

PART 25—FOREIGN ACQUISITION**25.003 [Amended]**

■ 2. Amend section 25.003 in the definition “Caribbean Basin country” by adding “Dominican Republic,” after “Dominica,”.

25.400 [Amended]

■ 3. Amend section 25.400 in paragraph (a)(2) by removing “the Dominican Republic and”.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**52.212–5 [Amended]**

■ 4. Amend section 52.212–5 by removing “(June 2003)” from the clause heading and in paragraph (b)(23) and adding “(Oct 2003)” in its place.

52.225–5 [Amended]

■ 5. Amend section 52.225–5 by revising the date of the clause to read “(Oct 2003)” and in paragraph (a) of the clause, in the definition “Caribbean Basin country,” by adding “Dominican Republic,” after “Dominica,”.

[FR Doc. 03–24587 Filed 9–30–03; 8:45 am]

BILLING CODE 6820–EP–P

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

[FAC 2001–16; FAR Case 2001–015; Item VII]

RIN 9000–AJ35

Federal Acquisition Regulation; Prohibited Sources

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 recent Executive orders and to reflect the regulations of the Department of the Treasury’s Office of Foreign Assets Control (OFAC).

DATES: *Effective Date:* October 31, 2003.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS

Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Cecelia Davis, Procurement Analyst, at (202) 219–0202. Please cite FAC 2001–16, FAR case 2001–015.

SUPPLEMENTARY INFORMATION:**A. Background**

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 67 FR 13080, March 20, 2002. The proposed rule implemented Executive Order 13192, Lifting and Modifying Measures With Respect to the Federal Republic of Yugoslavia (Serbia and Montenegro), and reflected the regulations of OFAC in the Department of the Treasury.

One respondent submitted public comments. The Councils considered the public comments before agreeing to convert the proposed rule to a final rule with minor changes.

The respondent recommended that we restore the statement at FAR 25.701(a) that the restrictions apply to acquisitions of supplies and services, even for overseas use. The Councils do not concur. This statement regarding overseas use was included at FAR 25.701(a) because we were trying to make a distinction between prohibitions on import of some supplies and services into the United States and the voluntary policy of the Government not to acquire such supplies for overseas use. However, the Department of the Treasury brought to the attention of the Councils that most of the prohibitions already applied to overseas acquisition and use as well as to importation. The regulations at 31 CFR chapter V provide details as to whether the prohibitions apply to acquisition for overseas use as well as importation.

The respondent also was concerned that we should retain paragraph (c) of FAR 52.225–13, Restrictions on Certain Foreign Purchases. Paragraph (c) provides for flowdown of the restrictions to subcontractors. The proposed rule did not delete paragraph (c) from the clause. It was not reprinted in the **Federal Register** notice because no changes were proposed to that paragraph.

There are other recent directives which are relevant to subpart 25.7, which are not yet implemented in the OFAC regulations:

- Executive Order 13224, Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism;
- Executive Order 13288, Blocking Property of Persons Undermining

Democratic Processes or Institutions in Zimbabwe;

- Executive Order 13268, Termination of Emergency With Respect to the Taliban and Amendment of Executive Order 13224 of September 23, 2001; and

- The general license issued on May 23, 2003, by the Department of the Treasury entitled “Iraqi Sanctions Regulations.”

Contracting officers are to refer to the above directives and the most recent version of the regulations of OFAC at 31 CFR chapter V.

Except as authorized by OFAC, most transactions involving Cuba, Iran, Libya, and Sudan are prohibited, as are most imports from North Korea. This rule removes Serbia, the Taliban-controlled regions of Afghanistan, and Iraq from the list of prohibited sources and points the contracting officer to lists of entities and individuals subject to economic sanctions that are available at <http://www.epls.gov/TerList1.html>.

The contracting officer is no longer authorized in unusual circumstances to acquire for use outside the United States supplies or services restricted by this section, unless specifically authorized by OFAC. However, OFAC has granted authority to Department of Defense personnel to make emergency acquisitions in direct support of U.S. or allied forces deployed in military contingency, humanitarian, or peacekeeping operations in a country or region subject to economic sanctions administered by OFAC.

This rule also amends the legal basis for use of the clause 52.225–13, Restrictions on Certain Foreign Purchases, that is provided in the clauses at 52.212–5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items, and 52.213–4, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items). The rule replaces the list of specific Executive orders, which is incomplete and outdated, with a general reference to all proclamations, Executive orders, and statutes administered by OFAC.

This is not a significant regulatory action and, therefore, was not 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 Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final