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48 CFR Parts 2 et al.

Federal Acquisition Regulation; Geographic Use of the Term "United States"; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 3, 4, 5, 6, 8, 9, 14, 19, 22, 23, 25, 26, 28, 29, 31, 35, 36, 42, 47, 52, and 53

[FAR Case 1999–400]

RIN 9000–AI99

Federal Acquisition Regulation; Geographic Use of the Term ''United States''

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) established this case to review and clarify the use of the term ''United States'' in the Federal Acquisition Regulation (FAR). The Councils are proposing to amend the FAR, in accordance with the new FAR Drafting Guide, to substitute more consistent terminology for the geographic application of FAR policies and procedures.

DATES: Interested parties should submit comments in writing on or before September 25, 2001 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration,FAR Secretariat (MVP),1800 F Street, NW, Room 4035,ATTN: Laurie Duarte,Washington, DC 20405

Submit electronic comments via the Internet to:

farcase.1999–400@gsa.gov

Please submit comments only and cite FAR case 1999–400 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Ms. Cecelia Davis, Procurement Analyst, at (202) 219–0202. Please cite FAR case 1999–400.

SUPPLEMENTARY INFORMATION:

A. Background

This rule proposes to amend the FAR to clarify the use of the term ''United States,'' when used in a geographic sense.The term ''United States'' is defined in FAR 2.101 to include the 50 States and the District of Columbia. Where a wider area of applicability is intended, the term is redefined in the appropriate part or subpart of the FAR, or supplemented by listing the additional areas of applicability each time the term is used. This rule corrects and updates references to the United States throughout the FAR by considering the statutory basis, if any, for the references, and the following issues:

1. There is no longer a Trust Territory of the PacificIslands. This Trust was fully terminated October 1, 1994, resulting in the formation of the Republic of the MarshallIslands (October 21, 1986), the Federated States of Micronesia (November 3, 1986), and the Republic of Palau(October 1, 1994), that have Compacts of Free Association with the United States. Only the Commonwealth of the Northern Mariana Islands (November 3, 1986) is still under the sovereignty of the United States. Laws that applied within the former Trust Territories by virtue of the Trusteeship Agreement are no longer applicable to independent areas.

2. The meaning of the term ''possessions'' is no longer as encompassing as it used to be and should not include the various unincorporated territories and commonwealths. The rule removes the definition of ''possessions'' and adds a new definition of ''outlying areas'' at FAR 2.101 that includes the commonwealths of Puerto Rico and the NorthernMariana Islands, the territories of American Samoa, Guam, the U.S. Virgin Islands, and the minor outlying islands of the United States.

The Councils' primary purpose in proposing these amendments is to clarify the use of the term ''UnitedStates'' in the FAR. However, in developing these amendments, it became clear that other changes should be made to improve the readability of the FAR and conform it to the new FAR Drafting Guide and the White House memorandum,Plain Language in Government Writing, dated June 1, 1998.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of ExecutiveOrder 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory FlexibilityAct, 5 U.S.C. 601, *et seq.*, because the rule primarily standardizes terminology and clarifies existing meaning.The Councils do not intend for the rule to make policy changes. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Parts in accordance with 5 U.S.C. 610.Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 1999–400), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 2, 3, 4, 5, 6, 8, 9, 14,19, 22, 23, 25, 26, 28, 29, 31, 35, 36, 42, 47, 52, and 53:

Government procurement.

Dated: July 20, 2001.

Al Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose that 48 CFR parts 2,3, 4, 5, 6, 8, 9, 14, 19, 22, 23, 25, 26, 28, 29, 31, 35,36, 42, 47, 52, and 53 be amended as set forth below:

1. The authority citation for 48 CFR parts 2, 3, 4, 5, 6, 8, 9, 14, 19, 22, 23, 25, 26, 28, 29, 31, 35, 36, 42, 47,52, and 53 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 2—DEFINITIONS OF WORDS AND TERMS

2. Amend section 2.101 by adding, in alphabetical order, the definitions ''Contiguous United States (CONUS)'', ''Customs territory of the United States'', and ''Outlying areas''; and by removing the definition ''Possessions.'' The added text reads as follows:

2.101 Definitions.

* * * * *

Contiguous United States (CONUS) means the 48 contiguous States and the District of Columbia.

* * * * *

Customs territory of the United States means the 50States, the District of Columbia, and Puerto Rico.

* * * * *

Outlying areas means—

(1) *Commonwealths.* (i) Puerto Rico.

(ii) The Northern Mariana Islands;

(2) *Territories.* (i) American Samoa.

(ii) Guam.

(iii) U.S. Virgin Islands; and

(3) *Minor outlying islands.* (i) Baker Island.

(ii) Howland Island.

(iii) Jarvis Island.

(iv) Johnston Atoll.

(v) Kingman Reef.

(vi) Midway Islands.

(vii) Navassa Island.

(viii) Palmyra Atoll.

(ix) Wake Atoll.

* * * * *

PART 3—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTSOF INTEREST

3.303 [Amended]

3. Amend section 3.303 in paragraph (e) by removing the comma after the word ''States'' and adding ''and its outlying areas,'' in its place.

4. Amend section 3.801 by revising the definition''State'' to read as follows:

3.801 Definitions.

* * * * *

State, as used in this section, means a State of the United States, the District of Columbia, an outlying area of the United States, an agency or instrumentality of a State, and multi-State, regional, or interstate entity having governmental duties and powers.

PART 4—ADMINISTRATIVE MATTERS

5. Amend section 4.603 in paragraph (a)(1) by removing''The contracting officer shall insert'' and adding''Insert'' in its place; and by revising paragraph (b) to read as follows:

4.603 Solicitation provisions.

* * * * *

(b) Insert the provision at 52.204–5, Women-Owned Business(Other Than Small Business), in solicitations that—

(1) Are not set aside for small business concerns;

(2) Exceed the simplified acquisition threshold; and

(3) Are for contracts that will be performed in the UnitedStates or its outlying areas.

PART 5—PUBLICIZING CONTRACT ACTIONS

6. Amend section 5.202 by revising the first sentence of paragraph (a)(12) to read as follows:

5.202 Exceptions.

* * * * *

(a) * * *

(12) The proposed contract action is by a Defense agency and the proposed contract action will be made and performed outside the United States and its outlying areas, and only local sources will be solicited. * * *

* * * * *

5.303 [Amended]

7. Amend section 5.303 in the first sentence of the introductory text of paragraph (a) by removing ''shall'' and adding ''must'' in its place; in paragraph (a)(2) by removing ''or its possessions'' and adding ''and its outlying areas'' in its place; and in the sentence following(a)(3) by removing ''shall'' and adding ''must'' in its place.

PART 6—COMPETITION REQUIREMENTS

8. Amend section 6.302–3 by revising paragraph (b)(1)(v) to read as follows:

6.302–3 Industrial mobilization; engineering, developmental, or research capability; or expert services.

* * * * *

(b) * * *

(1) * * *

(v) Create or maintain the required domestic capability for production of critical supplies by limiting competition to items manufactured in—

(A) The United States or its outlying areas; or

(B) The United States, its outlying areas, or Canada.

* * * * *

6.401 [Amended]

9. Amend section 6.401 in the first sentence of paragraph(b)(2) by removing '', its possessions, or Puerto Rico'' and adding in its place ''and its outlying areas''.

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

8.1100 [Amended]

10. Amend section 8.1100 by adding ''and its outlying areas'' to the end of the last sentence.

8.1104 [Amended]

11. Amend section 8.1104 in the introductory text by removing ''The contracting officer shall insert'' and adding in its place ''Insert''; and in paragraph (d) by removing''(see 41 CFR 101–38.6)'' and adding in its place ''(see 41CFR 101–38.2)''.

PART 9—CONTRACTOR QUALIFICATIONS

9.102 [Amended]

12. Amend section 9.102 in paragraph (a)(1) by removing'', its possessions, or Puerto Rico'' and adding in its place ''or its outlying areas''.

13. Amend section 9.406–2 by—

a. Adding an introductory paragraph;

b. Revising the introductory text of paragraph (a) and paragraph (a)(4);

c. Revising the introductory text of paragraph (b)(1) and paragraph (b)(1)(iii);

d. Removing from paragraph (b)(2) ''The debarring official may debar a'' and adding in its place ''A''; and

e. Revising paragraph (c) to read as follows:

9.406–2 Causes for debarment.

The debarring official may debar—

(a) A contractor for a conviction of or civil judgment for—

* * * * *

(4) Intentionally affixing a label bearing a ''Made in America'' inscription (or any inscription having the same meaning) to a product sold in or shipped to the United States or its outlying areas, when the product was not made in the United States or its outlying areas (see Section 202 of the Defense Production Act (Pub. L. 102–558)); or

* * * * *

(b)(1) A contractor, based upon a preponderance of the evidence, for—

* * * * *

(iii) Intentionally affixing a label bearing a ''Made in America'' inscription (or any inscription having the same meaning) to a product sold in or shipped to the United States or its outlying areas, when the product was not made in the United States or its outlying areas (see Section 202 of the Defense Production Act (Pub. L. 102–558)).

