

for Advocacy of the Small Business Administration.

VIII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501–3521) applies. The rule contains information collection requirements. OMB has cleared this information collection requirement under OMB Control Number 9000–0204, Acquisition 360 Voluntary Survey.

List of Subjects in 48 CFR Parts 1, 12, 26, 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 amend 48 CFR parts 1, 12, 26, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 12, 26, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.102–3 and 1.102–4 [Redesignated]

■ 2. Redesignate sections 1.102–3 and 1.102–4 as sections 1.102–4 and 1.102–5.

■ 3. Add new section 1.102–3 to read as follows:

1.102–3 Evaluating agency acquisition processes.

(a) Agencies are encouraged to develop internal procedures seeking voluntary feedback from interested parties in an acquisition to assess process strengths and weaknesses and improve effectiveness and efficiency of the acquisition process. Agencies may—

(1) Utilize a variety of feedback mechanisms available to the public (e.g., surveys, in-person, and/or group exchanges);

(2) Utilize the core preaward and debriefing survey questions at <https://www.acquisition.gov/360>; and

(3) Seek additional feedback on targeted aspects of an acquisition throughout its lifecycle (e.g., performance standards at 1.102–2 or postaward contract administration responsibilities at 42.302).

(b) Contracting officers are encouraged to insert the provision 52.201–1, Acquisition 360: Voluntary Survey, in accordance with agency procedures.

(c) Contracting officers shall not review information until after contract

award and shall not consider it in the award decision.

■ 4. In section 1.106, amend the table by adding an entry for “52.201–1” in numerical order to read as follows:

1.106 OMB approval under the Paperwork Reduction Act.

FAR segment	OMB control No.
* * * *	
52.201–1	9000–0204
* * * *	

1.108 [Amended]

■ 5. Amend section 1.108 by removing from paragraph (b) “1.102–4(b)” and adding “1.102–5(b)” in its place.

PART 12—ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

■ 6. Amend section 12.301 by—

■ a. Redesignating paragraphs (e)(1) through (4) as paragraphs (e)(2) through (5); and

■ b. Adding a new paragraph (e)(1).

The addition reads as follows:

12.301 Solicitation provisions and contract clauses for the acquisition of commercial products and commercial services.

* * * *

(e) * * *

(1) The contracting officer may use the provision at 52.201–1, Acquisition 360: Voluntary Survey, as prescribed in 1.102–3(b).

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PART 26—OTHER SOCIOECONOMIC PROGRAMS

26.206 [Amended]

■ 7. Amend section 26.206 by removing from paragraph (a) “12.301(e)(4)” and adding “12.301(e)(5)” in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 8. Add section 52.201–1 to read as follows:

52.201–1 Acquisition 360: Voluntary Survey.

As prescribed in 1.102–3(b), insert the following provision:
Acquisition 360: Voluntary Survey (Sep 2023)

(a) All actual and potential offerors are encouraged to provide feedback on the preaward and debriefing processes,

as applicable. Feedback may be provided to agencies up to 45 days after award. The feedback is anonymous, unless the participant self-identifies in the survey. Actual and potential offerors can participate in the survey by selecting the following link: <https://www.acquisition.gov/360>.

(b) The Contracting Officer will not review the information provided until after contract award and will not consider it in the award decision. The survey is voluntary and does not convey any protections, rights, or grounds for protest. It creates a way for actual and potential offerors to provide the Government constructive feedback about the preaward and debriefing processes, as applicable, used for a specific acquisition.

(End of provision)

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 19, and 52

[FAC 2023–05, FAR Case 2023–004, Item II; Docket No. 2023–0004; Sequence No. 1]

RIN 9000–AO52

Federal Acquisition Regulation: Small Disadvantaged Business Threshold

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 adjust the net worth threshold for owners of small disadvantaged business concerns.

