

task or delivery order contract awarded by another agency (*i.e.*, Government-wide acquisition contract or multi-agency contract).

(iv) Order means an order placed under:

(A) Federal Supply Schedule contract; or

(B) Task-order contract or delivery-order contract awarded by another agency, (*i.e.*, Government-wide acquisition contract or multi-agency contract).

(v) Substantial bundling means any bundling that meets the dollar amounts specified in paragraph (b)(2)(i) of this section.

(2) * * *

(i) Structure procurement requirements to facilitate competition by and among small business concerns, including small business concerns owned and controlled by veterans, small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals and small business concerns owned and controlled by women; and

(ii) Avoid unnecessary and unjustified bundling of contract requirements that inhibits or precludes small business participation in procurements as prime contractors.

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(5) * * *

(i) * * *

(A) Benefits equivalent to 10 percent of the contract or order value (including options) where the contract or order value is \$75 million or less; or

(B) Benefits equivalent to 5 percent of the contract or order value (including options) or \$7.5 million, whichever is greater, where the contract or order value exceeds \$75 million.

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(7) Substantial bundling. (i) Where a proposed procurement strategy involves a substantial bundling of contract requirements, the procuring agency must, in the documentation of that strategy, include a determination that the anticipated benefits of the proposed bundled contract justify its use, and must include, at a minimum:

(A) The analysis for bundled requirements set forth in paragraph (d)(5)(i) of this section;

(B) An assessment of the specific impediments to participation by small business concerns as prime contractors that will result from the substantial bundling;

(C) Actions designed to maximize small business participation as prime

contractors, including provisions that encourage small business teaming for the substantially bundled requirement;

(D) Actions designed to maximize small business participation as subcontractors (including suppliers) at any tier under the contract or contracts that may be awarded to meet the requirements; and

(E) The identification of the alternative strategies that would reduce or minimize the scope of the bundling, and the rationale for not choosing those alternatives (*i.e.*, consider the strategies under paragraphs (b)(6) (i) and (d) of this section).

(ii) At least 30 days prior to the solicitation release, the procuring activity shall provide the PCR and the agency OSDBU a copy of the proposed acquisition, including the analysis required by paragraph (d)(7) of this section, the acquisition plan, any bundling information required under paragraph (b)(3) of this section, and any other relevant information. The PCR and agency OSDBU or SBS, as applicable, shall work together to develop alternative acquisition strategies identified in paragraph (b)(6) of this section to enhance small business participation.

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(e) *OSDBU Oversight Functions.* The Agency OSDBU must:

(1) Conduct periodic reviews to assess the:

(i) Extent to which small businesses are receiving their fair share of Federal procurements, including contract opportunities under programs administered under the Small Business Act;

(ii) Adequacy of the bundling documentation and justification; and

(iii) Adequacy of actions taken to mitigate the effects of necessary and justified contract bundling on small businesses (*e.g.*, review agency oversight of prime contractor subcontracting plan compliance under the subcontracting program).

(2) Provide a copy of the assessment under paragraph (e)(1) of this section to the Agency Head and SBA Administrator.

Dated: January 22, 2003.

Hector V. Barreto,

Administrator.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 7, 8, 16, 19, and 42

[FAR Case 2002-029]

RIN: 9000-AJ58

Federal Acquisition Regulation; Contract Bundling

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to implement the recommendations of the Office of Management and Budget (OMB) in its report entitled, "A Strategy for Increasing Federal Contracting Opportunities for Small Business."

DATES: Interested parties should submit comments in writing on or before April 1, 2003 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to—General Services Administration, FAR Secretariat (MVA), 1800 F Street, NW, Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to—farcase.2002-029@gsa.gov. Please submit comments only and cite FAR case 2002-029 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, at (202) 501-4755 for information pertaining to status or publication schedules. For clarification of content, contact Ms. Rhonda Cundiff, Procurement Analyst, at (202) 501-0044. Please cite FAR case 2002-029. The TTY Federal Relay Number for further information is 1-800-877-8973.

SUPPLEMENTARY INFORMATION:

A. Background

On March 19, 2002, the President unveiled a Small Business Agenda that proposed several substantive steps toward creating a dynamic environment where small businesses and entrepreneurs can flourish. The plan included new tax incentives, health care options, and a reduction in regulatory barriers. For those small businesses