



HIGHLIGHTED REGULATORY CHANGES RELATED TO SMALL BUSINESS PROGRAMS

CAUTION: This list is for informational purposes only and is **not** meant to be all-inclusive.
Please read carefully - "Final" vs "Interim" vs "Proposed" vs "Open Case"

Page 1 of 2

OCTOBER 2007

SMALL BUSINESS ADMINISTRATION (SBA)

- **Notice:** SBA reassessing 8(a) Business Development program rules, particularly affecting tribally-owned & ANC-owned 8(a)'s; Tribal consultation meeting scheduled 10/24/2007, Fairbanks, Alaska; published 10/11/2007
- **Call for Nomination of Federal Regs in Need of Review & Reform:** Soliciting recommendations from small business community on rules that need review & reform; <http://www.sba.gov/advo/r3>; **comments due by 12/31/2007**
- **DIRECT FINAL RULE:** Adoption of 2007 NAICS for Size Standards; published 8/28/2007 & effective 10/1/2007; *comments closed 9/27/2007*
- **PROPOSED 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; awaiting SBA Administrator coordination; DoD OSBP will advocate OFPP to expedite from 90 to 30 days
- **PROPOSED SBA RULE: Small Business Size Standards; Calculation of # of Employees:** Change from rolling average over preceding 12 mos to average over last 3 completed cal yrs; *comments closed 9/25/2007*
- **PROPOSED SBA RULE: HUBZone Program:** Revises the definition of "employee" to include full-time, part-time, or others (e.g., temps) working minimum of 40 hrs/month; published 1/26/2007; *comments closed 2/26/2007*
- **PROPOSED SBA RULE: WOSB Federal Contract Assistance Program:** Economically-disadvantaged WOSB & WOSB set-asides; only permitted in certain NAICS (see 4/27/2007 RAND study); 3-year certification requirement; random verification of eligibility; published 6/15/2006; *comments closed 7/17/2006*; over 100 comments received; comprehensive new rule currently under interagency review; *effective when implemented in FAR*

REGULATORY CHANGES: *DFARS*

- **Information Collection Requirement:** Notice & request for comments to extend info collection requirement through 3/31/2008 re: DFARS 219.704/DFARS 252.219-7003 requires large business primes to notify ACO when other than small firm is substituted for a small business specifically identified in a subcontract plan; published 9/26/2007; **comments due 11/26/2007**
- **INTERIM RULE: Reports of Government Property (2005-D015):** Replaces DD1662 with electronic submission report to Item Unique Identification (IUID) Registry; published 9/13/2007; **comments due 11/13/2007**
- **INTERIM RULE: Report & Regulations on Excessive Pass-Through Charges (2006-D057):** Ensures pass-through charges on contracts/subcontracts/task/delivery orders are not excessive relative to cost of work performed; provision requires offerors to identify % of subcontracted work & when subcontract costs exceed 70% of total cost of work to be performed, provide info on indirect costs, profit, & value added; not applicable to FFP contracts w/adequate competition/commercial items; effective 4/26/2007; *comments closed 6/25/2007*; 10/10/2007 DARC agreed to rule, forwarded to DAR Editor
- **PROPOSED RULE: Mandatory Use of WAWF (2006-D049):** Requires use of WAWF for all invoices, acceptance reports, & other support docs; published 8/14/2007; **comments due 10/15/2007**
- **PROPOSED RULE: Payments on Cost-Reimbursement Service Contracts:** Provides interim payments within 30 days in lieu of 14 days on CR service contracts – doesn't apply to small businesses; *comments closed 10/1/2007*
- **PROPOSED RULE: DoD Reps & Certs in ORCA (2006-D032):** Adds DoD-unique reps & certs to ORCA; *comments closed 4/13/2007*; 9/21/2007 DAR editor reviewing
- **PROPOSED RULE: Information Assurance Contractor Training & Certification (2006-D023):** contractor personnel accessing info systems must meet applicable training & certification requirements; published 1/22/2007; *comments closed 3/23/2007*; 8/14/2007 DAR editor reviewing
- **OPEN CASE: Procurement Goal for Hispanic-Serving Institutions (2006-D061):** Implements Sec 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; *to be issued as administrative change*