* * * * *

(c) A contractor or subcontractor based on any other cause of so serious or compelling a nature that it affects the present responsibility of the contractor or subcontractor.

14. Amend section 9.407–2 by revising paragraph (a)(5) to read as follows:

9.407–2 Causes for suspension.

(a) * * *

(5) Intentionally affixing a label bearing a ''Made in America'' inscription (or any inscription having the same meaning) to a product sold in or shipped to the UnitedStates or its outlying areas, when the product was not made in the United States or its outlying areas (see Section 202 of the Defense Production Act (Pub. L. 102–558));

* * * * *

PART 14—SEALED BIDDING

15. Revise section 14.203–1 to read as follows:

14.203–1 Transmittal to prospective bidders.

Invitations for bids or presolicitation notices must be transmitted as specified in 14.205 and must be provided to others in accordance with 5.102. When a contracting office is located in the United States, any solicitation sent to a prospective bidder located outside the United States must be sent by electronic data interchange or air mail if security classification permits.

PART 19—SMALL BUSINESS PROGRAMS

16. Amend section 19.000 by revising paragraph (b) to read as follows:

19.000 Scope of part.

* * * * *

(b) This part, except for subpart 19.6, applies only in the United States or its outlying areas. Subpart 19.6 applies worldwide.

17. Amend section 19.001 by revising the definition''Concern'' to read as follows:

19.001 Definitions.

Concern means any business entity organized for profit(even if its ownership is in the hands of a nonprofit entity) with a place of business located in the United States or its outlying areas and that makes a significant contribution to the U.S. economy through payment of taxes and/or use of American products, material and/or labor, etc.''Concern'' includes but is not limited to an individual, partnership, corporation, joint venture, association, or cooperative. For the purpose of making affiliation findings(see 19.101), include any business entity, whether organized for profit or not, and any foreign business entity, *i.e.,* any entity located outside the United States and its outlying areas.

* * * * *

19.101 [Amended]

18. In section 19.101, amend the last sentence of the definition ''Affiliates'' by removing ''inside the UnitedStates'' and adding in its place ''in the United States or its outlying areas''.

19. Amend section 19.102 by revising the introductory text of paragraph (f), (f)(1), and (f)(7) to read as follows:

19.102 Size standards.

* * * * *

(f) Any concern submitting a bid or offer in its own name, other than on a construction or service contract, that proposes to furnish an end product it did not manufacture (a''nonmanufacturer''), is a small business if it has no more than 500 employees, and—

(1) Except as provided in paragraphs (f)(4) through (f)(7) of this section, in the case of Government acquisitions set-aside for small businesses, furnishes in the performance of the contract, the product of a small business manufacturer or producer. The end product furnished must be manufactured or produced in the United States or its outlying areas. The term ''nonmanufacturer'' includes a concern that can, but elects not to, manufacture or produce the end product for the specific acquisition. For size determination purposes, there can be only one manufacturer of the end product being acquired. The manufacturer of the end product being acquired is the concern that, with its own forces, transforms inorganic or organic substances including raw materials and/or miscellaneous parts or components into the end product. However, see the limitations on subcontracting at 52.219–14 that apply to any small business offeror other than a nonmanufacturer for purposes of set-asides and 8(a) awards.

* * * * *

(7) The SBA provides for an exception to the nonmanufacturer rule if—

(i) The procurement of a manufactured end product processed under the procedures set forth in part 13—

(A) Is set aside for small business; and

(B) Is not anticipated to exceed $25,000; and

(ii) The offeror supplies an end product that is manufactured or produced in the United States or its outlying areas.

* * * * *

20. Amend section 19.307 by revising paragraphs (a)(1) and (c) to read as follows:

19.307 Solicitation provisions.

(a)(1) Insert the provision at 52.219–1, Small BusinessProgram Representations, in solicitations exceeding the micro-purchase threshold when the contract will be performed in the United States or its outlying areas.

* * * * *

(c) When contracting by sealed bidding, insert the provision at 52.219–2, Equal Low Bids, in solicitations and contracts when the contract will be performed in the UnitedStates or its outlying areas.

21. Amend section 19.702 by revising paragraph (b)(3) to read as follows:

19.702 Statutory requirements.

* * * * *

(b) * * *

(3) For contracts or contract modifications that will be performed entirely outside of the United States and its outlying areas; or

* * * * *

22. Amend section 19.708 by—

a. Revising the introductory text of paragraph (a) and(a)(2);

b. Removing from the first sentence of paragraph (b)(1) the words ''The contracting officer shall, when contracting by negotiation, insert'' and adding ''Insert'' in its place; and

c. Removing from paragraph (b)(2) ''The contracting officer shall insert'' and adding ''Insert'' in its place.The revised text reads as follows:

19.708 Contract clauses.

(a) Insert the clause at 52.219–8, Utilization of SmallBusiness Concerns, in solicitations and contracts when the contract amount is expected to exceed the simplified acquisition threshold unless—

* * * * *

(2) The contract, together with all of its subcontracts, will be performed entirely outside of the United States and its outlying areas.

* * * * *

23. Amend section 19.1202–2 by revising paragraph (b)(4) to read as follows:

19.1202–2 Applicability.

* * * * *

(b) * * *

(4) Contract actions that will be performed entirely outside of the United States and its outlying areas.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.102–2 [Amended]

24. Amend section 22.102–2 in the first sentence of paragraph (b) by adding ''U.S.'' before the word ''Virgin''.

25. Amend section 22.103–1 by revising the introductory text of the definition ''Normal workweek'' to read as follows:

22.103–1 Definition.

Normal workweek, as used in this subpart, means, generally, a workweek of 40 hours. Outside the UnitedStates and its outlying areas, a workweek longer than 40 hours is considered normal if—

* * * * *

26. Amend section 22.202 by revising the introductory paragraph to read as follows:

22.202 Contract clause.

Insert the clause at 52.222–3, Convict Labor, in solicitations and contracts above the micro-purchase threshold, when the contract will be performed in the UnitedStates, Puerto Rico, the Northern Mariana Islands, AmericanSamoa, Guam, or the U.S. Virgin Islands; unless—

* * * * *

27. Revise section 22.305 to read as follows:

22.305 Contract clause.

Insert the clause at 52.222–4, Contract Work Hours and Safety Standards Act—Overtime Compensation, in solicitations and contracts (including, for this purpose, basic ordering agreements) when the contract may require or involve the employment of laborers or mechanics. However, do not include the clause in solicitations and contracts—

(a) Valued at or below the simplified acquisition threshold;

(b) For commercial items;

(c) For transportation or the transmission of intelligence;

(d) To be performed outside the United States, Puerto Rico, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, and Outer Continental Shelf lands as defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331) (29 CFR 5.15);

(e) For work to be done solely in accordance with the Walsh-Healey Public Contracts Act (see subpart 22.6);

(f) For supplies that include incidental services that do not require substantial employment of laborers or mechanics; or

(g) Exempt under regulations of the Secretary of Labor (29 CFR 5.15).

28. Revise section 22.603 to read as follows:

22.603 Applicability.

The requirements in 22.602 apply to contracts (including for this purpose, indefinite-delivery contracts, basic ordering agreements, and blanket purchase agreements) and subcontracts under Section 8(a) of the Small Business Act, for the manufacture or furnishing of supplies that—

(a) Will be performed in the United States, Puerto Rico, or the U.S. Virgin Islands;

(b) Exceed or may exceed $10,000; and

(c) Are not exempt under 22.604.

29. Amend section 22.604–2 by revising paragraph (a)(2) to read as follows:

22.604–2 Regulatory exemptions.

(a) * * *

(2) Supplies manufactured outside the United States, Puerto Rico, and the U.S. Virgin Islands.

* * * * *

30. Amend section 22.801 by revising the definition ''United States'' to read as follows:

22.801 Definitions.

* * * * *

United States means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

31. Amend section 22.1001 by revising the definition ''United States'' to read as follows:

22.1001 Definitions.

* * * * *

United States means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, and Outer Continental Shelf lands as defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331, *et seq.*), but does not include any other place subject to U.S. jurisdiction or any U.S. base or possession in a foreign country (29 CFR 4.112).

* * * * *

32. Amend section 22.1408 by revising the introductory text of paragraph (a) and (a)(1) to read as follows:

22.1408 Contract clause.

(a) Insert the clause at 52.222–36, Affirmative Action for Workers with Disabilities, in solicitations and contracts that exceed or are expected to exceed $10,000, except when—

(1) Both the performance of the work and the recruitment of workers will occur outside the United States, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island; or

* * * * *

PART 23—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

33. Amend section 23.501 by revising the introductory paragraph and paragraphs (a), (b), (c), and (d) to read as follows:

23.501 Applicability.

This subpart applies to contracts, including contracts with 8(a) contractors under FAR subpart 19.8 and modifications that require a justification and approval (see subpart 6.3), except contracts—

(a) At or below the simplified acquisition threshold; however, the requirements of this subpart apply to all contracts of any value awarded to an individual;

(b) For the acquisition of commercial items (see Part 12);

(c) Performed outside the United States and its outlying areas or any part of a contract performed outside the United States and its outlying areas;

(d) By law enforcement agencies, if the head of the law enforcement agency or designee involved determines that application of this subpart would be inappropriate in connection with the law enforcement agency's undercover operations; or

* * * * *

34. Revise section 23.505 to read as follows:

23.505 Contract clause.

Except as provided in 23.501, insert the clause at 52.223–6, Drug-Free Workplace, in solicitations and contracts.

