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LEGAL STATUS

Federal Acquisition Regulation: Subcontracting to Puerto Rican and Covered Territory Small Businesses

A Rule by the Defense Department, the General Services Administration, and the National Aeronautics and Space Administration on 01/03/2025

PUBLISHED CONTENT - DOCUMENT DETAILS

Agencies: Department of DefenseGeneral Services Administration
National Aeronautics and Space Administration
Agency/Docket Numbers: FAC 2025-03FAR Case 2023-001, Item IIIDocket No. FAR 2023-0001
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Department of Defense
General Services Administration
National Aeronautics and Space Administration
48 CFR Parts 2, 19, 42, and 52
[FAC 2025-03; FAR Case 2023-001, Item III; Docket No. FAR 2023-0001; Sequence No. 1]
RIN 9000-AO50

AGENCY:

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

ACTION:

Final rule.

SUMMARY:

DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the Small Business Administration to add incentives for certain United States territories under the Small Business Administration mentor-protégé program.

DATES:

Effective January 17, 2025.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule at 89 FR 48540 (/citation/89-FR-48540) on June 7, 2024, to implement regulatory changes made by the Small Business Administration (SBA) in its final rules published on October 16, 2020 (85 FR 66146 (/citation/85-FR-66146)) and on August 19, 2022 (87 FR 50925 (/citation/87-FR-50925)) to implement section 861 of Public Law 115-232 (https://www.govinfo.gov/link/plaw/115/public/232) and section 866 of Public Law 116-283 (https://www.govinfo.gov/link/plaw/116/public/283). For further details please see the proposed rule. Two respondents submitted comments on the proposed rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the development of the final rule. A discussion of the comments is provided as follows; however, no changes were made to the rule as a result of those comments.

A. Summary of significant changes: There are no significant changes from the proposed rule.

B. Analysis of public comments:

Comment: The respondents expressed support for the rule.

Response: The Councils acknowledge the respondents' support for the rule.

Comment: The respondents expressed support for the change at 19.702, which specifies that subcontracting plans are not required from Alaska Native Corporations (ANCs).

Response: The Councils acknowledge the respondents' support for this change. SBA clarified that an ANC prime contractor is required to submit a subcontracting plan if they are large for the North American Industry Classification System (NAICS) code assigned to the contract. However, an ANC subcontractor is treated as a small business concern by statute and, therefore, cannot be required to submit a subcontracting plan (*see*13 CFR 125.3(b)(2) (https://www.ecfr.gov/current/title-13/section-125.3#p-125.3(b)(2))).

Comment: The respondents recommended changes to the proposed rule text at FAR 19.703(2)(i) and (ii) and in the clauses at FAR 52.219-8, Utilization of Small Business Concerns, and 52.219-9, Small Business Subcontracting Plan, which specify that a contractor may rely on a subcontractor's representation unless it has reason to question it. A respondent recommended the word “question” be replaced with “doubt” to align with SBA's regulations at 13 CFR 121.404(e) (https://www.ecfr.gov/current/title-13/section-121.404#p-121.404(e)), indicating the word “doubt” means, in accordance with the Merriam-Webster Dictionary, to call into question the truth of, to lack confidence in, and to consider unlikely, whereas “question” simply means to ask a question. Another respondent recommended the text be amended to specify: “unless the contractor has an objective, evidence-based reason to question a representation for clarity”.

Response: In this context, SBA's term “doubt” has the same meaning as the FAR term “question”. The FAR consistently uses the term “question” when specifying that a contracting officer may rely on a representation or certification unless the contracting officer has a reason to question the representation or certification. Aligning the proposed rule text with text currently used in the FAR for other representations or certifications helps promote certainty and avoids confusion for the contracting community. Moreover, the FAR does not replicate terminology used in SBA's regulations; instead SBA's regulations are translated into FAR terminology. This rule implements SBA's regulations at 13 CFR 121.404(e) (https://www.ecfr.gov/current/title-13/section-121.404#p-121.404(e)), which do not specify that the contractor is required to have an objective, evidence-based reason to question a representation. There are a variety of reasons why a contractor might question a subcontractor's representation and this text is written so as to not limit the basis on which a contractor may question such a representation.