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>



HIGHLIGHTED REGULATORY CHANGES RELATED TO SMALL BUSINESS PROGRAMS

CAUTION: This list is for informational purposes only and is **not** meant to be all-inclusive.
Please read carefully - "**Final**" vs "**Interim**" vs "**Proposed**" vs "**Open Case**"

Page 2 of 2

OCTOBER 2007

REGULATORY CHANGES: *FAR*

- **FINAL RULE: Emergency Acquisitions (FAC 2005-19):** 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 9/17/2007*
- **FINAL RULE: Federal Funding Accountability & Transparency Act (FFATA) – Reporting Requirement of Subcontractor Award Data (FAC 2005-20):** Applies to contracts ≥ \$500M awarded & performed in U.S.; requires awardees report all first tier subcontract awards > \$1M to <http://www.federalspending.gov>; anticipate ultimately to apply to ≥ SAT to report subcontracts > \$25k regardless of award or performance location except classified & commercial item; *published & effective 9/6/2007* (Pilot program terminate NLT 1/1/2009)
- **FINAL CASE: SB Credit for ANCs & Indian Tribes (FAC 2005-19):** 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 8/17/2007; effective 9/17/2007*
- **FINAL RULE: ORCA Archiving Capability (FAC 2005-19):** Contracting Officer able to reference ORCA verification date in contract file; *published & effective 8/17/2007*
- **INTERIM RULE: Small Business Rerepresentation (FAC 2005-18):** (1) ANY contractor rerepresents size status within 30 days of a novation agreement/merger/acquisition & (2) Rerepresent on long-term contracts (i.e., longer than 5 yrs) prior to 6th year & prior to exercising each option thereafter; *published 7/5/2007; effective 6/30/2007; applicable to contracts awarded prior to 6/30/2007-contracts to be modified; comments closed 9/4/2007 (7/18/2007 DPAP letter – do not input data in FPDS-NG until systems changed & further notice received)*
- **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 ≥ 50%; general construction ≥ 15%; specialty construction ≥ 25%; *effective 8/4/2006; comments closed 10/3/2006; 7/23/2007 Interim FAR rule to FARSEC for prep of FAC*
- **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; 6/27/2007 working comments*
- **PROPOSED RULE: Enhanced Access for Small Business (2006-031):** Provides \$150,000 claim threshold (instead of \$50,000) for small businesses to appeal contracting officer's decision under small claim procedures of the agency board of contract appeals; *published 8/22/2007; comments due 10/22/2007*
- **PROPOSED RULE: Representations & Certifications – Tax Delinquency (2006-011):** Adds delinquent taxes/unresolved tax liens to cause for debarment; certify if delinquent tax notice/outstanding liability within 3 yrs preceding offer or if tax lien notice received/outstanding liability/lien not released; *published 3/30/2007; comments closed 5/29/2007; 10/4/2007 GSA legal reviewing*
- **OPEN CASE: Employment Eligibility Verification (E-Verify) (2007-013):** Requires certain primes/subcontractors to verify contract employees are eligible to work in U.S.; *10/17/2007 DAR Council to discuss Draft Proposed Rule*
- **OPEN CASE: Socioeconomic Program Parity (2006-034):** Addresses relationship among the small business programs; *10/12/2007 GSA legal reviewing*
- **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>; anticipate DoD implementation approx Q3FY08-see <http://www.acq.osd.mil/osbp> for latest; *7/13/2007 GSA legal reviewing*
- **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; *8/24/2007 DAR & FAR staff resolving open issues*

ITEMS OF INTEREST

- **DPAP/DAU bi-monthly video magazine:** Individual video segments for DFARS/FAR Cases; <http://www.acq.osd.mil/dpap/dars/regulationsnow>