation);
- (iii) Services provided in exchange for honorariums or travel expense reimbursements;
- (iv) Research funding or other forms of research support;
- (v) Investment in the form of stock or bond ownership or partnership interest (excluding diversified mutual fund investments);
- (vi) Real estate investments;
- (vii) Patents, copyrights, and other intellectual property interests; or
- (viii) Business ownership and investment interests.

(b) *Requirements.* The Contractor shall—

- (1) Have procedures in place to screen covered employees for potential personal conflicts of interest, by—
  - (i) Obtaining and maintaining from each covered employee, when the employee is initially assigned to the task under the contract, a disclosure of interests that might be affected by the task to which the employee has been assigned, as follows:
    - (A) Financial interests of the covered employee, of close family members, or of other members of the covered employee's household.
    - (B) Other employment or financial relationships of the covered employee (including seeking or negotiating for prospective employment or business).
    - (C) Gifts, including travel; and
    - (ii) Requiring each covered employee to update the disclosure statement whenever the employee's personal or financial circumstances change in such a way that a new personal conflict of interest might occur because of the task the covered employee is performing.

(2) For each covered employee—

- (i) Prevent personal conflicts of interest, including not assigning or allowing a covered employee to perform any task under the contract for which the Contractor has identified a personal conflict of interest for the employee that the Contractor or employee cannot satisfactorily prevent or mitigate in consultation with the contracting agency;
  - (ii) Prohibit use of non-public information accessed through performance of a Government contract for personal gain; and
  - (iii) Obtain a signed non-disclosure agreement to prohibit disclosure of non-public information accessed through performance of a Government contract.
- (3) Inform covered employees of their obligation—
  - (i) To disclose and prevent personal conflicts of interest;
  - (ii) Not to use non-public information accessed through performance of a Government contract for personal gain; and
  - (iii) To avoid even the appearance of personal conflicts of interest;

(4) Maintain effective oversight to verify compliance with personal conflict-of-interest safeguards;

(5) Take appropriate disciplinary action in the case of covered employees who fail to comply with policies established pursuant to this clause; and

(6) Report to the Contracting Officer any personal conflict-of-interest violation by a covered employee as soon as it is identified. This report shall include a description of the violation and the proposed actions to be taken by the Contractor in response to the violation. Provide follow-up reports of corrective actions taken, as necessary. Personal conflict-of-interest violations include—

- (i) Failure by a covered employee to disclose a personal conflict of interest;
- (ii) Use by a covered employee of non-public information accessed through performance of a Government contract for personal gain; and
- (iii) Failure of a covered employee to comply with the terms of a non-disclosure agreement.

(c) *Mitigation or waiver.* (1) In exceptional circumstances, if the Contractor cannot satisfactorily prevent a personal conflict of interest as required by paragraph (b)(2)(i) of this clause, the Contractor may submit a request through the Contracting Officer to the Head of the Contracting Activity for—

- (i) Agreement to a plan to mitigate the personal conflict of interest; or
  - (ii) A waiver of the requirement.
- (2) The Contractor shall include in the request any proposed mitigation of the personal conflict of interest.
- (3) The Contractor shall—
- (i) Comply, and require compliance by the covered employee, with any conditions imposed by the Government as necessary to mitigate the personal conflict of interest; or
  - (ii) Remove the Contractor employee or subcontractor employee from performance of the contract or terminate the applicable subcontract.

(d) *Subcontract flowdown.* The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts—

- (1) That exceed \$150,000; and
- (2) In which subcontractor employees will perform acquisition functions closely associated with inherently governmental functions (*i.e.*, instead of performance only by a self-employed individual).

(End of clause)

[FR Doc. 2011-27780 Filed 11-1-11; 8:45 am]

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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

**AGENCY:** 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.

**DATES:** *Effective Date:* November 2, 2011.

**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.

**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.

[FR Doc. 2011-27782 Filed 11-1-11; 8:45 am]

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 4, 25, and 52

[FAC 2005-54; FAR Case 2010-012; Item IV; Docket 2010-0102, Sequence 1]

RIN 9000-AL71

#### Federal Acquisition Regulation; Certification Requirement and Procurement Prohibition Relating to Iran Sanctions

**AGENCY:** 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, with changes, an interim rule amending the Federal Acquisition Regulation (FAR) to implement sections 102 and 106 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010. Section 102 requires certification that each offeror, and any person owned or controlled by the offeror, does not engage in any activity for which sanctions may be imposed under section 5 of the Iran Sanctions Act of 1996 (the Iran Sanctions Act). Section 106 imposes a procurement prohibition relating to contracts with persons that export certain sensitive technology to Iran. There will be further implementation of section 106 in FAR Case 2010-018, Representation Regarding Export of Sensitive Technology to Iran.

**DATES:** *Effective Date:* November 2, 2011.

**FOR FURTHER INFORMATION CONTACT:** Ms. Cecelia L. Davis, Procurement Analyst, at (202) 219-0202, 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 2010-012.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 75 FR 60254 on September 29, 2010, to implement section 102 and to partially implement section 106 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010. FAR Case 2010-018, Representation Regarding Export of

Sensitive Technology to Iran, will provide further implementation of section 106 by adding a representation regarding export of sensitive technology to Iran and a waiver provision.

Two respondents submitted comments on the interim rule.

## II. Discussion and Analysis of the Public Comments

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

### A. Applicability to Construction

*Comment:* One respondent was concerned that the prescription at FAR 25.1103, which requires use of the FAR provision at 52.225-25, Prohibition on Engaging in Sanctioned Activities Relating to Iran—Certification, in “each solicitation for the acquisition of products or services” could be interpreted to exclude construction. The respondent suggested changing the prescription to require use in “all solicitations.”

*Response:* The phrase “products or services” was intended to include construction, as indicated in the FAR clause matrix. DoD, GSA, and NASA have agreed to change the final rule to require use of the provision in “all solicitations.”

### B. Commercial Database of Persons Doing Business With Iran

*Comment:* One respondent provided information about the commercial Iran Economic Interest database of persons doing business with Iran, provided by World-Check, a provider of data services to organizations, including Government contractors. This respondent believed that this data set provided by his company is the only standard that would allow Government contractors the ability to comply with the provisions of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010. He suggested that the Government should require or recommend that contractors should have this data available before they “self-certify.”

*Response:* The Government does not generally promote the use of particular commercial services. DoD, GSA, and NASA have not changed the final rule in response to this comment.