

this clause therefore provide some mechanism for dealing with the potential required price adjustment. The Councils have been advised that use of these clauses for time-and-materials and labor-hour service contracts is already widespread. Uniform use of the appropriate clause will ensure consistency in the adjustment method for any required increase in wage rate, but should not have a significant cost impact.

### 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. Chapter 35, *et seq.*

### List of Subjects in 48 CFR Parts 22 and 52

Government procurement.

Dated: August 4, 2009.

Al Matera,

Director, Office of Acquisition Policy.

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 22 and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 22 and 52 continues to read as follows:

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

### PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

#### 22.1006 [Amended]

■ 2. Amend section 22.1006 by removing from paragraphs (c)(1) and (c)(2) “fixed-price” and adding “fixed-price, time-and-materials, or labor-hour” in its place.

### PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

#### 52.212-5 [Amended]

■ 3. Amend section 52.212-5 by removing from the date of the clause “(June 2009)” and adding “(Sep 2009)” in its place; by removing from paragraph (c)(3) “(Nov 2006)” and adding “(Sep 2009)” in its place; and by removing from paragraph (c)(4) “(Feb 2002)” and adding “(Sep 2009)” in its place.

■ 4. Amend section 52.222-43 by revising the date of the clause, introductory text in paragraph (d), and the third and fourth sentences of paragraph (f) to read as follows:

#### 52.222-43 Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts).

\* \* \* \* \*

FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT—PRICE ADJUSTMENT (MULTIPLE YEAR AND OPTION CONTRACTS) (Sep 2009)

\* \* \* \* \*

(d) The contract price, contract unit price labor rates, or fixed hourly labor rates will be adjusted to reflect the Contractor’s actual increase or decrease in applicable wages and fringe benefits to the extent that the increase is made to comply with or the decrease is voluntarily made by the Contractor as a result of:

\* \* \* \* \*

(f) \* \* \* The notice shall contain a statement of the amount claimed and the change in fixed hourly rates (if this is a time-and-materials or labor-hour contract), and any relevant supporting data, including payroll records, that the Contracting Officer may reasonably require. Upon agreement of the parties, the contract price, contract unit price labor rates, or fixed hourly rates shall be modified in writing. \* \* \*

\* \* \* \* \*

■ 5. Amend section 52.222-44 by revising the date of the clause, introductory text of paragraph (c), and the third and fourth sentences of paragraph (e) to read as follows:

#### 52.222-44 Fair Labor Standards Act and Service Contract Act—Price Adjustment.

\* \* \* \* \*

FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT—PRICE ADJUSTMENT (Sep 2009)

\* \* \* \* \*

(c) The contract price, contract unit price labor rates, or fixed hourly labor rates will be adjusted to reflect increases or decreases by the Contractor in wages and fringe benefits to the extent that these increases or decreases are made to comply with—

\* \* \* \* \*

(e) \* \* \* The notice shall contain a statement of the amount and the change in fixed hourly rates (if this is a time-and-materials or labor-hour contract) claimed and any relevant supporting data that the Contracting Officer may reasonably require. Upon agreement of the parties, the contract price, contract unit price labor rates, or fixed hourly rates shall be modified in writing. \* \* \*

\* \* \* \* \*

[FR Doc. E9-19163 Filed 8-10-09; 8:45 am]

BILLING CODE 6820-EP-S

## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 22, 25, and 52

[FAC 2005-36; FAR Case 2009-014; Item III; Docket 2009-0027, Sequence 1]

RIN 9000-AL34

### Federal Acquisition Regulation; FAR Case 2009-014, New Designated Country—Taiwan

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

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to add Taiwan (known in the World Trade Organization as “the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei)”) as a designated country, due to the accession of Taiwan to membership in the World Trade Organization Agreement on Government Procurement.

**DATES:** *Effective Date:* August 11, 2009.

*Comment Date:* Interested parties should submit written comments to the Regulatory Secretariat on or before October 13, 2009 to be considered in the formulation of a final rule.

**ADDRESSES:** Submit comments identified by FAC 2005-36, FAR case 2009-014, by any of the following methods:

• Regulations.gov: <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by inputting “FAR Case 2009-014” under the heading “Comment or Submission”. Select the link “Send a Comment or Submission” that corresponds with FAR Case 2009-014. Follow the instructions provided to complete the “Public Comment and Submission Form”. Please include your name, company name (if any), and “FAR Case 2009-014” on your attached document.

