

---

---

# Contracting Policy Bulletin

HQ AFSPC/LGCP

April 2001

---

HQ AFSPC/LGCP's monthly Contracting Policy Bulletin lists the latest updates to the FAR and FAR Supplements. In each issue the changes since the previous issue are highlighted. (For those reading this in Word 7.0, **all policy available on the Internet is hyperlinked directly to the web site where it is located. Just click on the blue text.**) Comments or recommendations regarding this Bulletin may be directed to Ms. Suzanne Snyder, e-mail: [suzanne.snyder@peterson.af.mil](mailto:suzanne.snyder@peterson.af.mil) or DSN 692-5498.

Current and past policy bulletins are posted on the HQ AFSPC/LGC Home Page (<http://www.peterson.af.mil/hqafspc/contracting/>).

## Headlines

**Stay issued on FAC 97-21 and Contractor Responsibility Rules (FAR)**

**Implementation of FAR 97-22 delayed 60 days (FAR)**

**New AFSPC award to recognize small business achievements of acquisition teams (AFSPC Information (Policy) Letters)**

**DD 254 Contract Security and Classification Specification Form assistance (Miscellaneous)**

**Change to Blanket Wage Determinations (Miscellaneous)**

**Understanding the Order of Precedence (Miscellaneous)**

### FAR

**FACs** (Available at <http://farsite.hill.af.mil/regst1.htm#FAC>)

**FAC 97-24** issued and effective April 3, 2001 places a **stay of 270 days** (or until finalization of proposed rule) on the final rule issued December 20, 2000 under **FAC 97-21** (effective date of January 19, 2001) addressing contractor responsibility and costs incurred in legal and other proceedings. During the stay, the FAR text is restored to what existed before January 19, 2001. In addition, any solicitations issued that incorporated the certification provisions under FAC 97-21 **MUST** be amended to delete those certification provisions. This change impacts Parts 9, 14, 15, 31 and 52 of the FAR.

In accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled "Regulatory Review Plan," published in the Federal Register on January 24, 2001, **FAR 97-22 is delayed for 60 days** to give agency officials the opportunity for further review and consideration of new regulations, consistent with the Assistant to the President's memorandum of January 20, 2001. The effective date of Items I, III, IV, and V of Federal Acquisition Circular (FAC) 97-22

published in the Federal Register on January 10, 2001 (66 FR 2116) is delayed until May 11, 2001. Item I concerns clarification of definitions; II with permit federally insured credit unions to participate in the maintenance of special accounts for advance payments; Item IV concerns Part 12 and Assignment of Claims and Item V addresses commercial item clause flowdown.

## **DFARS**

**DFARS Change Notices (replaced DACs and Departmental Letters)** (Available at <http://www.acq.osd.mil/dp/dars/dfars/changes.htm>)

No New DFARS Change Notices since DCN 20001213 was published on December 13, 2000

**Class Deviations** (Available at <http://www.acq.osd.mil/dp/dars/classdev.html> )

No new Class Deviations issued since CD 2001-00001 Suspension of the Price Adjustment for Small Disadvantaged Businesses

**Other Director of Defense Procurement Memos** (Available at [http://www.safaq.hq.af.mil/contracting/policy/ddp\\_memo.cfm](http://www.safaq.hq.af.mil/contracting/policy/ddp_memo.cfm))

No new memos since 2 Aug 00.

## **AFFARS**

**AFACS** (Available at <http://farsite.hill.af.mil/regst1.htm#AFAC>)

No new AFACs have been issued since AFAC 96-4, issued 13 Oct 00. Effective 20 Oct 00.

**Contracting Policy Memos** (Available at [http://www.safaq.hq.af.mil/contracting/policy/das\\_pol.cfm](http://www.safaq.hq.af.mil/contracting/policy/das_pol.cfm))

No new policy memos have been issued since OO-C-03 dated 27 Dec 00

**Contracting Information Memos** (Available at [http://www.safaq.hq.af.mil/contracting/policy/das\\_info.shtml](http://www.safaq.hq.af.mil/contracting/policy/das_info.shtml))

No new Contracting Information Memos have been issued since 15 Oct 99.

**Contracting Related Memos** (Available at <http://www.safaq.hq.af.mil/contracting/policy/conrelatedmemo.html>)

No new Contracting Related Memos have been issued since 4 Dec 00.