C. Other changes. The proposed rule FAR text at 19.702(b)(1) is moved in the final rule to FAR 19.704(a)(9) and to paragraph (d)(9) of the clause at FAR 52.219-9 and its Alternate IV to specify for contractors that subcontracting plans are not required from their subcontractors that are treated as small business concerns by statute. Conforming changes are made to the clause at FAR 52.219-9 and its Alternates III and IV.

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

This rule amends the clauses at FAR 52.212-5, Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services; 52.213-4, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Products and Commercial Services); 52.219-8, Utilization of Small Business Concerns; and 52.219-9, Small Business Subcontracting Plan. However, this rule does not change the applicability of these clauses, which continue to apply to contracts valued at or below the SAT, or on contracts for commercial products, including COTS items, or commercial services. This rule applies paragraphs (a) and (d) of section 861 of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115-232 (https://www.govinfo.gov/link/plaw/115/public/232)), and paragraphs (a) and (c) of section 866 of the NDAA for FY 2021 (Pub. L. 116-283 (https://www.govinfo.gov/link/plaw/116/public/283)), to acquisitions at or below the SAT and to acquisitions for commercial products, including COTS items, and commercial services, as the two new incentives for SBA's mentor-protégé program are available to all contractors in the program, regardless of the dollar value of the contract awarded or the commercial nature of the products and services procured. (print page 524)

A. Applicability to Contracts at or Below the Simplified Acquisition Threshold

The statute at 41 U.S.C. 1905 (https://www.govinfo.gov/link/uscode/41/1905) governs the applicability of laws to acquisitions at or below the SAT. Section 1905 generally limits the applicability of new laws when agencies are making acquisitions at or below the SAT, but provides that such acquisitions will not be exempt from a provision of law under certain circumstances, including when the Federal Acquisition Regulatory Council (FAR Council) makes a written determination and finding that it would not be in the best interest of the Federal Government to exempt contracts and subcontracts in amounts not greater than the SAT from the provision of law. The FAR Council has made a determination to apply this statute to acquisitions at or below the SAT.

B. Applicability to Contracts for the Acquisition of Commercial Products and Commercial Services, Including Commercially Available Off-The-Shelf (COTS) Items

The statute at 41 U.S.C. 1906 (https://www.govinfo.gov/link/uscode/41/1906) governs the applicability of laws to contracts for the acquisition of commercial products and commercial services, and is intended to limit the applicability of laws to contracts for the acquisition of commercial products and commercial services. Section 1906 provides that if the FAR Council makes a written determination that it is not in the best interest of the Federal Government to exempt commercial contracts, the provision of law will apply to contracts for the acquisition of commercial products and commercial services.

The statute at 41 U.S.C. 1907 (https://www.govinfo.gov/link/uscode/41/1907) states that acquisitions of COTS items will be exempt from certain provisions of law unless the Administrator for Federal Procurement Policy makes a written determination and finds that it would not be in the best interest of the Federal Government to exempt contracts for the procurement of COTS items.

The FAR Council has made a determination to apply this statute to acquisitions for commercial products and commercial services. The Administrator for Federal Procurement Policy has made a determination to apply this statute to acquisitions for COTS items.

IV. Expected Impact of the Rule

This rule is expected to benefit mentors with an SBA-approved mentor-protégé agreement that subcontract to covered territory small businesses and small businesses that have their principal office located in the Commonwealth of Puerto Rico. These benefits are expected to extend to covered territory small businesses and small businesses located in the Commonwealth of Puerto Rico, as mentors may be incentivized to enter into SBA-approved mentor-protégé agreements with such small businesses and issue subcontracts to them.