35. Amend section 23.804 by revising the introductory paragraph; and in paragraph (a) by removing the period at the end of the paragraph and inserting ''; or'' in its place. The revised text reads as follows:

23.804 Contract clauses.

Except for contracts that will be performed outside the United States and its outlying areas, insert the clause at—

* * * * *

36. Amend section 23.903 by revising paragraph (b)(2) to read as follows:

23.903 Applicability.

* * * * *

(b) * * *

(2) Contractor facilities located outside the United States and its outlying areas.

37. Amend section 23.906 by revising paragraph (a)(2)(v) to read as follows:

23.906 Requirements.

(a) * * *

(2) * * *

(v) Are not located in the United States and its outlying areas.

* * * * *

38. Revise section 23.1002 to read as follows:

23.1002 Applicability.

The requirements of this subpart apply to facilities owned or operated by an agency in the customs territory of the United States.

PART 25—FOREIGN ACQUISITION

39. Amend section 25.003 by removing the definition

''Customs territory of the United States'' and revising the definition ''United States'' to read as follows:

25.003 Definitions.

* * * * *

United States means the 50 States, the District of Columbia, and outlying areas.

* * * * *

PART 26—OTHER SOCIO-ECONOMIC PROGRAMS

40. Amend section 26.300 by revising paragraph (b) to read as follows:

26.300 Scope of subpart.

* * * * *

(b) This subpart does not pertain to contracts performed entirely outside the United States and its outlying areas.

PART 28—BONDS AND INSURANCE

28.202 [Amended]

41. Amend section 28.202 in paragraph (a)(1) by removing '', its possessions, or Puerto Rico'' and adding ''or its outlying areas'' in its place.

42. Amend section 28.203–2 by revising the first sentence of paragraph (b)(4) and paragraph (c)(3)(i) to read as follows:

28.203–2 Acceptability of assets.

* * * * *

(b) * * *

(4) Real property owned in fee simple by the surety without any form of concurrent ownership, except as provided in paragraph (c)(3)(iii) of this subsection, and located in the United States or its outlying areas. * * *

* * * * *

(c) * * *

(3) * * *

(i) Real property located outside the United States and its outlying areas.

* * * * *

28.301 [Amended]

43. Amend section 28.301—

a. In the introductory paragraph by removing ''shall be required to'' and adding ''must'' in its place; and

b. In the third sentence of paragraph (b) by removing '', its possessions, and Puerto Rico'' and adding ''and its outlying areas'' in its place; and in the fourth sentence by removing ''shall'' and adding ''must'' in its place.

44. Amend section 28.310 by revising the introductory text of paragraph (a) and paragraph (a)(2) to read as follows:

28.310 Contract clause for work on a Government installation.

(a) Insert the clause at 52.228–5, Insurance—Work on a Government Installation, in solicitations and contracts if a fixed-price contract is contemplated, the contract amount is expected to exceed the simplified acquisition threshold, and the contract will require work on a Government installation, unless—

* * * * *

(2) All work on the Government installation will be performed outside the United States and its outlying areas.

* * * * *

PART 29—TAXES

45. Amend section 29.202 by revising paragraph (b) to read as follows:

29.202 General exemptions.

* * * * *

(b) Shipment for export to a foreign country or an outlying area of the United States. Shipment must occur within 6 months of the time title passes to the Government. When the exemption is claimed, the words ''for export'' must appear on the contract or purchase document, and the contracting officer must furnish the seller proof of export (see 26 CFR 48.4221–3).

* * * * *

46. Revise section 29.401–1 to read as follows:

29.401–1 Indefinite-delivery contracts for leased equipment.

Insert the clause at 52.229–1, State and Local Taxes, in solicitations and contracts for leased equipment when—

(a) A fixed-price indefinite-delivery contract is contemplated;

(b) The contract will be performed wholly or partly in the United States or its outlying areas; and

(c) The place or places of delivery are not known at the time of contracting.

47. Revise sections 29.401–3, 29.401–4, and 29.401–5 to read as follows:

29.401–3 Competitive contracts.

Insert the clause at 52.229–3, Federal, State, and Local Taxes, in solicitations and contracts if the anticipated contract will be a fixed-price contract exceeding the simplified acquisition threshold and performed wholly or partly in the United States or its outlying areas, unless the clause at 52.229–4, Federal, State, and Local Taxes (Noncompetitive Contract), is included in the contract.

29.401–4 Noncompetitive contracts.

Insert the clause at 52.229–4, Federal, State, and Local Taxes (Noncompetitive Contract), in fixed-price noncompetitive contracts when the contract exceeds the simplified acquisition threshold and will be performed wholly or partly in the United States or its outlying areas when satisfied that the contract price does not include contingencies for State and local taxes, and that, unless the clause is used, the contract price will include such contingencies.

29.401–5 Contracts performed in U.S. outlying areas.

Insert the clause at 52.229–5, Taxes—Contracts Performed in U.S. Outlying Areas, in solicitations and contracts that include the clause at 52.229–3, Federal, State, and Local Taxes, or 52.229–4, Federal, State, and Local Taxes (Noncompetitive Contract).

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

31.205–46 [Amended]

48. Amend section 31.205–46 in paragraph (a)(2)(i) by removing ''conterminous 48'' and adding ''contiguous'' in its place; and in (a)(2)(ii) by removing ''The Commonwealth of Puerto Rico, and territories and possessions'' and adding ''and outlying areas'' in its place.

PART 35—RESEARCH AND DEVELOPMENT CONTRACTING

49. Amend section 35.014 by revising paragraph (d)(1) to read as follows:

35.014 Government property and title.

* * * * *

(d)(1) Vesting title under paragraph (b) of this section is subject to civil rights legislation, 42 U.S.C. 2000d. Before vesting title, the contractor must agree that no person in the United States or its outlying areas will be denied, on the ground of race, color, or national origin, be excluded from participation in, the benefits of, or be otherwise subjected to discrimination under this contemplated financial assistance (title to equipment).

* * * * *

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

50. Amend section 36.103 by revising paragraph (a) to read as follows:

36.103 Methods of contracting.

(a) The contracting officer must use sealed bid procedures for a construction contract if the conditions in 6.401(a) apply, unless the contract will be performed outside the United States and its outlying areas. (See 6.401(b)(2).)

* * * * *

51. Revise section 36.609–4 to read as follows:

36.609–4 Requirements for registration of designers.

Insert the clause at 52.236–25, Requirements for Registration of Designers, in architect-engineer

contracts, except that it may be omitted when the design will be performed—

(a) Outside the United States and its outlying areas; or

(b) In a State or outlying area of the United States that does not have registration requirements for the particular field involved.

52. Amend section 36.702 by revising paragraph (a) to read as follows:

36.702 Forms for use in contracting for architect-engineer services.

(a) Contracting officers must use Standard Form 252, Architect-Engineer Contract, to award fixed-price contracts for architect-engineer services when the services will be performed in the United States or its outlying areas.

* * * * *

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

53. Amend section 42.1404–1 by revising paragraph (c) to read as follows:

42.1404–1 Parcel post eligible shipments.

* * * * *

(c)(1) When a contractor uses its own label to ship to a post office servicing military and other agency consignees outside the customs territory of the United States, the contractor must stamp or imprint the parcel immediately above the label in ¼-inch block letters with the—

(i) Name of the agency; and

(ii) Words ''Official Mail—Contents for Official Use—Exempt from Customs Requirements.''

(2) This marking permits identification and expedites handling within the postal system, but the contractor must pay postage if—

(i) Required by the contract; or

(ii) The contract provides for reimbursement for the cost of postage.

* * * * *

PART 47—TRANSPORTATION

47.001 [Amended]

54. Amend section 47.001 by removing the definition ''*CONUS* or *Continental United States*''.

47.304–1 [Amended]

55. Amend section 47.304–1 in paragraphs (g)(1) and (g)(2) by removing ''the continental United States'' and adding ''CONUS'' in their place.

47.304–3 [Amended]

56. Amend section 47.304–3 in the introductory text of paragraph (a) by removing ''the United States'' and adding ''CONUS'' in its place.

57. Amend section 47.401 by revising the definitions ''United States'' and ''U.S.-flag air carrier'' to read as follows:

47.401 Definitions.

* * * * *

United States means the 50 States, the District of Columbia, and outlying areas of the United States.

U.S.-flag air carrier means an air carrier holding a certificate under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 41102).

58. Revise section 47.402 to read as follows:

47.402 Policy.

Federal employees and their dependents, consultants, contractors, grantees, and others must use U.S.-flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, if available (Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act)).

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

59. Amend section 52.203–12 by revising the date of the clause; and in paragraph (a) by revising the definition ''State'' to read as follows:

52.203–12 Limitation on Payments to Influence Certain Federal Transactions.

* * * * *

LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (DATE)

(a) * * *

State, as used in this clause, means a State of the United States, the District of Columbia, or an outlying area of the United States, an agency or instrumentality of a State, and multi-State, regional, or interstate entity having governmental duties and powers.

* * * * *

60. Amend section 52.212–3 by revising the date of the provision, the introductory text of paragraph (c), (f)(1), and (g)(1)(i) to read as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

* * * * *

OFFEROR REPRESENTATIONS AND CERTIFICATIONS—COMMERCIAL ITEMS (DATE)

* * * * *

(c) Offerors must complete the following representations when the resulting contract will be performed in the United States or its outlying areas. Check all that apply.

* * * * *

(f) * * *

(1) The offeror certifies that each end product, except those listed in paragraph (f)(2) of this provision, is a domestic end product and that the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products. The terms ''component,'' ''domestic end product,'' ''end product,'' ''foreign end product,'' and ''United States'' are defined in the clause of this solicitation entitled ''Buy American Act—Balance of Payments Program—Supplies.''

* * * * *

(g)(1) * * *

(i) The offeror certifies that each end product, except those listed in paragraph (g)(1)(ii) or (g)(1)(iii) of this provision, is a domestic end product and that the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The terms ''component,'' ''domestic end product,'' ''end product,'' ''foreign end product,'' and ''United States'' are defined in the clause of this solicitation entitled ''Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program.''

* * * * *

61. Amend section 52.213–4 by revising the date of the clause, paragraph (b)(1)(i), and the introductory text of paragraph (b)(1)(ix) to read as follows:

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

* * * * *

TERMS AND CONDITIONS—SIMPLIFIED ACQUISITIONS (OTHER THAN COMMERCIAL ITEMS) (DATE)

* * * * *

(b) * * *

(1) * * *

(i) 52.222–20, Walsh-Healey Public Contracts Act (Dec 1996) (41 U.S.C. 35–45) (Applies to supply contracts over $10,000 in the United States, Puerto Rico, or the U.S. Virgin Islands).

* * * * *

(ix) 52.225–1, Buy American Act—Balance of Payments Program—Supplies (Date) (41 U.S.C. 10a–10d) (Applies to contracts for supplies, and to contracts for services involving the furnishing of supplies, for use in the United States or its outlying areas, if the value of the supply contract or supply portion of a service contract exceeds the micro-purchase threshold and the acquisition—

* * * * *

62. Amend section 52.219–5 by revising the date of the clause, paragraph (c), and Alternate II to read as follows:

52.219–5 Very Small Business Set-Aside.

* * * * *

VERY SMALL BUSINESS SET-ASIDE (DATE)

* * * * *

(c) *Agreement.* A very small business concern submitting an offer in its own name shall furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States or its outlying areas.

(End of clause)

* * * * *

Alternate II (Date). As prescribed in 19.905(b), substitute the following paragraph (c) for paragraph (c) of the basic clause:

(c) *Agreement.* A very small business concern submitting an offer in its own name shall furnish, in performing the contract, only end items manufactured or produced by domestic firms in the United States or its outlying areas.

63. Amend section 52.219–6 by revising the date of the clause and paragraph (c) to read as follows:

52.219–6 Notice of Total Small Business Set-Aside.

* * * * *

NOTICE OF TOTAL SMALL BUSINESS SET–ASIDE (DATE)

* * * * *

(c) *Agreement.* A small business concern submitting an offer in its own name shall furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States or its outlying areas. If this procurement is processed under simplified acquisition procedures and the total amount of this contract does not exceed $25,000, a small business concern may furnish the product of any domestic firm. This paragraph does not apply to construction or service contracts.

(End of clause)

* * * * *

64. Amend section 52.219–7 by revising the date of the clause and paragraph (c) to read as follows:

52.219–7 Notice of Partial Small Business Set-Aside.

* * * * *

NOTICE OF PARTIAL SMALL BUSINESS SET–ASIDE (DATE)

* * * * *

(c) *Agreement.* For the set-aside portion of the acquisition, a small business concern submitting an offer in its own name shall furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States or its outlying areas. If this procurement is processed under simplified acquisition procedures and the total amount of this contract does not exceed $25,000, a small business concern may furnish the product of any domestic firm. This paragraph does not apply to construction or service contracts.

(End of clause)

* * * * *

65. Amend section 52.219–18 by revising the date of clause and paragraph (d)(1) to read as follows:

52.219–18 Notification of Competition Limited to Eligible 8(a) Concerns.

* * * * *

NOTIFICATION OF COMPETITION LIMITED TO ELIGIBLE 8(a) CONCERNS (DATE)

* * * * *

(d)(1) *Agreement.* A small business concern submitting an offer in its own name shall furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States or its outlying areas. If this procurement is processed under simplified acquisition procedures and the total amount of this contract does not exceed $25,000, a small business concern may furnish the product of any domestic firm. This paragraph does not apply to construction or service contracts.

* * * * *

66. Amend section 52.219–23 by revising the date of clause; in paragraph (a) by removing the definition ''United States''; and by revising paragraph (d)(2) and Alternate I to read as follows:

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

* * * * *

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

(d) * * *

(2) A small disadvantaged business concern submitting an offer in its own name shall furnish in performing this contract only end items manufactured or produced by small disadvantaged business concerns in the United States or its outlying areas. This paragraph does not apply to construction or services contracts.

(End of clause)

Alternate I (Date). As prescribed in 19.1104, substitute the following paragraph (d)(2) for paragraph (d)(2) of the basic clause:

(2) A small disadvantaged business concern submitting an offer in its own name shall furnish in performing this contract only end items manufactured or produced by small business concerns in the United States or its outlying areas. This paragraph does not apply to construction or service contracts.

* * * * *

67. Revise section 52.222–3 to read as follows:

52.222–3 Convict Labor.

As prescribed in 22.202, insert the following clause:

CONVICT LABOR (DATE)

(a) Except as provided in paragraph (b) of this clause, the Contractor shall not employ in the performance of this contract any person undergoing a sentence of imprisonment imposed by any court of a State, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands.

(b) The Contractor is not prohibited from employing persons—

(1) On parole or probation to work at paid employment during the term of their sentence;

(2) Who have been pardoned or who have served their terms; or

(3) Confined for violation of the laws of any of the States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if—

(i) The worker is paid or is in an approved work training program on a voluntary basis;

(ii) Representatives of local union central bodies or similar labor union organizations have been consulted;

(iii) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services;

(iv) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed; and

(v) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Orders 12608 and 12943.

(End of clause)

68. Revise section 52.222–29 to read as follows:

52.222–29 Notification of Visa Denial.

As prescribed in 22.810(g), insert the following clause:

NOTIFICATION OF VISA DENIAL (DATE)

It is a violation of Executive Order 11246 for a Contractor to refuse to employ any applicant or not to assign any person hired in the United States, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, or Wake Island on the basis that the individual's race, color, religion, sex, or national origin is not compatible with the policies of the country where or for whom the work will be performed (41 CFR 60–1.10). The Contractor shall notify the U.S. Department of State, Assistant Secretary, Bureau of Political-Military Affairs (PM), 2201 C Street NW, Room 7325, Washington, DC 20520, and the U.S. Department of Labor, Deputy Assistant Secretary for Federal Contract Compliance, when it is unable to obtain an entry visa for any employee or potential employee to a country where this contract will be performed, and it believes the denial is attributable to the race, color, religion, sex, or national origin of the employee or potential employee.

(End of clause)

69. Amend section 52.223–13 by revising the date of the provision; and by revising paragraph (b)(2)(v) of the provision to read as follows:

52.223–13 Certification of Toxic Chemical Release Reporting.

* * * * *

CERTIFICATION OF TOXIC CHEMICAL RELEASE REPORTING (DATE)

* * * * *

(b) * * *

(2) * * *

(v) The facility is not located in the United States or its outlying areas.

(End of provision)

70. Amend section 52.223–14 by revising the date of the clause; and by revising the introductory text of paragraph (b) and (b)(5) to read as follows:

52.223–14 Toxic Chemical Release Reporting.

* * * * *

TOXIC CHEMICAL RELEASE REPORTING (DATE)

* * * * *

(b) A Contractor-owned or -operated facility used in the performance of this contract is exempt from the requirement to file an annual Form R if—

* * * * *

(5) The facility is not located in the United States or its outlying areas.

* * * * *

71. Amend section 52.225–1 by revising the date of the clause; and in paragraph (a) by revising the definition ''United States'' to read as follows:

52.225–1 Buy American Act—Balance of Payments Program—Supplies.

* * * * *

BUY AMERICAN ACT—BALANCE OF PAYMENTS PROGRAM—SUPPLIES (DATE)

(a) * * *

United States means the 50 States, the District of Columbia, and outlying areas.

* * * * *

72. Amend section 52.225–2 by revising the date of the provision and paragraph (a) to read as follows:

52.225–2 Buy American Act—Balance of Payments Program Certificate.

* * * * *

BUY AMERICAN ACT—BALANCE OF PAYMENTS PROGRAM CERTIFICATE (DATE)

(a) The offeror certifies that each end product, except those listed in paragraph (b) of this provision, is a domestic end product and that the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products. The terms ''component,'' ''domestic end product,'' ''end product,'' ''foreign end product,'' and ''United States'' are defined in the clause of this solicitation entitled ''Buy American Act—Balance of Payments Program—Supplies.''

