

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Chapter 1**

[Docket FAR–2007–002, Sequence 3]

**Federal Acquisition Regulation; Federal Acquisition Circular 2005–18; Introduction**

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

and National Aeronautics and Space Administration (NASA).

**ACTION:** Summary presentation of interim rule.

**SUMMARY:** This document summarizes the Federal Acquisition Regulation (FAR) rule agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in this Federal Acquisition Circular (FAC) 2005–18. 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 and comment dates, see separate documents which follow.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact the analyst whose name appears in the table below in relation to the FAR case. Please cite FAC 2005–18 FAR Case 2006–032. Interested parties may also visit our website at <http://www.regulations.gov>. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755.

**RULE LISTED IN FAC 2005–18**

Item	Subject	FAR case	Analyst
I .....	Small Business Size Rerepresentation .....	2006–032	Cundiff.

**SUPPLEMENTARY INFORMATION:** A summary of the FAR rule follows. For the actual revisions and/or amendments to this FAR case, refer to FAR Case 2006–032. FAC 2005–18 amends the FAR as specified below:

**Item I—Small Business Size Rerepresentation (FAR Case 2006–032)**

This interim rule amends the FAR to implement the Small Business Administration’s (SBA) final rule published on November 15, 2006 (71 FR 66434), entitled “Small Business Size Regulations; Size for Purposes of Governmentwide Acquisition Contracts, Multiple Award Schedule Contracts and Other Long-Term Contracts; 8(a) Business Development/Small Disadvantaged Business; Business Status Determinations.” The purpose of the SBA rule and this FAR rule is to improve the accuracy of small business size status reporting, at the prime contract level, over the life of certain contracts (long-term contracts, contracts involving novations, acquisitions, and mergers). Contractors will be required to rerepresent their size status on contracts prior to the end of the fifth year of a contract that is more than five years in duration (long-term contract); prior to exercising any option thereafter; following execution of a novation agreement; or following a merger or acquisition of the contractor, regardless of whether there is a novation agreement. A change in the size status does not change the terms and conditions of the contract, but the agency may no longer include the value of options exercised or orders issued against the contract in its small business prime contracting goal achievements.

Dated: June 29, 2007.  
**Michael Jackson,**  
*Acting Director, Contract Policy Division.*

**Federal Acquisition Circular**

Federal Acquisition Circular (FAC) 2005-18 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 2005-18 is effective June 30, 2007.

Dated: June 27, 2007.  
**Shay D. Assad,**  
*Director, Defense Procurement and Acquisition Policy.*

Dated: June 28, 2007.  
**George Barclay,**  
*Acting Senior Procurement Executive, General Services Administration.*

Dated: June 27, 2007.  
**Kenneth A. Sateriale,**  
*Acting Assistant Administrator for Procurement, National Aeronautics and Space Administration.*  
[FR Doc. 07–3277 Filed 7–2–07; 11:18 am]

**BILLING CODE 6820–EP–S**

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 4, 17, 19, and 52**

[FAC 2005–18; FAR Case 2006–032; Item I; Docket 2007–001, Sequence 4]

RIN 9000–AK78

**Federal Acquisition Regulation; FAR Case 2006–032, Small Business Size Rerepresentation**

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

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to implement the Small Business Administration’s (SBA) final rule published on November 15, 2006 (71 FR 66434), entitled “Small Business Size Regulations; Size for Purposes of Government-wide Acquisition Contracts, Multiple Award Schedule Contracts and Other Long-Term Contracts; 8(a) Business Development/Small Disadvantaged Business; Business Status Determinations.” The purpose of the SBA rule is to improve the accuracy of small business size status reporting over the life of certain contracts.

**DATES:** *Effective Date:* June 30, 2007.

This rule applies to solicitations issued and contracts awarded on or after June 30, 2007. *Applicability to contracts awarded prior to June 30, 2007:*

Contracting officers must modify existing long-term contracts, as defined in the interim rule at FAR 19.301-2(a), awarded to small businesses to include the clause at 52.219-28, Post-Award Small Business Program Rerepresentation. Contracting officers must also modify contracts awarded to small business concerns, other than long-term contracts, to include the clause at 52.219-28, at the time that an option is exercised.

*Comment Date:* Interested parties should submit written comments to the FAR Secretariat on or before September 4, 2007 to be considered in the formulation of a final rule.

**ADDRESSES:** Submit comments identified by FAC 2005-18, FAR case 2006-032, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Search for any document by first selecting the proper document types and selecting "Federal Acquisition Regulation" as the agency of choice. At the "Keyword" prompt, type in the FAR case number (for example, FAR Case 2006-001) and click on the "Submit" button.

You may also search for any document by clicking on the "Advanced search/document search" tab at the top of the screen, selecting from the agency field "Federal Acquisition Regulation", and typing the FAR case number in the keyword field. Select the "Submit" button. Please include any personal and/or business information inside the document.

- Fax: 202-501-4067.

- Mail: General Services

Administration, Regulatory Secretariat (VIR), 1800 F Street, NW., Room 4035, ATTN: Laurieann Duarte, Washington, DC 20405.

*Instructions:* Please submit comments only and cite FAC 2005-18, FAR case 2006-032, 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.

**FOR FURTHER INFORMATION CONTACT:** Ms. Rhonda Cundiff, Procurement Analyst, at (202) 501-0044 for clarification of content. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501-4755. Please cite FAC 2005-18, FAR case 2006-032.

**SUPPLEMENTARY INFORMATION:****A. Background**

This interim rule implements the SBA final rule published on November 15, 2006 (71 FR 66434), entitled "Small Business Size Regulations; Size for Purposes of Government-wide Acquisition Contracts, Multiple Award Schedule Contracts and Other Long-Term Contracts; 8(a) Business Development/Small Disadvantaged Business; Business Status Determinations." The purpose of the SBA rule is to improve the accuracy of small business size status reporting, at the prime contract level, over the life of certain contracts. It is intended to address situations where a concern was small at time of award but, over the course of the contract, has become other than small. Under current regulations, in these situations, funds obligated under the contract continue to be reported as awarded to small business for the life of the contract, regardless of whether the size status of the concern has changed.

This interim rule requires a concern that represented it was a small business prior to award of a contract to represent its size status again for that existing contract (rerepresent) upon the occurrence of any of the following:

(1) Within 30 days after execution of a novation agreement, or within 30 days after modification of the contract to include the clause at 52.219-28, Post-Award Small Business Program Rerepresentation, if the novation agreement was executed prior to inclusion of that clause in the contract.

(2) Within 30 days after a merger or acquisition that does not require a novation or within 30 days after modification of the contract to include the clause at 52.219-28, if the merger or acquisition occurred prior to inclusion of that clause in the contract.

(3) For long-term contracts—

(i) Within 60 to 120 days prior to the end of the fifth year of the contract; and

(ii) Within 60 to 120 days prior to the exercise date specified in the contract for any option thereafter. If a concern represents that it is now other than small, the agency must ensure that updated size status is reflected in its reporting system, and, from that point forward, may no longer include the value of options exercised or orders issued against the contract in its small business prime contracting achievements.

This interim rule also implements the portions of the SBA rule that state that a change in size status does not change the terms and conditions of the contract, and a contracting officer is not required to terminate the contract when, as a

result of a protest, the concern is found to be other than small.

Although not addressed in the SBA rule, this interim rule strengthens the requirement for a contracting officer to document in the contract file the date the contractor verified its representations in the Government's Online Representations and Certifications Application (ORCA), or include a paper copy of those representations in the contract file. The SBA requested this clarification to provide greater assurance that the contracting officer is documenting the ORCA certifications and representations of small business offerors.

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

**B. Regulatory Flexibility Act**

The 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 purpose of the SBA's final rule, which this FAR interim rule implements, is to enable the Government to report more accurate small business prime contracting statistics. The rule provides for more accurate statistics through rerepresentations on contracts and using the size status in effect at the time of the rerepresentation. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared. The analysis is summarized as follows:

Improving the accuracy of the statistics may benefit small businesses. If agencies can no longer take credit toward their small business goals for funds obligated to contracts where, over the course of the contract, the contractor has become other than small, agencies will need to make up the shortfall in meeting their goals by seeking new procurement opportunities with the present universe of small businesses.

In the preamble to its rule, SBA estimated that potentially 2,300 concerns could be initially impacted by the requirement to rerepresent on long-term contracts, and 250 concerns may be impacted annually, thereafter. In addition, it is estimated that 300 concerns may be affected annually by the requirement to rerepresent size status as a result of novations, acquisitions, or mergers.

This rule will not impose any additional recordkeeping requirements on small businesses because they are already required to review and update their size status data, at a minimum, on an annual basis.

The FAR Secretariat has submitted a copy of the Initial Regulatory Flexibility Analysis to the Chief Counsel for

Advocacy of the SBA. Interested parties may obtain a copy from the FAR Secretariat. The Councils will consider comments from small entities concerning the affected FAR Parts 4, 17, 19, and 52 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 601, et seq. (FAC 2005-18, FAR case 2006-032), in correspondence.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act (44 U.S.C. Chapter 35) applies because the interim rule contains information collection requirements. Accordingly, the FAR Secretariat will submit a request for approval of a new information collection requirement concerning 9000-XXXX, Small Business Size Rerepresentation (FAR Case 2006-032), to the Office of Management and Budget under 44 U.S.C. 3501, et seq.

Public reporting burden for this collection of information is estimated to average .5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows:

- Respondents: 10,000
- Responses per respondent: 1
- Total annual responses: 10,000
- Preparation hours per response: .5
- Total response burden hours: 5,000

**D. Request for Comments Regarding Paperwork Burden**

Submit comments, including suggestions for reducing this burden, not later than September 4, 2007 to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (VIR), 1800 F Street, NW., Room 4035, Washington, DC 20405.

Public comments are particularly invited on: whether this collection of information is necessary for the proper performance of functions of the FAR, and will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Requester may obtain a copy of the justification from the General Services

Administration, FAR Secretariat (VIR), Room 4035, Washington, DC 20405, telephone (202) 501-4755. Please cite OMB Control Number 9000-XXXX in all correspondence.

**E. 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 publish an interim rule without prior opportunity for public comment. This action is necessary because this FAR interim rule implements an SBA final rule that becomes effective June 30, 2007.

However, pursuant to Public Law 98-577 and FAR 1.501, the Councils will consider public comments received in response to this FAR interim rule in the formation of the final rule.

**List of Subjects in 48 CFR Parts 4, 17, 19, and 52**

Government procurement.

Dated: June 29, 2007.

**Michael Jackson,**  
*Acting Director, Contract Policy Division.*

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 4, 17, 19, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 4, 17, 19, and 52 continues to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

**PART 4—ADMINISTRATIVE MATTERS**

■ 2. Amend section 4.602 by adding a new paragraph (f) to read as follows:

**4.602 Federal Procurement Data System.**

\* \* \* \* \*

(f) When the contracting office receives written notification that a contractor has changed its size status in accordance with the clause at 52.219-28, Post-Award Small Business Program Rerepresentation, the contracting officer must submit a modification contract action report to ensure that the updated size status is entered in FPDS-NG.

■ 3. Revise the heading of subpart 4.12 to read as follows:

**Subpart 4.12—Representations and Certifications.**

■ 4. Revise the introductory text of section 4.1200 to read as follows:

**4.1200 Scope.**

This subpart prescribes policies and procedures for requiring submission and

maintenance of representations and certifications via the Online Representations and Certifications Application (ORCA) to—

\* \* \* \* \*

■ 5. Amend section 4.1201 by redesignating paragraph (b) as (b)(1) and adding a new (b)(2); and revising paragraph (c) to read as follows:

**4.1201 Policy.**

\* \* \* \* \*

(b)(1) \* \* \*

(2) When the conditions in paragraph (b) of the clause at 52.219-28, Post-Award Small Business Program Rerepresentation, apply, contractors that represented they were small businesses prior to award of a contract must update the representations and certifications in ORCA as directed by the clause. Contractors that represented they were other than small businesses prior to award of a contract may update the representations and certifications in ORCA as directed by the clause, if their size status has changed since contract award.

(c) Data in ORCA is archived and is electronically retrievable. Therefore, when a prospective contractor has completed representations and certifications electronically via ORCA, the contracting officer must reference the date of ORCA verification in the contract file, or include a paper copy of the electronically-submitted representations and certifications in the file. Either of these actions satisfies contract file documentation requirements of 4.803(a)(11). However, if an offeror identifies changes to ORCA data pursuant to the FAR provisions at 52.204-8(c) or 52.212-3(k), the contracting officer must include a copy of the changes in the contract file.

**PART 17—SPECIAL CONTRACTING METHODS**

■ 6. Amend section 17.207 by revising paragraph (e) to read as follows:

**17.207 Exercise of options.**

\* \* \* \* \*

(e) The determination of other factors under paragraph (c)(3) of this section—

(1) Should take into account the Government's need for continuity of operations and potential costs of disrupting operations; and

(2) May consider the effect on small business.

\* \* \* \* \*

**PART 19—SMALL BUSINESS PROGRAMS**

■ 7. Amend section 19.202-5 by adding a new paragraph (c) to read as follows:

**19.202-5 Data collection and reporting requirements.**

\* \* \* \* \*

(c) When the contract includes the clause at 52.219-28, Post Award Small Business Program Rerepresentation, and the conditions in paragraph (b) of the clause are met—

(1) Require a contractor that represented itself as a small business prior to award of the contract to rerepresent its size status; and

(2) Permit a contractor that represented itself as other than a small business prior to award to rerepresent its size status.

■ 8. Amend section 19.301 by—

■ a. Redesignating section 19.301 as subsection 19.301-1;

■ b. Adding new section 19.301; and

■ c. Adding new subsections 19.301-2 and 19.301-3.

■ The revised and added text read as follows:

**19.301 Representations and rerepresentations.****19.301-1 Representation by the offeror.**

\* \* \* \* \*

**19.301-2 Rerepresentation by a contractor that represented itself as a small business.**

(a) *Definition.* As used in this subsection—

*Long-term contract* means a contract of more than five years in duration, including options. However, the term does not include contracts that exceed five years in duration because the period of performance has been extended for a cumulative period not to exceed six months under the clause at 52.217-8, Option to Extend Services, or other appropriate authority.

(b) A contractor that represented itself as a small business before contract award must rerepresent its size status for the North American Industry Classification System (NAICS) code in the contract upon the occurrence of any of the following:

(1) Within 30 days after execution of a novation agreement or within 30 days after modification of the contract to include the clause at 52.219-28, Post-Award Small Business Program Rerepresentation, if the novation agreement was executed prior to inclusion of this clause in the contract.

(2) Within 30 days after a merger or acquisition of the contractor that does not require novation or within 30 days after modification of the contract to include the clause at 52.219-28, Post-Award Small Business Program Rerepresentation, if the merger or acquisition occurred prior to inclusion of this clause in the contract.

(3) For long-term contracts—

(i) Within 60 to 120 days prior to the end of the fifth year of the contract; and

(ii) Within 60 to 120 days prior to the date specified in the contract for exercising any option thereafter.

(c) A contractor must rerepresent its size status in accordance with the size standard in effect at the time of its rerepresentation that corresponds to the NAICS code that was initially assigned to the contract.

