

52.219–30 Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program.

As prescribed in 19.1508(b), insert the following clause:

Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under The Women-Owned Small Business Program (MAR 2020)

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(b) * * *

(4) Orders issued directly to WOSB concerns eligible under the WOSB Program under multiple-award contracts as described in 19.504(c)(1)(ii).

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(d) *Limitations on subcontracting.* * * *

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(e) A WOSB concern eligible under the WOSB Program shall comply with the limitations on subcontracting as follows:

(1) For contracts, in accordance with paragraphs (b)(1) and (2) of this clause—
[Contracting Officer check as appropriate.]

By the end of the base term of the contract and then by the end of each subsequent option period; or

By the end of the performance period for each order issued under the contract.

(2) For orders, in accordance with paragraphs (b)(3) and (4) of this clause, by the end of the performance period for the order.

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■ 99. Add section 52.219–31 to read as follows:

52.219–31 Notice of Small Business Reserve.

As prescribed in 19.507(g)(1), insert the following provision:

Notice of Small Business Reserve (MAR 2020)

(a) This solicitation contains a reserve for one or more small business concerns identified at 19.000(a)(3). The small business program eligibility requirements apply.

(b) The small business concern(s) eligible for participation in the reserve shall submit one offer that addresses each portion of the solicitation for which it wants to compete. Award of the contract will be based on criteria identified elsewhere in the solicitation.

(End of provision)

■ 100. Add section 52.219–32 to read as follows:

52.219–32 Orders Issued Directly Under Small Business Reserves.

As prescribed in 19.507(g)(2), insert the following clause:

Orders Issued Directly Under Small Business Reserves (MAR 2020)

(a) *Applicability.* This clause applies only to contracts that were reserved for any of the small business concerns identified at 19.000(a)(3).

(b) If there is only one contract award to any one type of small business concern

identified in 19.000(a)(3) as a result of the reserve, the Contracting Officer may issue an order or orders directly to the concern.

(End of clause)

■ 101. Add section 52.219–33 to read as follows:

52.219–33 Nonmanufacturer Rule.

As prescribed in 19.507(h), insert the following clause:

Nonmanufacturer Rule (MAR 2020)

(a) This clause does not apply to the unrestricted portion of a partial set-aside.

(b) *Applicability.* This clause applies to—
(1) Contracts that have been set aside, in total or in part;

(2) Orders under multiple-award contracts as described in 8.405–5 and 16.505(b)(2)(i)(F) that have been set aside for any of the small business concerns identified in 19.000(a)(3); and

(3) Orders issued directly to any of the small business concerns identified in 19.000(a)(3) under multiple-award contracts as described in 19.504(c)(1)(ii).

(c)(1) The Contractor shall—

(i)(A) Provide the end item of a small business manufacturer, or if set aside or awarded on a sole source basis to a HUBZone small business, provide the end item of a HUBZone small business manufacturer, that has been manufactured or produced in the United States or its outlying areas; or

(B) If this procurement is an order as described in 8.405–5 or 16.505(b)(2)(i)(F) or processed under simplified acquisition procedures (see part 13), and the total amount does not exceed \$25,000, provide the end item of any domestic manufacturer;

(ii) Not exceed 500 employees;

(iii) Be primarily engaged in the retail or wholesale trade and normally sell the type of item being supplied; and

(iv) Take ownership or possession of the item(s) with its personnel, equipment, or facilities in a manner consistent with industry practice.

(2) In addition to the requirements set forth in paragraph (c)(1) of this clause, when the end item being acquired is a kit of supplies or other goods, 50 percent of the total value of the components of the kit shall be manufactured in the United States or its outlying areas by small business concerns. Where the Government has specified an item for the kit which is not produced by U.S. small business concerns, such items shall be excluded from the 50 percent calculation. See 13 CFR 121.406(c) for further information regarding nonmanufacturers.

(3) For size determination purposes, there can be only one manufacturer of the end product being acquired. For the purposes of the nonmanufacturer rule, the manufacturer of the end product being acquired is the concern that transforms raw materials and/or miscellaneous parts or components into the end product. Firms which only minimally alter the item being procured do not qualify as manufacturers of the end item, such as firms that add substances, parts, or components to an existing end item to modify its performance, will not be considered the end item manufacturer, where

those identical modifications can be performed by and are available from the manufacturer of the existing end item. See 13 CFR 121.406 for further information regarding manufacturers.

(End of clause)

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR–2020–0051, Sequence No. 1]

Federal Acquisition Regulation; Federal Acquisition Circular 2020–05; Small Entity Compliance Guide

AGENCY: 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 DOD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rule appearing in Federal Acquisition Circular (FAC) 2020–05, which amends the Federal Acquisition Regulation (FAR). An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding this rule by referring to FAC 2020–05, which precedes this document. These documents are also available via the internet at <http://www.regulations.gov>.

DATES: February 27, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Mahruba Uddowla, Procurement Analyst, at 703–605–2868 or by email at mahruba.uddowla@gsa.gov for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite FAC 2020–05, FAR Case 2014–002.

RULE LISTED IN FAC 2020-05

| Subject | FAR Case | Analyst |
|--|----------|----------|
| * Set-Asides Under Multiple-Award Contracts. | 2014-002 | Uddowla. |

SUPPLEMENTARY INFORMATION: A summary for the FAR rule follows. For the actual revisions and/or amendments made by this FAR case, refer to the specific subject set forth in the document following this item summary. FAC 2020-05 amends the FAR as follows:

Set-Asides Under Multiple-Award Contracts (FAR Case 2014-002)

This final rule amends the FAR to implement regulatory changes made by the Small Business Administration (SBA) in its final rule at 78 FR 61114 on October 2, 2013. SBA’s final rule

implements the statutory requirements set forth at section 1331 of the Small Business Jobs Act of 2010 (15 U.S.C. 644(r)). Section 1331 provided authority for three acquisition techniques to facilitate contracting with small businesses on multiple-award contracts:

- (1) Setting aside part or parts of the requirement for small businesses.
- (2) Reserving one or more contract awards for small business concerns under full and open multiple-award procurements.
- (3) Setting aside orders placed against multiple-award contracts, notwithstanding the fair opportunity requirements of 10 U.S.C. 2304c(b) and 41 U.S.C. 4106(c).

This final rule provides contracting officers additional guidance on the use of partial set-asides, reserves, and set-asides of orders under multiple-award contracts. This final rule may have a positive economic impact on any small

business entity that wishes to participate in the Federal marketplace. The section 1331 authorities are expected to provide small businesses greater access to multiple-award contracts, including orders issued against such contracts. There is an upward adjustment to the annual burden associated with an existing information collection, to account for size and socioeconomic status rerepresentations for individual task and delivery orders.

This rule also finalizes the interim rule published November 2, 2011, under FAR Case 2011-024.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

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