This rule is expected to decrease the burden for certain entities that are treated as small business concerns by statute for certain purposes (*e.g.,* ANCs), as these entities will not be required to submit subcontracting plans as subcontractors.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 (as amended by E.O. 14094 (/executive-order/14094)) and 13563 direct agencies to assess 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 (/executive-order/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 (/executive-order/12866), Regulatory Planning and Review, dated September 30, 1993.

VI. Congressional Review Act

Pursuant to the Congressional Review Act, DoD, GSA, and NASA will send this rule to each House of the Congress and to the Comptroller General of the United States. The Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget has determined that this rule does not meet the definition in 5 U.S.C. 804(2) (https://www.govinfo.gov/link/uscode/5/804).

VII. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601-612 (https://www.govinfo.gov/link/uscode/5/601). The FRFA is summarized as follows:

DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the Small Business Administration (SBA) in its final rule published on October 16, 2020, at 85 FR 66146 (/citation/85-FR-66146), to implement section 861 of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115-232 (https://www.govinfo.gov/link/plaw/115/public/232)). The objective of this rule is to implement SBA's final rule and to implement section 861, which amended 15 U.S.C. 657r(a) (https://www.govinfo.gov/link/uscode/15/657r) to add Puerto Rico to the list of territories from which small businesses are eligible for preferential treatment under the SBA mentor-protégé program. This rule also implements SBA's final rule published on August 19, 2022, at 87 FR 50925 (/citation/87-FR-50925) to implement section 866 of the NDAA for FY 2021 (Pub. L. 116-283 (https://www.govinfo.gov/link/plaw/116/public/283)),

which amended 15 U.S.C. 657r(a) (https://www.govinfo.gov/link/uscode/15/657r) and 15 U.S.C. 632(ff) (https://www.govinfo.gov/link/uscode/15/632) to add the U.S. Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands (CNMI) to the list of territories from which small businesses are eligible for preferential treatment under the SBA mentor-protégé programs. Section 866 also defines a "covered territory business" as a small business concern that has its principal office located in one of the following: (1) the U.S. Virgin Islands; (2) American Samoa; (3) Guam; and (4) CNMI. Sections 861 and 866 created two new incentives for SBA's small business mentor-protégé program for mentor-protégé pairs in which the protégé has its principal office located in the Commonwealth of Puerto Rico or is a covered territory business. Specifically, such a mentor that subcontracts to its protégé is able to receive positive consideration for the mentor's past performance evaluation and is able to apply the costs of training its protégé to its subcontracting plan goals. This rule also specifies the entities that are not required to submit subcontracting plans as subcontractors.

There were no significant issues raised by the public comments in response to the initial regulatory flexibility analysis.

This final rule will impact small businesses whose principal office is in the Commonwealth of Puerto Rico or that are covered territory businesses that enter into SBA-approved mentor-protégé agreements. According to data from the Federal Procurement Data System, in the last three fiscal years, the Government awarded contracts to small businesses in the covered territories and in the Commonwealth of Puerto Rico as follows: 506 in fiscal year (FY) 2021, 438 in FY 2022, and 435 in FY 2023, which averages out to approximately 460 contracts per year. Each of those awards was made to a unique small entity. In addition, and according to data from the System for Award Management (SAM), there are 6,318 small businesses in the Commonwealth of Puerto Rico that are currently registered in SAM. Although the Government awarded approximately 460 contracts to 460 unique small entities and there are 6,318 small entities in the Commonwealth of Puerto Rico, the number of small entities to which this rule will apply cannot be more precisely estimated as the number of entities that may enter into SBA-approved mentor-protégé agreements is unknown.

The Government does not collect data on subcontracts; therefore, the Government cannot estimate the number of small entities that will not be required to submit subcontracting plans.

The proposed rule does not impose any new reporting, recordkeeping, or other compliance requirements for small entities.

There are no known significant alternative approaches that would accomplish the stated objectives of the statutes.