(d) If the contractor rerepresents that it is other than small, from that point forward, the agency may no longer include the value of options exercised or orders issued against the contract in its small business prime contracting goal achievements.

(e) A change in size status does not change the terms and conditions of the contract.

**19.301-3 Rerepresentation by a contractor that represented itself as other than a small business.**

A contractor that represented itself as other than small before contract award may, but is not required to, rerepresent its size status when—

(a) The conditions in 19.301-2(b) apply; and

(b) The contractor qualifies as a small business under the applicable size standard in effect at the time of its rerepresentation.

■ 9. Amend section 19.302 by revising the section heading, paragraphs (c)(1), (f), and (g), and adding new paragraph (k) to read as follows:

**19.302 Protesting a small business representation or rerepresentation.**

\* \* \* \* \*

(c)(1) Any contracting officer who receives a protest, whether timely or not, or who, as the contracting officer, wishes to protest the small business representation of an offeror, or rerepresentation of a contractor, shall promptly forward the protest to the SBA Government Contracting Area Office for the geographical area where the principal office of the concern in question is located.

\* \* \* \* \*

(f) Within 3 business days after receiving a copy of the protest and the form, the challenged concern must file with the SBA a completed SBA Form 355 and a statement answering the allegations in the protest, and furnish evidence to support its position. If the concern does not submit the required material within the 3 business days or another period of time granted by the SBA, the SBA may assume that the disclosure would be contrary to the concern's interests.

(g)(1) Within 10 business days after receiving a protest, the challenged concern's response, and other pertinent information, the SBA will determine the size status of the challenged concern and notify the contracting officer, the protester, and the challenged concern of its decision by certified mail, return receipt requested.

(2) The SBA Government Contracting Area Director, or designee, will determine the small business status of the questioned concern and notify the contracting officer and the concern of the determination. Award may be made on the basis of that determination. This determination is final unless it is appealed in accordance with paragraph (i) of this section, and the contracting officer is notified of the appeal before award. If an award was made before the time the contracting officer received notice of the appeal, the contract shall be presumed to be valid.

\* \* \* \* \*

(k) When a concern is found to be other than small under a protest concerning a size status rerepresentation made in accordance with the clause at 52.219-28, Post-Award Small Business Program Rerepresentation, a contracting officer may permit contract performance to continue, issue orders, or exercise option(s), because the contract remains a valid contract.

■ 10. Amend section 19.308 by revising the section heading and paragraph (a)(2); and adding a new paragraph (d) to read as follows:

**19.308 Solicitation provisions and contract clauses.**

(a)(1) \* \* \*

(2) Use the provision with its Alternate I in solicitations issued by DoD, NASA, or the Coast Guard.

\* \* \* \* \*

(d) Insert the clause at 52.219-28, Post-Award Small Business Program Rerepresentation, in solicitations and contracts exceeding the micro-purchase threshold when the contract will be performed in the United States or its outlying areas.

■ 11. Revise section 19.804-6 to read as follows:

**19.804-6 Indefinite delivery contracts.**

(a) Separate offers and acceptances must not be made for individual orders under multiple award, Federal Supply Schedule (FSS), multi-agency contracts or Governmentwide acquisition contracts. SBA's acceptance of the original contract is valid for the term of the contract.

(b) The requirements of 19.805-1 of this part do not apply to individual orders that exceed the competitive

threshold as long as the original contract was competed.

(c) An 8(a) concern may continue to accept new orders under a multiple award, Federal Supply Schedule (FSS), multi-agency contract or Governmentwide acquisition contract even after a concern's program term expires, the concern otherwise exits the 8(a) Program, or the concern becomes other than small for the NAICS code assigned under the contract.

## PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

- 12. Amend section 52.212-5 by—
  - a. Revising the date of the clause and paragraph (b)(14);
  - b. Redesignating paragraphs (b)(15) through (36) as paragraphs (b)(16) through (37) respectively; and
  - c. Adding a new paragraph (b)(15).
- The revised and added text 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 (JUNE 2007)

\* \* \* \* \*

(b) \* \* \*

\_\_\_\_ (14) 52.219-27, Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside (May 2004)(15 U.S.C. 657 f).

