

Item XIV—Technical Amendments

Editorial changes are made at FAR 15.404-1 and 52.212-5.

Dated: September 9, 2008

Al Matera,

Director, Office of Acquisition Policy.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 2005-27 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005-27 is effective October 17, 2008, except for Items VII, VIII, IX, X, XIII, and XIV which are effective September 17, 2008.

Dated: September 5, 2008.

Shay D. Assad,

Director, Defense Procurement and Acquisition Policy.

Dated: September 8, 2008.

David A. Drabkin,

Senior Procurement Executive & Deputy Chief Acquisition Officer, Office of the Chief Acquisition Officer, U.S. General Services Administration.

Dated: August 26, 2008.

William P. McNally,

Assistant Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. E8-21383 Filed 9-16-08; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2 and 52

[FAC 2005-27; FAR Case 2007-020; Item I; Docket 2008-0001; Sequence 15]

RIN 9000-AL06

Federal Acquisition Regulation; FAR Case 2007-020, Correcting Statutory References Related to the Higher Education Act of 1965

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) to correct references to sections of the Higher Education Act of 1965 at FAR 2.101 and 52.2. These sections of the Act contain the definitions of minority institution and Hispanic-serving institution. The citations for these sections changed when the Higher Education Act of 1965 was amended by the Higher Education Amendments of 1998. This final rule updates the FAR accordingly.

DATES: *Effective Date:* October 17, 2008.

FOR FURTHER INFORMATION CONTACT: Ms. Rhonda Cundiff, Procurement Analyst, at (202) 501-0044, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501-4755. Please cite FAC 2005-27, FAR case 2007-020.

SUPPLEMENTARY INFORMATION:

A. Background

The definition of “minority institution” had been found in section 1046 of the Higher Education Act of 1965 (HEA) and at 20 U.S.C. 1135d-5(3). The Higher Education Amendments of 1998 redesignated section 1046 of the HEA as section 365.

The Hispanic-serving Institution Program was authorized in section 316 of Title III of the HEA, as amended by 1992 amendments. In the Higher Education Amendments of 1998, Pub. L. 105-244, the Hispanic-serving institution Program was moved into Title V of the HEA and reenacted, in that title, with all the relevant provisions that governed that program while it was part of Title III of the HEA. This final rule reflects these changes.

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 rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule. This final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Pub. L. 98-577, and publication for public comments is not required. However, the Councils will consider comments from small entities concerning the affected FAR Parts 2 and 52 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 2005-27, FAR case 2007-020, in correspondence.)

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose 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 Parts 2 and 52

Government procurement.

Dated: September 9, 2008.

Al Matera,

Director, Office of Acquisition Policy.

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 2 and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 2 and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 2. Amend section 2.101 in paragraph (b)(2) by revising the definition “Minority Institution” to read as follows:

2.101 Definitions.

* * * * *
(b) * * *
(2) * * *

Minority Institution means an institution of higher education meeting the requirements of Section 365(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k), including a Hispanic-serving institution of higher education, as defined in Section 502(a) of the Act (20 U.S.C. 1101a).

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PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Amend section 52.212-5 by revising the date of the clause and paragraph (b)(11)(i) to read as follows:

52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

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CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIALS ITEMS (OCT 2008)

* * * * *
(b) * * *

____ (11)(i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (OCT 2008) (10 U.S.C. 2323)(if the offeror elects to waive the adjustment, it shall so indicate in its offer.)

* * * * *

■ 4. Amend section 52.219–23 by revising the date of the clause and in paragraph (a) the definition “Minority institution” to read as follows:

52.219–23 Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns.

* * * * *

NOTICE OF PRICE EVALUATION
ADJUSTMENT FOR SMALL
DISADVANTAGED BUSINESS CONCERNS
(OCT 2008)

(a) * * *

Minority institution means an institution of higher education meeting the requirements of Section 365(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k), including a Hispanic-serving institution of higher education, as defined in Section 502(a) of the Act (20 U.S.C. 1101a).

* * * * *

■ 5. Amend section 52.226–2 by revising the date of the provision and in paragraph (a) the definition “Minority institution” to read as follows:

52.226–2 Historically Black College or University and Minority Institution Representation.

* * * * *

HISTORICALLY BLACK COLLEGE OR
UNIVERSITY AND MINORITY
INSTITUTION REPRESENTATION (OCT
2008)

(a) * * *

Minority institution means an institution of higher education meeting the requirements of Section 365(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k), including a Hispanic-serving institution of higher education, as defined in Section 502(a) of the Act (20 U.S.C. 1101a).

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DEPARTMENT OF DEFENSE

**GENERAL SERVICES
ADMINISTRATION**

**NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION**

48 CFR Parts 2 and 19

[FAC 2005–27; FAR Case 2008–001; Item II; Docket 2008–001; Sequence 12]

RIN 9000–AL04

Federal Acquisition Regulation; FAR Case 2008–001, Changing the Name of the Office of Small and Disadvantaged Business Utilization for DoD

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) to change the name of the “Office of Small and Disadvantaged Business Utilization” to the “Office of Small Business Programs” for the Department of Defense.

DATES: *Effective Date: October 17, 2008.*

FOR FURTHER INFORMATION CONTACT: Ms. Rhonda Cundiff, Procurement Analyst, at (202) 501–0044 for clarification of content. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755. Please cite FAC 2005–27, FAR case 2008–001.

SUPPLEMENTARY INFORMATION:

A. Background

Section 904 of the National Defense Authorization Act for Fiscal Year 2006, Public Law 109–163, re-designated the “Office of Small and Disadvantaged Business Utilization” to the “Office of Small Business Programs” for the Department of Defense, and the Departments of the Army, the Navy, and the Air Force. The office name change, as well as the change in the title of the director of the office, must be noted in the FAR. This case amends the FAR to make the necessary changes.

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 rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule. This final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comments is not required. However, the Councils will consider comments from small entities concerning the affected FAR Parts 2 and 19 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 2005–27, FAR case 2008–001), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose 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 Parts 2 and 19

Government procurement.

Dated: September 9, 2008.

Al Matera,

Director, Office of Acquisition Policy.

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 2 and 19 as set forth below:

■ 1. The authority citation for 48 CFR parts 2 and 19 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 2. Amend section 2.101 in paragraph (b)(2) by adding, in alphabetical order, the definition “Office of Small and Disadvantaged Business Utilization” to read as follows:

2.101 Definitions.

* * * * *

(b) * * *

(2) * * *

Office of Small and Disadvantaged Business Utilization means the Office of Small Business Programs when referring to the Department of Defense.

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PART 19—SMALL BUSINESS PROGRAMS

■ 3. Amend section 19.201 by revising the introductory text of paragraph (d) and paragraph (d)(1) to read as follows:

19.201 General policy.

* * * * *

(d) The Small Business Act requires each agency with contracting authority to establish an Office of Small and Disadvantaged Business Utilization (see section (k) of the Small Business Act). For the Department of Defense, in accordance with the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163), the Office of Small and Disadvantaged Business Utilization has been redesignated as the Office of Small Business Programs. Management of the office shall be the responsibility of an officer or employee of the agency who shall, in carrying out the purposes of the Act—

(1) Be known as the Director of Small and Disadvantaged Business Utilization, or for the Department of Defense, the Director of Small Business Programs;

* * * * *

■ 3. Amend section 19.702 by revising the second and third sentences of paragraph (d) to read as follows: