

proposed solicitations to increase the probability of participation by small businesses as prime contractors through Small Business Teaming Arrangements;

\* \* \* \* \*

(11) \* \* \*

(ii) Adequacy of consolidated or bundled contract documentation and justifications; and

(iii) Actions taken to mitigate the effects of necessary and justified consolidation or bundling on small businesses.

\* \* \* \* \*

■ 16. Amend section 19.202–1 by revising paragraph (e)(1)(iii), the introductory text of paragraph (e)(2), and paragraphs (e)(2)(v), (e)(3), and (e)(4) to read as follows:

**19.202–1 Encouraging small business participation in acquisitions.**

\* \* \* \* \*

(e)(1) \* \* \*

(iii) The proposed acquisition is for a consolidated or bundled requirement. (See 7.107–5(a) for mandatory 30-day notice requirement to incumbent small business concerns.) The contracting officer shall provide all information relative to the justification for the consolidation or bundling, including the acquisition plan or strategy, and if the acquisition involves substantial bundling, the information identified in 7.107–4. The contracting officer shall also provide the same information to the agency Office of Small and Disadvantaged Business Utilization.

(2) Provide a statement explaining why the—

\* \* \* \* \*

(v) Consolidation or bundling is necessary and justified.

(3) Process the 30-day notification concurrently with other processing steps required prior to the issuance of the solicitation.

(4) If the contracting officer rejects the SBA procurement center representative's recommendation made in accordance with 19.402(c)(2), document the basis for the rejection and notify the SBA procurement center representative in accordance with 19.505.

**PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

■ 17. Add section 52.207–6 to read as follows:

**52.207–6 Solicitation of Offers from Small Business Concerns and Small Business Teaming Arrangements or Joint Ventures (Multiple-Award Contracts).**

As prescribed in 7.107–6, insert the following provision:

**Solicitation of Offers From Small Business Concerns and Small Business Teaming Arrangements or Joint Ventures (Multiple-Award Contracts) (Oct 2016)**

(a) *Definition.* “Small Business Teaming Arrangement,” as used in this provision—

(1) Means an arrangement where—

(i) Two or more small business concerns have formed a joint venture; or

(ii) A small business offeror agrees with one or more other small business concerns to have them act as its subcontractors under a specified Government contract. A Small Business Teaming Arrangement between the offeror and its small business subcontractor(s) exists through a written agreement between the parties that—

(A) Is specifically referred to as a “Small Business Teaming Arrangement”; and  
(B) Sets forth the different responsibilities, roles, and percentages (or other allocations) of work as it relates to the acquisition;

(2)(i) For civilian agencies, may include two business concerns in a mentor-protégé relationship when both the mentor and the protégé are small or the protégé is small and the concerns have received an exception to affiliation pursuant to 13 CFR 121.103(h)(3)(ii) or (iii).

(ii) For DoD, may include two business concerns in a mentor-protégé relationship in the Department of Defense Pilot Mentor-Protégé Program (see section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Pub. L. 101–510; 10 U.S.C. 2302 note)) when both the mentor and the protégé are small. There is no exception to joint venture size affiliation for offers received from teaming arrangements under the Department of Defense Pilot Mentor-Protégé Program; and

(3) See 13 CFR 121.103(b)(9) regarding the exception to affiliation for offers received from Small Business Teaming Arrangements in the case of a solicitation of offers for a bundled contract with a reserve.

(b) The Government is soliciting and will consider offers from any responsible source, including responsible small business concerns and offers from Small Business Teaming Arrangements or joint ventures of small business concerns.

(End of provision)

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**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Part 17**

[FAC 2005–91; FAR Case 2016–006; Item VII; Docket No. 2016–0006, Sequence No. 1]

RIN 9000–AN24

**Federal Acquisition Regulation; Amendment Relating to Multi-Year Contract Authority for Acquisition of Property**

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

**ACTION:** Final rule.

**SUMMARY:** DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement a section of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2016, to require that “significant” savings would be achieved by entering into a multi-year contract.

**DATES:** *Effective:* October 31, 2016.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael O. Jackson, Procurement Analyst, at 202–208–4949, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–91, FAR Case 2016–006.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

DoD, GSA, and NASA are amending FAR subpart 17.1 to implement section 811 of the NDAA for FY 2016 (Pub. L. 114–92). Section 811 amended subsection (a)(1) of 10 U.S.C. 2306b by striking “substantial” and inserting “significant.” This rule makes conforming changes at FAR 17.105–1(b)(1) to state that the head of an agency may enter into a multi-year contract for supplies, if the use of such a contract will result in significant savings of the total estimated costs of carrying out the program through annual contracts. This change applies to the DoD, NASA, and the Coast Guard.

**II. Publication of This Final Rule for Public Comment Is Not Required by Statute**

Publication of proposed regulations, 41 U.S.C. 1707, is the statute which applies to the publication of the Federal

Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure, or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it addresses an internal decision by the head of agency to enter into a multi-year contract for supplies if certain criteria are met. These requirements affect only the internal operating procedures of the Government.

### 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, of 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

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant FAR revision within the meaning of FAR 1.501-1 and 41 U.S.C. 1707 does not require publication for public comment.

### 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 17

Government procurement.

Dated: September 19, 2016.

**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 17 as set forth below:

### PART 17—SPECIAL CONTRACTING METHODS

■ 1. The authority citation for 48 CFR part 17 continues to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

#### 17.105-1 [Amended]

■ 2. Amend section 17.105-1 by removing from paragraph (b)(1) “substantial” and adding “significant” in its place.

[FR Doc. 2016-23201 Filed 9-29-16; 8:45 am]

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 22, 25, and 52

[FAC 2005-91; FAR Case 2016-009; Item VIII; Docket No. 2016-0009, Sequence No. 1]

RIN 9000-AN25

#### Federal Acquisition Regulation; New Designated Countries—Ukraine and Moldova

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

**ACTION:** Final rule.

**SUMMARY:** DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to add Ukraine and Moldova as new designated countries under the World Trade Organization Government Procurement Agreement (WTO GPA).

**DATES:** *Effective:* October 31, 2016.

**FOR FURTHER INFORMATION CONTACT:** Ms. Cecelia L. Davis, Procurement Analyst, at 202-219-0202 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755. Please cite FAC 2005-91, FAR Case 2016-009.

**SUPPLEMENTARY INFORMATION:**

## I. Background

Ukraine and Moldova recently became parties to the WTO GPA on May 18, 2016, and July 14, 2016, respectively. The Trade Agreements Act (19 U.S.C. 2501 *et seq.*) provides the authority for the President to waive the Buy American statute and other discriminatory provisions for eligible products from countries that have signed an international trade agreement with the United States (such as the WTO GPA). The President has delegated this authority to the U.S. Trade Representative.

The U.S. Trade Representative has determined that Ukraine and Moldova will provide appropriate reciprocal competitive Government procurement opportunities to United States products and services. The U.S. Trade Representative published notices in the **Federal Register** waiving the Buy American statute and other discriminatory provisions for eligible products from Ukraine at 81 FR 31292 on May 18, 2016, and Moldova at 81 FR 50045 on July 29, 2016.

## II. Discussion and Analysis

Therefore, this rule adds Ukraine and Moldova to the list of WTO GPA countries wherever it appears in the FAR, whether as a separate definition, part of the definition of “designated country” or “Recovery Act designated country,” or as part of the list of countries exempt from the prohibition of acquisition of products produced by forced or indentured child labor (FAR 22.1503, 25.003, 52.222-19, 52.225-5, 52.225-11, and 52.225-23).

Conforming changes are made to FAR 52.212-5, Contract Terms and Conditions Required to Implement Statute or Executive Orders—Commercial Items, and 52.213-4, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

## III. Publication of This Final Rule for Public Comment Is Not Required by Statute

“Publication of proposed regulations,” 41 U.S.C. 1707, is the statute that applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure, or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation,