



## HIGHLIGHTED REGULATORY CHANGES RELATED TO SMALL BUSINESS PROGRAMS

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### SMALL BUSINESS ADMINISTRATION (SBA)

- **NOTICE OF DENIAL to Waive Nonmanufacturer Rule:** Personal computers, NAICS 334111; comments closed 10/27/2006; waiver *denied* 11/13/2006; (*Current list:* <http://www.sba.gov/GC/indexprograms-nonmanufacturer.html>)
- **SBA RULE: Size Standard Increase [488111 (Air Traffic Control), 488119 (Other Airport Ops), & 488190 (Other Support Activities for Air Transport)]:** Comments received 6/16/2005 to raise from \$6.5M to \$21M; ready to send to OMB by mid-Feb; DoD OSBP will advocate to expedite turnaround from 90 to 30 days
- **FINAL SBA RULE: Surety Bond Guarantee Program:** Applies to construction & service concerns performing in Presidentially-declared disaster areas following Hurricanes Katrina/Rita/Wilma; meets SB definition if meeting SB size standard for either the primary industry in which it, together with its affiliates, is engaged, OR the current \$6.5M standard for SBG Program, whichever is higher; published 10/24/2006
- **FINAL SBA RULE: Size Recertification:** FSS/GWACs/long-term contracts – rerepresent size status after 5 yrs & before exercising options; mergers/acquisitions on all contracts – rerepresent within 30 days; comments closed 6/24/2003; over 600 comments received; published in Federal Register 11/15/2006; **do not implement until in FAR**
- **PROPOSED SBA RULE: HUBZone Program:** Revises the definition of "employee" to include full-time, part-time, or other (e.g., temps) individuals working minimum of 40 hrs per month; **comments due 2/26/2007**
- **PROPOSED SBA RULE: WOSB Federal Contract Assistance Program:** Economically disadvantaged woman-owned/woman-owned small business set-asides; only permitted in certain NAICS yet to be determined; 3-year certification requirement; random verification of eligibility; published 6/15/2006; comments closed 7/17/2006; over 100 comments received; *tentatively* Summer 2007

### REGULATORY CHANGES: *DFARS*

- **FINAL RULE: Inflation Adjustments of Acquisition-Related Thresholds (2004-D022):** Implements Section 807 FY2005 National Defense Authorization Act requires inflation adjustment every 5 yrs (e.g., DoD contract award notification, approval for multiyear service contracts, etc.); comments closed 3/24/2006; effective 12/19/2006
- **INTERIM RULE: Berry Amendment Restrictions – Clothing Materials & Components (2006-D031):** expands foreign source restrictions; effective 1/22/2007; **comments due 3/23/2007**
- **INTERIM RULE: Emergency Acquisitions (2006-D036):** adds DFARS 218; includes Available Acquisition Flexibilities & Emergency Acquisition Flexibilities (incl contingency); effective 1/22/2007; **comments due 3/23/2007**
- **INTERIM RULE: Tiered Evaluation of Offers (2006-D009):** Implements Section 816 FY2006 National Defense Authorization Act; also known as "cascading"; must first conduct market research; document why set-aside determination could not be made; DFARS & PGI coverage; effective 9/8/2006; comments due 11/7/2006; 6 comments received; DAR Council agreed to draft final DFARS rule 1/24/2007
- **PROPOSED RULE: DoD Reps & Certs in ORCA (2006-D032):** Adds DoD-unique reps & certs to ORCA; **comments due 4/13/2007**
- **OPEN CASE: Mandatory Use of WAWF (2006-D049):** Requires use of WAWF for all invoices, acceptance reports, & other support docs; Case opened 10/17/2006; DAR Council agreed to draft proposed rule 2/8/2007
- **OPEN CASE: Procurement Goal for Hispanic-Serving Institutions (2006-D061):** Implements Section 858 FY2007 National Defense Authorization Act; amends 10 U.S.C. 2323 to extend goals for certain institutions of higher education to include Hispanic-serving institutions; Case opened 11/1/2006; DARC reviewed 1/24/2007 –closed w/o action; OSBP & Army requested reconsideration

### REGULATORY WEBSITES

- Defense Procurement & Acquisition Policy: <http://www.acq.osd.mil/dpap/dars/index.htm>
- Electronic CFR Beta Test Site: <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=%2Findex.tpl>
- Federal eRulemaking Portal: <http://www.regulations.gov>
- Federal Register: <http://www.gpoaccess.gov/fr/index.html>
- Integrated Acquisition Environment: <http://www.acquisition.gov>