\_\_\_\_ (15) 52.219-28, Post Award Small Business Program Rerepresentation (JUNE 2007) (15 U.S.C. 632(a)(2)).

\* \* \* \* \*

- 13. Add section 52.219-28 to read as follows:

### 52.219-28 Post-Award Small Business Program Rerepresentation.

As prescribed in 19.308(d), insert the following clause:

POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (JUNE 2007)

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

*Long-term contract* means a contract of more than five years in duration, including options. However, the term does not include contracts that exceed five years in duration because the period of performance has been extended for a cumulative period not to exceed six months under the clause at 52.217-8, Option to Extend Services, or other appropriate authority.

*Small business concern* means a concern, including its affiliates, that is independently

owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (c) of this clause.

(b) If the Contractor represented that it was a small business concern prior to award of this contract, the Contractor shall rerepresent its size status according to paragraph (e) of this clause or, if applicable, paragraph (g) of this clause, upon the occurrence of any of the following:

(1) Within 30 days after execution of a novation agreement or within 30 days after modification of the contract to include this clause, if the novation agreement was executed prior to inclusion of this clause in the contract.

(2) Within 30 days after a merger or acquisition that does not require a novation or within 30 days after modification of the contract to include this clause, if the merger or acquisition occurred prior to inclusion of this clause in the contract.

(3) For long-term contracts—

(i) Within 60 to 120 days prior to the end of the fifth year of the contract; and

(ii) Within 60 to 120 days prior to the exercise date specified in the contract for any option thereafter.

(c) The Contractor shall rerepresent its size status in accordance with the size standard in effect at the time of this rerepresentation that corresponds to the North American Industry Classification System (NAICS) code assigned to this contract. The small business size standard corresponding to this NAICS code can be found at <http://www.sba.gov/services/contractingopportunities/sizestandardsttopics/>.

(d) The small business size standard for a Contractor providing a product which it does not manufacture itself, for a contract other than a construction or service contract, is 500 employees.

(e) Except as provided in paragraph (g) of this clause, the Contractor shall make the rerepresentation required by paragraph (b) of this clause by validating or updating all its representations in the Online Representations and Certifications Application and its data in the Central Contractor Registration, as necessary, to ensure they reflect current status. The Contractor shall notify the contracting office by e-mail, or otherwise in writing, that the data have been validated or updated, and provide the date of the validation or update.

(f) If the Contractor represented that it was other than a small business concern prior to award of this contract, the Contractor may, but is not required to, take the actions required by paragraphs (e) or (g) of this clause.

(g) If the Contractor does not have representations and certifications in ORCA, or does not have a representation in ORCA for the NAICS code applicable to this contract, the Contractor is required to

complete the following rerepresentation and submit it to the contracting office, along with the contract number and the date on which the rerepresentation was completed:

The Contractor represents that it  is,  is not a small business concern under NAICS Code \_\_\_\_\_ assigned to contract number \_\_\_\_\_.

[Contractor to sign and date and insert authorized signer's name and title].

(End of clause)

[FR Doc. 07-3279 Filed 7-2-07; 11:18 am]

BILLING CODE 6820-EP-S

## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Chapter 1

[Docket FAR-2007-002, Sequence 3]

### Federal Acquisition Regulation; Federal Acquisition Circular 2005-18; Small Entity Compliance Guide

**AGENCIES:** 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 the Secretary of Defense, the Administrator of General Services and the Administrator of the National Aeronautics and Space Administration. 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 rule appearing in Federal Acquisition Circular (FAC) 2005-18 which amends the FAR. An asterisk (\*) next to the rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding this rule by referring to FAC 2005-18 which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Laurieann Duarte, FAR Secretariat, (202) 501-4225. For clarification of content, contact the analyst whose name appears in the table below.