DATES: Effective September 7, 2023.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Carrie Moore, Procurement Analyst, at 571–300–5917, or by email at carrie.moore@gsa.gov. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or GSARegSec@gsa.gov. Please cite FAC 2023–05, FAR Case 2023–004.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are amending the FAR to implement regulatory changes made by the Small Business Administration (SBA) in its interim rule published on November 17, 2022, at 87 FR 69118, which adjusted for inflation the net worth threshold for an individual to be eligible as an owner of a small disadvantaged business concern from \$750,000 to \$850,000. To do so, this rule updates this threshold to reflect a reference to SBA's regulations at 13 CFR 124.104(c)(2), which is used in the definition of "small disadvantaged business concern," in the FAR. This rule also updates FAR citations to former SBA regulations 13 CFR 124.1002 through 124.1016, as SBA removed these sections from their regulations in a rule published May 8, 2020 (85 FR 27290).

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the FAR is 41 U.S.C. 1707. Subsection (a)(1) of 41 U.S.C. 1707 requires that a procurement policy, regulation, procedure, or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment because it does not change existing acquisition procedures for agencies or contractors; instead, this final rule simply revises the FAR to align with SBA's regulation by reflecting the increased threshold established by SBA in its regulations, and updates obsolete FAR citations to certain SBA regulations that no longer exist.

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 solicitation provisions at FAR 52.212–3 and 52.219–1, and contract clauses at FAR 52.212–5, 52.213–4, 52.219–8, 52.219–9, 52.219–28, and 52.244–6. However, this rule does not impose any new requirements on contracts valued at or below the SAT, or on contracts for commercial products, including COTS items, or commercial services. The

clauses continue to apply to acquisitions at or below the SAT and to acquisitions for commercial products, including COTS items, and commercial services.

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.

V. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801–808) before an interim or final rule takes effect, DoD, GSA, and NASA will send the rule and the "Submission of Federal Rules Under the Congressional Review Act" form 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 is not a major rule under 5 U.S.C. 804.

VI. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see section II. of this preamble), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612) are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

VII. 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).

List of Subjects in 48 CFR Parts 2, 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 amend 48 CFR parts 2, 19, and 52 as set forth below:

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

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

PART 2—DEFINITIONS OF WORDS AND TERMS

2.101 [Amended]

■ 2. Amend section 2.101, in paragraph (b)(2), in the definition of "Small disadvantaged business concern" by—

■ a. Removing from the introductory text "13 CFR 124.1002" and adding "13 CFR 124.1001" in its place; and

■ b. Removing from paragraph (1)(ii) "\$750,000" and adding "the threshold at 13 CFR 124.104(c)(2)" in its place.

PART 19—SMALL BUSINESS PROGRAMS

19.301–1 [Amended]

■ 3. Amend section 19.301–1 by removing from the third sentence of paragraph (h) the phrase "13 CFR 124.1004 for small disadvantaged business, 13 CFR 125.29" and adding "13 CFR 128.600" in its place.

19.304 [Amended]

■ 4. Amend section 19.304 by removing from paragraph (c) "13 CFR 124.1001(b)" and adding "13 CFR 124.1001" in its place.

■ 5. Amend section 19.305 by revising the section heading, introductory text, and paragraph (c) to read as follows:

19.305 Reviews of SDB status.

This section applies to reviews of a small business concern's SDB status as a prime contractor or subcontractor.

* * * * *

(c) An SBA review of a subcontractor's SDB status differs from a formal protest. Protests of a concern's size as a prime contractor are processed under 19.302. Protests of a concern's size as a subcontractor are processed under 19.703(b).

19.703 [Amended]

■ 6. Amend section 19.703 by:

- a. Removing from paragraph (a)(2)(iv) “13 CFR 121.411, 124.1015, 125.29, 126.900, and 127.700” and adding “13 CFR 121.411, 126.900, 127.700, and 128.600” in its place; and
- b. Removing paragraph (e).

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

- 7. Amend section 52.212–3 by—
 - a. Revising the date of the provision; and
 - b. In paragraph (a), in the definition of “Small disadvantaged business concern” by—
 - i. Removing from the introductory text “13 CFR 124.1002” and adding “13 CFR 124.1001” in its place; and
 - ii. Removing from paragraph (1)(ii) “\$750,000” and adding “the threshold at 13 CFR 124.104(c)(2)” in its place.

The revision reads as follows:

52.212–3 Offeror Representations and Certifications—Commercial Products and Commercial Services.

