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**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES  
 ADMINISTRATION**

**NATIONAL AERONAUTICS AND  
 SPACE ADMINISTRATION**

**48 CFR Part 19**

[FAC 2001-01, FAR Case 2001-001; Item VI]

RIN 9000-AJ16

**Federal Acquisition Regulation; Very Small Business Pilot Program**

**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 extending, for three additional years, the Very Small Business Pilot Program until September 30, 2003. This rule implements section 503(c) of the Small Business Reauthorization Act of 2000 (part of Public Law 106-554).

**DATES:** *Effective Date:* December 21, 2001.

**FOR FURTHER INFORMATION CONTACT:** The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, at (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 2001-01, FAR case 2001-001

**SUPPLEMENTARY INFORMATION:**

**A. Background**

This final rule amends paragraph (c) of section 19.901 to implement section 503(c) of the Small Business

Reauthorization Act of 2000 (part of Public Law 106-554). Section 503(c) amends Section 304 of Public Law 103-403 (15 U.S.C. 644 **note**) to extend the pilot program through September 30, 2003. The purpose of the program is to improve access to Government contract opportunities for concerns that are substantially below SBA's size standards by reserving certain acquisitions for competition among 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 is not a major rule under 5 U.S.C. 804.

**B. Regulatory Flexibility Act**

The final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98-577, and publication for public comment is not required. However, the Councils will consider comments from small entities concerning the affected FAR Part 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 2001-01, FAR case 2001-001), in correspondence.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the rule does not impose any new information collection requirements that require Office of Management and Budget approval under 44 U.S.C. 3501, *et seq.*

**List of Subjects in 48 CFR Part 19**

Government Procurement.

Dated: October 12, 2001.

**Al Matera,**

*Director, Acquisition Policy Division.*

Therefore, DoD, GSA and NASA amend 48 CFR part 19 as set forth below:

**PART 19—VERY SMALL BUSINESS PILOT PROGRAM**

1. 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).

**LIST OF RULES IN FAC 2001-01**

Item	Subject	FAR case	Analyst
I .....	*Application of the Davis-Bacon Act to Construction Contracts With Options to Extend the Term of the Contract.	1997-613	Nelson.
II .....	Acquisition of Commercial Items .....	2000-303	Moss.
III .....	Prompt Payment Under Cost-Reimbursement Contracts for Services (Interim).	2000-308	Olson.
IV .....	Veterans' Employment .....	1998-614	Nelson.
V .....	*Veterans Entrepreneurship and Small Business Development Act of 1999 (Interim).	2000-302	Cundiff.

**19.901 [Amended]**

2. Amend section 19.901 in the first sentence of paragraph (c) by removing "2000" and adding "2003" in its place.

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**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES  
 ADMINISTRATION**

**NATIONAL AERONAUTICS AND  
 SPACE ADMINISTRATION**

**48 CFR Chapter 1**

**Federal Acquisition Regulation; Small Entity Compliance Guide**

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

**ACTION:** Small Entity Compliance Guide.

**SUMMARY:** This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator for the National Aeronautics and Space Administration. This *Small Entity Compliance Guide* has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121). It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 2001-01 which amend the FAR. An asterisk (\*) next to a rule indicates that a regulatory flexibility analysis has been prepared in accordance with 5 U.S.C. 604. Interested parties may obtain further information regarding these rules by referring to FAC 2001-01 which precedes this document. These documents are also available via the Internet at <http://www.arnet.gov/far>.

**FOR FURTHER INFORMATION CONTACT:** Laurie Duarte, FAR Secretariat, (202) 501-4225. For clarification of content, contact the analyst whose name appears in the table below.

## LIST OF RULES IN FAC 2001-01—Continued

Item	Subject	FAR case	Analyst
VI .....	Very Small Business Pilot Program .....	2001-001	Cundiff

**Item I—Application of the Davis-Bacon Act to Construction Contracts With Options To Extend the Term of the Contract**

[FAR Case 1997-613]

This final rule implements the Department of Labor's requirement to incorporate a current Davis-Bacon Act wage determination at the exercise of each option to extend the term of a contract for construction.

