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48 CFR Chapter 1

Federal Acquisition Regulations; Final Rules

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Chapter 1**

[Docket No. FAR 2015–0051, Sequence No. 6]

**Federal Acquisition Regulation; Federal Acquisition Circular 2005–86; Introduction**

**AGENCY:** Department of Defense (DoD), General Services Administration (GSA),

and National Aeronautics and Space Administration (NASA).

**ACTION:** Summary presentation of interim and final rules.

**SUMMARY:** This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2005–86. A companion document, the *Small Entity Compliance Guide* (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at <http://www.regulations.gov>.

**DATES:** For effective dates see the separate documents, which follow.

**FOR FURTHER INFORMATION CONTACT:** The analyst whose name appears in the table below in relation to the FAR case. Please cite FAC 2005–86 and the specific FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755.

**RULES LISTED IN FAC 2005–86**

Item	Subject	FAR Case	Analyst
I .....	Definition of “Multiple-Award Contract” .....	2015–019	Uddowla.
II .....	Sole Source Contracts for Women-Owned Small Businesses (Interim) .....	2015–032	Uddowla.
III .....	New Designated Countries—Montenegro and New Zealand .....	2015–034	Davis.
IV .....	Trade Agreements Thresholds .....	2016–001	Davis.

**SUPPLEMENTARY INFORMATION:**

Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005–86 amends the FAR as follows:

**Item I—Definition of “Multiple-Award Contract” (FAR Case 2015–019)**

This rule amends the FAR to define “multiple-award contract.” This rule implements the definition established by the Small Business Administration (SBA) in its final rule that published in the **Federal Register** at 78 FR 61114 on October 2, 2013. SBA’s final rule implements the statutory definition of the term from section 1311 of the Small Business Jobs Act of 2010, Pub. L. 111–240.

This final rule does not place any new requirements on small entities.

**Item II—Sole Source Contracts for Women-Owned Small Businesses (FAR Case 2015–032) (Interim)**

This interim rule amends the FAR to implement regulatory changes made by the Small Business Administration (SBA) in its final rule as published in the **Federal Register** at 80 FR 55019, on September 14, 2015. SBA’s final rule implements the statutory requirements of paragraph (a)(3) of section 825 of the Carl Levin and Howard P. ‘Buck’ McKeon National Defense Authorization Act for Fiscal Year 2015, Public Law 113–291, which grants contracting

officers the authority to award sole source contracts to economically disadvantaged women-owned small business (EDWOSB) concerns and to women-owned small business (WOSB) concerns eligible under the WOSB Program. The anticipated price, including options, must not exceed \$6.5 million for manufacturing NAICS codes, or \$4 million for other NAICS codes.

This interim rule may have a positive economic impact on women-owned small businesses.

**Item III—New Designated Countries—Montenegro and New Zealand (FAR Case 2015–034)**

This final rule amends the FAR to add Montenegro and New Zealand as new designated countries under the World Trade Organization Government Procurement Agreement (WTO GPA). The rule also updates the list of parties to the Agreement on Trade in Civil Aircraft by adding Montenegro.

This final rule has no significant impact on the Government and contractors, including small business entities.

**Item IV—Trade Agreements Thresholds (FAR Case 2016–001)**

This final rule amends the FAR to adjust the thresholds for application of the World Trade Organization Government Procurement Agreement and the Free Trade Agreements as determined by the United States Trade Representative, according to a pre-

determined formula under the agreements.

Dated: December 17, 2015.

**William Clark,**

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

Federal Acquisition Circular (FAC) 2005–86 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005–86 is effective December 31, 2015 except for item I and III which are effective February 1, 2016, and item IV which is effective January 1, 2016.

Dated: December 18, 2015.

**Althea H. Coetzee, RADM,**

*Acting Director, Defense Procurement and Acquisition Policy.*

Dated: December 16, 2015.

**Jeffrey A. Koses,**

*Senior Procurement Executive/Deputy CAO, Office of Acquisition Policy, U.S. General Services Administration.*

Dated: December 16, 2015.

**William P. McNally,**

*Assistant Administrator, Office of Procurement National Aeronautics and Space Administration.*

[FR Doc. 2015–32426 Filed 12–30–15; 8:45 am]

**BILLING CODE 6820–EP–P**

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES  
ADMINISTRATION**

**NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION**

**48 CFR Part 2**

[FAC 2005–86; FAR Case 2015–019; Item I; Docket 2015–0019, Sequence 1]

RIN 9000–AM96

**Federal Acquisition Regulation;  
Definition of “Multiple-Award  
Contract”**

**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 to amend the Federal Acquisition Regulation (FAR) to define “multiple-award contract.”

**DATES:** *Effective:* February 1, 2016.

**FOR FURTHER INFORMATION CONTACT:** Ms. Mahruha Uddowla, Procurement Analyst, at 703–605–2868, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite FAC 2005–86, FAR Case 2015–019.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 80 FR 31342 on June 2, 2015, soliciting public comments regarding the definition of the term “multiple-award contract.” The proposed rule was implementing the definition that the U.S. Small Business Administration (SBA) established at 13 CFR 125.1(k) in its final rule which published in the **Federal Register** at 78 FR 61114 on October 2, 2013. SBA’s final rule implemented several provisions of the Small Business Jobs Act of 2010, Pub. L. 111–240. Section 1311 of Pub. L. 111–240 (15 U.S.C. 632(v)) added a definition of “multiple-award contract.” One respondent submitted a comment on the proposed rule.

**II. Discussion and Analysis**

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the comment in the development of the final rule. A discussion of the comment is provided as follows:

*A. Summary of Significant Changes*

There were no changes made to the rule as a result of the comment received. There were no comments on the Regulatory Flexibility Act analysis.

*B. Analysis of Public Comments*

*Comment:* One respondent stated that based on the proposed definition, any award made to multiple sources from one solicitation is a multiple award, even when the requirement is split between offerors and none of the subsequent task orders are competed because each offeror gets part of the overall requirement in the solicitation. The respondent requested that the FAR definition clarify that a multiple-award contract is one that should be subject to fair opportunity.

*Response:* FAR 16.505(b)(1) provides information concerning fair opportunity. Additional clarity is not needed for the definition of “multiple-award contract” concerning fair opportunity since it is already provided at FAR 16.505(b)(1).