**AFSPCFARS** (Available at <http://www.spacecom.af.mil/hqafspc/contracting/Policy/afspcfars1.htm>)

No changes to the AFSPC FAR Supplement since AFSPCAC 2000-01 dated Nov 00.

**Information (Policy) Letters** (Available at [http://www.spacecom.af.mil/hqafspc/contracting/Policy/Documents/policy\\_letters/policy\\_letters.htm](http://www.spacecom.af.mil/hqafspc/contracting/Policy/Documents/policy_letters/policy_letters.htm))

Info Letter 2001-02 dated 8 Mar 2001, Outstanding Team Achievement in the Small Business Program Award, discusses the implementation of a new award by HQ AFSPC/LGC to recognize the efforts of acquisition teams working together to attain success in the Small Business Program. The annual award will be presented to an acquisition team that does something special to increase small business participation in the Air Force. This award will be added to the AFSPC supplement to AFI 36-2835, Annual Acquisition Awards Program.

## **MISCELLANEOUS**

**Section 808 Update** Official guidance from the Acting Under Secretary of Defense for Personnel and Readiness on the implementation of Section 808 of the National Defense Authorization Act (NDAA) for FY01. The guidance clarifies that Section 808 only applies to **NEW** military and civilian entrants as of 1 Oct 00. Any GS-1102 civilian employee or their military equivalent as of 30 Sep 00 are excluded from the new requirements and may be laterally reassigned or promoted if they are otherwise qualified and are considered to be the best candidate for the position. As we advised in December, prudence should be used when selecting individuals who do not meet the full requirements of Section 808, as those selected will most certainly be limited in their future progression in the Air Force Contracting field. Effective 21 Mar 01, all new hires into the 1102 series (and similar military occupational specialty) **MUST** meet the new requirements of Section 808. Waivers can be processed only for personnel (both military and civilian) who are already members or civilian employees of the armed forces and are not exempted by the grandfathering provision. For any civilian employee brought on board between 1 Oct 00 and 21 Mar 01 who does not meet the full requirements of Section 808, we are required to process waivers. Waivers will be processed by the individual field activities through the appropriate MAJCOM.

**DD 254** Confused about Security and the AFSPC Contracting Homepage. Thanks to our local DIS office we have added two training packages under the training and information tab. Check it out at: <http://www.spacecom.af.mil/hqafspc/contracting/>

**Elimination of the Blanket Wage Determinations Program:** Phase out of the blanket program voids the agreement that relieved Air Force contracting personnel from submitting "informational SF98s" under the Wage Determination On-Line Program. This change in procedure is effective 1 Apr 01. After that date each time a wage determination is obtained for use in a solicitation an "informational SF98" must be completed and submitted within 30 days to the Department of Labor. Instructions for completing the "informational SF 98 are found in the SCA Section of the DeskTop Guide located on the Air Force labor website <https://www.afmc-mil.wpafb.af.mil/HQ-AFMC/PK/afciro/mission.htm>. The electronic SF 98 found under the SCA Wage Determinations may be used in lieu of filling out a hardcopy form.

**Contractors in Theater** On Feb 8, 2001 Mr. Delaney issued a policy memorandum entitled Contractors in Theater dealing with dealing with the use of contractor personnel

to augment the support of Air Force operations in wartime and contingency operations. The PDF file is attached for your reference.



IPM (Contractors in the Theatre...

**Order of Precedence** Confused about the issues involved in determining order of precedence in dealing with 8(a) and HubZone ? The following, prepared by Mr. Anthony Lander should prove helpful.

**GENERAL ORDER OF PRECEDENCE** As of February 2001

**1. Combined 8a & HUBZone**

Some SBA offices will not allow an 8a/HUBZone competition (i.e., an 8a competition limited to 8a's who are also HUBZone SBs). In that case, this preference is reached via a sole source to a 8a/HUBZone offered under the 8a program. If your SBA 8a representative allows an 8a/HUBZone competitive, then, of course, you can reach this preference via competition.

- 2.\* **8(a) (Sole Source or Competitive)**
- 3.\* **HUBZone Competition (any value)**
- 4.\* **HUBZone Sole Source**

If under the threshold--\$3M for services & construction, \$5M for manufacturing.  
Note: requires sole source determination by PCO--but not full-blown J&A)

**5. Small Business Set-Aside**

(Except for construction, A&E, and refuse services--because of SB Competition Demo Program)

**6. Full & Open Competition**

- **Note:** The general preference for 8a's over HUBZone firms is not "iron clad." The language at FAR 19.800(e) is definitely permissive, allowing a PCO to select a HUBZone set-aside over an 8a set-aside. If 8a/SDB statistics are "looking good," you should consider a HUBZone preference (if sufficient sources). Note for construction: if you prefer competition instead of sole source pricing, choosing a HUBZone set-aside allows you to compete under \$3M (8a under \$3M is sole source). This assumes, of course, adequate HUBZone SBs for a competition.