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### REGULATORY CHANGES: FAR

- **FINAL RULE: Common Identification Standard for Contractors (FAC 2005-14):** Personal identity verification required for primes/subktrs requiring access to federally-controlled facility/access to Federal information system; applies to solicitations/contracts after 11/22/2006 publish date
- **INTERIM RULE: Local Community Recovery Act of 2006 (FAC 2005-12):** Authorizes set-asides to allow only offerors residing/doing business primarily in geographic area affected by major disaster or emergency; must be based on specific geographic area, within Presidential declaration(s) of disaster or emergency; may be used with small business set-aside; work must be performed by prime/other employees residing/doing business primarily in designated area; services/supplies  $\geq$  50%; general construction  $\geq$  15%; specialty construction  $\geq$  25%; effective 8/4/2006; comments closed 10/3/2006; Report due 2/28/2007
- **INTERIM RULE: Emergency Acquisitions (FAC 2005-11):** Incidents of national significance, emergency declaration, or major disaster declaration; exemption from CCR/FEDBIZOPPS synopsis; may limit number of sources & full & open competition not required; preference to local organizations, firms, & individuals; effective 7/5/2006; comments closed 9/5/2006; Draft final FAR rule to OMB Ofc of Info & Regulatory Affairs (OIRA) 2/6/2007
- **INTERIM RULE: ORCA Archiving Capability (FAC 2005-13):** Contracting Officer able to reference date of ORCA verification in contract file; effective 9/28/2006; comments closed 11/27/2006; no comments; Draft final in legal review 1/19/2007
- **INTERIM RULE: Use of Brand Name Specs (FAC 2005-13):** Must publish on GPE/e-Buy justification for brand name specs for buys > \$25,000 including open market, FSS, sole source; published & effective 9/28/2006; comments closed 11/27/2006
- **OPEN CASE: Socioeconomic Program Parity (2006-034):** Case began 1/12/2007
- **OPEN CASE: Recertification Rule (2006-032):** Implementation of 11/15/2006 SBA Recertification Rule; Case began 1/12/2007
- **OPEN CASE: Enhanced Access for Small Business (2006-031):** Implements Section 857 FY2007 National Defense Authorization Act; amends Section 9(a) of Contract Disputes Act of 1978 to permit small businesses to request accelerated disposition of a claim when the amount in dispute is \$150,000 or less; DAR Council to discuss draft interim rule on 2/14/2007
- **OPEN CASE: Electronic Subcontracting Reporting System (eSRS) (2005-040):** Implement electronic subcontract reporting (replaces SF 294/295; flowdown report requirements, etc.); <http://www.esrs.gov>; DARC concurred with proposed rule 1/3/2007; DoD to implement approx FY2007-see <http://www.acq.osd.mil/osbp> for latest
- **OPEN CASE: SB Credit for ANCs & Indian Tribes (2004-017):** Implements Section 702, P.L. 107-117/107-206, subkts w/ANCs count toward SB & SDB subkt goals & subkts w/Indian tribes count as SB subktrs, regardless of size; published 6/3/2005; comments closed 8/2/2005; DARC agreed to Final Rule 8/23/2006; GSA legal reviewing draft final rule 10/31/2006
- **OPEN CASE: HUBZone Program Revisions (2006-005):** Implements SBA Rule published 8/30/2005; adds "base closure areas" & redesignated areas"; must immediately notify KO if material change in status occurs before contract award; may include employees of qualified HUBZone subcontractors towards limitations in subktg; general construction – 50% self or may subkt at least 35% to qualified HUBZone subktrs; specialty construction – 50% self or may subkt at least 25% to qualified HUBZone subktrs; 8/30/2006 DAR Council concurrence on proposed rule

### ITEMS OF INTEREST

- **DPAP/DAU bi-monthly video magazine:** Individual video segments for DFARS/FAR Cases; <http://www.acq.osd.mil/dpap/dars/regulationsnow>
- **Central Contractor Registration (CCR) Changes:**
  - 2/11/2007: **NEW LOOK**; Added size standard exceptions – in-line with Dynamic Small Business Search (DSBS); added element to track status of Delinquent Federal Debt
  - 12/14/2006: Revenues & number of employees removed from DSBS
- **FedBizOpps:** 12/3/2006 Added "**Quick Search**" feature on homepage
- **OMB/SBA Joint Memorandum 1/24/2007 "Contracting with Service-Disabled Veterans":** Call to work with SBA and continue to do more to meet/exceed SDVOSB goal