

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Sulfur oxides.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 29, 2020.

Gregory Sopkin,

Regional Administrator, Region 8.

[FR Doc. 2020–12060 Filed 6–4–20; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 9, 15, 19, and 52

[FAR Case 2017–019; Docket No. FAR–2017–0019, Sequence No. 1]

RIN 9000–AN59

Federal Acquisition Regulation: Policy on Joint Ventures

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

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement statutory and regulatory changes regarding joint ventures made by the Small Business Administration (SBA) in its final rule published in the **Federal Register** on July 25, 2016, and to clarify that 8(a) joint ventures are not certified into the 8(a) program and that 8(a) joint venture agreements need only be approved by the SBA prior to contract award.

DATES: Interested parties should submit written comments at the address shown below on or before August 4, 2020 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR Case 2017–019 to

Regulations.gov: <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching for “FAR Case 2017–019.” Select the link “Comment Now” that corresponds with FAR Case 2017–019. Follow the instructions provided at the “Comment Now” screen. Please include your name, company name (if any), and “FAR Case 2017–019” on your attached document. If your comment cannot be submitted using <https://www.regulations.gov>, call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Instructions: Please submit comments only and cite FAR Case 2017–019, in all correspondence related to this case. Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Ms. Malissa Jones, Procurement Analyst, at 703–605–2815 or by email at Malissa.Jones@gsa.gov for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or GSARegSec@gsa.gov. Please cite FAR Case 2017–019.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are proposing to revise the FAR to implement statutory and regulatory changes made by the Small Business Administration (SBA) regarding joint ventures. These changes allow a joint venture comprised of a protégé and its mentor to qualify as a small business or under a socioeconomic program (e.g., 8(a)) for which the protégé qualifies. These changes also provide updated requirements for other joint ventures to qualify as a small business or under a socioeconomic program.

Section 1347 of the Small Business Jobs Act of 2010 (Pub. L. 111–240) and section 1641 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 (Pub. L. 112–239; 15 U.S.C. 657r) authorized the SBA Administrator to establish mentor-protégé programs for small business concerns, service-disabled veteran-owned small business (SDVOSB) concerns, women-owned small business concerns in the Women-Owned Small Business (WOSB) Program, and HUBZone small business concerns

modeled on the mentor-protégé program under section 8(a) of the Small Business Act (15 U.S.C. 637(a)). On July 25, 2016, SBA issued a final rule (81 FR 48558) that implemented the mentor-protégé programs at 13 CFR 125.9. SBA’s final rule allows a joint venture comprised of a protégé and its mentor to seek any type of small business contract, including under a socioeconomic program, for which the protégé qualifies.

SBA’s final rule updated requirements for a joint venture to qualify as a small business concern or under a socioeconomic program. A joint venture qualifies as a small business concern when each of the parties to the joint venture qualifies as small for the size standard associated with the North American Industry Classification System (NAICS) code in the solicitation. A joint venture may qualify under a socioeconomic program when at least one party to the joint venture qualifies under a socioeconomic program, and the joint venture meets the applicable joint venture requirements specified in the SBA regulations.

SBA’s final rule also revised the joint venture regulations at 13 CFR 124.513 for 8(a) participants, 125.18(b) for SDVOSBs; 126.616 for HUBZone small business concerns; and 127.506 for WOSB and economically disadvantaged WOSB concerns. SBA required agencies to consider past performance of each party to a small business joint venture in addition to any work performed by the joint venture itself.

DoD, GSA, and NASA are proposing to amend the FAR to require contracting officers to consider the past performance of the joint venture, and to consider the past performance of each party to the joint venture if the joint venture does not demonstrate past performance. For consistency and fairness, DoD, GSA, and NASA are proposing to amend the FAR to apply this requirement to joint ventures regardless of size status.

Additionally, DoD, GSA, and NASA are proposing to amend the FAR to clarify that 8(a) joint ventures are not certified into the 8(a) program and that 8(a) joint venture agreements need only be approved by the SBA prior to contract award. This clarification is necessary because Government Accountability Office (GAO) sustained a protest (BGI-Fiore JV, LLC, B–409520, May 29, 2014) in which an agency rejected an 8(a) joint venture’s proposal on the basis that the 8(a) joint venture had not been certified by the SBA prior to submission of proposals. Currently, paragraph (a) of the clause at FAR 52.219–18, Notification of Competition

Limited to Eligible 8(a) Concerns, states that, “Offers are solicited only from small business concerns expressly certified by the Small Business Administration (SBA) for participation in the SBA’s 8(a) program and which meet the following criteria at the time of submission of offer” This language could be interpreted to mean that 8(a) joint ventures that submit an offer for an 8(a) contract need to be “certified” by the SBA and that their joint venture agreement needs to be approved by the SBA by “the time of submission of offer.” This rule proposes clarifications to prevent the improper elimination of 8(a) joint venture proposals in the future.

II. Discussion and Analysis

The proposed changes to the FAR are summarized in the following paragraphs.

A. *Definition of “small business concern.”* The definition of “small business concern” is revised in subpart 2.1, as well as in the following provisions and clauses: FAR 52.212–3, Offeror Representations and Certification—Commercial Items; FAR 52.219–1, Small Business Program Representations; FAR 52.219–8, Utilization of Small Business Concerns; and FAR 52.219–28, Post-Award Small Business Program Rerepresentation. This revision removes extraneous material concerning how to determine whether a small business concern is “not dominant in its field of operation.” That determination is made by SBA and is addressed in SBA regulations at 13 CFR 121.102(b).

B. *Consideration of past performance of parties to a joint venture.* This rule clarifies that the contracting officer shall consider the past performance of the joint venture. If the joint venture does not demonstrate past performance for award, the contracting officer shall consider the past performance of each party to the joint venture when making a responsibility determination and when past performance is an evaluation factor for source selection. This clarification is made in subpart 9.1, Responsible Prospective Contractors, and in subpart 15.3, Source Selection.