**REFERENCES** As of February 2001

**1. Introduction**

Unfortunately, there is no longer an "easy" order of precedence listing in the DFARS. Instead, contracting professionals need to read the coverage for the SB program scattered throughout FAR Part 19. Below are the references.

**2. FAR References**

<b>19.800(e)</b>	<i>Consider 8a first.</i> If offered to SBA under 8a program, SBA will give priority to 8a/HUBZone firms.
<b>19.304(d)</b>	If the incumbent contractor is an 8a, the HUBZone program cannot be used in re-competition, unless SBA specifically authorizes
<b>19.1306(a)(3)</b>	If the incumbent contractor is a non-HUBZone small business, the HUBZone sole source cannot be used for reacquisition
<b>19.501(c)</b>	HUBZone program has priority over SB set-asides, for acquisitions above the SAT

<b>19.1006(b)</b>	HUBZone program and 8a program are higher priority than SB competitive demonstration program--meaning you can do 8a or HUBZone buys for construction, A&E and refuse
<b>19.1305(a)</b>	HUBZone competitives are higher priority than HUBZone sole source
<b>19.1305(c)</b>	HUBZone competitions are optional under the SAT
<b>19.1306(a)(4)</b>	HUBZone sole source are prohibited under the SAT
<b>19.502(a)</b>	Requirements under \$100,000 are automatically reserved for SB, except very small business set-asides and emerging SB set-asides are a higher priority than a SB set-aside
<b>19.904(a)</b>	Emerging SB set-asides have higher priority than very small business set-asides
<b>19.502-1(b)</b>	Actions below \$2500 are exempt from SB program

Prepared by: Tony Lander, HQ AFSPC/LGCM, DSN 692-5324,  
Anthony.Lander@Peterson.af.mil

Note: References copied from Dept of VA newsletter, *The Beacon*

**FY99 and FY00 CPARS.** Remember as you enter CPARS for FY99 and FY00 into the automated past performance system you should enter the FY99 first as the other files will build on data from this record. SAF has given units until June to accomplish the submission of the prior year information. Also, remember to be careful about how long your system sets idle as if it's too long, then you may lose what you are inputting. Try and get the mandatory fill-ins done, Save Data and Finish Later without interruption, if possible.

**PROTEST SUMMARIES** Jump to this website and then click on case you would like to read (<http://www.gao.gov/decisions/bidpro/bidpro.htm>) for the most current protest cases. The follow provides a sampling of recent protest cases.

**C. Lawrence Construction Company, Inc.,** File: B-287066, Date: March 30, 2001

In a solicitation providing for a tradeoff of past performance and price to determine the award, agency reasonably determined that awardee had more relevant and favorable past performance than did the protester and that this justified the relatively small price premium associated with accepting the awardee's proposal.

**Boland Well Systems, Inc.** File: B-287030, Date: March 7, 2001

Agency reasonably rated protester's past performance as "neutral with unknown confidence" where record shows that protester failed to submit in its proposal required detailed information showing that it had performed contracts relevant to the solicited effort.

**Carlson Wagonlit Travel,** File: B-287016, Date: March 6, 2001

Protest that contracting agency unreasonably evaluated proposal as technically unacceptable is denied where the record shows that the evaluation was reasonable and consistent with the solicitation's stated evaluation criteria; agency is not required to conduct discussions with offerors where solicitation advised that the agency intended to award a contract on the basis of initial proposals.

**Magney Grande Distribution, Inc.,** File: B-286981, Date: March 22, 2001

Protest of agency's award of a contract to the offeror that submitted the significantly lower-priced proposal of two otherwise essentially comparable proposals is denied where record supports the reasonableness of the agency's evaluation and award determination.

***Hunting for a specific GAO case? Try the following link and hunt by "B" number:***  
[http://www.access.gpo.gov/su\\_docs/aces/aces170.shtml](http://www.access.gpo.gov/su_docs/aces/aces170.shtml)