Interested parties may obtain a copy of the FRFA from the Regulatory (🗋 print page 525) Secretariat Division. The Regulatory Secretariat Division has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

VIII. Paperwork Reduction Act

This rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501-3521 (https://www.govinfo.gov/link/uscode/44/3501)).

List of Subjects in 48 CFR Parts 2 (https://www.ecfr.gov/current/title-48/part-2), 19 (https://www.ecfr.gov/current/title-48/part-19), 42 (https://www.ecfr.gov/current/title-48/part-42), and 52 (https://www.ecfr.gov/current/title-48/part-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 are amending 48 CFR parts 2 (https://www.ecfr.gov/current/title-48/part-2), 19 (https://www.ecfr.gov/current/title-48/part-19), 42 (https://www.ecfr.gov/current/title-48/part-42), and 52 (https://www.ecfr.gov/current/title-48/part-52) as set forth below:

1. The authority citation for 48 CFR parts 2 (https://www.ecfr.gov/current/title-48/part-2), 19 (https://www.ecfr.gov/current/title-48/part-19), 42 (https://www.ecfr.gov/current/title-48/part-42), and 52

(https://www.ecfr.gov/current/title-48/part-52) continues to read as follows:

Authority: 40 U.S.C. 121(c) (https://www.govinfo.gov/link/uscode/40/121); 10 U.S.C. chapter 4 (https://www.govinfo.gov/link/uscode/10/401) and 10 U.S.C. chapter 137 (https://www.govinfo.gov/link/uscode/10/13701) legacy provisions (see 10 U.S.C. 3016 (https://www.govinfo.gov/link/uscode/10/3016)); and 51 U.S.C. 20113 (https://www.govinfo.gov/link/uscode/51/20113).

PART 2—DEFINITIONS OF WORDS AND TERMS

2. Amend section 2.101 by adding in alphabetic order the definition "Covered territory business" to read as follows:

2.101 Definitions.

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Covered territory business, as defined at 15 U.S.C. 632(ff) (https://www.govinfo.gov/link/uscode/15/632) and 13 CFR 125.1 (https://www.ecfr.gov/current/title-13/section-125.1), means a small business concern that has its principal office located in the United States Virgin Islands, American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands.

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PART 19—SMALL BUSINESS PROGRAMS

3. Amend section 19.702 by adding paragraph (e) to read as follows:

19.702 Statutory requirements.

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(e) In accordance with 15 U.S.C. 657r(a) (https://www.govinfo.gov/link/uscode/15/657r), a mentor with an SBA-approved mentor-protégé agreement (see 13 CFR 125.9 (https://www.ecfr.gov/current/title-13/section-125.9)) that provides a subcontract to its protégé may apply the costs incurred for training it provides to its protégé toward its subcontracting plan goals, provided that protégé is a covered territory business or that protégé has its principal office located in the Commonwealth of Puerto Rico.

4. Amend section 19.703 by revising paragraph (a)(2)(i) and paragraph (a)(2)(ii) introductory text to read as follows:

19.703 Eligibility requirements for participating in the program.

(a) * * *

(2)(i) Unless the prime contractor has reason to question the representation, it may accept a subcontractor's written representations of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, or a women-owned small business, if the subcontractor represents that the size and socioeconomic status representation with its offer are current, accurate, and complete as of the date of the offer for the subcontracts; or

(ii) Unless the prime contractor has reason to question the representation, it may accept a subcontractor's representation of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, or a women-owned small business in the System for Award Management (SAM) if—

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5. Amend section 19.704 by revising paragraph (a)(9) to read as follows:

19.704 Subcontracting plan requirements.

(a) * * *

(9) Assurances that the offeror will include the clause at 52.219-8, Utilization of Small Business Concerns (see 19.708(a)), in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns, including entities that are treated as small business concerns by statute for certain purposes (*e.g.,* ANCs, see 13 CFR 125.3(b)(2) (https://www.ecfr.gov/current/title-13/section-125.3#p-125.3(b)(2)))) that receive subcontracts in excess of $750,000 ($1.5 million for construction) to adopt a plan that complies with the requirements of the clause at 52.219-9, Small Business Subcontracting Plan (see 19.708(b));

