

**DEPARTMENT OF DEFENSE****48 CFR Parts 219 and 252 and Appendix I to Chapter 2****[DFARS Case 2001-D006]****Defense Federal Acquisition Regulation Supplement; DoD Pilot Mentor-Protege Program****AGENCY:** Department of Defense (DoD).**ACTION:** Final rule.

**SUMMARY:** DoD has adopted as final, without change, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 807 of the National Defense Authorization Act for Fiscal Year 2001. Section 807 adds women-owned small businesses to the types of concerns that may participate as protege firms in the DoD Pilot Mentor-Protege Program.

**EFFECTIVE DATE:** March 14, 2002.

**FOR FURTHER INFORMATION CONTACT:** Ms. Angelena Moy, Defense Acquisition Regulations Council, OUSD(AT&L)DP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-1302; facsimile (703) 602-0350. Please cite DFARS Case 2001-D006.

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

This rule implements Section 807 of the National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398). Section 807 adds women-owned small businesses to the types of concerns that may participate as protege firms in the DoD Pilot Mentor-Protege Program. This rule also clarifies that business concerns owned and controlled by an Indian tribe or a Native Hawaiian organization are eligible to participate as protege firms in the Program.

DoD published an interim rule at 66 FR 47108 on September 11, 2001. DoD received one comment on the interim rule. The comment did not recommend any change to the rule. Therefore, DoD is converting the interim rule to a final rule without change.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

**B. Regulatory Flexibility Act**

DoD has prepared a final regulatory flexibility analysis. Interested parties may obtain a copy of the analysis from the point of contact specified herein. The analysis is summarized as follows: This rule permits women-owned small

businesses to participate as protege firms in the DoD Pilot Mentor-Protege Program. The objective of the rule is to provide an opportunity for women-owned small businesses to enhance their capabilities and increase their participation in Government and commercial contracts. Presently, there are 3,471 women-owned small business concerns that do business with DoD. Since the inception of the Mentor-Protege Program, 160 mentor firms and 509 protege firms have participated in the Program. Each protege firm must provide annual data to its mentor firm, for submission to the Government, regarding the progress of the protege firm in employment, revenues, and participation in DoD contracts. DoD received no comments in response to the initial regulatory flexibility analysis.

**C. Paperwork Reduction Act**

The information collection requirements of the DoD Pilot Mentor-Protege Program have been approved by the Office of Management and Budget under Control Number 0704-0332, for use through March 31, 2004.

**List of Subjects in 48 CFR Parts 219 and 252**

Government procurement.

**Michele P. Peterson,**  
*Executive Editor, Defense Acquisition Regulations Council.*

**Interim Rule Adopted as Final Without Change**

Accordingly, the interim rule amending 48 CFR parts 219 and 252 and Appendix I to Chapter 2, which was published at 66 FR 47108 on September 11, 2001, is adopted as a final rule without change.

[FR Doc. 02-5950 Filed 3-13-02; 8:45 am]

**BILLING CODE 5001-08-P**

**DEPARTMENT OF DEFENSE****48 CFR Parts 219 and 252****[DFARS Case 2001-D016]****Defense Federal Acquisition Regulation Supplement; Partnership Agreement Between DoD and the Small Business Administration****AGENCY:** Department of Defense (DoD).**ACTION:** Interim rule with request for comments.

**SUMMARY:** DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a partnership agreement between DoD and the Small

Business Administration (SBA). The partnership agreement streamlines procedures for contract awards under SBA's 8(a) Program.

**DATES:** Effective date: March 14, 2002.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before May 13, 2002, to be considered in the formation of the final rule.

**ADDRESSES:** Respondents may submit comments directly on the World Wide Web at <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. As an alternative, respondents may e-mail comments to: [dfars@acq.osd.mil](mailto:dfars@acq.osd.mil). Please cite DFARS Case 2001-D016 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Angelena Moy, OUSD(AT&L)DP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062; facsimile (703) 602-0350. Please cite DFARS Case 2001-D016.

At the end of the comment period, interested parties may view public comments on the World Wide Web at <http://emissary.acq.osd.mil/dar/dfars.nsf>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Angelena Moy, (703) 602-1302.

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

A partnership agreement between DoD and SBA, dated February 1, 2002, permits DoD to award 8(a) contracts directly to 8(a) concerns, on behalf of SBA. The partnership agreement replaced a memorandum of understanding, which also permitted direct award of 8(a) contracts, and which was implemented in DFARS Subpart 219.8. This interim rule amends DFARS Subpart 219.8 to reflect the provisions of the new partnership agreement. The amendments include the following:

- Emphasis that SBA remains the prime contractor on all 8(a) contracts, continues to determine eligibility of concerns for contract award, and retains appeal rights under Section 19.810 of the Federal Acquisition Regulation. SBA delegates to DoD only the authority to sign contacts on its behalf.