* * * * *

Offeror Representations and
Certifications—Commercial Products
and Commercial Services (Sep 2023)

* * * * *

- 8. Amend section 52.212–5 by—
 - a. Revising the date of the clause;
 - b. Removing from paragraphs (b)(17) “(OCT 2022)” and adding “(Sep 2023)” in its place;
 - c. Removing from paragraph (b)(18)(i) “(OCT 2022)” and adding “(Sep 2023)” in its place;
 - d. Removing from paragraph (b)(18)(v) “(SEP 2021)” and adding “(Sep 2023)” in its place;
 - e. Removing from paragraph (b)(23)(i) “(MAR 2023)” and adding “(Sep 2023)” in its place;
 - f. Removing from paragraph (e)(1)(vi) “(OCT 2022)” and adding “(Sep 2023)” in its place; and
 - g. In Alternate II by—
 - i. Revising the date of the Alternate; and
 - ii. Removing from paragraph (e)(1)(ii)(F) “(OCT 2022)” and adding “(Sep 2023)” in its place.

The revisions read 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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Contract Terms and Conditions
Required To Implement Statutes or
Executive Orders—Commercial
Products and Commercial Services
(Sep 2023)

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Alternate II (Sep 2023) * * *

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- 9. Amend section 52.213–4 by:
 - a. Revising the date of the clause; and
 - b. Removing from paragraph (a)(2)(vii) “(JUN 2023)” and adding “(Sep 2023)” 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)
(Sep 2023)

* * * * *

- 10. Amend section 52.219–1 by—
 - a. Revising the date of the provision;
 - b. In paragraph (a), in the definition of “Small disadvantaged business concern” by—
 - i. Removing from the introductory text “13 CFR 124.1002” and adding “13 CFR 124.1001” in its place; and
 - ii. Removing from paragraph (1)(ii) “\$750,000” and adding “the threshold at 13 CFR 124.104(c)(2)” in its place; and
 - c. Removing from paragraph (c)(2) “13 CFR 124.1002” and adding “13 CFR 124.1001” in its place.

The revision reads as follows:

52.219–1 Small Business Program Representations.

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Small Business Program
Representations (Sep 2023)

* * * * *

- 11. Amend section 52.219–8 by—
 - a. Revising the date of the clause;
 - b. In paragraph (a), in the definition of “Small disadvantaged business concern” by—
 - i. Removing from the introductory text “13 CFR 124.1002” and adding “13 CFR 124.1001” in its place; and
 - ii. Removing from paragraph (1)(ii) “\$750,000” and adding “the threshold at 13 CFR 124.104(c)(2)” in its place; and
 - c. Removing from paragraph (e)(4) “13 CFR 121.411, 124.1015, 125.29, 126.900, and 127.700” and adding “13 CFR 121.411, 126.900, 127.700, and 128.600” in its place.

The revision reads as follows:

52.219–8 Utilization of Small Business Concerns.

* * * * *

Utilization of Small Business Concerns
(Sep 2023)

* * * * *

- 12. Amend section 52.219–9 by—
 - a. Revising the date of the clause;
 - b. Removing from paragraph (c)(2)(iv) “13 CFR 121.411, 124.1015, 125.29,

126.900, and 127.700” and adding “13 CFR 121.411, 126.900, 127.700, and 128.600” in its place; and

- c. In Alternate IV by—

- i. Revising the date of the alternate; and
- ii. Removing from paragraph (c)(2)(iv) “13 CFR 121.411, 124.1015, 125.29, 126.900, and 127.700” and adding “13 CFR 121.411, 126.900, 127.700, and 128.600” in its place.

The revision reads as follows:

52.219–9 Small Business Subcontracting Plan.

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Small Business Subcontracting Plan
(Sep 2023)

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Alternate IV (Sep 2023) * * *

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- 13. Amend section 52.219–28 by:
 - a. Revising the date of the clause; and
 - b. Removing from paragraph (h)(2) “13 CFR 124.1002” and adding “13 CFR 124.1001” in its place.

The revision reads as follows:

52.219–28 Post-Award Small Business Program Rerepresentation.

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Post-Award Small Business Program
Rerepresentation (Sep 2023)

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- 14. Amend section 52.244–6 by:
 - a. Revising the date of the clause; and
 - b. Removing from paragraph (c)(1)(viii) “(OCT 2022)” and adding “(Sep 2023)” 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 (Sep 2023)

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