• Fax: 202-501-4067.

• Mail: General Services

Administration, Regulatory Secretariat (VPR), 1800 F Street, NW, Room 4041, ATTN: Hada Flowers, Washington, DC 20405.

Instructions: Please submit comments only and cite FAC 2005-36, FAR case 2009-014, in all correspondence related to this case. All comments received will be posted without change to http://www.regulations.gov, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Meredith Murphy, Procurement Analyst, at (202) 208-6925. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501-4755. Please cite FAR Case 2009-014.

SUPPLEMENTARY INFORMATION:

A. Background

On July 15, 2009, Taiwan became a designated country based on its accession to the World Trade Organization Agreement on Government Procurement. This interim rule adds Taiwan to the list of World Trade Organization Government Procurement Agreement countries in FAR 22.1503, 25.003, 52.222-19, 52.225-5, 52.225-11, and 52.225-23.

This is a significant regulatory action and, therefore, was 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 interim rule is not expected to 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. Although the rule opens up Government procurement to the goods and services of Taiwan, the Councils do not anticipate any significant economic impact on U.S. small businesses. The Department of Defense only applies the trade agreements to the non-defense items listed at Defense Federal Acquisition Regulation Supplement (DFARS) 225.401-70, and acquisitions that are set aside for small businesses are exempt. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. The Councils will consider comments from small entities concerning the affected FAR Parts 22, 25, and 52 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 601, et seq. (FAC 2005-36, FAR case 2009-014), in all correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does apply; however, these changes to the FAR do not impose additional information collection requirements to

the paperwork burden previously approved under OMB Control Number 9000-0141, Buy American Act—Construction. The interim rule affects the certification and information collection requirement in the clause at FAR 52.225-11. The impact, however, is negligible.

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because this interim rule implements the designation of Taiwan under the World Trade Organization Agreement on Government Procurement, which took effect on July 15, 2009. However, pursuant to Pub. L. 98-577 and FAR 1.501, the Councils will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Parts 22, 25, and 52

Government procurement.

Dated: August 4, 2009.

Al Matera,

Director, Office of Acquisition Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 22, 25, and 52 as set forth below:

1. The authority citation for 48 CFR parts 22, 25, and 52 continues to read as follows:

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

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.1503 [Amended]

2. Amend section 22.1503 in paragraph (b)(4) by removing "Switzerland," and adding "Switzerland, Taiwan," in its place.

PART 25—FOREIGN ACQUISITIONS

3. Amend section 25.003 by—
a. Revising paragraph (1) in the definition "Designated country"; and
b. Removing from the definition "World Trade Organization Government Procurement Agreement (WTO GPA) country" the words "Switzerland," and adding "Switzerland, Taiwan," in its place.

The revised text reads as follows:

25.003 Definitions.

\* \* \* \* \*

Designated country \* \* \*

(1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan (known in the World Trade Organization as "the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu" (Chinese Taipei)) or United Kingdom);

\* \* \* \* \*

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Amend section 52.212-5 by revising the date of the clause, and paragraphs (b)(20) and (b)(33) to read as follows:

52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

\* \* \* \* \*

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL ITEMS (Aug 09)

\* \* \* \* \*

(b) \* \* \*

(20) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (Aug 09) (E.O. 13126).

\* \* \* \* \*

(33) 52.225-5, Trade Agreements (Aug 09) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).

\* \* \* \* \*

5. Amend section 52.213-4 by revising the date of the clause, and paragraph (b)(1)(i) to read as follows:

52.213-4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

\* \* \* \* \*

TERMS AND CONDITIONS—SIMPLIFIED ACQUISITIONS (OTHER THAN COMMERCIAL ITEMS)(Aug 09)

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(i) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (Aug 09) (E.O. 13126). (Applies to contracts for supplies exceeding the micro-purchase threshold.)

\* \* \* \* \*

**52.222–19 [Amended]**

■ 6. Amend section 52.222–19 by removing from the clause heading “(Feb 2008)” and adding “(Aug 09)” in its place; and removing from paragraph (a)(4) “Switzerland,” and adding “Switzerland, Taiwan,” in its place.

