

Federal Acquisition Regulation
Federal Acquisition Circular 2022-08 Summary of Rules
FAC 2022-08

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Item I — Policy on Joint Ventures (FAR Case 2017-019)

This final rule amends the Federal Acquisition Regulation (FAR) to implement statutory and regulatory changes regarding joint ventures made by the Small Business Administration (SBA) in its final rule published in the Federal Register on July 25, 2016, and to clarify that 8(a) joint ventures are not certified into the 8(a) program. Additionally, the rule implements SBA's statutory and regulatory changes that eliminated SBA approval of joint venture agreements for competitive 8(a) awards.

Item II — Construction Contract Administration (FAR Case 2018-020)

This final rule amends the FAR to implement Section 855 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019. Section 855 requires Federal agencies to provide a notice, along with solicitations for construction contracts anticipated to be awarded to small businesses, to prospective offerors that includes information about the agency's policies or practices in complying with FAR requirements related to the timely definitization of requests for equitable adjustment on construction contracts. Definitization of requests for equitable adjustment occurs after the contracting officer receives, reviews, and conducts an analysis and audit of the information contained in a change order proposal, and results in an executed contractual action. The notice must also include data regarding the time it took the agency to definitize requests for equitable adjustment on construction contracts for the three-year period preceding the issuance of the notice.

Item III — Update of Historically Underutilized Business Zone Program (FAR Case 2019-020)

This final rule amends the FAR to implement revisions the Small Business Administration (SBA) made in its regulations for the Historically Underutilized Business Zone (HUBZone) Program. Following a review of its HUBZone program regulations, SBA issued a final rule on November 26, 2019, at 84 FR 65222, to update its regulations

to reflect current policies, eliminate ambiguities, and reduce burdens on small businesses and procuring agencies. This final FAR rule updates terminology and processes to correspond with SBA's changes, such as updating the definition of HUBZone small business concern and procedures for filing and processing HUBZone protests. This rule also removes the restriction against applying the HUBZone Act of 1997 (15 U.S.C. 657a) to contracts and subcontracts at or below the simplified acquisition threshold (SAT).

Item IV — Certification of Women-Owned Small Businesses (FAR Case 2020-013)

This final rule amends the FAR to align with SBA's regulations regarding certification of economically disadvantaged women-owned small business (EDWOSB) concerns and women-owned small business (WOSB) concerns. This rule requires EDWOSBs and WOSBs participating in the Women-Owned Small Business Program (the Program) to apply for certification through SBA or a SBA-approved third party certifier to be eligible for WOSB or EDWOSB set-aside or sole-source contracts. EDWOSB and WOSB concerns that are not certified will not be eligible for set-aside and sole-source contracts under the Program. WOSBs that do not participate in the Program may continue to represent their status, be awarded contracts outside the Program, and these contracts will continue to count toward an agency's goal for awards to WOSBs.

Item V—Technical Amendments

Administrative changes are made at FAR 4.1202, 19.102, and 19.309. The date change is to provide additional time to implement the policy addressing the assignment of North American Industry Classification System codes to orders placed under multiple award contracts, as covered by changes made by FAR case 2014-002, Set-Asides Under Multiple Award Contracts.