

(2) A contractor, based on a determination by the Attorney General of the United States, or designee, that the contractor is not in compliance with Immigration and Nationality Act employment provisions (see Executive Order 12989). \* \* \*

(c) A contractor or subcontractor based on any other cause of so serious or compelling a nature that it affects the present responsibility of the contractor or subcontractor.

■ 14. Amend section 9.407–2 by revising paragraph (a)(5) to read as follows:

**9.407–2 Causes for suspension.**

(a) \* \* \*

(5) Intentionally affixing a label bearing a “Made in America” inscription (or any inscription having the same meaning) to a product sold in or shipped to the United States or its outlying areas, when the product was not made in the United States or its outlying areas (see Section 202 of the Defense Production Act (Public Law 102–558));

\* \* \* \* \*

**PART 14—SEALED BIDDING**

■ 15. Revise section 14.203–1 to read as follows:

**14.203–1 Transmittal to prospective bidders.**

Invitations for bids or presolicitation notices must be transmitted as specified in 14.205 and shall be provided to others in accordance with 5.102. When a contracting office is located in the United States, any solicitation sent to a prospective bidder located outside the United States shall be sent by electronic data interchange or air mail if security classification permits.

**PART 19—SMALL BUSINESS PROGRAMS**

■ 16. Amend section 19.000 by revising paragraph (b) to read as follows:

**19.000 Scope of part.**

\* \* \* \* \*

(b) This part, except for subpart 19.6, applies only in the United States or its outlying areas. Subpart 19.6 applies worldwide.

■ 17. Amend section 19.001 by revising the definition “Concern” to read as follows:

**19.001 Definitions.**

\* \* \* \* \*

*Concern* means any business entity organized for profit (even if its ownership is in the hands of a nonprofit entity) with a place of business located in the United States or its outlying areas

and that makes a significant contribution to the U.S. economy through payment of taxes and/or use of American products, material and/or labor, etc. “Concern” includes but is not limited to an individual, partnership, corporation, joint venture, association, or cooperative. For the purpose of making affiliation findings (see 19.101), include any business entity, whether organized for profit or not, and any foreign business entity, *i.e.*, any entity located outside the United States and its outlying areas.

\* \* \* \* \*

**19.101 [Amended]**

■ 18. In section 19.101, amend the last sentence of the definition “Affiliates” by removing “inside the United States” and adding “in the United States or its outlying areas” in its place.

■ 19. Amend section 19.102 by revising the introductory text of paragraph (f), (f)(1), and (f)(7) to read as follows:

**19.102 Size standards.**

\* \* \* \* \*

(f) Any concern submitting a bid or offer in its own name, other than on a construction or service contract, that proposes to furnish an end product it did not manufacture (a “nonmanufacturer”), is a small business if it has no more than 500 employees, and—

(1) Except as provided in paragraphs (f)(4) through (f)(7) of this section, in the case of Government acquisitions set-aside for small businesses, furnishes in the performance of the contract, the product of a small business manufacturer or producer. The end product furnished must be manufactured or produced in the United States or its outlying areas. The term “nonmanufacturer” includes a concern that can, but elects not to, manufacture or produce the end product for the specific acquisition. For size determination purposes, there can be only one manufacturer of the end product being acquired. The manufacturer of the end product being acquired is the concern that, with its own forces, transforms inorganic or organic substances including raw materials and/or miscellaneous parts or components into the end product. However, see the limitations on subcontracting at 52.219–14 that apply to any small business offeror other than a nonmanufacturer for purposes of set-asides and 8(a) awards.

\* \* \* \* \*

(7) The SBA provides for an exception to the nonmanufacturer rule if—

(i) The procurement of a manufactured end product processed under the procedures set forth in part 13—

(A) Is set aside for small business; and  
(B) Is not anticipated to exceed \$25,000; and

(ii) The offeror supplies an end product that is manufactured or produced in the United States or its outlying areas.

\* \* \* \* \*

■ 20. Amend section 19.307 by revising paragraphs (a)(1) and (c) to read as follows:

**19.307 Solicitation provisions.**

(a)(1) Insert the provision at 52.219–1, Small Business Program Representations, in solicitations exceeding the micro-purchase threshold when the contract will be performed in the United States or its outlying areas.

\* \* \* \* \*

(c) When contracting by sealed bidding, insert the provision at 52.219–2, Equal Low Bids, in solicitations when the contract will be performed in the United States or its outlying areas.

■ 21. Amend section 19.702 by revising paragraph (b)(3) to read as follows:

**19.702 Statutory requirements.**

\* \* \* \* \*

(b) \* \* \*

(3) For contracts or contract modifications that will be performed entirely outside of the United States and its outlying areas; or

\* \* \* \* \*

■ 22. Amend section 19.708 by—

■ a. Revising the introductory text of paragraph (a) and (a)(2);

■ b. Removing from the first sentence of paragraph (b)(1) the words “The contracting officer shall, when contracting by negotiation, insert” and adding “Insert” in its place; and

■ c. Removing from paragraph (b)(2) “The contracting officer shall insert” and adding “Insert” in its place. The revised text reads as follows:

**19.708 Contract clauses.**

(a) Insert the clause at 52.219–8, Utilization of Small Business Concerns, in solicitations and contracts when the contract amount is expected to exceed the simplified acquisition threshold unless—

\* \* \* \* \*

(2) The contract, together with all of its subcontracts, will be performed entirely outside of the United States and its outlying areas.

\* \* \* \* \*