**Item II—Acquisition of Commercial Items**

[FAR Case 2000-303]

This final rule amends the FAR to clarify the definition of "commercial item." The revised language will help contracting officers make commerciality determinations. The rule also alerts contracting officers to be aware of customary commercial terms and conditions that may affect the contract price when pricing commercial items. The rule also clarifies that subpart 46.8, Contractor Liability for Loss of or Damage to Property of the Government, does not apply to acquisitions of commercial items. Contracting officers should use standard commercial practices instead of the policies in subpart 46.8. Finally, the rule amends the clause at 52.212-4, Limitation of liability, to conform it to standard commercial practice.

**Item III—Prompt Payment Under Cost-Reimbursement Contracts for Services**

[FAR Case 2000-308]

This interim rule implements changes in the Office of Management and Budget's (OMB) Prompt Payment Act regulations at 5 CFR 1315 that implemented Section 1010 of the National Defense Authorization Act for Fiscal Year 2001. Those changes were published by OMB as an interim final rule and became effective on December

15, 2000 (65 FR 78403) and were applicable to all covered contracts awarded on or after December 15, 2000. Section 1010 of the National Defense Authorization Act for Fiscal Year 2001 requires agencies to pay an interest penalty, in accordance with regulations issued, whenever an interim payment under a cost-reimbursement contract for services is paid more than 30 days after the agency receives a proper invoice from a contractor. The Act does not permit payment of late payment penalty interest for any period prior to December 15, 2000.

This FAR amendment eliminates the prior policy and contract clause prohibitions on payment of late payment penalty interest for late interim finance payments under cost-reimbursement contracts for services. It adds new policy and contract clause coverage to provide for those penalty payments.

**Item IV—Veterans' Employment**

[FAR Case 1998-614]

This final rule amends the FAR to implement statutory and regulatory changes relating to veterans' employment opportunities and reporting. Most significantly for contracting officers, the rule amends the FAR to prohibit contracting officers from obligating or expending appropriated funds to enter into a contract with a contractor that has not met its veterans' employment reporting requirements (VETS-100 Report). This prohibition does not apply to contracts for commercial items or contracts valued at or below the simplified acquisition threshold. The rule adds a new solicitation provision that requires each offeror to represent, by submission of its offer, that it is in compliance with the VETS-100 reporting requirements. The contracting officer may verify

compliance by checking with the Department of Labor.

**Item V—Veterans Entrepreneurship and Small Business Development Act of 1999**

[FAR Case 2000-302]

This interim rule amends the FAR to implement section 803 of the Small Business Reauthorization Act of 2000, part of the Consolidated Appropriations Act, 2001 (Pub. L. 106-554) that was enacted on December 21, 2000.

This rule requires a contractor that is required to submit a subcontracting plan to report as a separate subcontracting plan goal requirement, subcontracting activity pertaining to service-disabled veteran-owned small business concerns. The rule also changes the Standard Form (SF) 294, "Subcontracting Report for Individual Contracts," and the SF 295, "Summary Subcontract Report," to capture this category of information for the contracting officer.

**Item VI—Very Small Business Pilot Program**

[FAR Case 2001-001]

This final rule amends FAR Subpart 19.9 to implement Section 503(c) of the Small Business Reauthorization Act of 2000 (part of Public Law 106-554). Section 503(c) extends, for three additional years, the Very Small Business Pilot Program until September 30, 2003. The purpose of the program is to improve access to Government contract opportunities for concerns that are substantially below SBA's size standards by reserving certain acquisitions for competition among such concerns.

Dated: October 12, 2001.

**Al Matera,**

*Director, Acquisition Policy Division.*

[FR Doc. 01-26302 Filed 10-19-01; 8:45 am]

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