C. *Qualification of joint ventures as small business concerns.* Subpart 19.3, Determination of Small Business Status for Small Business Programs, is amended to address how a joint venture may qualify for an award as a small business concern or under the socioeconomic programs. A joint venture may qualify as a small business concern if each participant in the joint venture qualifies as small under the size standard for the solicitation; or the

protégé is small under the size standard for the solicitation in a joint venture comprised of a mentor and protégé with an approved agreement under a SBA mentor-protégé program. A joint venture may qualify under socioeconomic programs when the joint venture qualifies as a small business joint venture and one of the parties to the joint venture qualifies under one or more of the socioeconomic programs. Similar text is added to subparts 19.13, Historically Underutilized Business Zone (HUBZone) Program; 19.14, Service-Disabled Veteran-Owned Small Business Procurement Program; and 19.15, Women-Owned Small Business Program. Similar text is also added to the following provisions and clauses: FAR 52.212–3, Offeror Representations and Certifications—Commercial Items; FAR 52.219–1, Small Business Program Representations; FAR 52.219–8, Utilization of Small Business Concerns; FAR 52.219–18, Notification of Competition Limited to Eligible 8(a) Participants; FAR 52.219–27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside; FAR 52.219–29, Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns; and FAR 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.

D. *Subpart 19.7, The Small Business Subcontracting Program.* This subpart is amended to remove instructions for contractors that already exist in the clause at FAR 52.219–8, Utilization of Small Business Concerns.

E. *Subpart 19.8, Contracting with the Small Business Administration (the 8(a) Program).* This subpart is amended to add language to FAR sections 19.804–3, SBA acceptance, and 19.805–2, Procedures, to clarify that at least one party to the joint venture must be certified as an 8(a) program participant at the time of proposal submission and that the 8(a) joint venture agreement shall be approved prior to contract award. In addition, pursuant to 13 CFR 124.503 and 13 CFR 124.507, language is added to clarify the general time period within which SBA expects to approve the joint venture agreement prior to award and the procedure to follow if a response is not received within that time period. The rule also proposes to delete text from 19.805–2(b) relating to how SBA determines eligibility because it creates confusion regarding the timing of SBA’s determination.

F. *Performance requirement for certain joint ventures.* This rule

proposes to amend the following contract clauses to add the requirement that certain small business or socioeconomic parties to a joint venture perform 40 percent of the work performed by the joint venture and that the work performed must be more than administrative functions: FAR 52.219–3, Notice of HUBZone Set-Aside or Sole Source Award; FAR 52.219–4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns; FAR 52.219–14, Limitations on Subcontracting; FAR 52.219–27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside; FAR 52.219–29, Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns; and FAR 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.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Items, Including Commercially Available Off-the-Shelf (COTS) Items

This rule proposes to amend subparts 2.1, Definitions, 9.1, Responsible Prospective Contractors, and 15.3, Source Selection; multiple subparts of part 19, Small Business Programs; and multiple provisions and clauses related to small business programs. The objective of this rule is to update the FAR to align with SBA regulations regarding joint ventures and to provide clarifications for 8(a) joint ventures.

The Federal Acquisition Regulatory (FAR) Council has made the following preliminary determinations with respect to the proposed rule’s application of section 1641 of the NDAA for FY 2013 to contracts at or below the simplified acquisition threshold (SAT) and for the acquisition of commercial items. The Administrator for Federal Procurement Policy has made the following preliminary determination with respect to commercially available off-the-shelf (COTS) items. Discussion of these preliminary determinations is set forth below. The FAR Council will consider public feedback before making a final determination on the scope of the final rule.

A. Applicability to Contracts at or Below the SAT

Pursuant to 41 U.S.C. 1905, a provision of law is not applicable to acquisitions at or below the SAT unless the law (i) contains criminal or civil penalties; (ii) specifically refers to 41 U.S.C. 1905 and states that the law

applies to acquisitions at or below the SAT; or (iii) the FAR Council makes a written determination that it is not in the best interest of the Federal Government to exempt contracts or subcontracts at or below the SAT. If none of these conditions are met, the FAR is required to include the statutory requirement(s) on a list of provisions of law that are inapplicable to acquisitions at or below the SAT.

The purpose of this rule is to implement section 1641 of the NDAA for FY 2013. Section 1641 authorized the SBA Administrator to establish mentor-protégé programs for small business concerns, SDVOSB concerns, WOSB concerns in the WOSB Program, and HUBZone small business concerns modeled on the mentor-protégé program under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

These statutory requirements are reflected in SBA's final rule published in the **Federal Register** at 81 FR 48558, on July 25, 2016, which did not exempt acquisitions at or below the SAT.

The law is silent on the applicability of these requirements to acquisitions at or below the SAT and does not independently provide for criminal or civil penalties; nor does it include terms making express reference to 41 U.S.C. 1905 and its application to acquisitions at or below the SAT. Therefore, it does not apply to acquisitions at or below the SAT unless the FAR Council makes a written determination as provided at 41 U.S.C. 1905.

Application of the law to acquisitions at or below the SAT will ensure that the benefits from socioeconomic set-aside and sole source contracts flow to the intended parties. According to the Federal Procurement Data System, an average of 283,374 contracts per year resulted from FAR part 19 set-asides and sole-source awards at or below the simplified acquisition threshold during fiscal years 2016–2018. Not applying section 1641 to the maximum extent possible would exclude a significant number of acquisitions and impede the Administration's objectives to assist small businesses, including SDVOSB, HUBZone small business, and WOSB concerns, to succeed in enhancing their capabilities and improving their ability to successfully compete for both Government and commercial contracts.