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PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

6. Amend section 42.1501 by revising paragraph (a)(5) to read as follows:

42.1501 General.

(a) * * *

(5) Complying with the requirements of the small business subcontracting plan (see 19.705-7(b)), including favorable consideration of a mentor with an SBA-approved mentor-protégé agreement (see 13 CFR 125.9 (https://www.ecfr.gov/current/title-13/section-125.9)) that subcontracts to its protégé, and that protégé is a covered territory business or that protégé's principal office is located in the Commonwealth of Puerto Rico (see 15 U.S.C. 657r(a) (https://www.govinfo.gov/link/uscode/15/657r));

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PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

7. Amend section 52.212-5 by—

a. Removing from paragraph (b)(20) “(FEB 2024)” and adding “(JAN 2025)” in its place;

b. Removing from paragraphs (b)(21)(i) and (v) “(SEP 2023)” and adding “(JAN 2025)” in their places, respectively;

c. Removing from paragraph (e)(1)(viii) “(FEB 2024)” and adding “(JAN 2025)” in its place; and

d. In Alternate II:

i. Revising the date of the Alternate; and

ii. Removing from paragraph (e)(1)(ii)(H) “(FEB 2024)” and adding “(JAN 2025)” in its place.

The revision reads as follows:

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

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Alternate II (JAN 2025).* * *

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8. Amend section 52.213-4 by—

a. Revising the date of the clause; and

b. Removing from paragraph (a)(2)(vii) "(NOV 2024)" and adding "(JAN 2025)" in its place.

The revision reads as follows:

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

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Terms and Conditions—Simplified Acquisitions (Other Than Commercial Products and Commercial Services) (JAN 2025)

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9. Amend section 52.219-8 by revising the date of the clause and paragraph (e)(1) and paragraph (e)(2) introductory text to read as follows:

52.219-8 Utilization of Small Business Concerns.

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Utilization of Small Business Concerns (JAN 2025)

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(e)(1) Unless the Contractor has reason to question the representation, it may accept a subcontractor's written representations of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small

business, service-disabled veteran-owned small business, or a women-owned small business if the subcontractor represents that the size and socioeconomic status representations with its offer are current, accurate, and complete as of the date of the offer for the subcontract.

(2) Unless the Contractor has reason to question the representation, it may accept a subcontractor's representations of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a women-owned small business in the System for Award Management (SAM) if—

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10. Amend section 52.219-9 by—

a. Revising the date of the clause and paragraphs (c)(2)(i), (c)(2)(ii) introductory text, (d)(1) introductory text, and (d)(9);

b. Removing from paragraph (d)(10)(ii) “Offeror” and adding “Contractor” in its place;

c. Removing from paragraph (d)(15) “offeror” and adding “Contractor” in its place;

d. In Alternate III:

i. Revising the date of the Alternate; and

ii. Removing from paragraph (d)(10)(ii) “Offeror” and adding “Contractor” in its place; and

Printed Page 527.
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e. In Alternate IV:

i. Revising the date of the Alternate and paragraphs (c)(2)(i), (c)(2)(ii) introductory text, (d)(1) introductory text, and (d)(9); and

ii. Removing from paragraph (d)(15) “offeror” and adding “Contractor” in its place.

The revisions read as follows:

52.219-9 Small Business Subcontracting Plan.

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Small Business Subcontracting Plan (JAN 2025)

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(c) * * *

(2)(i) Unless the Contractor has reason to question the representations, it may accept a subcontractor's written representations of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a women-owned small business if the subcontractor represents that the size and socioeconomic status representations with its offer are current, accurate, and complete as of the date of the offer for the subcontract.

