

Program. This program is similar to those established by other civilian agencies, such as the Department of Treasury. An associated solicitation provision and contract clause are added at 652.219–72 and 652.219–73, respectively.

- Addition at 619.805–2 of a waiver approved by the Small Business Administration regarding competitive 8(a) awards. The waiver allows the Department to acquire services exceeding \$3 million and supplies exceeding \$5 million on a non-competitive basis for acquisitions that supplement the security of U.S. diplomatic posts and protect the lives of Department personnel.

- Addition of a new Subpart 622.15 regarding the referral of suspected violations under Executive Order 13126, Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor. Contracting officers shall refer suspected violations to the Department's Inspector General.

- Elimination of Part 626 regarding the collection of minority business status information. There is no longer a need to collect this information.

- Elimination of Subpart 623.1 to coincide with the elimination of FAR Subpart 23.1 as part of FAC 97–15.

- Revision of Subpart 623.4 to align it with FAR Subpart 23.4.

- Elimination of Subpart 625.3. The Balance of Payments Program was eliminated from the FAR in FAC 2001–07.

- Elimination of Subpart 625.7. The current FAR coverage is sufficient; no further implementation is required.

- Elimination of Subpart 628.70 regarding indemnification. Existing FAR coverage is sufficient. The associated clause at 652.228–70 is removed accordingly.

- Addition of Part 630 to indicate that the Procurement Executive is the agency head's designee for the purposes of FAR 30.201–5(a).

- Addition of 636.104–70 regarding the Foreign Service Buildings Act, as amended (22 U.S.C. 302). This statute limits competition for the construction, alteration, or repair of buildings or grounds abroad exceeding \$5 million to American-owned firms or firms of countries which permit or agree to permit substantially equal access to American firms for comparable diplomatic and consular building projects. This statute also provides for a ten (10) percent price reduction preference for American-owned firms. An associated certification is added at 652.236–71. The purpose of the certification is to determine a bidder/offeror's status as an American-owned

firm in accordance with the requirements of the statute.

- Addition of 636.104–71 regarding the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4852). Section 402 of this statute limits construction or design projects abroad exceeding \$10 million, or diplomatic construction projects that involve technical security, to United States persons or qualified United States joint venture persons. This statute also excludes organizations that have business arrangements with the Government of Libya. An associated certification is added at 652.236–72. The purpose of the certification is to determine a bidder/offeror's status as a United States person or qualified United States joint venture person, and its business relations with Libya, in accordance with the requirements of the statute.

- Addition of 636.202 to designate the Director/Chief Operating Officer of the Bureau of Overseas Building Operations as the individual who may exempt a construction project from the general requirements as expressed in E.O. 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects.

- Elimination of 636.602–4 regarding the selection authorities for architect-engineer contracts. This is internal information that does not affect the public and does not need to be in the codified version of the regulation.

- Addition of 637.102–70 to provide guidance regarding the acquisition of local guard services overseas in accordance with Section 136 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 4864), which has continuing effect.

Section 136 encourages the participation of United States persons and qualified United States joint venture persons in local guard contracts overseas under diplomatic security programs, and provides for a ten (10) percent price reduction preference for such firms. An associated certification is added at 652.237–73. The purpose of the certification is to determine a bidder/offeror's status as a United States person or qualified United States joint venture person in accordance with the requirements of the statute.

- Addition of Subpart 637.6 to reflect the Department's policy for using performance-based service contracts for all new service contracts. Contracting activities must prepare a written justification that must be approved by the Departmental Competition Advocate when deviating from this policy.

- Addition of Subpart 642.15 regarding the Contractor Performance System (CPS). The Department subscribes to the CPS maintained by the National Institutes of Health. Contracting officers must use the CPS to record their evaluation of a contractor's past performance for all contracts exceeding \$100,000.

- Revision of the clause at 652.216–70, Ordering—Indefinite-Delivery Contract, to reflect a new form number for the Department's purchase order form. The form number OF–206 was changed to the DS–2076.

- Revision of the provision at 652.219–70, Department of State Subcontracting Goals, to add HUBZone small and service-disabled veteran-owned small businesses to the list of organizations that have established subcontracting goals.

- Revision of the clause at 652.236–70, Accident Prevention, to better clarify the situations under which the contracting officer must seek additional information in the contractor's written safety plan.

- Revision of the clause at 652.237–71, Identification/Building Pass, to provide more detailed information on what contractors must submit to receive a building pass to work on DOS facilities.

- Revision of the clause at 652.237–72, Observance of Legal Holidays and Administrative Leave, to reflect the Monday holiday law.

II. Regulatory Flexibility Act

The Department of State certifies that this regulation will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A Regulatory Flexibility Analysis has, therefore, not been performed.

III. Unfunded Mandates Act of 1995

The Unfunded Mandates Act of 1995 requires agencies to prepare several analytical statements before proposing any rule that may result in annual expenditures of \$100 million of State, local, and Indian tribal governments or the private sector. Since this proposed rule will not result in expenditures of this magnitude, the Department certifies that such statements are not necessary.

IV. Paperwork Reduction Act

Information collection requirements have been approved under the Paperwork Reduction Act of 1980 by OMB, and have been assigned OMB control number 1405–0050. The Department is currently seeking approval for the information collection