**III. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

**IV. Regulatory Flexibility Act**

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

The final rule amends the FAR to define “multiple-award contract.” On October 2, 2013, the Small Business Administration (SBA) issued a final rule in the **Federal Register** at 78 FR 61114 to implement various sections of the Small Business Jobs Act of 2010 (Public L. 111–240) by establishing new policies and procedures for multiple-award contracts and task and delivery orders. SBA’s final rule included a definition of “multiple-award contract”. The final rule defines “multiple-award contract” in order to implement that part of SBA’s final rule in the FAR.

There were no significant issues raised by the public in response to the Initial Regulatory Flexibility Analysis provided in the proposed rule.

This rule applies to all entities that do business with the Federal Government, but it is not expected to have a significant impact.

This rule does not impose any new reporting, recordkeeping or other compliance requirements. The rule does not duplicate, overlap, or conflict with any other Federal rules.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat. The Regulatory Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

**V. Paperwork Reduction Act**

The 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. chapter 35).

**List of Subject in 48 CFR Part 2**

Government procurement.

Dated: December 17, 2015.

**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 part 2 as set forth below:

**PART 2—DEFINITIONS OF WORDS AND TERMS**

■ 1. The authority citation for 48 CFR part 2 continues to read as follows:

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

■ 2. Amend section 2.101 in paragraph (b)(2) by adding, in alphabetical order, the definition “Multiple-award contract” to read as follows:

**2.101 Definitions.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

*Multiple-award contract* means a contract that is—

(1) A Multiple Award Schedule contract issued by GSA (*e.g.*, GSA Schedule Contract) or agencies granted Multiple Award Schedule contract authority by GSA (*e.g.*, Department of Veterans Affairs) as described in FAR part 38;

(2) A multiple-award task-order or delivery-order contract issued in accordance with FAR subpart 16.5, including Governmentwide acquisition contracts; or

(3) Any other indefinite-delivery, indefinite-quantity contract entered into

with two or more sources pursuant to the same solicitation.

\* \* \* \* \*

[FR Doc. 2015-32427 Filed 12-30-15; 8:45 am]

BILLING CODE 6820-EP-P

## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 2, 4, 6, 18, 19, and 52

[FAC 2005-86; FAR Case 2015-032; Item II; Docket No. 2015-0032; Sequence No. 1]

RIN 9000-AN13

#### Federal Acquisition Regulation; Sole Source Contracts for Women-Owned Small Businesses

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

**ACTION:** Interim rule.

**SUMMARY:** DoD, GSA, and NASA are issuing an interim rule amending the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the Small Business Administration (SBA) that provide for authority to award sole source contracts to economically disadvantaged women-owned small business concerns and to women-owned small business concerns eligible under the Women-Owned Small Business (WOSB) Program.

**DATES:** *Effective:* December 31, 2015.

*Comment date:* Interested parties should submit written comments to the Regulatory Secretariat Division at one of the addresses shown below on or before February 29, 2016 to be considered in the formation of the final rule.

**ADDRESSES:** Submit comments identified by FAC 2005-86, FAR Case 2015-032, by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching for "FAR Case 2015-032." Select the link "Comment Now" that corresponds with "FAR Case 2015-032." Follow the instructions provided on the screen. Please include your name, company name (if any), and "FAR Case 2015-032" on your attached document.

- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: Ms. Flowers,

1800 F Street NW., 2nd Floor, Washington, DC 20405.

**Instructions:** Please submit comments only and cite FAC 2005-86, FAR Case 2015-032, in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check [www.regulations.gov](http://www.regulations.gov), approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

**FOR FURTHER INFORMATION CONTACT:** Ms. Mahruha Uddowla, Procurement Analyst, at 703-605-2868 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755. Please cite FAC 2005-86, FAR Case 2015-032.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

This interim rule revises the FAR to implement regulatory changes that the SBA has made in its final rule published in the **Federal Register** at 80 FR 55019, on September 14, 2015, concerning sole source award authority under the WOSB Program. SBA's final rule implements the statutory requirements of paragraph (a)(3) of section 825 of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2015, Public Law 113-291, granting contracting officers the authority to award sole source contracts to both economically disadvantaged women-owned small business (EDWOSB) concerns and to WOSB concerns eligible under the WOSB Program.

The WOSB Program, as set forth in section 8(m) of the Small Business Act (15 U.S.C. 637(m)), authorizes contracting officers to restrict competition to EDWOSB concerns and to WOSB concerns eligible under the WOSB Program for Federal contracts, in certain industries that SBA has determined to be underrepresented or substantially underrepresented by small business concerns owned and controlled by women. DoD, GSA, and NASA published an interim rule for FAR Case 2010-015 in the **Federal Register** at 76 FR 18304, on April 1, 2011, providing guidance to contracting officers for the set-asides and implementing SBA's final rule, published in the **Federal Register** at 75 FR 62258, on October 7, 2010. The FAR rule was finalized with changes and

published in the **Federal Register** at 77 FR 12913, on March 2, 2012. The establishment of a set-aside mechanism exclusively for women-owned small businesses was the first step towards leveling the playing field among the socioeconomic programs covered by the Small Business Act, *i.e.*, the HUBZone, service-disabled veteran-owned small-business, 8(a), and WOSB programs.

The WOSB Program was subsequently amended in section 825 of the NDAA for FY2015, which granted contracting officers the authority to award sole source contracts to EDWOSB concerns and WOSB concerns eligible under the WOSB Program. SBA established procedures for this new statutory authority in its final rule published in the **Federal Register** at 80 FR 55019, on September 14, 2015. As in SBA's earlier WOSB Program set-aside rule, sole source awards under the WOSB program are only permitted in the industries that SBA has determined to be underrepresented or substantially underrepresented by WOSB concerns. Implementation of these sole source procedures in the FAR ensures that contracting officers will have the tools necessary to maximize Federal procurement opportunities for WOSB concerns.

##### II. Discussion and Analysis

In keeping with the tenets of the WOSB Program, the sole source authority may only be used in industry sectors that SBA has determined to be underrepresented or substantially underrepresented by WOSB concerns. The same eligibility requirements for participating in set-asides under the WOSB Program, set forth in SBA's regulations at 13 CFR 127.100 through 127.509, also apply to sole source acquisitions. In general, an award under the WOSB program may be pursued on a sole source basis when the contracting officer does not have a reasonable expectation, through market research, that two or more eligible EDWOSB or WOSB concerns will submit offers at a fair and reasonable price, but identifies one responsible EDWOSB or WOSB that can perform at a fair and reasonable price. The dollar thresholds for sole source awards are equal to or less than \$6.5 million for manufacturing requirements and equal to or less than \$4 million for all other requirements, including all options.

This rule amends FAR subparts 2.1, 4.8, 6.3, 18.1, 19.0, 19.1, 19.3, 19.15, and 52.2. These changes are summarized in the following paragraphs:

#### A. Subpart 2.1, Definitions of Words and Terms

- *2.101, Definitions.* This section is amended to revise the definitions of the WOSB Program to include contracts awarded using the sole source authority.

#### B. Subpart 4.8, Government Contract Files

- *4.803, Contents of contract files.* This section is amended to include acquisitions awarded on a sole source basis under the WOSB Program.

#### C. Subpart 6.3, Other Than Full and Open Competition

- *6.302–5, Authorized or required by statute.* This section is amended to add the statutory authority to make sole source awards under the WOSB program (15 U.S.C. 637(m)).

#### D. Subpart 18.1, Available Acquisition Flexibilities

- *18.117, Awards to economically disadvantaged women-owned small business concerns and women-owned small business concerns eligible under the Women-Owned Small Business Program.* This section is amended to add the statutory authority to make sole source awards under the WOSB Program.

### PART 19—Small Business Programs

#### E. 19.000, Scope of Part.

This section is amended to include the authority for sole source awards to EDWOSB concerns and WOSB concerns eligible under the WOSB program.

#### F. Subpart 19.1—Size Standards

- *19.102, Size standards.* This section is amended to make conforming changes.

#### G. Subpart 19.3—Determination of Small Business Status for Small Business Programs

- *19.308, Protesting a firm's status as an economically disadvantaged women-owned small business concern or women-owned small business concern eligible under the Women-Owned Small Business Program.* This section is amended to include protests of sole source acquisitions.

#### H. Subpart 19.15, Women-Owned Small Business Program

- *19.1505, Set-aside procedures.* This section is amended for editorial changes.

- *19.1506, Women-Owned Small Business Program sole source awards.* This section replaces the current FAR 19.1506, Contract clauses, and discusses the conditions under which a

contracting officer may award a sole source contract to an EDWOSB concern or to a WOSB concern eligible under the WOSB Program.

- *FAR 19.1507, Contract clauses.* This section is renumbered (from 19.1506 to 19.1507) and amended to make conforming changes.

#### I. Subpart 52.2, Text of Provisions and Clauses

- *FAR 52.212–5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.* This clause is amended to make conforming changes.

- *FAR 52.219–29, Notice of Set-Aside for Economically Disadvantaged Women-Owned Small Business Concerns.* This clause is amended to add sole source awards.

- *FAR 52.219–30 Notice of Set-Aside for Women-Owned Small Business Concerns.* This clause is amended to add sole source awards.

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

This rule amends the FAR clauses at 52.219–29, Notice of Set-Aside for Economically Disadvantaged Women-owned Small Business Concerns, and 52.219–30, Notice of Set-Aside for Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program, in order to implement paragraph (a)(3) of section 825 of the NDAA for FY 2015. The Federal Acquisition Regulatory Council, pursuant to the authority granted in 41 U.S.C. 1905 and 1906, and the Administrator, Office of Federal Procurement Policy, pursuant to the authority granted in 41 U.S.C. 1907, have determined that the application of this statutory authority to contracts at or below the simplified acquisition threshold and to contracts for commercial items and commercially available off-the-shelf items, is in the best interests of the Federal Government.

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

### V. Regulatory Flexibility Act

The changes may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act 5 U.S.C. 601, *et seq.* The Initial Regulatory Flexibility Analysis (IRFA) is summarized as follows:

DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement paragraph (a)(3) of section 825 of the Carl Levin and Howard P. ‘Buck’ McKeon National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2015, Public Law 113–291. Section 825 of the NDAA for FY 2015 included language granting contracting officers the authority to award sole source contracts to Women-Owned Small Businesses (WOSBs) and Economically Disadvantaged Women-Owned Small Businesses (EDWOSBs) under the WOSB Program.

The objectives of this interim rule are to put the WOSB Program on a level playing field with other SBA Government contracting programs that have sole source authority, and to provide an additional, needed tool for agencies to meet the statutorily mandated goal of 5 percent of the total value of all prime contract and subcontract awards for WOSBs. The authorizing legislation is paragraph (a)(3) of section 825 of the NDAA for Fiscal Year 2015.

This rule may have a positive economic impact on WOSB concerns. The Dynamic Small Business Supplemental Search (DSBS) lists approximately 41,500 firms as either WOSBs or EDWOSBs under the WOSB Program. An analysis of the Federal Procurement Data System from April 1, 2011 (the implementation date of the WOSB Program), through September 1, 2015, revealed that there were approximately 44,053 women-owned small business concerns, including 332 EDWOSBs and 1,063 WOSBs eligible under the WOSB Program, that received obligated funds from Federal contract awards, task or delivery orders, and modifications to existing contracts. This rule could affect a smaller number of EDWOSBs and WOSBs than those eligible under the WOSB Program since the sole source authority can only be used where a contracting officer does not have a reasonable expectation, through market research, that two or more eligible EDWOSB or WOSB concerns will submit offers at a fair and reasonable price; in addition, the sole source authority for WOSBs and EDWOSBs is limited to contracts valued at \$6.5 million or less for manufacturing contracts and \$4 million or less for all other contracts.

This interim rule does not impose any new reporting, recordkeeping or other compliance requirements for small businesses. This rule

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

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

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule consistent with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2015-032), in correspondence.

**VI. Paperwork Reduction Act**

The interim 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. chapter 35).

**VII. Determination To Issue an Interim Rule**

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary to meet the Congressional intent of leveling the playing field between the Women-Owned Small Business (WOSB) Program and SBA's other socioeconomic contracting programs. Prior to passage of section 825 of the National Defense Authorization Act for Fiscal Year 2015, the WOSB Program was the only socioeconomic small business program that did not provide contracting officials the authority to make sole source awards to its intended beneficiaries.

WOSBs are an important growth area in the U.S. economy and yet the Federal Government has consistently failed to achieve the minimum five percent annual women-owned small business participation goal set forth in statute. As a result, women entrepreneurs continue to struggle to gain access to the Federal marketplace. This situation will persist, and women-owned small businesses will be excluded from valuable Federal procurement opportunities on a daily basis unless the sole source authority for EDWOSBs and WOSBs is implemented as quickly as possible. The new sole source authority allows contracting

officers to implement the preferences accorded under the WOSB Program to the fullest extent possible, and serves as an additional, needed tool to increase procurement opportunities for WOSBs.

The statute went into effect on the date of enactment, December 19, 2014. The SBA final rule went into effect October 14, 2015. Pursuant to 41 U.S.C. 1707 and FAR 1.501-3(b), DoD, GSA, and NASA will consider public comments received in response to this interim rule in the formation of the final rule.

**List of Subjects in 48 CFR Parts 2, 4, 6, 18, 19, and 52**

Government procurement.

Dated: December 17, 2015.

**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, 4, 6, 18, 19, and 52 as set forth below:

- 1. The authority citation for 48 CFR parts 2, 4, 6, 18, 19, and 52 continues to read as follows:

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

**PART 2—DEFINITIONS OF WORDS AND TERMS**

- 2. Amend section 2.101, paragraph (b)(2), the definition "Women-Owned Small Business (WOSB) Program" by—
  - a. Revising the introductory text of paragraph (1) and paragraph (1)(i);
  - b. Removing from paragraph (1)(ii) "Eligible" and adding to the end of the paragraph "in Federal procurement"; and
  - c. Removing from the last sentence in paragraph (2) "business concern" and adding "business (WOSB) concern" in its place.

The revisions read as follows:

**2.101 Definitions.**

\* \* \* \* \*

(b) \* \* \*

*Women-Owned Small Business (WOSB) Program.* (1) *Women-Owned Small Business (WOSB) Program* means a program that authorizes contracting officers to limit competition, including award on a sole source basis, to—

- (i) Economically disadvantaged women-owned small business (EDWOSB) concerns eligible under the WOSB Program for Federal contracts assigned a North American Industry Classification Systems (NAICS) code in an industry in which the Small Business Administration (SBA) has determined that WOSB concerns are

underrepresented in Federal procurement; and

\* \* \* \* \*

**PART 4—ADMINISTRATIVE MATTERS**

- 3. Amend section 4.803 by revising the introductory text of paragraph (a)(42) and paragraphs (a)(42)(ii)(A) and (B) to read as follows:

**4.803 Contents of contract files.**

\* \* \* \* \*

(a) \* \* \*

(42) When limiting competition, or awarding on a sole source basis, to economically disadvantaged women-owned small business (EDWOSB) concerns or women-owned small business (WOSB) concerns eligible under the WOSB Program in accordance with subpart 19.15, include documentation—

\* \* \* \* \*

(ii) \* \* \*

(A) Underrepresented for EDWOSB concerns; or

(B) Substantially underrepresented for WOSB concerns.

\* \* \* \* \*

**PART 6—COMPETITION REQUIREMENTS**

- 4. Amend section 6.302-5 by adding paragraph (b)(7) to read as follows:

**6.302-5 Authorized or required by statute.**

\* \* \* \* \*

(b) \* \* \*

(7) Sole source awards under the WOSB Program-15 U.S.C. 637(m) (see 19.1506).

\* \* \* \* \*

**PART 18—EMERGENCY ACQUISITIONS**

- 5. Revise section 18.117 to read as follows:

**18.117 Awards to economically disadvantaged women-owned small business concerns and women-owned small business concerns eligible under the Women-Owned Small Business Program.**

Contracts may be awarded to economically disadvantaged women-owned small business (EDWOSB) concerns and women-owned small business (WOSB) concerns eligible under the WOSB Program on a competitive or sole source basis. (See subpart 19.15.)

**PART 19—SMALL BUSINESS PROGRAMS**

- 6. Amend section 19.000 by—
  - a. Revising paragraph (a)(3);

- b. Removing paragraph (a)(7);
- c. Redesignating paragraphs (a)(8) through (10) as paragraphs (a)(7) through (9), respectively; and
- d. Revising newly redesignated paragraph (a)(9).

The revisions read as follows:

**19.000 Scope of part.**

(a) \* \* \*

(3) Setting acquisitions aside for exclusive competitive participation by small business, 8(a) business development participants, HUBZone small business concerns, service-disabled veteran-owned small business concerns, and economically disadvantaged women-owned small business (EDWOSB) concerns and women-owned small business (WOSB) concerns eligible under the WOSB Program;

\* \* \* \* \*

(9) Sole source awards to HUBZone small business concerns, service-disabled veteran-owned small business concerns, and EDWOSB concerns and WOSB concerns eligible under the WOSB Program.

\* \* \* \* \*

- 7. Amend section 19.102 by revising the last sentence of paragraph (f)(1) to read as follows:

**19.102 Size standards.**

\* \* \* \* \*

(f) \* \* \*

(1) \* \* \* 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, 52.219–3 for HUBZone set-asides and HUBZone sole source awards, 52.219–27 for SDVOSB set-asides and SDVOSB sole source awards, 52.219–29 for economically disadvantaged women-owned small business (EDWOSB) set-asides and EDWOSB sole source awards, and 52.219–30 for set-asides and sole source awards to women-owned small business (WOSB) concerns eligible under the WOSB Program.

\* \* \* \* \*

- 8. Amend section 19.308 by revising the section heading and paragraph (b)(1) to read as follows:

**19.308 Protesting a firm’s status as an economically disadvantaged women-owned small business concern or women-owned small business concern eligible under the Women-Owned Small Business Program.**

\* \* \* \* \*

(b)(1) For sole source acquisitions, the contracting officer or SBA may protest the offeror’s status as an economically disadvantaged women-owned small

business (EDWOSB) concern or as a WOSB concern eligible under the WOSB Program. For all other acquisitions, an interested party (see 13 CFR 127.102) may protest the apparent successful offeror’s EDWOSB or WOSB status.

\* \* \* \* \*

- 9. Revise the heading of subpart 19.15 to read as follows:

**Subpart 19.15—Women-Owned Small Business Program**

\* \* \* \* \*

- 10. Amend section 19.1505 by revising paragraph (a)(2) to read as follows:

**19.1505 Set-aside procedures.**

(a) \* \* \*

(2) May set aside acquisitions exceeding the micro-purchase threshold for competition restricted to EDWOSB concerns or WOSB concerns eligible under the WOSB Program when the acquisition—

- (i) Is assigned a NAICS code in which SBA has determined that WOSB concerns are underrepresented in Federal procurement; or
- (ii) Is assigned a NAICS code in which SBA has determined that WOSB concerns are substantially underrepresented in Federal procurement, as specified on SBA’s Web site at <http://www.sba.gov/WOSB>.

\* \* \* \* \*

**19.1506 [Redesignated as 19.1507]**

- 11. Redesignate section 19.1506 as section 19.1507.
- 12. Add section 19.1506 to read as follows:

**19.1506 Women-Owned Small Business Program sole source awards.**

(a) A contracting officer shall consider a contract award to an EDWOSB concern on a sole source basis (see 6.302–5(b)(7)) before considering small business set-asides (see 19.203 and subpart 19.5) provided none of the exclusions at 19.1504 apply and—

- (1) The acquisition is assigned a NAICS code in which SBA has determined that WOSB concerns are underrepresented in Federal procurement;
  - (2) The contracting officer does not have a reasonable expectation that offers would be received from two or more EDWOSB concerns; and
  - (3) The conditions in paragraph (c) of this section exist.
- (b) A contracting officer shall consider a contract award to a WOSB concern (including EDWOSB concerns) eligible

under the WOSB Program on a sole source basis (see 6.302–5(b)(7)) before considering small business set-asides (see 19.203 and subpart 19.5) provided none of the exclusions at 19.1504 apply and—

(1) The acquisition is assigned a NAICS code in which SBA has determined that WOSB concerns are substantially underrepresented in Federal procurement;

(2) The contracting officer does not have a reasonable expectation that offers would be received from two or more WOSB concerns (including EDWOSB concerns); and

(3) The conditions in paragraph (c) of this section exist.

(c)(1) The anticipated award price of the contract, including options, will not exceed—

- (i) \$6.5 million for a requirement within the NAICS codes for manufacturing; or
- (ii) \$4 million for a requirement within any other NAICS codes.

(2) The EDWOSB concern or WOSB concern has been determined to be a responsible contractor with respect to performance.

(3) The award can be made at a fair and reasonable price.

(d) The SBA has the right to appeal the contracting officer’s decision not to make a sole source award to either an EDWOSB concern or WOSB concern eligible under the WOSB program.

12. Revise newly redesignated section 19.1507 to read as follows:

**19.1507 Contract clauses.**

(a) The contracting officer shall insert the clause 52.219–29, Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-owned Small Business Concerns, in solicitations and contracts for acquisitions that are set aside or reserved for, or awarded on a sole source basis to, EDWOSB concerns under 19.1505(b) or 19.1506(a). This includes multiple-award contracts when orders may be set aside for EDWOSB concerns as described in 8.405–5 and 16.505(b)(2)(i)(F).

(b) The contracting officer shall insert the clause 52.219–30, Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program, in solicitations and contracts for acquisitions that are set aside or reserved for, or awarded on a sole source basis to WOSB concerns under 19.1505(c) or 19.1506(b). This includes multiple-award contracts when orders may be set aside for WOSB concerns eligible under the WOSB Program as

described in 8.405–5 and 16.505(b)(2)(i)(F).

**PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

■ 13. Amend section 52.212–5 by revising the date of the clause and paragraphs (b)(23) and (24) to read as follows:

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

\* \* \* \* \*

**Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items (Dec 2015)**

\* \* \* \* \*

(b) \* \* \*

(23) 52.219–29, Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (Dec 2015) (15 U.S.C. 637(m)).

(24) 52.219–30, Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (Dec 2015) (15 U.S.C. 637(m)).

\* \* \* \* \*

■ 14. Amend section 52.219–29 by revising the section heading, the introductory paragraph, the title and date of the clause, and paragraph (b)(1) to read as follows:

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

As prescribed in 19.1507, insert the following clause:

**Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (Dec 2015)**

\* \* \* \* \*

(b) \* \* \*

(1) Contracts that have been set aside or reserved for, or awarded on a sole source basis to, EDWOSB concerns;

\* \* \* \* \*

■ 15. Amend section 52.219–30 by revising the section heading, the introductory paragraph, the title and date of clause, and paragraph (b)(1) to read as follows:

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

As prescribed in 19.1507, insert the following clause:

**Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (Dec 2015)**

\* \* \* \* \*

(b) \* \* \*

(1) Contracts that have been set aside or reserved for, or awarded on a sole source basis to, WOSB concerns eligible under the WOSB Program;

\* \* \* \* \*

[FR Doc. 2015–32428 Filed 12–30–15; 8:45 am]

BILLING CODE 6820–EP–P

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 22, 25, and 52**

[FAC 2005–86; FAR Case 2015–034; Item III; Docket No. 2015–0034; Sequence No. 1]

RIN 9000–AN15

**Federal Acquisition Regulation; New Designated Countries—Montenegro and New Zealand**

**AGENCIES:** 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 add Montenegro and New Zealand as new designated countries under the World Trade Organization Government Procurement Agreement (WTO GPA) and update the list of parties to the Agreement on Trade in Civil Aircraft.

**DATES:** *Effective:* February 1, 2016.

**FOR FURTHER INFORMATION CONTACT:** Ms. Cecelia L. Davis, Procurement Analyst, at 202–219–0202, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite FAC 2005–86, FAR Case 2015–034.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On July 15, 2015, Montenegro became a party to the WTO GPA. New Zealand became a party to the WTO GPA on August 12, 2015. The Trade Agreements Act (19 U.S.C. 2501 *et seq.*) provides the authority for the President to waive the Buy American Act and other

discriminatory provisions for eligible products from countries that have signed an international trade agreement with the United States (such as the WTO GPA). The President has delegated this authority to the U.S. Trade Representative.

Effective July 15, 2015, because Montenegro became a party to the WTO GPA, and because the U.S. Trade Representative has determined that Montenegro will provide appropriate reciprocal competitive Government procurement opportunities to United States products and services, the U.S. Trade Representative published a notice in the **Federal Register** at 80 FR 39829 on July 10, 2015, waiving the Buy American Act and other discriminatory provisions for eligible products from Montenegro.

Effective August 12, 2015, because New Zealand became a party to the WTO GPA, and because the U.S. Trade Representative has determined that New Zealand will provide appropriate reciprocal competitive Government procurement opportunities to United States products and services, the U.S. Trade Representative published a notice in the **Federal Register** at 80 FR 48386 on August 12, 2015, waiving the Buy American Act and other discriminatory provisions for eligible products from New Zealand.

In addition, the Office of the U.S. Trade Representative has also indicated that Montenegro is a party to the Agreement on Trade in Civil Aircraft. The U.S. Trade Representative has waived the Buy American Act for civil aircraft and related articles from countries that are parties to the Agreement on Trade in Civil Aircraft.

**II. Discussion and Analysis**

Therefore, this rule adds Montenegro and New Zealand to the list of World Trade Organization Government Procurement Agreement countries wherever it appears in the FAR, whether as a separate definition, part of the definition of “designated country” or “Recovery Act designated country,” or as part of the list of countries exempt from the prohibition of acquisition of products produced by forced or indentured child labor (FAR 22.1503, 25.003, 52.222–19, 52.225–5, 52.225–11, and 52.225–23).

This rule also updates FAR 25.407 and 52.225–7 to reflect that Montenegro is already a party to the Agreement on Trade in Civil Aircraft.

Conforming changes were required to FAR 52.212–5, Contract Terms and Conditions Required to Implement Statute or Executive Orders—Commercial Items, and 52.213–4, Terms



and Conditions—Simplified Acquisitions (Other Than Commercial Items).

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

“Publication of proposed regulations”, 41 U.S.C. 1707, applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute 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 has no significant cost or administrative impact on contractors or offerors. The rule solely updates the lists of designated countries and countries that are parties to the Agreement on Trade in Civil Aircraft, in order to conform to the determinations by the U.S. Trade Representative.

**IV. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

**V. Regulatory Flexibility Act**

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant FAR revision within the meaning of FAR 1.501–1 and 41 U.S.C. 1707 does not require publication for public comment.

**VI. Paperwork Reduction Act**

The Paperwork Reduction Act does apply, because the rule affects the response of an offeror that is offering a

product of Montenegro to the information collection requirements in the provisions at FAR 52.212–3(g)(5), 52.225–6, and 52.225–11. The offeror is no longer required to list a product from Montenegro or New Zealand under “other end products”, because Montenegro is now a designated country. These information collection requirements are currently approved under OMB clearances 9000–0136, 9000–0025, and 9000–0141 respectively. The impact, however, is negligible.

**List of Subjects in 48 CFR Parts 22, 25, and 52**

Government procurement.

Dated: December 17, 2015.

**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 22, 25, and 52 as set forth below:

- 1. The authority citation for 48 CFR parts 22, 25, and 52 continues to read as follows:

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

**PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS**

**22.1503 [Amended]**

- 2. Amend section 22.1503 by adding to paragraph (b)(4), in alphabetical order, “Montenegro,” and “New Zealand,”.

**PART 25—FOREIGN ACQUISITION**

**25.003 [Amended]**

- 3. Amend section 25.003 by—
  - a. In the definition “Designated country”—
    - i. Removing from paragraph (1) “Agreement” and adding “Agreement (WTO GPA)” in its place and adding, in alphabetical order, “Montenegro,” and “New Zealand,”; and
    - ii. Removing from paragraph (2) “Agreement” and adding “Agreement (FTA)” in its place; and
    - b. In the definition “World Trade Organization Government Procurement Agreement (WTO GPA) country”, adding, in alphabetical order, “Montenegro,” and “New Zealand,”.

**25.407 [Amended]**

- 4. Amend section 25.407 by adding, in alphabetical order, the word “Montenegro,”.

**PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

- 5. Amend section 52.212–5 by revising the date of the clause and paragraphs (b)(26) and (43) to read as follows:

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

\* \* \* \* \*

**Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items (FEB 2016)**

\* \* \* \* \*

(b) \* \* \*  
\_\_\_\_ (26) 52.222–19, Child Labor—Cooperation with Authorities and Remedies (FEB 2016) (E.O. 13126).

\* \* \* \* \*

\_\_\_\_ (43) 52.225–5, Trade Agreements (FEB 2016) (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).

\* \* \* \* \*

- 6. Amend section 52.213–4 by adding a period at the end of the section heading and revising the date of the clause and paragraph (b)(1)(ii) 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) (FEB 2016)**

\* \* \* \* \*

(b) \* \* \*  
(1) \* \* \*  
(ii) 52.222–19, Child Labor—Cooperation with Authorities and Remedies (FEB 2016) (E.O. 13126). (Applies to contracts for supplies exceeding the micro-purchase threshold).

\* \* \* \* \*

- 7. Amend section 52.222–19 by revising the date of the clause and adding to paragraph (a)(4), in alphabetical order, “Montenegro,” and “New Zealand,” to read as follows:

**52.222–19 Child Labor—Cooperation with Authorities and Remedies.**

\* \* \* \* \*

**Child Labor—Cooperation With Authorities and Remedies (FEB 2016)**

- 8. Amend section 52.225–5 by—
  - a. Revising the date of the clause; and
  - b. In paragraph (a), under the definition of “Designated country”—
    - i. In paragraph (1)—
      - A. Removing “Agreement” and adding “Agreement (WTO GPA)” in its place;

- B. Adding, in alphabetical order, “Montenegro,” and “New Zealand,”; and
- C. Removing “(Taipei)”, and adding “(Taipei)”, in its place; and
- ii. Removing from paragraph (2) “Agreement” and adding “Agreement (FTA)” in its place.

The revision reads as follows:

**52.225-5 Trade Agreements.**

\* \* \* \* \*

**Trade Agreements (FEB 2016)**

\* \* \* \* \*

- 9. Amend section 52.225-7 by revising the date of the provision and adding to paragraph (b), in alphabetical order, “Montenegro,” to read as follows:

**52.225-7 Waiver of Buy American Statute for Civil Aircraft and Related Articles.**

\* \* \* \* \*

**Waiver of Buy American Statute for Civil Aircraft and Related Articles (FEB 2016)**

\* \* \* \* \*

- 10. Amend section 52.225-11 by—
- a. Revising the date of the clause; and
- b. In paragraph (a), under the definition of “Designated country”—
- i. In paragraph (1), removing “Agreement” and adding “Agreement (WTO GPA)” in its place and adding, in alphabetical order “Montenegro,” and “New Zealand,”; and
- ii. Removing from paragraph (2) “Agreement” and adding “Agreement (FTA)” in its place.

The revision reads as follows:

**52.225-11 Buy American—Construction Materials Under Trade Agreements.**

\* \* \* \* \*

**Buy American—Construction Materials Under Trade Agreements (FEB 2016)**

\* \* \* \* \*

- 11. Amend section 52.225-23 by—
- a. Revising the date of the clause; and
- b. In paragraph (a)—
- i. In the definition of “Designated country”, adding to paragraph (1), in alphabetical order, “Montenegro,” and “New Zealand,”; and
- ii. In the definition of “Recovery Act designated country”, adding in paragraph (1), in alphabetical order, “Montenegro,” and “New Zealand,”.

The revision reads as follows:

**52.225-23 Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials Under Trade Agreements.**

\* \* \* \* \*

**Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials Under Trade Agreements (FEB 2016)**

\* \* \* \* \*

[FR Doc. 2015-32429 Filed 12-30-15; 8:45 am]

BILLING CODE 6820-EP-P

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 22, 25, and 52**

[FAC 2005-86; FAR Case 2016-001; Item No. IV; Docket No. 2016-0001, Sequence No. 1]

RIN 9000-AN16

**Federal Acquisition Regulation; Trade Agreements Thresholds**

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 incorporate revised thresholds for application of the World Trade Organization (WTO) Government Procurement Agreement (GPA) and the Free Trade Agreements (FTAs), as determined by the United States Trade Representative.

**DATES:** *Effective:* January 1, 2016.

**FOR FURTHER INFORMATION CONTACT:** Ms. Cecelia L. Davis, Procurement Analyst, at 202-219-0202, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755. Please cite FAC 2005-86, FAR case 2016-001.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Approximately every two years, the trade agreements thresholds are adjusted according to a pre-determined formula under the agreements. These thresholds become effective on January 1, 2016. The United States Trade Representative published new procurement thresholds in the **Federal Register** at 80 FR 77694, on December 15, 2015. The United States Trade Representative has specified the following new thresholds:

Trade agreement	Supply contract (equal to or exceeding)	Service contract (equal to or exceeding)	Construction contract (equal to or exceeding)
WTO GPA	\$191,000	\$191,000	\$7,358,000
FTAs:			
Australia FTA	77,533	77,533	7,358,000
Bahrain FTA	191,000	191,000	10,079,365
CAFTA-DR (Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua)	77,533	77,533	7,358,000
Chile FTA	77,533	77,533	7,358,000
Colombia FTA	77,533	77,533	7,358,000
Korea FTA	100,000	100,000	7,358,000
Morocco FTA	191,000	191,000	7,358,000
NAFTA:			
—Canada	25,000	77,533	10,079,365
—Mexico	77,533	77,533	10,079,365
Oman FTA	191,000	191,000	10,079,365
Panama FTA	191,000	191,000	7,358,000
Peru FTA	191,000	191,000	7,358,000
Singapore FTA	77,533	77,533	7,358,000
Israeli Trade Act	50,000		

**II. Discussion and Analysis**

This final rule implements the new thresholds in FAR subpart 25.4, Trade Agreements, and other sections in the FAR that include trade agreements thresholds (*i.e.*, FAR sections 22.1503, 25.202, 25.603, 25.1101, and 25.1102).

In addition, changes are required to FAR sections 52.204–8, Annual Representations and Certifications, and 52.222–19, Child Labor-Cooperation with Authorities and Remedies, with conforming changes to the clause dates in FAR sections 52.212–5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Items, and 52.213–4, Terms and Conditions-Simplified Acquisitions (Other Than Commercial Items).

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

“Publication of proposed regulations,” 41 U.S.C. 1707, applies to the publication of the FAR. Paragraph (a)(1) of the statute 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 only adjusts the thresholds according to pre-determined formulae to adjust for changes in economic conditions, thus maintaining the status quo, without significant effect beyond the internal operating procedures of the Government.

**IV. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

**V. Regulatory Flexibility Act**

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant FAR revision, and 41 U.S.C. 1707 does not require publication for public comment.

**VI. Paperwork Reduction Act**

The Paperwork Reduction Act (44 U.S.C. chapter 35) does apply, because the final rule affects the prescriptions for use of the certification and information collection requirements in the provisions at FAR sections 52.225–4, OMB Control No. 9000–0130, titled: Buy American Act—Free Trade Agreement-Israeli Trade Certificate; 52.225–6, OMB Control No. 9000–0025, titled: Trade Agreements Certificate; and the clauses at FAR 52.225–9, 52.225–11, 52.225–21, and 52.225–23, OMB Control No. 9000–0141, titled: Buy American—Construction. However, there is no impact on the estimated burden hours, because the threshold changes are in

line with inflation and maintain the status quo.

**List of Subjects in 48 CFR Parts 22, 25, and 52**

Government procurement.

Dated: December 17, 2015.

**William Clark,**

*Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.*

Therefore, DoD, GSA, and NASA amend 48 CFR parts 22, 25, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 22, 25, and 52 continues to read as follows:

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

**PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS**

**22.1503 [Amended]**

■ 2. Amend section 22.1503 by removing from paragraph (b)(3) “\$79,507” and adding “\$77,533” in its place and removing from paragraph (b)(4) “\$204,000” and adding “\$191,000” in its place.

**PART 25—FOREIGN ACQUISITION**

**25.202 [Amended]**

■ 3. Amend section 25.202 by removing from paragraph (c) “\$7,864,000” and adding “\$7,358,000” in its place.

■ 4. Amend section 25.402 by removing from paragraph (a)(1) “the USTR” and adding “the U.S. Trade Representative” in its place and revising the table in paragraph (b) to read as follows:

**25.402 General.**

*	*	*	*	*
(b)	*	*	*	

Trade agreement	Supply contract (equal to or exceeding)	Service contract (equal to or exceeding)	Construction contract (equal to or exceeding)
WTO GPA .....	\$191,000	\$191,000	\$7,358,000
FTAs:			
Australia FTA .....	77,533	77,533	7,358,000
Bahrain FTA .....	191,000	191,000	10,079,365
CAFTA–DR (Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua) .....	77,533	77,533	7,358,000
Chile FTA .....	77,533	77,533	7,358,000
Colombia FTA .....	77,533	77,533	7,358,000
Korea FTA .....	100,000	100,000	7,358,000
Morocco FTA .....	191,000	191,000	7,358,000
NAFTA:			
—Canada .....	25,000	77,533	10,079,365
—Mexico .....	77,533	77,533	10,079,365
Oman FTA .....	191,000	191,000	10,079,365
Panama FTA .....	191,000	191,000	7,358,000
Peru FTA .....	191,000	191,000	7,358,000
Singapore FTA .....	77,533	77,533	7,358,000

Trade agreement	Supply contract (equal to or exceeding)	Service contract (equal to or exceeding)	Construction contract (equal to or exceeding)
Israeli Trade Act .....	50,000	.....	.....

**25.603 [Amended]**

■ 5. Amend section 25.603 by removing from paragraph (c)(1) “\$7,864,000” and adding “\$7,358,000” in its place.