The provisions and clauses proposed for revision in this rule currently apply to all solicitations and contracts, as applicable, including those at or below the SAT. The proposed rule continues the existing applicability to solicitations and contracts below the SAT, while revising these clauses to implement the requirements of section 1641 concerning

joint ventures. Exclusion of these acquisitions would create confusion among contractors and the Federal contracting workforce. Under the FAR clauses amended by this rule, contractors are already required to comply with small business program set-aside requirements. The effort required for contractors to comply with the new requirements will be relatively small.

For these reasons, it is in the best interest of the Federal Government to apply the requirements of the rule to acquisitions at or below the SAT.

B. Applicability to Contracts for the Acquisition of Commercial Items

Pursuant to 41 U.S.C. 1906, acquisitions of commercial items (other than acquisitions of COTS items, which are addressed in 41 U.S.C. 1907) are exempt from a provision of law unless the law (i) contains criminal or civil penalties; (ii) specifically refers to 41 U.S.C. 1906 and states that the law applies to acquisitions of commercial items; or (iii) the FAR Council makes a written determination and finding that it would not be in the best interest of the Federal Government to exempt contracts for the procurement of commercial items from the provision of law. If none of these conditions are met, the FAR is required to include the statutory requirement(s) on a list of provisions of law that are inapplicable to acquisitions of commercial items.

The purpose of this rule is to implement section 1641 of the NDAA for FY 2013. Section 1641 allows a joint venture comprised of a protégé and its mentor to qualify as a small business or under a socioeconomic program for which the protégé qualifies and implements SBA regulations establishing mentor-protégé programs for small business concerns, SDVOSB concerns, WOSB concerns in the WOSB Program, and HUBZone small business concerns modeled on the mentor-protégé program under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

These statutory requirements are reflected in SBA's final rule published in the **Federal Register** at 81 FR 48558, on July 25, 2016, which did not exempt acquisitions of commercial items.

The law is silent on the applicability of these requirements to acquisitions of commercial items and does not independently provide for criminal or civil penalties; nor does it include terms making express reference to 41 U.S.C. 1906 and its application to acquisitions of commercial items. Therefore, it does not apply to acquisitions of commercial items unless the FAR Council makes a

written determination as provided at 41 U.S.C. 1906.

The law furthers the Administration's goal of supporting small business. It advances the interests of small business concerns by allowing for more joint ventures that include a small business to qualify as a small business or under a socioeconomic program. Therefore, more small businesses can qualify for set-aside procurements. Exclusion of a large segment of Federal contracting, such as acquisitions for commercial items, will limit the full implementation of these objectives.

The provisions and clauses proposed for revision in this rule currently apply to all solicitations and contracts, as applicable, including those for acquisition of commercial items. The proposed rule continues the existing applicability to the acquisition of commercial items as defined at FAR 2.101. Exclusion of acquisitions for commercial items from these requirements would create confusion among contractors and the Federal contracting workforce. Under the FAR clauses amended by this rule, contractors are already required to comply with small business program set-aside requirements. The effort required for contractors to comply with the new requirements will be relatively small.

For these reasons, it is in the best interest of the Federal Government to apply the requirements of the rule to the acquisition of commercial items.

C. Applicability to Contracts for the Acquisition of COTS Items

Pursuant to 41 U.S.C. 1907, acquisitions of COTS items will be exempt from a provision of law unless the law (i) contains criminal or civil penalties; (ii) specifically refers to 41 U.S.C. 1907 and states that the law applies to acquisitions of COTS items; (iii) concerns authorities or responsibilities under the Small Business Act (15 U.S.C. 644) or bid protest procedures developed under the authority of 31 U.S.C. 3551 *et seq.*, 10 U.S.C. 2305(e) and (f), or 41 U.S.C. 3706 and 3707; or (iv) the Administrator for Federal Procurement Policy makes a written determination and finding that it would not be in the best interest of the Federal Government to exempt contracts for the procurement of COTS items from the provision of law. If none of these conditions are met, the FAR is required to include the statutory requirement(s) on a list of provisions of law that are inapplicable to acquisitions of COTS items.

The purpose of this rule is to implement section 1641 of the NDAA

for FY 2013. Section 1641 allows a joint venture comprised of a protégé and its mentor to qualify as a small business or under a socioeconomic program for which the protégé qualifies, and implements SBA regulations establishing mentor-protégé programs for small business concerns, SDVOSB concerns, WOSB concerns in the WOSB Program, and HUBZone small business concerns modeled on the mentor-protégé program under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

These statutory requirements are reflected in SBA's final rule published in the **Federal Register** at 81 FR 48558, on July 25, 2016, which did not exempt acquisitions of COTS items.

The law is silent on the applicability of these requirements to acquisitions of COTS items and does not independently provide for criminal or civil penalties; nor does it include terms making express reference to 41 U.S.C. 1907 and its application to acquisitions of COTS items. Therefore, it does not apply to acquisitions of COTS items unless the Administrator for Federal Procurement Policy makes a written determination as provided at 41 U.S.C. 1907.

Section 1641 furthers the Administration's goal of supporting small business. It advances the interests of small business concerns by allowing for more joint ventures that include a small business to qualify as a small business concern or under a socioeconomic program. Therefore, more small businesses can qualify for set-aside procurements. Exclusion of a large segment of Federal contracting, such as acquisitions for COTS items, will limit the full implementation of these objectives.

The provisions and clauses proposed for revision in this rule currently apply to all solicitations and contracts, as applicable, including those for acquisition of COTS items. The proposed rule continues the existing applicability to the acquisition of COTS items as defined at FAR 2.101. Exclusion of these acquisitions would create confusion among contractors and the Federal contracting workforce. Under the FAR clauses amended by this rule, contractors are already required to comply with small business program set-aside requirements. The effort required for contractors to comply with the new requirements will be relatively small.

For these reasons, it is in the best interest of the Federal Government to apply the requirements of the rule to the acquisition of COTS items.

IV. 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.

V. Executive Order 13771

This rule is not expected to be subject to E.O. 13771, because this rule is not a significant regulatory action under E.O. 12866.

VI. Regulatory Flexibility Act

This proposed rule may 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.* The Initial Regulatory Flexibility Analysis (IRFA) is summarized as follows:

DoD, GSA, and NASA are proposing to amend the FAR to update joint venture requirements to align with the changes SBA made in its final rule dated July 25, 2016 (81 FR 48558), and to add clarifications regarding 8(a) joint ventures to address issues identified in a GAO protest decision (B-409520).

Section 1347 of the Small Business Jobs Act of 2010 and section 1641 of the NDAA for FY 2013 authorized SBA to establish mentor-protégé programs for small business concerns, service-disabled veteran-owned small business concerns, women-owned small business concerns in the Women-Owned Small Business (WOSB) Program, and HUBZone small business concerns. SBA issued a final rule (81 FR 48558) that implemented the mentor-protégé programs at 13 CFR 125.9. SBA's final rule allows a joint venture comprised of a protégé and its mentor to qualify as a small business or under a socioeconomic program for which the protégé qualifies. The rule also revised the requirements for joint ventures outside the mentor-protégé programs to qualify as small or for one of the socioeconomic programs. Updates are required in the FAR to reflect these regulatory changes.

On May 29, 2014, the GAO sustained a protest (B-409520, BGI-Fiore JV, LLC) because an 8(a) joint venture proposal was improperly eliminated on the grounds that the joint venture had not been certified for the 8(a) program by the SBA and that the joint venture agreement had not been

approved by the SBA by the time of offer submission. The procuring agency had interpreted existing text in the clause at FAR 52.219-18 to require 8(a) joint ventures be certified by SBA and for the joint venture agreement to be approved by SBA at time of offer submission. Clarification for contracting officers is necessary in the FAR to more clearly reflect SBA's regulations at 13 CFR 124.503(a), 124.507(b), and 124.513(e) as well as GAO's bid protest decision.

The proposed rule may 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.* This rule will impact small business joint ventures and small business entities in an SBA mentor-protégé program. Based on joint venture data in the System for Award Management (SAM), the estimated number of small business joint ventures is 3,500. Assuming that each joint venture includes 2 small businesses, the number of small entities impacted is 7,000. According to SBA's final rule, there are an estimated 2,000 pairs of mentors and protégés that may be impacted. Therefore, the estimated number of total small entities to which the rule applies is 9,000.

This proposed rule does not include any recordkeeping or other compliance requirements for small businesses. Joint ventures will be required to represent themselves as small businesses in accordance with the updated representation provisions at FAR 52.212-3 or 52.219-1. Representation is currently required for all small entities doing business with the Government; representation is not a new requirement. The number of options for the entities to select from has increased to include joint venture options; however the number of selections a small entity must make (*i.e.*, check boxes) has not increased. Therefore, the potential impact is minimal.

This rule may have a positive economic impact on small entities. The updated SBA regulations allow for more joint ventures that include a small business to qualify as a small business or under a socioeconomic program; and therefore, more small businesses can qualify for set-aside procurements.

This proposed rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known significant alternative approaches to the proposed rule.

The Regulatory Secretariat Division has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the SBA. A copy of the IRFA may be obtained from the Regulatory Secretariat Division. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit comments separately and should cite 5 U.S.C. 610

(FAR case 2017–019) in correspondence.

VII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) applies as this proposed rule contains information collection requirements. This rule affects the certification and information collection requirements in the provisions at FAR 52.212–3, Offeror Representations and Certifications—Commercial Items, and 52.204–7, System for Award Management, currently approved under OMB Control Numbers 9000–0136 and 9000–0097, respectively. The impact, however, is negligible because the public reporting burden for these collections remains unchanged from the approved burden.

List of Subjects in 48 CFR Parts 2, 9, 15, 19, and 52

Government procurement.

William F. Clark,

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

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 2, 9, 15, 19, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 2, 9, 15, 19, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 2. Amend section 2.101, in paragraph (b) by revising the definition of “Small business concern” to read as follows:

2.101 Definitions.

* * * * *

(b) * * *

Small business concern means a concern, including its affiliates, that is independently owned and operated, not dominant in its field of operation and qualified as a small business under the criteria and size standards in 13 CFR part 121 (see 19.102).

* * * * *

PART 9—CONTRACTOR QUALIFICATIONS

■ 3. Amend section 9.104–3 by redesignating paragraph (c) as paragraph (c)(1) and adding paragraph (c)(2) to read as follows:

9.104–3 Application of standards.

* * * * *

(c)(1) * * *

(2) *Joint ventures.* For a prospective contractor that is a joint venture, the

contracting officer shall consider the past performance of the joint venture. If the joint venture does not demonstrate past performance for award, the contracting officer shall consider the past performance of each party to the joint venture.

* * * * *

PART 15—CONTRACTING BY NEGOTIATION

■ 4. Amend section 15.305 by adding paragraph (a)(2)(vi) to read as follows:

15.305 Proposal evaluation.

(a) * * *

(2) * * *

(vi) For offerors that are joint ventures, the evaluation shall take into account past performance of the joint venture. If the joint venture does not demonstrate past performance for award, the contracting officer shall consider the past performance of each party to the joint venture.

* * * * *

PART 19—SMALL BUSINESS PROGRAMS

■ 5. Amend section 19.301–1 by revising paragraph (a) to read as follows:

19.301–1 Representation by the offeror.