■ 7. Amend section 52.225–5 by revising the date of the clause; and in paragraph (a), in the definition “Designated Country”, revising paragraph (1) to read as follows:

**52.225–5 Trade Agreements.**

\* \* \* \* \*  
TRADE AGREEMENTS (Aug 09)

(a) *Definitions.* \* \* \*

*Designated country* \* \* \*

(1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan (known in the World Trade Organization as “the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei)”), or United Kingdom);

\* \* \* \* \*

**52.225–11 [Amended]**

■ 8. Amend section 52.225–11 by removing from the clause heading “(June 2009)” and adding “(Aug 09)” in its place; and in paragraph (a), in the definition “Designated country”, removing from paragraph (1) “Switzerland,” and adding “Switzerland, Taiwan,” in its place.

**52.225–23 [Amended]**

■ 9. Amend section 52.225–23 by removing from the clause heading “(Mar 2009)” and adding “(Aug 09)” in its place; and in paragraph (a), in the definition “Recovery Act designated country”, removing from paragraph (1) “Switzerland,” and adding “Switzerland, Taiwan,” in its place. [FR Doc. E9–19164 Filed 8–10–09; 8:45 am]

BILLING CODE 6820–EP–S

**DEPARTMENT OF DEFENSE****GENERAL SERVICES ADMINISTRATION****NATIONAL AERONAUTICS AND SPACE ADMINISTRATION****48 CFR Parts 4, 15, 25, and 52**

[FAC 2005–36; FAR Case 2008–004; Item IV; Docket 2008–0001; Sequence 21]

RIN 9000–AL01

**Federal Acquisition Regulation; FAR Case 2008–004, Prohibition on Restricted Business Operations in Sudan and Imports from Burma**

**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) to implement Section 6 of the Sudan Accountability and Divestment Act of 2007. Section 6 requires certification in each contract entered into by an Executive Agency that the contractor does not conduct certain business operations in Sudan. In addition, the Councils added Burma to the list of countries from which most imports are prohibited. This action was taken in accordance with Executive Order (E.O.) 13310, Blocking Property of the Government of Burma and Prohibiting Certain Transactions, and E.O. 13448, Blocking the Property and Prohibiting Certain Transactions Related to Burma.

**DATES:** *Effective Date:* August 11, 2009.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact Ms. Meredith Murphy, Procurement Analyst, at (202) 208–6925. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755. Please cite FAC 2005–36, FAR case 2008–004.

**SUPPLEMENTARY INFORMATION:****A. Background**

This final rule amends the Federal Acquisition Regulation (FAR) to implement Section 6 of the Sudan Accountability and Divestment Act of 2007, which was signed on December 31, 2007.

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 73 FR 33636 on June 12, 2008. The

public comment period ended August 11, 2008.

This rule amends the FAR to implement Section 6 of the Sudan Accountability and Divestment Act of 2007 (the Act), which requires certification in each contract entered into by an executive agency that the contractor does not conduct certain business operations in Sudan. In addition, the Councils added Burma to the list of countries from which most imports are prohibited.

**B. Discussion and Analysis.**

The FAR Secretariat received five (5) responses to the interim rule. These responses included a total of 16 comments on 11 issues. A sixth response was simply a copy of the statute and was not counted as a comment. All of the responses concerned the implementation of the Act; there were no comments on the addition of Burma to the list of prohibited countries. Each issue is discussed in the following sections.

No public comments were received regarding the portion of the interim rule addressing Burma. Therefore, that part of the interim rule is unchanged (see the **Federal Register** at 73 FR 33636 dated June 12, 2008).

**1. Delete the definition of “person” and other issues with definitions.**

*Comment: a.* Two respondents recommended that the final rule delete the definition of “person.” The respondents point out that Section 2 of the Act, which defines the key terms in the Act, does not define “contractor” but does define “person.” The term person, however, is used frequently in Section 3 of the Act, which addresses divestiture by State and local governments (not a subject of the FAR coverage), but it is not used at all in Section 6 of the Act, which the FAR is implementing. The respondents point out that, had the Congress intended “person” and “contractor” to be synonymous, it should have defined them so, and one respondent points out portions of the legislative history that reinforce its conclusion that the congressional intent was to have a different meaning for each term.

*b.* In addition, one respondent requested that the definition of “restricted business operations” at FAR sections 25.702–1 and 52.225–20 either delete the phrase “as those terms are defined in the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110–174)” or replace “defined in” with the phrase “described in Section 3(d) of”.

*c.* Last, a respondent reminded the Councils that in the “definition of the