

1. The authority citation for 48 CFR Parts 19 and 52 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 19—SMALL BUSINESS PROGRAMS

2. Section 19.704 is amended in paragraph (b) by revising the second sentence and adding a third and fourth sentence to read as follows:

19.704 Subcontracting plan requirements.

* * * * *

(b) * * * Master plans shall be effective for a 3-year period after approval by the contracting officer; however, it is incumbent upon contractors to maintain and update master plans. Changes required to update master plans are not effective until approved by the contracting officer. A master plan, when incorporated in an individual plan, shall apply to that contract throughout the life of the contract.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 52.219-9 is amended by revising the date of the clause to read "(AUG 1996)"; in paragraph (f) introductory text by removing "(d) above," and inserting "paragraph (d) of this clause," in its place; and revising paragraph (f)(2) of the clause to read as follows:

52.219-9 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan.

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Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (Aug 1996)

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(f) * * *
(2) the offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer, and

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[FR Doc. 96-14524 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Part 19

[FAC 90-39; FAR Case 92-302; Item X]

RIN 9000-AG10

Federal Acquisition Regulation; Small Business Competitiveness Demonstration Program

AGENCIES: Department of Defense (DOD), General Services Administration (GSA),

and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule adopted as final.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to finalize without change the interim rule which was published at 59 FR 67036, December 28, 1994 (FAC 90-23, Item XIII), amending the Federal Acquisition Regulation (FAR) Part 19 to (1) extend the Small Business Competitiveness Demonstration Program through September 30, 1996; (2) specify that agencies may reinstate the use of small business set-asides as necessary to meet assigned goals, but only within the organizational unit(s) that failed to meet the small business goals; and (3) revise the description of Architectural and Engineering services as a designated industry group. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: June 20, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501-3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 92-302.

SUPPLEMENTARY INFORMATION:

A. Background

This rule finalizes the interim rule, which implements Title II of Public Law 102-366, the Small Business Credit and Business Opportunity Enhancement Act of 1992, which revised Title VII of Public Law 100-656, Small Business Competitiveness Demonstration Program. The Office of Federal Procurement Policy published an interim policy directive in the Federal Register at 58 FR 19849, April 16, 1993, revising the current directive dated August 31, 1989, to include revisions based on Title II.

On December 28, 1994, the interim rule was published in the Federal Register with a request for comment. Two responses were received. No changes were made to the interim rule as a result of the responses. The interim rule has been adopted as a final rule without change.

B. Regulatory Flexibility Act

The final rule implements statutory revisions included in the revisions to the OFPP policy directive. OFPP prepared the appropriate regulatory

flexibility statements as part of the revisions to the OFPP policy directive published in the Federal Register.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 19

Government procurement.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR Part 19, which was published at 59 FR 67036, December 28, 1994 (FAC 90-23, Item XIII), is adopted as a final rule without change.

The authority citation for 48 CFR Part 19 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).

Dated: June 4, 1996.

Edward C. Loeb,
Director, Federal Acquisition Policy Division.
[FR Doc. 96-14525 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P

48 CFR Parts 22 and 52

[FAC 90-39; FAR Case 93-615; Item XI]

RIN 9000-AG02

Federal Acquisition Regulation; Use of Convict Labor

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to reflect changes in the statutory restrictions on employment of convict labor in the performance of Government contracts. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: August 19, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501-3856 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building,

Washington, DC 20405 (202) 501-4755. Please cite FAC 90-39, FAR case 93-615.

SUPPLEMENTARY INFORMATION:

A. Background

A proposed rule was published in the Federal Register on September 6, 1994 (59 FR 46020). The proposed rule amended FAR Subpart 22.2 and the clause at 52.222-3 to (1) remove all references to 18 U.S.C. 4082(c)(2), which now only applies to offenses committed prior to November 1, 1987; (2) reflect the addition of the Commonwealth of the Northern Mariana Islands to the jurisdictions covered by Executive Order 11755; and (3) include further information regarding the requirements of Executive Order 11755, as amended by Executive Order 12608.

No substantive comments were received on the proposed rule during the public comment period. The Councils, therefore, agreed to adopt the proposed rule as a final rule without change.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not 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.*, because it merely updates FAR language pertaining to the employment of convict labor to conform to current statutory requirements. No comments were received on the impact of this rule on small entities during the public comment period.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which 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 22 and 52

Government procurement.

Dated: June 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 22 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 22 and 52 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 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

2. Section 22.201 is revised to read as follows:

§ 22.201 General.

(a) Executive Order 11755, December 29, 1973, as amended by Executive Order 12608, September 9, 1987, and Executive Order 12943, December 13, 1994, states: "The development of the occupational and educational skills of prison inmates is essential to their rehabilitation and to their ability to make an effective return to free society. Meaningful employment serves to develop those skills. It is also true, however, that care must be exercised to avoid either the exploitation of convict labor or any unfair competition between convict labor and free labor in the production of goods and services." The Executive order does not prohibit the contractor, in performing the contract, from employing—

- (1) Persons on parole or probation;
- (2) Persons who have been pardoned or who have served their terms;
- (3) Federal prisoners; or
- (4) Nonfederal prisoners authorized to work at paid employment in the community under the laws of a jurisdiction listed in the Executive order 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) Paid employment will not—
 - (A) Result in the displacement of employed workers;
 - (B) Be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality; or
 - (C) Impair existing contracts for services;
- (iv) The rates of pay and other conditions of employment will not be less than those for work of a similar nature in the locality where 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.

(b) Department of Justice regulations authorize the Director of the Bureau of Justice Assistance to exercise the power and authority vested in the Attorney General by the Executive order to certify and to revoke the certification of work-

release laws or regulations (see 28 CFR 0.94-1(b)).

22.202 [Amended]

3. Section 22.202 is amended in the introductory paragraph by inserting after "Samoa," "the Commonwealth of the Northern Mariana Islands,".

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 52.222-3 is revised to read as follows:

52.222-3 Convict labor.

As prescribed in 22.202, insert the following clause:

Convict Labor (Aug 1996)

The Contractor agrees not to employ in the performance of this contract any person undergoing a sentence of imprisonment which has been imposed by any court of a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands. This limitation, however, shall not prohibit the employment by the Contractor in the performance of this contract of persons on parole or probation to work at paid employment during the term of their sentence or persons who have been pardoned or who have served their terms. Nor shall it prohibit the employment by the Contractor in the performance of this contract of persons confined for violation of the laws of any of the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if—

- (a)(1) The worker is paid or is in an approved work training program on a voluntary basis;
- (2) Representatives of local union central bodies or similar labor union organizations have been consulted;
- (3) 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; and
- (4) 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

(b) 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)

[FR Doc. 96-14526 Filed 6-19-96; 8:45 am]

BILLING CODE 6820-EP-P