(a)(1) To be eligible for award as a small business concern identified in 19.000(a)(3), an offeror is required to represent in good faith—

(i)(A) That it meets the small business size standard corresponding to the North American Industry Classification System (NAICS) code identified in the solicitation; or

(B) For a multiple-award contract where there is more than one NAICS code assigned, that it meets the small business size standard for each distinct portion or category (e.g., line item numbers, Special Item Numbers (SINs), sectors, functional areas, or the equivalent) for which it submits an offer. If the small business concern submits an offer for the entire multiple-award contract, it must meet the size standard for each distinct portion or category (e.g., line item number, SIN, sector, functional area, or equivalent); and

(ii) The Small Business Administration (SBA) has not issued a written determination stating otherwise pursuant to 13 CFR 121.1009.

(2)(i) A joint venture may qualify as a small business concern if the joint venture complies with the requirements of 13 CFR 121.103(h) and 13 CFR 125.8(a) and (b) and if—

(A) Each party to the joint venture qualifies as small under the size standard for the solicitation; or

(B) The protégé is small under the size standard for the solicitation in a joint venture comprised of a mentor and protégé with an approved mentor-protégé agreement under an SBA mentor-protégé program.

(ii) A joint venture may qualify for an award under the socioeconomic programs as described in subparts 19.8, 19.13, 19.14, and 19.15.

* * * * *

■ 6. Amend section 19.703 by revising paragraph (d) to read as follows:

19.703 Eligibility requirements for participating in the program.

* * * * *

(d) Protests challenging the socioeconomic status of a HUBZone small business concern must be filed in accordance with 13 CFR 126.801.

* * * * *

■ 7. Amend section 19.804–3, in paragraph (c) introductory text, by adding a sentence to the end of the paragraph to read as follows:

19.804–3 SBA acceptance.

* * * * *

(c) * * * For a joint venture, SBA will determine eligibility as part of its acceptance of a sole source requirement and will approve the joint venture agreement prior to award in accordance with 13 CFR 124.513(e).

* * * * *

■ 8. Amend section 19.805–2 by revising paragraph (b) introductory text, and adding paragraphs (d) and (e) to read as follows:

19.805–2 Procedures.

* * * * *

(b) The SBA will determine the eligibility of the apparent successful offeror. Eligibility is based on section 8(a) program criteria. See paragraphs (d) and (e) of this section regarding eligibility of joint ventures.

* * * * *

(d)(1) SBA does not certify joint ventures, as entities, into the 8(a) program.

(2) A contracting officer may consider a joint venture for contract award if the SBA district office servicing the joint venture approves the joint venture agreement and provides a determination of eligibility pursuant to 13 CFR 124.507(b) prior to contract award.

(e) If SBA does not approve the joint venture agreement within 5 working days after receipt of the contracting activity’s request for an eligibility determination, the contracting activity may seek SBA’s approval through the

SBA Associate Administrator for Business Development.

■ 9. Amend section 19.1303 by revising paragraph (c) to read as follows:

19.1303 Status as a HUBZone small business concern.

* * * * *

(c) A joint venture may be considered a HUBZone small business concern if—

- (1) The joint venture qualifies as small under 19.301–1(a)(2)(i);
- (2) At least one party to the joint venture is a HUBZone small business concern; and
- (3) The joint venture complies with 13 CFR 126.616(a) through (c).

* * * * *

■ 10. Amend section 19.1403 by revising paragraph (c) to read as follows:

19.1403 Status as a service-disabled veteran-owned small business concern.

* * * * *

(c) A joint venture may be considered a service-disabled veteran owned small business concern if—

- (1) The joint venture qualifies as small under 19.301–1(a)(2)(i);
- (2) At least one party to the joint venture is a service-disabled veteran-owned small business concern, and makes the representations in paragraph (b) of this section; and
- (3) The joint venture complies with the requirements of 13 CFR 125.18(b).

* * * * *

■ 11. Amend section 19.1503 by revising paragraph (f) to read as follows:

19.1503 Status.

* * * * *

(f) A joint venture may be considered an EDWOSB concern or WOSB concern eligible under the WOSB Program if—

- (1) The joint venture qualifies as small under 19.301–1(a)(2)(i);
- (2) At least one party to the joint venture is an EDWOSB or WOSB, and complies with the criteria in paragraph (b) of this section; and
- (3) The joint venture complies with the requirements of 13 CFR 127.506(a) through (c).

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 12. Amend section 52.212–3 by—

- a. Revising the date of the provision;
- b. Removing from the introductory text “(c) through (v)” and adding “(c) through (v)” in its place;
- c. In paragraph (a), revising the definition of “Small business concern”;
- d. Revising paragraphs (c)(1) and (3);
- e. Removing from the end of paragraph (c)(6)(i) “and” and adding “or” in its place;
- f. Revising paragraph (c)(6)(ii);

- g. Removing from the end of paragraph (c)(7)(i) “and” and adding “or” in its place;
 - h. Revising paragraph (c)(7)(ii);
 - i. Removing from the end of paragraph (c)(10)(i) “13 CFR Part 126; and” and adding “13 CFR 126.200; or” in its place; and
 - j. Revising paragraph (c)(10)(ii).
- The revisions read as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

* * * * *

Offeror Representations and Certifications—Commercial Items (DATE)

* * * * *

Small business concern means a concern, including its affiliates, that is independently owned and operated, not dominant in its field of operation and qualified as a small business under the criteria in 13 CFR part 121 and size standards in this solicitation.

* * * * *

- (c) * * *
 - (1) *Small business concern.* The offeror represents as part of its offer that—
 - (i) It is, is not a small business concern; or
 - (ii) It is, is not a small business joint venture that complies with the requirements of 13 CFR 121.103(h) and 13 CFR 125.8(a) and (b). [*The offeror shall enter the unique entity identifier of each party to the joint venture: _____.*]

* * * * *

(3) *Service-disabled veteran-owned small business concern.* [*Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(2) of this provision.*] The offeror represents as part of its offer that—

- (i) It is, is not a service-disabled veteran-owned small business concern; or
- (ii) It is, is not a joint venture that complies with the requirements of 13 CFR 125.18(b)(1) and (2). [*The offeror shall enter the unique entity identifier of each party to the joint venture: _____.*] Each service-disabled veteran-owned small business concern participating in the joint venture shall provide representation of its service-disabled veteran-owned small business concern status.