- For negotiated acquisitions, authorization for the contracting officer to submit a request for an eligibility determination on all firms in the competitive range if discussions are to be conducted, or on all firms with a realistic chance of award if no discussions are to be conducted. Previously, the contracting officer

submitted eligibility determinations on no more than three of the most highly rated offerors.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

## B. Regulatory Flexibility Act

DoD does not expect this rule to 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 rule affects only the administrative procedures used for award of contracts under the 8(a) Program. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2001-D016.

## C. Paperwork Reduction Act

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

## D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. This interim rule implements a partnership agreement between DoD and SBA. The agreement streamlines procedures for awards under SBA's 8(a) Program by authorizing DoD to award contracts directly to 8(a) concerns. The partnership agreement became effective on February 1, 2002. Comments received in response to this interim rule will be considered in the formation of the final rule.

## List of Subjects in 48 CFR Parts 219 and 252

Government procurement.

**Michele P. Peterson,**  
Executive Editor, Defense Acquisition  
Regulations Council.

Therefore, 48 CFR parts 219 and 252 are amended as follows:

1. The authority citation for 48 CFR parts 219 and 252 continues to read as follows:

**Authority:** 41 U.S.C. 421 and 48 CFR Chapter 1.

## PART 219—SMALL BUSINESS PROGRAMS

2. Section 219.800 is revised to read as follows:

### 219.800 General.

(a) By Partnership Agreement (PA) dated February 1, 2002, between the Small Business Administration (SBA) and the Department of Defense (DoD), the SBA delegated to the Under Secretary of Defense (Acquisition, Technology, and Logistics) its authority under paragraph 8(a)(1)(A) of the Small Business Act (15 U.S.C. 637(a)) to enter into 8(a) prime contracts, and its authority under 8(a)(1)(B) of the Small Business Act to award the performance of those contracts to eligible 8(a) Program participants. However, the SBA remains the prime contractor on all 8(a) contracts, continues to determine eligibility of concerns for contract award, and retains appeal rights under FAR 19.810. The SBA delegates only the authority to sign contracts on its behalf. Consistent with the provisions of this subpart, this authority is hereby redelegated to DoD contracting officers within the United States, its territories and possessions, Puerto Rico, the Trust Territory of the Pacific Islands, and the District of Columbia, to the extent that it is consistent with any dollar or other restrictions established in individual warrants. This authority expires on September 30, 2004.

(b) Contracts awarded under the PA may be awarded directly to the 8(a) participant on either a sole source or competitive basis. An SBA signature on the contract is not required.

(c) Notwithstanding the PA, the contracting officer may elect to award a contract pursuant to the provisions of FAR Subpart 19.8.

3. Section 219.804–2 is revised to read as follows:

### 219.804–2 Agency offering.

(1) For requirements processed under the PA cited in 219.800 (but see paragraph (2) of this subsection for procedures related to purchase orders that do not exceed the simplified acquisition threshold), the notification to the SBA must clearly indicate that the requirement is being processed under the PA. All notifications should be submitted in writing, using facsimile or electronic mail, when possible, and must specify that—

(i) Under the PA, an SBA acceptance or rejection of the offering is required within 5 working days of receipt of the offering; and

(ii)(A) For sole source requirements, an SBA acceptance must include a size verification and a determination of the 8(a) firm's program eligibility, and, upon acceptance, the contracting officer will solicit a proposal, conduct negotiations, and make award directly to the 8(a) firm; or

(B) For competitive requirements, upon acceptance, the contracting officer will solicit offers, conduct source selection, and, upon receipt of an eligibility verification, award a contract directly to the selected 8(a) firm.

(2) Under the PA cited in 219.800, no separate agency offering or SBA acceptance is needed for requirements that are issued under purchase orders that do not exceed the simplified acquisition threshold. After an 8(a) contractor has been identified, the contracting officer must establish the prices, terms, and conditions with the 8(a) contractor and must prepare a purchase order consistent with the procedures in Part 213 and FAR Part 13, including the applicable clauses required by this subpart. No later than the day that the purchase order is provided to the 8(a) contractor, the contracting officer must provide to the cognizant SBA Business Opportunity Specialist, using facsimile, electronic mail, or any other means acceptable to the SBA district office—

(i) A copy of the signed purchase order; and

(ii) A notice stating that the purchase order is being processed under the PA. The notice also must indicate that the 8(a) contractor will be deemed eligible for award and will automatically begin work under the purchase order unless, within 2 working days after SBA's receipt of the purchase order, the 8(a) contractor and the contracting officer are notified that the 8(a) contractor is ineligible for award.

(3) The notification to SBA must identify any joint venture proposed for performance of the contract. SBA must approve a joint venture before award of an 8(a) contract involving the joint venture.

(4) For competitive requirements for construction to be performed overseas, submit the notification to SBA Headquarters.

