

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR-2021-0051, Sequence No. 1]

Federal Acquisition Regulation; Federal Acquisition Circular 2021-04; Introduction

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

ACTION: Summary presentation of final rule.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rule agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2021-04. A companion document, the Small Entity Compliance Guide (SECG), follows this FAC.

DATES: For effective dates see the separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: Ms. Zenaida Delgado, Procurement Analyst, at 202-969-7207 or zenaida.delgado@gsa.gov for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755 or GSAREgSec@gsa.gov. Please cite FAC 2021-04, FAR Case 2019-016.

RULES LISTED IN FAC 2021-04

Table with 2 columns: Subject, FAR case. Row 1: Maximizing Use of American-Made Goods, Products and Materials 2019-016

ADDRESSES: The FAC, including the SECG, is available via the internet at https://www.regulations.gov.

SUPPLEMENTARY INFORMATION: A summary for the FAR rule follows. For the actual revisions and/or amendments by this FAR rule, refer to the specific item numbers and subjects set forth in the documents following this summary. FAC 2021-04 amends the FAR as follows:

Maximizing Use of American-Made Goods, Products, and Materials (FAR Case 2019-016)

This final rule strengthens domestic preferences under the Buy American statute by making adjustments to the required percentage of domestic content and the existing percentages for the price evaluation preferences in an effort to decrease the amount of foreign-sourced content in a U.S. manufactured product to promote economic and national security, help stimulate economic growth, and create jobs. The price evaluation preferences increase from 6 percent to 20 percent for large business and from 12 percent to 30 percent for small business; for DoD procurements there is no change to the DoD 50 percent amount. The domestic content requirement for iron and steel increases from 50 percent to 95 percent; for other end products and construction materials, the domestic content requirement increases from 50 percent to 55 percent. Foreign iron and steel is iron or steel products that are not produced in the United States. The rule implements E.O. 13881, Maximizing Use of American-Made Goods, Products, and Materials. This final rule will not have a significant economic impact on a substantial number of small entities.

William F. Clark, Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Federal Acquisition Circular (FAC) 2021-04 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator of National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2021-04 is effective January 19, 2021.

John M. Tenaglia, Principal Director, Defense Pricing and Contracting, Department of Defense.

Jeffrey A. Koses, Senior Procurement Executive/Deputy CAO, Office of Acquisition Policy, U.S. General Services Administration.

William G. Roets, II, Acting Assistant Administrator, Office of Procurement, National Aeronautics and Space Administration.

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GENERAL SERVICES ADMINISTRATION

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48 CFR Parts 12, 25, and 52

[FAC 2021-04; FAR Case 2019-016; Docket No. FAR-2019-0016, Sequence No. 1]

RIN 9000-AN99

Federal Acquisition Regulation: Maximizing Use of American-Made Goods, Products, and Materials

AGENCY: 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 implement an Executive order (E.O.) addressing domestic preferences in Government procurement.

DATES: Effective: January 21, 2021.

Applicability: The changes in this rule apply to solicitations issued on or after February 22, 2021 and resultant contracts.

FOR FURTHER INFORMATION CONTACT: Ms. Zenaida Delgado, Procurement Analyst, at 202-969-7207 or zenaida.delgado@gsa.gov for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755 or GSAREgSec@gsa.gov. Please cite FAC 2021-04, FAR Case 2019-016.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule at 85 FR 56558 on September 14, 2020, to implement E.O. 13881, Maximizing Use of American-Made Goods, Products, and Materials (84 FR 34257, July 18, 2019). In order to implement the E.O., this final rule changes FAR clauses implementing the Buy American statute by increasing the—

- 1. Domestic content requirements; and
2. Price preference for domestic products.

Increased Domestic Content Requirements

Under E.O. 13881, and this final rule, in order to meet the definition of "domestic construction material" or "domestic end product," the cost of