(c) The Contractor shall comply with all provisions of Executive Order 13201 of February 17, 2001, and related implementing regulations at 29 CFR part 470, and orders of the Secretary of Labor.

(d) In the event that the Contractor does not comply with any of the requirements set forth in paragraphs (b), (c), or (g), the Secretary may direct that this contract be cancelled, terminated, or suspended in whole or in part, and declare the Contractor ineligible for further Government contracts in accordance with procedures at 29 CFR part 470, Subpart B—Compliance Evaluations, Complaint Investigations and Enforcement Procedures. Such other sanctions or remedies may be imposed as are provided by 29 CFR part 470, which implements Executive Order 13201, or as are otherwise provided by law.

(e) The requirement to post the employee notice in paragraph (b) does not apply to—

(1) Contractors and subcontractors that employ fewer than 15 persons;

(2) Contractor establishments or construction work sites where no union has been formally recognized by the Contractor or certified as the exclusive bargaining representative of the Contractor's employees;

(3) Contractor establishments or construction work sites located in a jurisdiction named in the definition of the United States in which the law of that jurisdiction forbids enforcement of union-security agreements;

(4) Contractor facilities where upon the written request of the Contractor, the Department of Labor Deputy Assistant Secretary for Labor-Management Programs has waived the posting requirements with respect to any of the Contractor's facilities if the Deputy Assistant Secretary finds that the Contractor has demonstrated that—

(i) The facility is in all respects separate and distinct from activities of the Contractor related to the performance of a contract; and

(ii) Such a waiver will not interfere with or impede the effectuation of the Executive order; or

(5) Work outside the United States that does not involve the recruitment or employment of workers within the United States.

(f) The Department of Labor publishes the official employee notice in two variations; one for contractors covered by the Railway Labor Act and a second for all other contractors. The Contractor shall—

(1) Obtain the required employee notice poster from the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N–5605, Washington, DC 20210, or from any field office of the Department's Office of Labor-Management Standards or Office of Federal Contract Compliance Programs;

(2) Download a copy of the poster from the Office of Labor-Management Standards website at *http://www.olms.dol.gov*; or

(3) Reproduce and use exact duplicate copies of the Department of Labor's official poster.

(g) The Contractor shall include the substance of this clause in every subcontract or purchase order that exceeds the simplified acquisition threshold, entered into in connection with this contract, unless exempted by the Department of Labor Deputy Assistant Secretary for Labor–Management Programs on account of special circumstances in the national interest under authority of 29 CFR 470.3(c). For indefinite quantity subcontracts, the Contractor shall include the substance of this clause if the value of orders in any calendar year of the subcontract is expected to exceed the simplified acquisition threshold. Pursuant to 29 CFR part 470, Subpart B—Compliance Evaluations, Complaint Investigations and Enforcement Procedures, the Secretary of Labor may direct the Contractor to take such action in the enforcement of these regulations, including the imposition of sanctions for noncompliance with respect to any such subcontract or purchase order. If the Contractor becomes involved in litigation with a subcontractor or vendor, or is threatened with such involvement, as a result of such direction, the Contractor may request the United States, through the Secretary of Labor, to enter into such litigation to protect the interests of the United States.

(End of clause)

■ 7. Amend section 52.244–6 by revising the date of the clause; redesignating paragraph (c)(1)(v) as (c)(1)(vi), and adding a new paragraph (c)(1)(v) to read as follows:

52.244–6 Subcontracts for Commercial Items.

* * * * *

SUBCONTRACTS FOR COMMERCIAL ITEMS (DEC 2004)

* * * * *

(c)(1) * * *

(v) 52.222–39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (DEC 2004) (E.O. 13201). Flow down as required in accordance with paragraph (g) of FAR clause 52.222–39).

* * * * *

[FR Doc. 04–27636 Filed 12–17–04; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 19

[FAC 2001–26; FAR Case 2003–010; Item V]

RIN 9000–AJ90

Federal Acquisition Regulation; Mentor Protégé Program—Delegation of Approval Authority for Mentor Protégé Agreements

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

ACTION: Final rule.

SUMMARY: TheCivilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to change the approval authority of Mentor Protégé Agreements to the DoD Military Departments or Defense Agencies.

DATES: Effective Date: January 19, 2005.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat 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 FAC 2001–26, FAR case 2003–010.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR 19.702, Statutory Requirements, to change the approval authority of Mentor Protégé Agreements to the DoD Military Departments or Defense Agencies. This change is being made in order for DOD to streamline and transform itself to more effectively achieve its mission. The Pilot Mentor-Protégé Program was established under Section 831 of Pub. L. 101–510, the National Defense Authorization Act for Fiscal Year 1991 (10 U. S. C. 2302 note). The purpose of the Program is to provide incentives to major Department of Defense (DoD) contractors to assist protégé firms in

enhancing their capabilities to satisfy DoD and other contract and subcontract requirements. Under the Mentor-Protégé Program, eligible companies approved as mentor firms will enter into mentor-protégé agreements with eligible protégé firms to provide appropriate developmental assistance to enhance the capabilities of the protégé firms to perform as subcontractors and suppliers. DoD may provide the mentor firm with either cost reimbursement or credit against applicable subcontracting goals established under contracts with DoD or other Federal agencies.

The Department of Defense, in an effort to streamline and transform itself in order to more effectively achieve its mission and in recognition that the Military Departments have the necessary expertise to manage programs efficiently, is transferring the management of the Mentor Protégé program to the Military Departments and Defense Agencies. The Office of the Secretary of Defense will maintain oversight and policy development responsibilities.

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 69 FR 18244, April 6, 2004, with request for comments. One respondent submitted a comment that was outside the scope of the rule and no action was taken. The Councils agreed to convert the proposed rule to a final rule.

Accordingly, the FAR is amended to state that the Director, Small and Disadvantaged Business Utilization of the cognizant DoD Military Department or Defense Agency, will be the approval authority for mentor-protégé agreements.

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 Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not 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.*, because the rule removes a restriction, thus allowing DoD to make a minor policy change.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 19

Government procurement.

Dated: December 9, 2004.

Laura Auletta,

Director, Contract Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR part 19 as set forth below:

■ 1. The authority citation for 48 CFR part 19 is revised to read as follows:

PART 19—SMALL BUSINESS PROGRAMS

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

■ 2. Amend section 19.702 by revising paragraph (d) to read as follows:

19.702 Statutory requirements.

* * * * *

(d) As authorized by 15 U.S.C. 637(d)(11), certain costs incurred by a mentor firm in providing developmental assistance to a protégé firm under the Department of DefensePilot Mentor-Protégé Program, may be credited as if they were subcontract awards to a protégé firm for the purpose of determining whether the mentor firm attains the applicable goals under any subcontracting plan entered into with any executive agency. However, the mentor-protégé agreement must have been approved by the Director, Small and Disadvantaged Business Utilization of the cognizant DoD military department or defense agency, before developmental assistance costs may be credited against subcontract goals. A list of approved agreements may be obtained at *http://www.acq.osd.mil/sadbu/mentor__protege/* or by calling (703) 588–8631.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 42

[FAC 2001–26; FAR Case 2001–018; Item VI]

RIN 9000–AJ77

Federal Acquisition Regulation; Applicability of the Cost Principles and Penalties for Unallowable Costs

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

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) by increasing the contract dollar threshold for assessing a penalty if the contractor includes expressly unallowable costs in its claim for reimbursement.

DATES: Effective Date: January 19, 2005.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Richard C. Loeb at (202) 208–3810. Please cite FAC 2001–26, FAR case 2001–018.

SUPPLEMENTARY INFORMATION:

A. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 68 FR 66988 on November 28, 2003, with request for comments. The Councils proposed to amend the FAR to: (1) remove the requirement to apply the cost principles and procedures at FAR Part 31 when pricing a contract if cost or pricing data are not obtained; (2) add a definition to FAR Part 31 for fixed-price contracts, subcontracts, and modifications; and (3) increase the contract dollar threshold for assessing a penalty if the contractor includes expressly unallowable costs in its claim for reimbursement (FAR Part 42). Three respondents submitted comments on the proposed FAR rule; a discussion of the comments are provided below. The Councils considered all comments and decided not to adopt the proposed revisions to FAR Parts 15 and 31, and to convert the proposed rule at FAR Part 42 to a final rule. Differences between