

business program. This notice, and its restrictions, will apply only to the specific orders that have been set aside for any of the small business concerns identified in 19.000(a)(3).

(End of clause)

- 20. Amend section 52.219–14 by—
- a. Revising the date of the clause;
- b. Redesignating paragraph (b) as paragraph (c); and
- c. Adding a new paragraph (b) to read as follows:

**52.219–14 Limitations on Subcontracting.**

\* \* \* \* \*

**Limitations on Subcontracting (Nov 2011)**

\* \* \* \* \*

(b) *Applicability*. This clause applies only to—

(1) Contracts that have been set aside or reserved for small business concerns or 8(a) concerns;

(2) Part or parts of a multiple-award contract that have been set aside for small business concerns or 8(a) concerns; and

(3) Orders set aside for small business or 8(a) concerns under multiple-award contracts as described in 8.405–5 and 16.505(b)(2)(i)(F).

\* \* \* \* \*

- 21. Amend section 52.219–27 by—
  - a. Revising the section heading, the clause heading, and the date of the clause;
  - b. Redesignating paragraphs (b) through (e) as paragraphs (c) through (f), respectively; and
  - c. Adding a new paragraph (b).
- The revised and added text reads as follows:

**52.219–27 Notice of Service-Disabled Veteran-Owned Small Business Set-Aside.**

\* \* \* \* \*

**Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (Nov 2011)**

\* \* \* \* \*

(b) *Applicability*. This clause applies only to—

(1) Contracts that have been set aside or reserved for service-disabled veteran-owned small business concerns;

(2) Part or parts of a multiple-award contract that have been set aside for service-disabled veteran-owned small business concerns; and

(3) Orders set aside for service-disabled veteran-owned small business concerns under multiple-award contracts as described in 8.405–5 and 16.505(b)(2)(i)(F).

\* \* \* \* \*

- 22. Amend section 52.219–29 by—
- a. Revising the section heading, the clause heading, and the date of the clause;
- b. Redesignating paragraphs (b) through (e) as paragraphs (c) through (f), respectively;

- c. Adding a new paragraph (b); and
- d. Removing from the newly redesignated paragraph (e)(4) “paragraph (c) above” and adding “paragraph (d) above” in its place.

The revised and added text reads as follows:

**52.219–29 Notice of Set-Aside for Economically Disadvantaged Women-Owned Small Business Concerns.**

\* \* \* \* \*

**Notice of Set-Aside for Economically Disadvantaged Women-Owned Small Business Concerns (Nov 2011)**

\* \* \* \* \*

(b) *Applicability*. This clause applies only to—

(1) Contracts that have been set aside or reserved for EDWOSB concerns;

(2) Part or parts of a multiple-award contract that have been set aside for EDWOSB concerns; and

(3) Orders set aside for EDWOSB concerns under multiple-award contracts as described in 8.405–5 and 16.505(b)(2)(i)(F).

\* \* \* \* \*

- 23. Amend section 52.219–30 by—
- a. Revising the section heading, the clause heading, and the date of the clause;
- b. Redesignating paragraphs (b) through (e) as paragraphs (c) through (f), respectively;
- c. Adding a new paragraph (b); and
- d. Removing from the newly redesignated paragraph (e)(4) “paragraph (c) above” and adding “paragraph (d) above” in its place.

The revised and added text reads as follows:

**52.219–30 Notice of Set-Aside for Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program.**

\* \* \* \* \*

**Notice of Set-Aside for Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (Nov 2011)**

\* \* \* \* \*

(b) *Applicability*. This clause applies only to—

(1) Contracts that have been set aside or reserved for WOSB concerns eligible under the WOSB Program;

(2) Part or parts of a multiple-award contract that have been set aside for WOSB concerns eligible under the WOSB Program; and

(3) Orders set aside for WOSB concerns eligible under the WOSB Program, under multiple-award contracts as described in 8.405–5 and 16.505(b)(2)(i)(F).

\* \* \* \* \*

[FR Doc. 2011–27786 Filed 11–1–11; 8:45 am]

**BILLING CODE 6820–EP–P**

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Part 25**

[FAC 2005–54; FAR Case 2009–041; Item VII; Docket 2010–0105, Sequence 1]

**RIN 9000–AL65**

**Federal Acquisition Regulation; Sudan Waiver Process**

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

**ACTION:** Final rule.

**SUMMARY:** DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to revise the prohibition on contracting with entities that conduct restricted business operations in Sudan. This rule adds specific criteria including foreign policy aspects that an agency must address when applying to the President or his appointed designee for a waiver of the prohibition on awarding a contract to a contractor that conducts restricted business operations in Sudan. The rule also describes the consultation process that will be used by the Office of Federal Procurement Policy (OFPP) in support of the waiver request review.

**DATES:** *Effective Date:* December 2, 2011.

**FOR FURTHER INFORMATION CONTACT:** Cecelia L. Davis, Procurement Analyst, at (202) 219–0202, for clarification of content. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755. Please cite FAC 2005–54, FAR Case 2009–041.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 75 FR 62069 on October 7, 2010, to revise FAR 25.702, Prohibition on contracting with entities that conduct restricted business operations in Sudan, to add specific criteria including foreign policy aspects that an agency must address when applying to the President or his appointed designee for a waiver of the prohibition on awarding a contract to a contractor that conducts restricted business operations in Sudan. The rule also describes the consultation process that will be used by OFPP in support of the waiver review. No comments were received by the close of

the public comment period on December 6, 2010.

DoD, GSA, and NASA published a final rule, FAR Case 2008–004, Prohibition on Restricted Business Operations in Sudan and Imports from Burma, in the **Federal Register** at 74 FR 40463 on August 11, 2009, amending the FAR to implement section 6 of the Sudan Accountability and Divestment Act of 2007 (the Act), Public Law 110–174.

Section 6(a) of the Act requires that each contract entered into by an Executive agency include a certification that the contractor does not conduct certain business operations in Sudan as described in section 3(d) of the Act. Pursuant to section 6(c), the President may waive this certification requirement on a case-by-case basis if the President determines and certifies to the appropriate congressional committees that it is in the national interest to do so.

Section 6 of the Act was implemented in the FAR but did not include a waiver consultation process and specific criteria for the waiver request. With the addition of these changes, the FAR will provide consistent guidance on specific criteria that must be included in the waiver request for consideration, and establish a consultation process to ensure all waiver requests are reviewed by the appropriate agency experts.

OFPP will be required to consult with the President's National Security Council, Office of African Affairs and the Department of State Sudan Office and Sanctions Office on foreign policy matters relevant to the waiver request and include this information in the recommendation to the President. All waiver requests must clearly explain why the product or service must be procured from the offeror for which the waiver is requested and why it is in the national interest to waive the statutory prohibition against contracting with an offeror that conducts restricted business operations in Sudan. In addition, the waiver request must address any humanitarian efforts engaged in by the offeror, the human rights impact of doing business with that offeror, and the extent of the offeror's business operations in Sudan. All of the information required to be included in the waiver request will be considered in determining whether to recommend that the President waive the prohibition.

Additionally, individual and class waiver requests will be considered for a specific contract or class of contracts, as long as the waiver request has been reviewed and cleared by the agency head prior to submitting it to OFPP and the request includes the appropriate

waiver information specified at FAR 25.702–4(c)(3). However, a waiver will not be issued for an indefinite period of time, and may be cancelled, if warranted.

In accordance with section 6 of the Act, the Administrator of OFPP is required to submit semiannual reports, on April 15th and October 15th, to Congress, on waivers approved by the President.

## II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

## III. 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 does not impose any additional requirements on small businesses.

## IV. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

## List of Subjects in 48 CFR Part 25

Government procurement.

Dated: October 21, 2011.

**Laura Auletta,**

*Acting Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.*

Therefore, DoD, GSA, and NASA amend 48 CFR part 25 as set forth below:

## PART 25—FOREIGN ACQUISITION

■ 1. The authority citation for 48 CFR part 25 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).

■ 2. Amend section 25.702–4 by revising paragraph (b); and adding paragraphs (c) and (d) to read as follows:

### 25.702–4 Waiver.

\* \* \* \* \*

(b) An agency seeking waiver of the requirement shall submit the request to the Administrator of the Office of Federal Procurement Policy (OFPP), allowing sufficient time for review and approval. Upon receipt of the waiver request, OFPP shall consult with the President's National Security Council, Office of African Affairs, and the Department of State Sudan Office and Sanctions Office to assess foreign policy aspects of making a national interest recommendation.

(c) Agencies may request a waiver on an individual or class basis; however, waivers are not indefinite and can be cancelled if warranted.

(1) A class waiver may be requested only when the class of supplies is not available from any other source and it is in the national interest.

(2) Prior to submitting the waiver request, the request must be reviewed and cleared by the agency head.

(3) All waiver requests must include the following information:

(i) Agency name, complete mailing address, and point of contact name, telephone number, and email address;

(ii) Offeror's name, complete mailing address, and point of contact name, telephone number, and email address;

(iii) Description/nature of product or service;

(iv) The total cost and length of the contract;

(v) Justification, with market research demonstrating that no other offeror can provide the product or service and stating why the product or service must be procured from this offeror, as well as why it is in the national interest for the President to waive the prohibition on contracting with this offeror that conducts restricted business operations in Sudan, including consideration of foreign policy aspects identified in consultation(s) pursuant to 25.702–4(b);

(vi) Documentation regarding the offeror's past performance and integrity (see the Past Performance Information Retrieval System including the Federal Awardee Performance Information and Integrity System at <http://www.ppirs.gov> and any other relevant information);

(vii) Information regarding the offeror's relationship or connection with

other firms that conduct prohibited business operations in Sudan; and

(viii) Any humanitarian efforts engaged in by the offeror, the human rights impact of doing business with the offeror for which the waiver is requested, and the extent of the offeror's business operations in Sudan.

(d) The consultation in 25.702-4(b) and the information in 25.702-4(c)(3) will be considered in determining whether to recommend that the President waive the requirement of subsection 25.702-2. In accordance with section 6(c) of the Sudan Accountability and Divestment Act of 2007, OFPP will semiannually submit a report to Congress, on April 15th and October 15th, on the waivers granted.

[FR Doc. 2011-27788 Filed 11-1-11; 8:45 am]

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 25 and 52

[FAC 2005-54; FAR Case 2011-014; Item VIII; Docket 2011-0014, Sequence 1]

RIN 9000-AM11

### Federal Acquisition Regulation; Successor Entities to the Netherlands Antilles

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

**ACTION:** Final rule.

**SUMMARY:** DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to revise the definitions of "Caribbean Basin country" and "designated country" due to the change in status of the islands that comprised the Netherlands Antilles.

**DATES:** *Effective Date:* November 2, 2011.

**FOR FURTHER INFORMATION CONTACT:** Ms. Cecelia L. Davis, Procurement Analyst, at (202) 219-0202, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501-4755. Please cite FAC 2005-54, FAR Case 2011-014.

#### SUPPLEMENTARY INFORMATION:

### I. Background

The Netherlands Antilles was designated as a beneficiary country under the Caribbean Basin Initiative (see 19 U.S.C. 2702). According to the initiative, successor political entities remain eligible as beneficiary countries. On October 10, 2010, Curacao and Sint Maarten became autonomous territories of the Kingdom of the Netherlands. Bonaire, Saba, and Sint Eustatius now fall under the direct administration of the Netherlands. Additional information about this change is available at <http://www.state.gov/r/pa/ei/bgn/22528.htm>.

With this change, the definitions have been revised to replace "Netherlands Antilles" with the five separate successor entities—Bonaire, Curacao, Saba, Sint Eustatius, and Sint Maarten.

This final rule amends definitions of "Caribbean Basin country" and "designated country" at FAR 25.003, and FAR clauses 52.225-5, Trade Agreements; 52.225-11, Buy American Act—Construction Materials under Trade Agreements; and 52.225-23, Required Use of American Iron, Steel, and Manufactured Goods—Buy American Act—Construction Materials Under Trade Agreements.

### II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

### III. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant FAR revision within the meaning of FAR 1.501-1 and 41 U.S.C. 1707 and does not require publication for public comment.

### IV. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) 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 titled: Buy American Act—Construction.

### List of Subjects in 48 CFR Parts 25 and 52

Government procurement.

Dated: October 21, 2011.

**Laura Auletta,**

*Acting Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.*

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

■ 1. The authority citation for 48 CFR parts 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 25—FOREIGN ACQUISITION

■ 2. Amend section 25.003 by revising the definition "Caribbean Basin country" and paragraph (4) in the definition "Designated country" to read as follows:

#### 25.003 Definitions.

\* \* \* \* \*

*Caribbean Basin country* means any of the following countries: Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago.

\* \* \* \* \*

*Designated country* \* \* \*

(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).

\* \* \* \* \*

### PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Amend section 52.212-5 by revising the date of the clause and paragraph (b)(39) to read as follows:

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

\* \* \* \* \*