**25.1101 [Amended]**

■ 6. Amend section 25.1101 by—  
 ■ a. Removing from paragraph (b)(1)(i)(A) “\$204,000” and adding “\$191,000” in its place;  
 ■ b. Removing from paragraphs (b)(1)(iii), (b)(1)(iv), (b)(2)(iii), and (b)(2)(iv) “\$79,507” and adding “\$77,533” in their places;  
 ■ c. Removing from paragraph (c)(1) “\$204,000” and adding “\$191,000” in its place; and  
 ■ d. Removing from paragraph (d) “statute” and “\$204,000” and adding “Statute” and “\$191,000” in their places, respectively.

**25.1102 [Amended]**

■ 7. Amend section 25.1102 by—  
 ■ a. Removing from the introductory texts of paragraphs (a) and (c) “\$7,864,000” and adding “\$7,358,000” in their place; and  
 ■ b. Removing from paragraphs (c)(3) and (d)(3) “\$7,864,000” and “\$10,335,931” and adding “\$7,358,000” and “\$10,079,365” in their places, respectively.

**PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

■ 8. Revise section 52.204–8 by—  
 ■ a. Revising the date of the provision;  
 ■ b. Removing from paragraphs (c)(1)(xvii)(C) and (D) “\$79,507” and adding “\$77,533” in their places; and  
 ■ c. Removing from the introductory text of paragraph (c)(2) “certifications” and adding “representations or certifications” in its place.  
 The revision reads as follows:

**52.204–8 Annual Representations and Certifications.**

\* \* \* \* \*

**Annual Representations and Certifications (JAN 2016)**

\* \* \* \* \*

■ 9. Amend section 52.212–5 by revising the date of the clause and paragraph (b)(26) and removing from

paragraph (e)(2) “contractor” and adding “Contractor” in its place to read as follows:

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

\* \* \* \* \*

**Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items (JAN 2016)**

\* \* \* \* \*

(b) \* \* \*  
 (26) 52.222–19, Child Labor—Cooperation with Authorities and Remedies (JAN 2016) (E.O. 13126).

\* \* \* \* \*

■ 10. Amend section 52.213–4 by revising the date of the clause and paragraph (b)(1)(ii) to read as follows:

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

\* \* \* \* \*

**Terms and Conditions—Simplified Acquisition (Other Than Commercial Items) (JAN 2016)**

\* \* \* \* \*

(b) \* \* \*  
 (1) \* \* \*  
 (ii) 52.222–19, Child Labor—Cooperation with Authorities and Remedies (JAN 2016) (E.O. 13126). (Applies to contracts for supplies exceeding the micro-purchase threshold.)

\* \* \* \* \*

■ 11. Amend section 52.222–19 by—  
 ■ a. Revising the date of the clause;  
 ■ b. Removing from paragraph (a)(3) “\$79,507” and adding “\$77,533” in its place; and  
 ■ c. Removing from paragraph (a)(4) “\$204,000” and adding “\$191,000” in its place.  
 The revision reads as follows:

**52.222–19 Child Labor—Cooperation with Authorities and Remedies.**

\* \* \* \* \*

**Child Labor—Cooperation with Authorities and Remedies (JAN 2016)**

\* \* \* \* \*

[FR Doc. 2015–32430 Filed 12–30–15; 8:45 am]

BILLING CODE 6820–EP–P

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Chapter 1**

[Docket No. FAR 2015–0051, Sequence No. 6]

**Federal Acquisition Regulation; Federal Acquisition Circular 2005–86; Small Entity Compliance Guide**

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

**ACTION:** Small Entity Compliance Guide.

**SUMMARY:** This document is issued under the joint authority of DOD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rules appearing in Federal Acquisition Circular (FAC) 2005–86, which amends the Federal Acquisition Regulation (FAR). An asterisk (\*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding these rules by referring to FAC 2005–86, which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

**DATES:** December 31, 2015.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2005–86 and the FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755.

RULES LISTED IN FAC 2005–86

Item	Subject	FAR case	Analyst
*I .....	Definition of “Multiple-Award Contract” .....	2015–019	Uddowla.
*II .....	Sole Source Contracts for Women-Owned Small Businesses (Interim) .....	2015–032	Uddowla.
III .....	New Designated Countries—Montenegro and New Zealand .....	2015–034	Davis.
IV .....	Trade Agreements Thresholds .....	2016–001	Davis.

**SUPPLEMENTARY INFORMATION:**

Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005–86 amends the FAR as follows:

**Item I—Definition of “Multiple-Award Contract” (FAR Case 2015–019)**

This rule amends the FAR to define “multiple-award contract.” This rule implements the definition established by the Small Business Administration (SBA) in its final rule that published in the **Federal Register** at 78 FR 61114 on October 2, 2013. SBA’s final rule implements the statutory definition of the term from section 1311 of the Small Business Jobs Act of 2010, Pub. L. 111–240.

This final rule does not place any new requirements on small entities.

**Item II—Sole Source Contracts for Women-Owned Small Businesses (FAR Case 2015–032) (Interim)**

This interim rule amends the FAR to implement regulatory changes made by

the Small Business Administration (SBA) in its final rule as published in the **Federal Register** at 80 FR 55019, on September 14, 2015. SBA’s final rule implements the statutory requirements of paragraph (a)(3) of section 825 of the Carl Levin and Howard P. ‘Buck’ McKeon National Defense Authorization Act for Fiscal Year 2015, Public Law 113–291, which grants contracting officers the authority to award sole source contracts to economically disadvantaged women-owned small business (EDWOSB) concerns and to women-owned small business (WOSB) concerns eligible under the WOSB Program. The anticipated price, including options, must not exceed \$6.5 million for manufacturing NAICS codes, or \$4 million for other NAICS codes.

This interim rule may have a positive economic impact on women-owned small businesses.

**Item III—New Designated Countries—Montenegro and New Zealand (FAR Case 2015–034)**

This final rule amends the FAR to add Montenegro and New Zealand as new

designated countries under the World Trade Organization Government Procurement Agreement (WTO GPA). The rule also updates the list of parties to the Agreement on Trade in Civil Aircraft by adding Montenegro.

This final rule has no significant impact on the Government and contractors, including small business entities.

**Item IV—Trade Agreements Thresholds (FAR Case 2016–001)**

This final rule amends the FAR to adjust the thresholds for application of the World Trade Organization Government Procurement Agreement and the Free Trade Agreements as determined by the United States Trade Representative, according to a pre-determined formula under the agreements.

Dated: December 17, 2015.

**William Clark,**

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

[FR Doc. 2015–32431 Filed 12–30–15; 8:45 am]

**BILLING CODE 6820–EP–P**