* * * * *

- (6) * * *
 - (ii) It is, is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [*The offeror shall enter the unique entity identifier of*

each party to the joint venture: _____.] Each WOSB concern eligible under the WOSB Program participating in the joint venture shall provide representation of its WOSB status.

(7) * * *

(ii) It is, is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [*The offeror shall enter the unique entity identifier of each party to the joint venture: _____.*] Each EDWOSB concern participating in the joint venture shall provide representation of its EDWOSB status.

Note to paragraphs (c)(8) and (9): Complete paragraphs (c)(8) and (9) only if this solicitation is expected to exceed the simplified acquisition threshold.

* * * * *

(10) * * *

(ii) It is, is not a HUBZone joint venture that complies with the requirements of 13 CFR 126.616(a) through (c). [*The offeror shall enter the unique entity identifier of each party to the joint venture: _____.*] Each HUBZone small business concern participating in the HUBZone joint venture shall provide representation of its HUBZone status.

* * * * *

- 13. Amend section 52.212–5 by—
 - a. Revising the date of the clause;
 - b. Removing from paragraph (b)(11)(i) “(MAR 2020)” and adding “(DATE)” in its place;
 - c. Removing from paragraph (b)(12)(i) “(MAR 2020)” and adding “(DATE)” in its place;
 - d. Removing from paragraph (b)(16) “(OCT 2018)” and adding “(DATE)” in its place;
 - e. Removing from paragraph (b)(17)(i) “(MAR 2020)” and adding “(DATE)” in its place;
 - f. Removing from paragraph (b)(19) “(MAR 2020)” and adding “(DATE)” in its place;
 - g. Removing from paragraph (b)(21) “(MAR 2020)” and adding “(DATE)” in its place;
 - h. Removing from paragraph (b)(22)(i) “(MAR 2020)” and adding “(DATE)” in its place;
 - i. Removing from paragraph (b)(23) “(MAR 2020)” and adding “(DATE)” in its place;
 - j. Removing from paragraph (b)(24) “(MAR 2020)” and adding “(DATE)” in its place;
 - k. Removing from paragraph (e)(1)(v) “(OCT 2018)” and adding “(DATE)” in its place;
 - l. Revising the date of Alternate II; and
 - m. Removing from paragraph (e)(1)(ii)(E) of Alternate II “(OCT 2018)” and adding “(DATE)” in its place.

The revisions read as follows:

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

* * * * *

Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (DATE)

* * * * *

Alternate II (DATE). * * *

* * * * *

- 14. Amend section 52.213-4 by—
- a. Revising the date of the clause; and
- b. Removing from paragraph (a)(2)(viii) “(AUG 2019)” and adding “(DATE)” in its place.

The revision reads as follows:

52.213-4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (DATE)

* * * * *

- 15. Amend section 52.219-1 by—
- a. Revising the date of the provision;
- b. In paragraph (a), revising the definition of “Small business concern”;
- c. Revising paragraph (c)(1);
- d. Removing from the end of paragraph (c)(4)(i) “and” and adding “or” in its place, and revising paragraph (c)(4)(ii);
- e. Removing from the end of paragraph (c)(5)(i) “and” and adding “or” in its place; and revising paragraph (c)(5)(ii);
- f. Revising paragraph (c)(7); and
- g. Removing from the end of paragraph (c)(8)(i) “13 CFR Part 126; and” and adding “13 CFR 126.200; or” in its place, and revising paragraph (c)(8)(ii);

The revisions read as follows:

52.219-1 Small Business Program Representations.

* * * * *

Small Business Program Representations (DATE)

* * * * *

Small business concern means a concern, including its affiliates, that is independently owned and operated, not dominant in its field of operation and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (b) of this provision.

* * * * *

(c) * * * (1) The offeror represents as part of its offer that—

(i) It is, is not a small business concern; or

(ii) It is, is not a small business joint venture that complies with the requirements of 13 CFR 121.103(h) and 13 CFR 125.8(a) and (b). [*The offeror shall enter the unique entity identifier of each party to the joint venture: _____.*]

* * * * *

(4) * * * (ii) It is, is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [*The offeror shall enter the unique entity identifier of each party to the joint venture: _____.*]

Each WOSB concern eligible under the WOSB Program participating in the joint venture shall provide representation of its WOSB status.

* * * * *

(5) * * * (ii) It is, is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [*The offeror shall enter the unique entity identifier of each party to the joint venture: _____.*]

Each EDWOSB concern participating in the joint venture shall provide representation of its EDWOSB status.

* * * * *

(7) [*Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(6) of this provision.*] The offeror represents as part of its offer that—

(i) It is, is not a service-disabled veteran-owned small business concern; or

(ii) It is, is not a service-disabled veteran-owned joint venture that complies with the requirements of 13 CFR 125.18(b)(1) and (2). [*The offeror shall enter the unique entity identifier of each party to the joint venture: _____.*]

Each service-disabled veteran-owned small business concern participating in the joint venture shall provide representation of its service-disabled veteran-owned small business concern status.

(8) * * *

(ii) It is, is not a HUBZone joint venture that complies with the requirements of 13 CFR 126.616(a) through (c). [*The offeror shall enter the unique entity identifier of each party to the joint venture: _____.*]

* * * * *

- 16. Amend section 52.219-3 by—
- a. Revising the date of the clause;
- b. Redesignating paragraphs (f) and (g) as paragraphs (g) and (h), and adding a new paragraph (f); and
- c. Revising the newly redesignated paragraph (g).

The revisions read as follows:

52.219-3 Notice of HUBZone Set-Aside or Sole Source Award.

* * * * *

Notice of HUBZone Set-Aside or Sole Source Award (DATE)

* * * * *

(f) *Joint venture.* A joint venture may be considered a HUBZone concern if—

(1) At least one party to the joint venture is a HUBZone small business concern and complies with 13 CFR 126.616(c); and

(2) Each party to the joint venture qualifies as small under the size standard for the solicitation, or the protégé is small under the size standard for the solicitation in a joint venture comprised of a mentor and protégé with an approved mentor-protégé agreement under the SBA mentor-protégé program.

(g) A HUBZone joint venture agrees that, in the performance of the contract, the applicable percentage specified in paragraph (d) of this clause shall be performed by the aggregate of the parties to the joint venture. At least 40 percent of the aggregate work performed by the joint venture shall be completed by the HUBZone small business parties to the joint venture. Work performed by the HUBZone small business party or parties to the joint venture must be more than administrative functions.

* * * * *

- 17. Amend section 52.219-4 by revising the clause title, date, and paragraph (e) to read as follows:

52.219-4 Notice of Price Evaluation Preference for HUBZone Small Business Concerns.

* * * * *

Notice of Price Evaluation Preference for HUBZone Small Business Concerns (DATE)

* * * * *

(e) A HUBZone joint venture agrees that, in the performance of the contract, the applicable percentage specified in paragraph (d) of this clause shall be performed by the aggregate of the parties to the joint venture. At least 40 percent of the aggregate work performed by the joint venture shall be completed by the HUBZone small business parties to the joint venture. Work performed by the HUBZone small business parties to the joint venture must be more than administrative functions.

* * * * *

- 18. Amend section 52.219-8 by—
- a. Revising the date of the clause;
- b. In paragraph (a), revising the definition “Small business concern”;

- c. Redesignating paragraphs (c) and (d) as paragraphs (d) and (e), and adding a new paragraph (c); and
- d. Revising the newly redesignated paragraph (e)(5) introductory text.

The revisions read as follows:

52.219-8 Utilization of Small Business Concerns.

* * * * *

Utilization of Small Business Concerns (DATE)

* * * * *

(a) * * *

Small business concern means a concern, including its affiliates, that is independently owned and operated, not dominant in its field of operation and qualified as a small business under the criteria and size standards in 13 CFR part 121, including the size standard that corresponds to the NAICS code assigned to the contract or subcontract.

* * * * *

(c)(1) A joint venture qualifies as a small business concern if—

- (i) Each party to the joint venture qualifies as small under the size standard for the solicitation; or
- (ii) The protégé is small under the size standard for the solicitation in a joint venture comprised of a mentor and protégé with an approved mentor-protégé agreement under a SBA mentor-protégé program.

(2) A joint venture qualifies as—

- (i) A service-disabled veteran-owned small business concern if it complies with the requirements in 13 CFR part 125; or
- (ii) A HUBZone small business concern if it complies with the requirements in 13 CFR 126.616(a) through (c).

* * * * *

(e) * * *

(5) The Contractor shall confirm that a subcontractor representing itself as a HUBZone small business concern is certified by SBA as a HUBZone small business concern. If the subcontractor is a joint venture, the Contractor shall confirm that at least one party to the joint venture is certified by SBA as a HUBZone small business concern. The Contractor may confirm the representation by accessing the System for Award Management or contacting SBA. Options for contacting the SBA include—

* * * * *

- 19. Amend section 52.219-9 by—
- a. Revising the date of the clause; and
- b. Removing from paragraph (e)(4) “52.219-8(d)(2)” and adding “52.219-8(e)(2)” in its place.

The revision reads as follows:

52.219-9 Small Business Subcontracting Plan.

* * * * *

Small Business Subcontracting Plan (DATE)

* * * * *

- 20. Amend section 52.219-14 by revising the date of the clause and adding paragraph (e) to read as follows:

52.219-14 Limitations on Subcontracting.

* * * * *

Limitations on Subcontracting (DATE)

* * * * *

(e) *Joint ventures.* (1) In a joint venture comprised of a small business protégé and its mentor approved by the Small Business Administration, the small business protégé shall perform at least 40 percent of the work performed by the joint venture. Work performed by the small business protégé in the joint venture must be more than administrative functions.

(2) In an 8(a) joint venture, the 8(a) participant(s) shall perform at least 40 percent of the work performed by the joint venture. Work performed by the 8(a) participants in the joint venture must be more than administrative functions.

* * * * *

- 21. Amend section 52.219-18 by—

- a. Revising the date of the clause and paragraph (a);
- b. Removing from paragraph (b) “all of the” and adding “the applicable” in its place; and
- c. Adding paragraph (e);
- d. Revising Alternate I.

The revisions and addition read as follows:

52.219-18 Notification of Competition Limited to Eligible 8(a) Participants.

* * * * *

Notification of Competition Limited to Eligible 8(a) Participants (DATE)

(a) Offers are solicited only from—
(1) Small business concerns expressly certified by the Small Business Administration (SBA) for participation in the SBA’s 8(a) program and which meet the following criteria at the time of submission of offer—

- (i) The Offeror is in conformance with the 8(a) support limitation set forth in its approved business plan; and
- (ii) The Offeror is in conformance with the Business Activity Targets set forth in its approved business plan or any remedial action directed by the SBA; or

(2) A joint venture, in which at least one of the 8(a) program participants that is a party to the joint venture complies

with the criteria set forth in paragraph (a)(1) of this clause, that complies with 13 CFR 124.513(c); or

(3) A joint venture—
(i) That is comprised of a mentor and an 8(a) protégé with an approved mentor-protégé agreement under the 8(a) program;

(ii) In which at least one of the 8(a) program participants that is a party to the joint venture complies with the criteria set forth in paragraph (a)(1) of this clause; and

(iii) That complies with 13 CFR 124.513(c).

* * * * *

(e) *8(a) joint ventures.* The Contracting Officer may consider a joint venture for contract award if SBA approves the joint venture agreement and provides a determination of eligibility pursuant to 13 CFR 124.507(b) prior to contract award.

* * * * *

Alternate I (DATE). If the competition is to be limited to 8(a) participants within one or more specific SBA regions or districts, add the following paragraph (a)(1)(iii) to paragraph (a) of the clause:

(iii) The offeror’s approved business plan is on the file and serviced by _____ [*Contracting Officer completes by inserting the appropriate SBA District and/or Regional Office(s) as identified by the SBA.*]

- 22. Amend section 52.219-27 by—
- a. Revising the date of the clause, and paragraph (f); and
- b. Adding paragraph (g).

The revisions and addition read as follows:

52.219-27 Notice of Service-Disabled Veteran-Owned Small Business Set-Aside.

* * * * *

Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (DATE)

* * * * *

(f) A joint venture may be considered a service-disabled veteran owned small business concern if—

(1) At least one party to the joint venture complies with the criteria defined in paragraph (a) of this clause and 13 CFR 125.18(b)(2); and

(2) Each party to the joint venture is small under the size standard corresponding to the NAICS code assigned to the procurement, or the protégé is small under the size standard corresponding to the NAICS code assigned to the procurement in a joint venture comprised of a mentor and protégé with an approved mentor-protégé agreement under an SBA mentor-protégé program.

(g) In a joint venture that complies with paragraph (f) of this clause, the service-disabled veteran-owned small business party or parties to the joint venture shall perform at least 40 percent of the work performed by the joint venture. Work performed by the service-disabled veteran-owned small business party or parties to the joint venture must be more than administrative functions.

■ 23. Amend section 52.219–28 by revising the date of the clause, and in paragraph (a) revising the definition of “Small business concern” to read as follows:

52.219–28 Post-Award Small Business Program Rerepresentation.

Post-Award Small Business Program Rerepresentation (DATE)

(a) *Small business concern* means a concern, including its affiliates, that is independently owned and operated, not dominant in its field of operation and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (d) of this clause.

- 24. Amend section 52.219–29 by—
■ a. Revising the date of the clause;
■ b. In paragraph (a), in the definition “Economically disadvantaged women-owned small business (EDWOSB)” removing “It automatically” and adding “An EDWOSB concern automatically” in its place;
■ c. Revising paragraph (f); and
■ d. Adding a new paragraph (g).

The revisions and addition read as follows:

52.219–29 Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns.

Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (DATE)

(f) *Joint Venture*. A joint venture may be considered an EDWOSB concern if—

- (1) At least one party to the joint venture complies with the criteria defined in paragraph (a) and paragraph (c)(3) of this clause, and 13 CFR 127.506(c); and
- (2) Each party to the joint venture qualifies as small under the size standard for the solicitation, or the protégé is small under the size standard for the solicitation in a joint venture comprised of a mentor and protégé with

an approved mentor-protégé agreement under the SBA mentor-protégé program.

(g) In a joint venture that complies with paragraph (f) of this clause, the EDWOSB party or parties to the joint venture shall perform at least 40 percent of the work performed by the joint venture. Work performed by the EDWOSB party or parties to the joint venture must be more than administrative functions.

- 25. Amend section 52.219–30 by—
■ a. Revising the date of the clause and paragraph (f); and
■ b. Adding paragraph (g).

The revisions and addition read as follows:

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.

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

(f) *Joint Venture*. A joint venture may be considered a WOSB concern eligible under the WOSB Program if—

- (1) At least one party to the joint venture complies with the criteria defined in paragraph (a) and (c)(3) of this clause, and 13 CFR 127.506(c); and
- (2) Each party to the joint venture qualifies as small under the size standard for the solicitation, or the protégé is small under the size standard for the solicitation in a joint venture comprised of a mentor and protégé with an approved mentor-protégé agreement under the SBA mentor-protégé program.

(g) In a joint venture that complies with paragraph (f) of this clause, the WOSB party or parties to the joint venture shall perform at least 40 percent of the work performed by the joint venture. Work performed by the WOSB party or parties to the joint venture must be more than administrative functions.

- 26. Amend section 52.244–6 by—
■ a. Revising the date of the clause; and
■ b. Removing from paragraph (c)(1)(vii) “(OCT 2018)” and adding “(DATE)” in its place.

The revision reads as follows:

52.244–6 Subcontracts for Commercial Items.

Subcontracts for Commercial Items (DATE)

* * * * *
[FR Doc. 2020–11159 Filed 6–4–20; 8:45 am]
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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 204, 212, and 252

[Docket DARS–2020–0007]
RIN 0750–AK30

Defense Federal Acquisition Regulation Supplement: Data Collection and Inventory for Services Contracts (DFARS Case 2018–D063)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement to implement a section of the United States Code that requires the collection of data on certain DoD service contracts.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before August 4, 2020, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2018–D063, using any of the following methods:

- Regulations.gov: http://www.regulations.gov. Search for “DFARS Case 2018–D063” under the heading “Enter keyword or ID” and select “Search.” Select “Comment Now” and follow the instructions provided to submit a comment. Please include “DFARS Case 2018–D063” on any attached document.
○ Email: osd.dfars@mail.mil. Include DFARS Case 2018–D063 in the subject line of the message.
○ Fax: 571–372–6094.
○ Mail: Defense Acquisition Regulations System, Attn: Ms. Carrie Moore, OUSD(A&S)DPC/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to http://www.regulations.gov, including any personal information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).