* * * * *

73. Amend section 52.225–3 by revising the date of the clause; and in paragraph (a) by revising the definition ''United States'' to read as follows:

52.225–3 Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program.

* * * * *

BUY AMERICAN ACT—NORTH AMERICAN FREE TRADE AGREEMENT—ISRAELI TRADE ACT—BALANCE OF PAYMENTS PROGRAM (DATE)

(a) * * *

United States means the 50 States, the District of Columbia, and outlying areas.

* * * * *

74. Amend section 52.225–4 by revising the date of the provision and paragraph (a) to read as follows:

52.225–4 Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program Certificate.

* * * * *

BUY AMERICAN ACT—NORTH AMERICAN FREE TRADE AGREEMENT—ISRAELI TRADE ACT—BALANCE OF PAYMENTS PROGRAM CERTIFICATE (DATE)

(a) The offeror certifies that each end product, except those listed in paragraph (b) or (c) of this provision, is a domestic end product and that the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The terms ''component,'' ''domestic end product,'' ''end product,'' ''foreign end product,'' and ''United States'' are defined in the clause of this solicitation entitled ''Buy American Act— North American Free Trade Agreement—Israeli Trade Act— Balance of Payments Program—Supplies.''

* * * * *

75. Amend section 52.225–5 by revising the date of the clause; and in paragraph (a) by revising the definition ''United States'' to read as follows:

52.225–5 Trade Agreements.

* * * * *

TRADE AGREEMENTS (DATE)

(a) * * *

United States means the 50 States, the District of Columbia, and outlying areas.

* * * * *

76. Amend section 52.225–9 by revising the date of the clause; and in paragraph (a) by revising the definition ''United States'' to read as follows:

52.225–9 Buy American Act—Balance of Payments Program— Construction Materials.

* * * * *

BUY AMERICAN ACT—BALANCE OF PAYMENTS PROGRAM—CONSTRUCTION MATERIALS (DATE)

(a) * * *

United States means the 50 States, the District of Columbia, and outlying areas.

* * * * *

77. Amend section 52.225–11 by revising the date of the clause; and in paragraph (a) by revising the definition ''United States'' to read as follows:

52.225–11 Buy American Act—Balance of Payments Program—Construction Materials under Trade Agreements.

* * * * *

BUY AMERICAN ACT—BALANCE OF PAYMENTS PROGRAM—CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (DATE)

(a) * * *

United States means the 50 States, the District of Columbia, and outlying areas.

* * * * *

52.225–13 [Amended]

78. Amend section 52.225–13 by revising the date of the clause to read ''(Date)''; and in the first sentence of paragraph (a) by adding ''and its outlying areas'' after the word ''States''.

79. Amend section 52.228–3 by revising the introductory paragraph to read as follows:

52.228–3 Workers' Compensation Insurance (Defense Base Act).

As prescribed in 28.309(a), insert the following clause:

* * * * *

80. Amend section 52.228–4 by revising the introductory paragraph to read as follows:

52.228–4 Workers' Compensation and War-Hazard Insurance Overseas. As prescribed in 28.309(b), insert the following clause:

* * * * *

81. Amend section 52.229–1 by revising the introductory paragraph to read as follows:

52.229–1 State and Local Taxes.

As prescribed in 29.401–1, insert the following clause:

* * * * *

82. Revise the section heading and text of 52.229–5 to read as follows:

52.229–5 Taxes—Contracts Performed in U.S. Outlying Areas.

As prescribed in 29.401–5, insert the following clause:

TAXES—CONTRACTS PERFORMED IN U.S. OUTLYING AREAS (DATE)

The term ''local taxes,'' as used in the Federal, State, and local taxes clause of this contract, includes taxes imposed by an outlying area of the United States.

(End of clause)

83. Amend section 52.229–6 by—

a. Revising the date of the clause;

b. Removing paragraph (a);

c. Redesignating paragraph (b) as paragraph (a) and adding introductory text;

d. Removing '', as used in this clause,'' from the definition ''Contract date'' in newly designated paragraph (a);

e. Revising the definition ''Country concerned'';

f. Removing '', as used in this clause,'' from the definitions ''*Tax*'' and ''*taxes*'', ''All applicable taxes and duties'', ''After-imposed tax'', ''After-relieved tax'', and ''Excepted tax''; and

g. Adding a new paragraph (b) to read as follows:

52.229–6 Taxes—Foreign Fixed-Price Contracts.

* * * * *

TAXES—FOREIGN FIXED-PRICE CONTRACTS (DATE)

(a) *Definitions.* As used in this clause:

* * * * *

Country concerned means any country, other than the United States and its outlying areas, in which expenditures under this contract are made.

* * * * *

(b) To the extent that this contract provides for furnishing supplies or performing services outside the United States and its outlying areas, this clause applies in lieu of any Federal, State, and local taxes clause of the contract.

* * * * *

84. Revise section 52.236–25 to read as follows:

52.236–25 Requirements for Registration of Designers.

As prescribed in 36.609–4, insert the following clause:

REQUIREMENTS FOR REGISTRATION OF DESIGNERS (DATE)

Architects or engineers registered to practice in the particular professional field involved in a State, the District of Columbia, or an outlying area of the United States shall prepare or review and approve the design of architectural, structural, mechanical, electrical, civil, or other engineering features of the work.

(End of clause)

85. Revise section 52.242–12 to read as follows:

52.242–12 Report of Shipment (REPSHIP).

As prescribed in 42.1406–2, insert the following clause:

REPORT OF SHIPMENT (REPSHIP) (DATE)

(a) *Definition. Domestic destination*, as used in this clause, means—

(1) A destination within the contiguous United States; or

(2) If shipment originates in Alaska or Hawaii, a destination in Alaska or Hawaii, respectively.

(b) Unless otherwise directed by the Contracting Officer, the Contractor shall—

(1) Send a prepaid notice of shipment to the consignee transportation officer—

(i) For all shipments of—

(A) Classified material, protected sensitive, and protected controlled material;

(B) Explosives and poisons, classes A and B;

(C) Radioactive materials requiring the use of a III bar label; or

(ii) When a truckload/carload shipment of supplies weighing 20,000 pounds or more, or a shipment of less weight that occupies the full visible capacity of a railway car or motor vehicle, is given to any carrier (common, contract or private) for transportation to a domestic destination (other than a port for export);

(2) Transmit the notice by rapid means to be received by the consignee transportation officer at least 24 hours before the arrival of the shipment; and

(3) Send, to the receiving transportation officer, the Government bill of lading, commercial bill of lading or letter or other document containing the following information and prominently identified as a ''Report of Shipment'' or ''REPSHIP FOR T.O.''

Message Example:

REPSHIP FOR T.O. 81 JUN 01
TRANSPORTATION OFFICER
DEFENSE DEPOT, MEMPHIS, TENN.
SHIPPED YOUR DEPOT 1981 JUN 1 540 CTNS MENS COTTON TROUSERS, 30,240 LB, 1782 CUBE, VIA XX–YY*
IN CAR NO. XX 123456* * –GBL* * * –C98000031 * * * * CONTRACT DLA_____
ETA* * * * * –JUNE 5 JONES & CO., JERSEY CITY, N.J.

* Name of rail carrier, trucker, or other carrier.

* * Vehicle identification.

* * * Government bill of lading.

* * * * If not shipped by GBL, identify lading document and state whether paid by contractor.

* * * * * Estimated time of arrival.

(End of clause)

86. Revise section 52.247–47 to read as follows:

52.247–47 Evaluation—F.o.b. Origin.

As prescribed in 47.305–3(f)(2), insert the following provision. When it is appropriate to use methods other than land transportation in evaluating offers; e.g., air, pipeline, barge, or ocean tanker, modify the provision accordingly.

EVALUATION—F.O.B. ORIGIN (DATE)

(a) The Government normally uses land methods of transportation by regulated common carrier for shipment within the contiguous United States.

(b) To evaluate offers, the Government will consider only these methods to establish the cost of transportation between offeror's shipping point and destination (tentative or firm, whichever is applicable) in the contiguous United States.

(c) This transportation cost will be added to the offer price to determine the Government's overall cost.

(d) When tentative destinations are indicated, the Government will use them only for evaluation purposes. The Government has the right to use any other means of transportation or any other destination at the time of shipment.

(End of provision)

87. Amend section 52.247–55 by revising the introductory paragraph, the date of the clause, and paragraphs (a) and

(b) of the clause to read as follows:

52.247–55 F.o.b. Point for Delivery of Government-Furnished Property.

As prescribed in 47.305–12(a)(2), insert the following clause:

F.O.B. POINT FOR DELIVERY OF GOVERNMENT-FURNISHED PROPERTY (DATE)

(a) Unless otherwise specified in this solicitation, the Government will deliver any Government-furnished property for use within the contiguous United States or Canada to a point specified by the Contractor in the offer. If the Government makes delivery by railroad, the f.o.b. point will be private siding, Contractor's plant. If the Contractor's plant is not served by rail, the f.o.b. point will be railroad cars in the same or nearest city having rail service. The Government may choose the mode of transportation and the carriers and will bear the cost of all line-haul transportation to the specified destination.