### 219.804–3 [Amended]

4. Section 219.804–3 is amended by removing “MOU” and adding in its place “PA”.

5. Section 219.805–2 is amended by revising paragraph (c) introductory text and paragraph (c)(ii) to read as follows:

**219.805–2 Procedures.**

(c) For requirements processed under the PA cited in 219.800—  
 \* \* \* \* \*

(ii) For negotiated acquisitions, the contracting officer may submit a request for an eligibility determination on all firms in the competitive range if discussions are to be conducted, or on all firms with a realistic chance of award if no discussions are to be conducted.

**219.806 [Amended]**

6. Section 219.806 is amended as follows:

- a. In the introductory text, by removing “MOU” and adding in its place “PA”;
- b. In paragraph (1), by removing “shall” and adding in its place “must”; and
- c. In paragraph (2), in the last sentence, by removing “shall” and adding in its place “must”.

**219.808–1 [Amended]**

7. Section 219.808–1 is amended in the introductory text by removing “MOU” and adding in its place “PA”.

**219.811–1 [Amended]**

8. Section 219.811–1 is amended as follows:

- a. In paragraph (a), in the first sentence, by removing “MOU” and adding in its place “PA” and by removing “shall” and adding in its place “must”;
- b. In paragraph (a), in the second and last sentences by removing “shall” and adding in its place “must”; and
- c. In paragraph (b) introductory text, by removing “MOU” and adding in its place “PA”.

**219.811–2 [Amended]**

9. Section 219.811–2 is amended by removing “MOU” and adding in its place “PA” and by removing “shall” and adding in its place “must”.

**219.811–3 [Amended]**

10. Section 219.811–3 is amended in paragraphs (1) and (2) by removing “MOU” and adding in its place “PA”.

**219.812 [Amended]**

11. Section 219.812 is amended in paragraph (d), in the first sentence, by removing “MOU” and adding in its place “PA”.

**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

12. Section 252.219–7009 is amended by revising the clause date, paragraph

(a), and paragraph (c) introductory text to read as follows:

**252.219–7009 Section 8(a) direct award.**

As prescribed in 219.811–3(1), use the following clause:

**Section 8(a) Direct Award (Mar 2002)**

(a) This contract is issued as a direct award between the contracting office and the 8(a) Contractor pursuant to the Partnership Agreement dated February 1, 2002, between the Small Business Administration (SBA) and the Department of Defense. Accordingly, the SBA, even if not identified in Section A of this contract, is the prime contractor and retains responsibility for 8(a) certification, for 8(a) eligibility determinations and related issues, and for providing counseling and assistance to the 8(a) Contractor under the 8(a) Program. The cognizant SBA district office is:

[To be completed by the Contracting Officer at the time of award]  
 \* \* \* \* \*

(c) The 8(a) Contractor agrees that—  
 \* \* \* \* \*

[FR Doc. 02–5952 Filed 3–13–02; 8:45 am]

**BILLING CODE 5001–08–P**

**DEPARTMENT OF DEFENSE****48 CFR Part 225****[DFARS Case 2002–D006]****Defense Federal Acquisition Regulation Supplement; Restriction on Acquisition of Vessel Propellers**

**AGENCY:** Department of Defense (DoD).  
**ACTION:** Final rule.

**SUMMARY:** DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to clarify that the statutory restriction on acquisition of vessel propellers from foreign sources applies only to DoD contracts that use fiscal year 2000 or 2001 funds.

**EFFECTIVE DATE:** March 14, 2002.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, Defense Acquisition Regulations Council, OUSD(AT&L)DP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0328; facsimile (703) 602–0350. Please cite DFARS Case 2002–D006.

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

The restriction on acquisition of vessel propellers at DFARS 225.7020

implements Section 8064 of the DoD Appropriations Act for Fiscal Year 2001 (Public Law 106–259). Section 8064 provides that no funds appropriated in fiscal year 2000 or 2001 may be used for the procurement of vessel propellers other than those produced by a domestic source and of domestic origin. The DoD Appropriations Act for Fiscal Year 2002 (Public Law 107–117) contains no such provision. Therefore, this final rule amends DFARS 225.7020 to clarify that the restriction applies only to DoD contracts that use fiscal year 2000 or 2001 funds.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

**B. Regulatory Flexibility Act**

This rule will not have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of DoD. Therefore, publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2002–D006.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the rule does not impose any 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 Part 225**

Government procurement.

**Michele P. Peterson,**  
*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, 48 CFR part 225 is amended as follows:

1. The authority citation for 48 CFR part 225 continues to read as follows:

**Authority:** 41 U.S.C. 421 and 48 CFR Chapter 1.

**PART 225—FOREIGN ACQUISITION**

2. Section 225.7020–4 is amended by revising the introductory text to read as follows:

**225.7020–4 Contract clause.**

Use the clause at 252.225–7023, Restriction on Acquisition of Vessel Propellers, in solicitations and contracts that use fiscal year 2000 or 2001 funds