(ii) Unless the Contractor has reason to question the representations, it may accept a subcontractor's representations of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a women-owned small business in the System for Award Management (SAM) if—

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(d) * * *

(1) Separate goals, expressed in terms of total dollars subcontracted, and as a percentage of total planned subcontracting dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. For individual subcontracting plans, and if required by the Contracting Officer, goals shall also be expressed in terms of percentage of total contract dollars, in addition to the goals expressed as a percentage of total subcontract dollars. The Offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs. In accordance with 15 U.S.C. 657r(a)

(https://www.govinfo.gov/link/uscode/15/657r), an Offeror that is a mentor with an SBA-approved mentor-protégé agreement (see 13 CFR 125.9 (https://www.ecfr.gov/current/title-13/section-125.9)) that provides a subcontract to its protégé may apply the costs incurred for training it provides to its protégé toward its subcontracting plan goals, provided that protégé is a covered territory business or that protégé has its principal office located in the Commonwealth of Puerto Rico. In accordance with 43 U.S.C. 1626 (https://www.govinfo.gov/link/uscode/43/1626)—

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(9) Assurances that the Offeror will include the clause of this contract entitled "Utilization of Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the Offeror will require all subcontractors (except small business concerns, including entities that are treated as small business concerns by statute for certain purposes (*e.g.,* ANCs, see 13 CFR 125.3(b)(2) (https://www.ecfr.gov/current/title-13/section-125.3#p-125.3(b)(2)))) that receive subcontracts in excess of the applicable threshold specified in FAR 19.702(a) on the date of subcontract award, with further subcontracting possibilities to adopt a subcontracting plan that complies with the requirements of this clause.

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Alternate III (JAN 2025).* * *

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Alternate IV (JAN 2025).* * *

(c) * * *

(2)(i) Unless the Contractor has reason to question the representations, it may accept a subcontractor's written representations of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a women-owned

small business if the subcontractor represents that the size and socioeconomic status representations with its offer are current, accurate, and complete as of the date of the offer for the subcontract.

(ii) Unless the Contractor has reason to question the representations, it may accept a subcontractor's representations of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a women-owned small business in the System for Award Management (SAM) if—

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(d) * * *

(1) Separate goals, expressed in terms of total dollars subcontracted and as a percentage of total planned subcontracting dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. For individual subcontracting plans, and if required by the Contracting Officer, goals shall also be expressed in terms of percentage of total contract dollars, in addition to the goals expressed as a percentage of total subcontract dollars. The Contractor shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs. In accordance with 15 U.S.C. 657r(a) (https://www.govinfo.gov/link/uscode/15/657r), a Contractor that is a mentor with an SBA-approved mentor-protégé agreement (see 13 CFR 125.9 (https://www.ecfr.gov/current/title-13/section-125.9)) that provides a subcontract to its protégé may apply the costs incurred for training it provides to its protégé toward its subcontracting plan goals, provided that protégé is a covered territory business or that protégé has its principal office located in the Commonwealth of Puerto Rico. In accordance with 43 U.S.C. 1626 (https://www.govinfo.gov/link/uscode/43/1626)—

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(🗋 print page 527)

(9) Assurances that the Contractor will include the clause of this contract entitled "Utilization of Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the Contractor will require all subcontractors (except small business concerns, including entities that are treated as small business concerns by statute for certain purposes (*e.g.,* ANCs, see 13 CFR 125.3(b)(2) (https://www.ecfr.gov/current/title-13/section-125.3#p-125.3(b)(2)))) that receive subcontracts in excess of the applicable threshold specified in FAR 19.702(a) on the date of subcontract award, with further subcontracting possibilities to adopt a subcontracting plan that complies with the requirements of this clause.

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11. Amend section 52.244-6 by—

a. Revising the date of the clause; and

b. Removing from paragraph (c)(1)(x) "(FEB 2024)" and adding "(JAN 2025)" in its place.

The revision reads as follows:

52.244-6 Subcontracts for Commercial Products and Commercial Services.

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Subcontracts for Commercial Products and Commercial Services (JAN 2025)

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