(b) If the destination of the Government-furnished property is a Contractor's plant located outside the contiguous United States or Canada, the f.o.b. point for Government delivery of Government-furnished property will be a Contractor specified location in the contiguous United States. If the Contractor fails to name a point, the Government will select as the f.o.b. point the port city in the contiguous United States nearest to the Government-furnished property that has regular commercial water transportation services to the offshore port nearest the Contractor's plant.

* * * * *

88. Amend section 52.247–63 by revising the date of the clause and paragraphs (a) and (c) to read as follows:

52.247–63 Preference for U.S.-Flag Air Carriers.

* * * * *

PREFERENCE FOR U.S.-FLAG AIR CARRIERS (DATE)

(a) *Definitions.* As used in this clause—

International air transportation means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.

United States means the 50 States, the District of Columbia, and outlying areas.

U.S.-flag air carrier means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

* * * * *

(c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.

* * * * *

PART 53—FORMS

53.219 [Amended]

89. Amend section 53.219 in paragraphs (a) and (b) by removing ''(*Rev. 12/98*)'' and adding ''(*Rev. Date*)'' in their place.

53.228 [Amended]

90. Amend section 53.228 in paragraph (e) by removing ''(*Rev. 6/96*)'' and adding ''(*Rev. Date*)'' in its place.

91. Revise section 53.301–28 to read as follows:

53.301–28 Affidavit of Individual Surety.

[Insert SF 28 here (front and back)]

92. Revise section 53.301–294 to read as follows:

53.301–294 Subcontracting Report for Individual Contracts.

[Insert SF 294 here (front and back)]

93. Revise section 53.301–295 to read as follows:

53.301–295 Summary Subcontract Report.

[Insert SF 295 here (front and back)]

DRAFT

AFFIDAVIT OF INDIVIDUAL SURETY

(See instructions on reverse)

OMB No.: 9000-0001

Public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405.

STATE OF

COUNTY OF

SS.

I, the undersigned, being duly sworn, depose and say that I am: (1) the surety to the attached bond(s); (2) a citizen of the United States; and of full age and legally competent. I also depose and say that, concerning any stocks or bonds included in the assets listed below, that there are no restrictions on the resale of these securities pursuant to the registration provisions of Section 5 of the Securities Act of 1933. I recognize that statements contained herein concern a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious or fraudulent statement may render the maker subject to prosecution under Title 18, United States Code Sections 1001 and 494. This affidavit is made to induce the United States of America to accept me as surety on the attached bond.

1. NAME *(First, Middle, Last) (Type or Print)*	2. HOME ADDRESS *(Number, Street, City, State, ZIP code)*
3. TYPE AND DURATION OF OCCUPATION	4. NAME AND ADDRESS OF EMPLOYER *(If Self-employed, so State)*
5. NAME AND ADDRESS OF INDIVIDUAL SURETY BROKER USED *(If any) (Number, Street, City, State, ZIP Code)*	6. TELEPHONE NUMBER HOME - BUSINESS -

7. THE FOLLOWING IS A TRUE REPRESENTATION OF THE ASSETS I HAVE PLEDGED TO THE UNITED STATES IN SUPPORT OF THE ATTACHED BOND:

(a) Real estate *(Include a legal description, street address and other identifying description; the market value; attach supporting certified documents including recorded lien; evidence of title and the current tax assessment of the property. For market value approach, also provide a current appraisal.)*

(b) Assets other than real estate *(describe the assets, the details of the escrow account, and attach certified evidence thereof).*

8. IDENTIFY ALL MORTGAGES, LIENS, JUDGEMENTS, OR ANY OTHER ENCUMBRANCES INVOLVING SUBJECT ASSETS INCLUDING REAL ESTATE TAXES DUE AND PAYABLE.

9. IDENTIFY ALL BONDS, INCLUDING BID GUARANTEES, FOR WHICH THE SUBJECT ASSETS HAVE BEEN PLEDGED WITHIN 3 YEARS PRIOR TO THE DATE OF EXECUTION OF THIS AFFIDAVIT.

DOCUMENTATION OF THE PLEDGED ASSET MUST BE ATTACHED.

10. SIGNATURE	11. BOND AND CONTRACT TO WHICH THIS AFFIDAVIT RELATES *(Where appropriate)*

12. SUBSCRIBED AND SWORN TO BEFORE ME AS FOLLOWS:

a. DATE OATH ADMINISTERED MONTH DAY YEAR	b. CITY AND STATE *(Or other jurisdication)*		Official Seal
c. NAME AND TITLE OF OFFICIAL ADMINISTERING OATH	d. SIGNATURE	e. MY COMMISSION EXPIRES	

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STANDARD FORM 28 (REV.)
Prescribed by GSA-FAR (48 CFR) 53.228(e)

DRAFT

INSTRUCTIONS

1. Individual sureties on bonds executed in connection with Government contracts must complete and submit this form with the bond. (See 48 CFR 28.203, 53.228(e).) The surety must have the completed form notarized.

2. No corporation, partnership, or other unincorporated association or firm, as such, is acceptable as an individual surety. Likewise, members of a partnership are not acceptable as sureties on bonds that a partnership or an association, or any co-partner or member thereof, is the principal obligor. However, stockholders of corporate principals are acceptable provided (a) their qualifications are independent of their stockholdings or financial interest therein, and (b) that the fact is expressed in the affidavit of justification. An individual surety will not include any financial interest in assets connected with the principal on the bond that this affidavit supports.

3. United States citizenship is a requirement for individual sureties for contracts and bonds executed in the United States. However, only a permanent resident of the place of execution of the contract and bond is required for individual sureties in any outlying area of the United States or foreign country.

4. All signatures of the affidavit submitted must be originals. Affidavits bearing reproduced signatures are not acceptable. An authorized person must sign the bond. Any person signing in a representative capacity (e.g., an attorney-in-fact) must furnish evidence of authority if that representative is not a member of a firm, partnership, or joint venture, or an officer of the corporation involved.

DRAFT

SUBCONTRACTING REPORT FOR INDIVIDUAL CONTRACTS
(See instructions on reverse)

OMB No.: 9000-0006
Expires: 04/30/2001

Public reporting burden for this collection of information is estimated to average 8 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405.

1. CORPORATION, COMPANY OR SUBDIVISION COVERED

a. COMPANY NAME

b. STREET ADDRESS

c. CITY | d. STATE | e. ZIP CODE

2. CONTRACTOR IDENTIFICATION NUMBER

3. DATE SUBMITTED

4. REPORTING PERIOD FROM INCEPTION OF CONTRACT THRU:

☐ MAR 31 ☐ SEPT 30 YEAR

5. TYPE OF REPORT

☐ REGULAR ☐ FINAL ☐ REVISED

6. ADMINISTERING ACTIVITY *(Please check applicable box)*

☐ ARMY ☐ GSA ☐ NASA
☐ NAVY ☐ DOE ☐ OTHER FEDERAL AGENCY *(Specify)*
☐ AIR FORCE ☐ DEFENSE LOGISTICS AGENCY

7. REPORT SUBMITTED AS *(Check one and provide appropriate number)*

☐ PRIME CONTRACTOR — PRIME CONTRACT NUMBER

☐ SUBCONTRACTOR — SUBCONTRACT NUMBER

8. AGENCY OR CONTRACTOR AWARDING CONTRACT

a. AGENCY'S OR CONTRACTOR'S NAME

b. STREET ADDRESS

c. CITY | d. STATE | e. ZIP CODE

9. DOLLARS AND PERCENTAGES IN THE FOLLOWING BLOCKS:

☐ DO INCLUDE INDIRECT COSTS ☐ DO NOT INCLUDE INDIRECT COSTS

SUBCONTRACT AWARDS

TYPE	CURRENT GOAL		ACTUAL CUMULATIVE	
	WHOLE DOLLARS	PERCENT	WHOLE DOLLARS	PERCENT
10a. SMALL BUSINESS CONCERNS (Include SDB, WOSB, HBCU/MI, HUBZone SB, VOSB and Service-Disabled VOSB) *(Dollar Amount and Percent of 10c)*				
10b. LARGE BUSINESS CONCERNS *(Dollar Amount and Percent of 10c.)*				
10c. TOTAL *(Sum of 10a and 10b.)*		100.0%		100.0%
11. SMALL DISADVANTAGED (SDB) CONCERNS *(Include HBCU/MI) (Dollar Amount and Percent of 10c.)*				
12. WOMEN-OWNED SMALL BUSINESS (WOSB) CONCERNS *(Dollar Amount and Percent of 10c.)*				
13. HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (HBCU) AND MINORITY INSTITUTIONS (MI) *(If applicable) (Dollar Amount and Percent of 10c.)*				
14. HUBZONE SMALL BUSINESS (HUBZone SB) CONCERNS *(Dollar Amount and Percent of 10c.)*				
15. VETERAN-OWNED SMALL BUSINESS *(Include Service-Disabled Veteran-Owned SB) (Dollar Amount and Percent of 10c.)*				

16. REMARKS

17a. NAME OF INDIVIDUAL ADMINISTERING SUBCONTRACTING PLAN

17b. TELEPHONE NUMBER — AREA CODE | NUMBER

AUTHORIZED FOR LOCAL REPRODUCTION
Previous edition is not usable

STANDARD FORM 294 (REV.)
Prescribed by GSA-FAR (48 CFR) 53.219(a)

GENERAL INSTRUCTIONS

DRAFT

1. **This report is not required from small business.**

2. This report is not required for commercial items for which a commercial plan has been approved, nor from large businesses in the Department of Defense (DOD) **Test Program for Negotiation of Comprehensive Subcontracting Plans.** The Summary Subcontract Report (SF 295) is required for contractors operating under one of these two conditions and should be submitted to the Government in accordance with the instructions on that form.

3. This form collects subcontract award data from prime contractors/subcontractors that: (a) hold one or more contracts over $500,000 (over $1,000,000 for construction of a public facility); and (b) are required to report subcontracts awarded to Small Business (SB), Small Disadvantaged Business (SDB), Women-Owned Small Business (WOSB), HUBZone Small Business (HUBZone SB), Veteran-Owned Small Business (VOSB) and Service-Disabled Veteran-Owned Small Business concerns under a subcontracting plan. For the Department of Defense (DOD), the National Aeronautics and Space Administration (NASA), and the Coast Guard, this form also collects subcontract award data for Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs).

4. This report is required for each contract containing a subcontracting plan and must be submitted to the administrative contracting officer (ACO) or contracting officer if no ACO is assigned, semi-annually during contract performance for the periods ended March 31st and September 30th. **A separate report is required for each contract at contract completion.** Reports are due 30 days after the close of each reporting period unless otherwise directed by the contracting officer. **Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or since the previous report.**

5. Only subcontracts involving performance in the U.S. or its outlying areas should be included in this report.

6. **Purchases from a corporation, company, or subdivision that is an affiliate of the prime/subcontractor are not included in this report.**

7. Subcontract award data reported on this form by prime contractors/subcontractors shall be limited to awards made to their immediate subcontractors. **Credit cannot be taken for awards made to lower tier subcontractors.**

SPECIFIC INSTRUCTIONS

BLOCK 2: For the Contractor Identification Number, enter the nine-digit Data Universal Numbering System (DUNS) number that identifies the specific contractor establishment. If there is no DUNS number availble that identifies the exact name and address entered in Block 1, contact Dun and Bradstreet Information Services at 1-800-333-0505 to get one free of charge over the telephone. Be prepared to provide the following information: (1) Company name; (2) Company address; (3) Company telephone number; (4) Line of business; (5) Chief executive officer/key manager; (6) Date the company was started; (7) Number of people employed by the company; and; (8) Company affiliation.

BLOCK 4: Check only one. Note that all subcontract award data reported on this form represents activity since the inception of the contract through the date indicated in this block.

BLOCK 5: Check whether this report is a "Regular," "Final," and/or "Revised" report. **A "Final" report should be checked only if the contractor has completed the contract or subcontract reported in Block 7.** A "Revised" report is a change to a report previously submitted for the same period.

BLOCK 6: Identify the department or agency administering the majority of subcontracting plans.

BLOCK 7: Indicate whether the reporting contractor is submitting this report as a prime contractor or subcontractor and the prime contract or subcontract number.

BLOCK 8: Enter the name and address of the Federal department or agency awarding the contract or the prime contractor awarding the subcontract.

BLOCK 9: Check the appropriate block to indicate whether indirect costs are included in the dollar amounts in blocks 10a through 14. To ensure comparability between the goal and actual columns, the contractor may include indirect costs in the actual column only if the subcontracting plan included indirect costs in the goal.

BLOCKS 10a through 15: Under "Current Goal," enter the dollar and percent goals in each category (SB, SDB, WOSB, VOSB, and HUBZone SB) from the subcontracting plan approved for this contract. (If the original goals agreed upon at contract award have been revised as a result of contract modifications, enter the original goals in Block 16. The amounts entered in Blocks 10a through 15 should reflect the revised goals.) Under "Actual Cumulative," enter actual subcontract achievements (dollar and percent) from the inception of the contract through the date of the report shown in Block 4. In cases where indirect costs are included, the amounts should include both direct awards and an appropriate prorated portion of indirect awards.

BLOCK 10a: Report all subcontracts awarded to SBs including subcontracts to SDBs, WOSBs, VOSBs and HUBZone SBs. **For DOD, NASA, and Coast Guard contracts, include subcontracting awards to HBCUs and MIs.**

BLOCK 10b: Report all subcontracts awarded to large businesses (LBs).

BLOCK 10c: Report on this line the total of all subcontracts awarded under this contract (the sum of lines 10a and 10b).

BLOCKS 11 through 15: Each of these items is a subcategory of Block 10a. **Note that in some cases the same dollars may be reported in more than one block (e. g., SDBs owned by women or veterans).**

BLOCK 11: Report all subcontracts awarded to SDBs **(including women-owned, veteran-owned, and HUBZone SB SDBs).** For DOD, NASA, and Coast Guard contracts, include subcontract awards to HBCUs and MIs.

BLOCK 12: Report all subcontracts awarded to Women-Owned firms **(including SDBs, VOSB's, and HUBZone SBs owned by women).**

BLOCK 13 (For contracts with DoD, NASA, and Coast Guard): Report all subcontracts with HBCUs/MIs. Complete the column under "Current Goal" only when the subcontracting plan establishes a goal.

BLOCK 14: Report all subcontracts awarded to HUBZone SBs (including women-owned, veteran-owned, and SDB HUBZone SBs).

BLOCK 15: Report all subcontracts awarded to VOSBs including Service-Disabled VOSBs (include VOSBs that are also SDBs, WOSBs and HUBZone SBs.).

BLOCK 16: Enter a short narrative explanation if (a) SB, SDB, WOSB, VOSBs, or HUBZone SB accomplishments fall below that which would be expected using a straight-line projection of goals through the period of contract performance; or (b) if this is a final report, any one of the three goals was not met.

DEFINITIONS

1. Direct Subcontract Awards are those that are identified with the performance of one or more specific Government contract(s).

2. Indirect costs are those which, because of incurrence for common or joint purposes, are not identified with specific Government contracts; these awards are related to Government contract performance but remain for allocation after direct awards have been determined and identified to specific Government contracts.

DISTRIBUTION OF THIS REPORT

For the Awarding Agency or Contractor:

The original copy of this report should be provided to the contracting officer at the agency or contractor identified in Block 8. For contracts with DOD, a copy should also be provided to the Defense Logistics Agency (DLA) at the cognizant Defense Contract Management Area Operations (DCMAO) office.

For the Small Business Administration (SBA):

A copy of this report must be provided to the cognizant Commerical Market Representative (CMR) at the time of a compliance review. It is NOT necessary to mail the SF 294 to SBA unless specifically requested by the CMR.

STANDARD FORM 294 (REV.) **BACK**

DRAFT

SUMMARY SUBCONTRACT REPORT
(See instructions on reverse)

OMB No.: 9000-0007
Expires: 09/30/2003

Public reporting burden for this collection of information is estimated to average 12.9 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405.

1. CORPORATION, COMPANY OR SUBDIVISION COVERED
a. COMPANY NAME
b. STREET ADDRESS
c. CITY | d. STATE | e. ZIP CODE

2. CONTRACTOR IDENTIFICATION NUMBER

3. DATE SUBMITTED

4. REPORTING PERIOD:
☐ OCT 1 - MAR 31 ☐ APR 1 - SEPT 30 YEAR

5. TYPE OF REPORT
☐ REGULAR ☐ FINAL ☐ REVISED

6. ADMINISTERING ACTIVITY *(Please check applicable box)*

	ARMY		DEFENSE LOGISTICS AGENCY		DOE
	NAVY		NASA		OTHER FEDERAL AGENCY *(Specify)*
	AIR FORCE		GSA		

7. REPORT SUBMITTED AS *(Check one)*		8. TYPE OF PLAN		
	PRIME CONTRACTOR		INDIVIDUAL	IF PLAN IS A COMMERCIAL PLAN, SPECIFY THE PERCENTAGE OF THE DOLLARS ON THIS REPORT ATTRIBUTABLE TO THIS AGENCY. ▶
	SUBCONTRACTOR			
	BOTH		COMMERCIAL PRODUCTS	

9. CONTRACTOR'S MAJOR PRODUCTS OR SERVICE LINES
a | b

CUMULATIVE FISCAL YEAR SUBCONTRACT AWARDS
(Report cumulative figures for reporting period in Block 4)

	TYPE	WHOLE DOLLARS	PERCENT (To nearest tenth of a %)
10a.	SMALL BUSINESS CONCERNS *(Include SDB, WOSB, HBCU/MI, HUBZone SB, VOSB and Service-Disabled VOSB) (Dollar Amount and Percent of 10c.)*		
10b.	LARGE BUSINESS CONCERNS *(Dollar Amount and Percent of 10c.)*		
10c.	TOTAL *(Sum of 10a and 10b.)*		100.0%
11.	SMALL DISADVANTAGED (SDB) CONCERNS *(Include HBCU/MI) (Dollar Amount and Percent of 10c.)*		
12.	WOMEN-OWNED SMALL BUSINESS (WOSB) CONCERNS *(Dollar Amount and Percent of 10c.)*		
13.	HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (HBCU) AND MINORITY INSTITUTIONS (MI) *(If applicable) (Dollar Amount and Percent of 10c.)*		
14.	HUBZONE SMALL BUSINESS (HUBZone SB) CONCERNS *(Dollar Amount and Percent of10c.)*		
15a.	VETERAN-OWNED SMALL BUSINESS (VOSB) CONCERNS *(Dollar Amount and Percent of10c.)*		
15b.	SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS CONCERNS *(Dollar Amount and Percent of10c.)*		

16. REMARKS

17. CONTRACTOR'S OFFICIAL WHO ADMINISTERS SUBCONTRACTING PROGRAM
a. NAME | b. TITLE | c. TELEPHONE NUMBER: AREA CODE | NUMBER

18. CHIEF EXECUTIVE OFFICER
a. NAME | c. SIGNATURE
b. TITLE | d. DATE

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STANDARD FORM 295 (REV.)
Prescribed by GSA - FAR (48 CFR) 53.219(b)

DRAFT

GENERAL INSTRUCTIONS

1. This report is not required from small businesses.

2. This form collects subcontract award data from prime contractors/subcontractors that: (a) hold one or more contracts over $500,000 (over $1,000,000 for construction of a public facility); and (b) are required to report subcontracts awarded to Small Business (SB), Small Disadvantaged Business (SDB), Women-Owned Small Business (WOSB), Veteran-Owned Small Business (VOSB), Service-Disabled Veteran-Owned Small Business, and HUBZone Small Business (HUBZone SB) concerns under a subcontracting plan. For the Department of Defense (DOD), the National Aeronautics and Space Administration (NASA), and the Coast Guard, this form also collects subcontract award data for Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs).

3. This report must be submitted semi-annually (for the six months ended March 31st and the twelve months ended September 30th) for contracts with the Department of Defense (DOD) and annually (for the twelve months ended September 30th) for contracts with civilian agencies, except for contracts covered by an approved Commercial Plan (see special instructions in right-hand column). Reports are due 30 days after the close of each reporting period.

4. This report may be submitted on a corporate, company, or subdivision (e.g., plant or division operating on a separate profit center) basis, unless otherwise directed by the agency awarding the contract.

5. If a prime contractor/subcontractor is performing work for more than one Federal agency, **a separate report shall be submitted to each agency covering only that agency's contracts**, provided at least one of that agency's contracts is over $500,000 (over $1,000,000 for construction of a public facility) and contains a subcontracting plan. (Note that DOD is considered to be a single agency; see next instruction.)

6. **For DOD, a consolidated report should be submitted for all contracts awarded by military departments/agencies and/or subcontracts awarded by DOD prime contractors.** However, DOD contractors involved in construction and related maintenance and repair must submit a separate report for each DOD component.

7. Only subcontracts involving performance in the U.S. or its outlying areas should be included in this report.

8. **Purchases from a corporation, company, or subdivision that is an affiliate of the prime/subcontractor are not included in this report.**

9. Subcontract award data reported on this form by prime contractors/subcontractors shall be limited to awards made to their immediate subcontractors. **Credit cannot be taken for awards made to lower tier subcontractors.**

10. See special instructions in right-hand column for Commercial Plans.

SPECIFIC INSTRUCTIONS

BLOCK 2: For the Contractor Identification Number, enter the nine-digit Data Universal Numbering System (DUNS) number that identifies the specific contractor establishment. If there is no DUNS number available that identifies the exact name and address entered in Block 1, contact Dun and Bradstreet Information Services at 1-800-333-0505 to get one free of charge over the telephone. Be prepared to provide the following information: (1) Company name; (2) Company address; (3) Company telephone number; (4) Line of business; (5) Chief executive officer/key manager; (6) Date the company was started; (7) Number of people employed by the company; and (8) Company-affiliation.

BLOCK 4: Check only one. Note that March 31 represents the six months from October 1st and that September 30th represents the twelve months from October 1st. Enter the year of the reporting period.

BLOCK 5: Check whether this report is a "Regular," "Final," and/or "Revised" report. **A "Final" report should be checked only if the contractor has completed all the contracts containing subcontracting plans awarded by the agency to which it is reporting.** A "Revised" report is a change to a report previously submitted for the same period.

BLOCK 6: Identify the department or agency administering the majority of subcontracting plans.

BLOCK 7: This report encompasses all contracts with the Federal Government for the agency to which it is submitted, including subcontracts received from other large businesses that have contracts with the same agency. Indicate in this block whether the contractor is a prime contractor, subcontractor, or both (check only one).

BLOCK 8: **Check only one.** Check "Commercial Plan" only if this report is under an approved Commercial Plan. For a Commercial Plan, the contractor must specify the percentage of dollars in Blocks 10a through 15b attributable to the agency to which this report is being submitted.

BLOCK 9: Identify the major product or service lines of the reporting organization.

BLOCKS 10a through 15b: These entries should include all subcontract awards resulting from contracts or subcontracts, regardless of dollar amount, received from the agency to which this report is submitted. If reporting as a subcontractor, report all subcontracts awarded under prime contracts. Amounts should include both direct awards and an appropriate prorated portion of indirect awards. (The indirect portion is based on the percentage of work being performed for the organization to which thereport is being submitted in relation to other work being performed by the prime contractor/subcontractor.) Do not include awards made in support of commercial business unless "Commerical" is checked in Block 8 (see Special Instructions for Commercial Plans in right hand column). Report only those dollars subcontracted this fiscal year for the period indicated in Block 4.

BLOCK 10a: Report all subcontracts awarded to SBs including subcontracts to SDBs, WOSBs, VOSBs, and HUBZone SBs. For DOD, NASA, and Coast Guard contracts, include subcontracting awards to HBCUs and MIs.

BLOCK 10b: Report all subcontracts awarded to large businesses (LBs).

BLOCK 10c: Report on this line the grand total of all subcontracts (the sum of lines 10a and 10b).

BLOCKS 11 through 15b: Each of these items is a subcategory of Block 10a. Note that in some cases the same dollars may be reported in more than one block (e.g., SDBs owned by women); likewise subcontracts to HBCUs or MIs should be reported on both Block 11 and 13.

BLOCK 11: Report all subcontracts awarded to SDBs (including women-owned, veteran-owned, and HUBZone SB SDBs). For DOD, NASA, and Coast Guard contracts, include subcontract awards to HBCUs and MIs.

BLOCK 12: Report all subcontracts awarded to WOSB firms (including SDBs, VOSBs, and HUBZone SBs owned by women).

BLOCK 13: (For contracts with DOD, NASA, and Coast Guard): Enter the dollar value of all subcontracts with HBCUs/MIs.

BLOCK 14: Report all subcontracts awarded to HUBZone SBs (including women-owned, veteran-owned, and SDB HUBZone SBs).

BLOCK15a: Report all subcontracts awarded to VOSBs (including women-owned, SDB, and HUBZone SB VOSBs).

BLOCK 15b: Report all subcontracts awarded to service disabled VOSBs (these subcontracts should also be reported in Block 15a).

SPECIAL INSTRUCTIONS FOR COMMERCIAL PLANS

1. This report is due on October 30th each year for the previous fiscal year ended September 30th.

2. The annual report submitted by reporting organizations that have an approved company-wide annual subcontracting plan for commercial items shall include all subcontracting activity under commercial plans in effect during the year and **shall be submitted in addition to the required reports for other-than-commercial items, if any.**

3. Enter in Blocks 10a through 15b the total of all subcontract awards under the contractor's Commercial Plan. **Show in Block 8 the percentage of this total that is attributable to the agency to which this report is being submitted.** This report must be submitted to each agency from which contracts for commercial items covered by an approved Commercial Plan were received.

DEFINITIONS

1. Direct Subcontract Awards are those that are identified with the performance of one or more specific Government contract(s).

2. Indirect Subcontract Awards are those which, because of incurrence for common or joint purposes, are not identified with specific Government contracts; these awards are related to Government contract performance but remain for allocation after direct awards have been determined and identified to specific Government contracts.

SUBMITTAL ADDRESSES FOR ORIGINAL REPORT

For DOD Contractors, send reports to the cognizant contract administration office as stated in the contract.

For Civilian Agency Contractors, send reports to awarding agency:

1. NASA: Forward reports to NASA, Office of Procurement (HS), Washington, DC 20546

2. OTHER FEDERAL DEPARTMENTS OR AGENCIES: Forward report to the OSDBU Director unless otherwise provided for in instructions by the Department or Agency.

FOR ALL CONTRACTORS:

SMALL BUSINESS ADMINISTRATION (SBA): Send "info copy" to the cognizant Commercial Market Representative (CMR) at the address provided by SBA. Call SBA Headquarters in Washington, DC at (202) 205-6475 for correct address if unknown.

STANDARD FORM 295 (REV.) BACK

[FR Doc. 01–18563 Filed 7–26–01; 8:45 am]

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