DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 2

[45x63]as follows:

Definition of "multiple-award contract.

240 (15 U.S.C. 632(v)) added a

111–240. Section 1311 of Pub. L. 111–


I. Background

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a

issue a final rule to amend the Federal

Acquisition Regulation (FAR) to define


FOR FURTHER INFORMATION CONTACT: Ms.

Mahruba 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.

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,

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.

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]
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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.


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, 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. Mahruba 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 economically disadvantaged women-owned small business (EDWOSB) concerns and to WOSB concerns eligible under the WOSB Program.

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. 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: