

(1) Any repurchase shall be made at as low a price as reasonable, considering the quality required by the Government, delivery requirement, and administrative expenses. Copies of all repurchase orders, except the copy furnished to the contractor or any other commercial concern, shall include the notation:

Repurchase against the account of \_\_\_\_  
[insert contractor's name] under Order \_\_\_\_  
[insert number] under Contract \_\_\_\_ [insert number].

(2) When excess costs are anticipated, the ordering activity may withhold funds due the contractor as offset security. Ordering activities shall minimize excess costs to be charged against the contractor and collect or set-off any excess costs owed.

(3) If an ordering activity is unable to collect excess repurchase costs, it shall notify the schedule contracting office after final payment to the contractor.

(i) The notice shall include the following information about the terminated order:

(A) Name and address of the contractor.

(B) Schedule, contract, and order number.

(C) National stock or special item number(s), and a brief description of the item(s).

(D) Cost of schedule items involved.

(E) Excess costs to be collected.

(F) Other pertinent data.

(ii) The notice shall also include the following information about the purchase contract:

(A) Name and address of the contractor.

(B) Item repurchase cost.

(C) Repurchase order number and date of payment.

(D) Contract number, if any.

(E) Other pertinent data.

(d) Only the schedule contracting officer may modify the contract to terminate for cause any, or all, supplies or services covered by the schedule contract. If the schedule contracting officer has terminated any supplies or services covered by the schedule contract, no further orders may be placed for those items. Orders placed prior to termination for cause shall be fulfilled by the contractor, unless terminated for the convenience of the Government by the ordering activity contracting officer.

#### **8.406-5 Termination for the Government's convenience.**

(a) An ordering activity contracting officer may terminate individual orders for the Government's convenience. Terminations for the Government's convenience shall comply with FAR 12.403.

(b) Before terminating orders for the Government's convenience, the ordering activity contracting officer shall endeavor to enter into a "no cost" settlement agreement with the contractor.

(c) Only the schedule contracting officer may modify the schedule contract to terminate any, or all, supplies or services covered by the schedule contract for the Government's convenience.

#### **8.406-6 Disputes.**

(a) *Disputes pertaining to the performance of orders under a schedule contract.* (1) Under the Disputes clause of the schedule contract, the ordering activity contracting officer may—

(i) Issue final decisions on disputes arising from performance of the order (but see paragraph (b) of this section); or

(ii) Refer the dispute to the schedule contracting officer.

(2) The ordering activity contracting officer shall notify the schedule contracting officer promptly of any final decision.

(b) *Disputes pertaining to the terms and conditions of schedule contracts.* The ordering activity contracting officer shall refer all disputes that relate to the contract terms and conditions to the schedule contracting officer for resolution under the Disputes clause of the contract and notify the schedule contractor of the referral.

(c) *Appeals.* Contractors may appeal final decisions to either the Board of Contract Appeals servicing the agency that issued the final decision or the U.S. Court of Federal Claims.

(d) *Alternative dispute resolution.* The contracting officer should use the alternative dispute resolution (ADR) procedures, to the maximum extent practicable (see 33.204 and 33.214).

#### **PART 38—FEDERAL SUPPLY SCHEDULE CONTRACTING**

■ 3. Revise section 38.000 to read as follows:

##### **38.000 Scope of part.**

This part prescribes policies and procedures for contracting for supplies and services under the Federal Supply Schedule program, which is directed and managed by the General Services Administration (see Subpart 8.4, Federal Supply Schedules, for additional information). GSA may delegate certain responsibilities to other agencies (e.g., GSA has delegated authority to the Department of Veterans Affairs (VA) to procure medical supplies under the VA Federal Supply Schedules Program). The VA Federal Supply Schedules

Program is covered by this subpart. Additionally, the Department of Defense manages a similar system of schedule contracting for military items; however, the Department of Defense systems are not a part of the Federal Supply Schedule program.

■ 4. Amend section 38.101 by revising paragraph (a) to read as follows:

##### **38.101 General.**

(a) The Federal Supply Schedule program, pursuant to 41 U.S.C. 259(b)(3)(A), provides Federal agencies with a simplified process of acquiring commercial supplies and services in varying quantities while obtaining volume discounts. Indefinite-delivery contracts are awarded using competitive procedures to firms. The firms provide supplies and services at stated prices for given periods of time, for delivery within a stated geographic area such as the 48 contiguous states, the District of Columbia, Alaska, Hawaii, and overseas. The schedule contracting office issues Federal Supply Schedule publications that contain a general overview of the Federal Supply Schedule (FSS) program and address pertinent topics.

\* \* \* \* \*

#### **PART 53—FORMS**

##### **53.213 [Amended]**

■ 5. Amend section 53.213 in paragraph (f)(4) by removing "8.405-2" and adding "8.406-1" in its place.

[FR Doc. 04-13622 Filed 6-17-04; 8:45 am]

BILLING CODE 6820-EP-P

#### **DEPARTMENT OF DEFENSE**

##### **GENERAL SERVICES ADMINISTRATION**

##### **NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

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

[FAC 2001-24; FAR Case 2004-008; Item VI]

RIN 9000-AJ96

##### **Federal Acquisition Regulation; Designated Countries—New European Communities Member States**

**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 a determination by the United States Trade Representative (USTR) under the Trade Agreements Act that suppliers from the 10 new member states of the European Communities (EC) (*i.e.*, the European Union) are eligible to participate in U.S. Government procurement under the terms and conditions of the World Trade Organization Government Procurement Agreement (WTO GPA).

**DATES:** *Effective Date:* June 18, 2004.

**FOR FURTHER INFORMATION CONTACT:** The FAR Secretariat at (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 2001-24, FAR case 2004-008.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

As of May 1, 2004, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic, and Slovenia have joined the EC. The EC has notified the other WTO GPA parties of its intention that the WTO GPA is binding on the new EC Member States as of May 1, 2004. The USTR has determined under the Trade Agreements Act that suppliers from these countries are eligible to participate in U.S. Government procurement under the terms and conditions of the WTO GPA (69 FR 25654, May 7, 2004). Therefore, these countries have been added to the list of designated countries at FAR 25.003, 52.225-5, and 52.225-11, as well as the list of countries subject to the WTO GPA at FAR 22.1503 and 52.222-19. Corresponding changes have also been made to the clause dates in the list of clauses at 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

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 Regulatory Flexibility Act does not apply to this rule. This final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98-577, and publication for public comments is not required. However, 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.

**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. 3501, *et seq.*

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

Government procurement.

Dated: June 10, 2004.

**Ralph J. De Stefano,**

*Acting Director, Acquisition Policy Division.*

■ 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 is revised 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**

■ 2. Amend section 22.1503 by revising paragraph (b)(4) to read as follows:

**22.1503 Procedures for acquiring end products on the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor.**

\* \* \* \* \*

(b) \* \* \*

(4) Aruba, Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Italy, Japan, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, or the United Kingdom and the anticipated value of the acquisition is \$175,000 or more (see 25.403(b)).

\* \* \* \* \*

**PART 25—FOREIGN ACQUISITION**

**25.003 Definitions.**

■ 3. Amend section 25.003 in the definition “Designated country” by adding, in alphabetical order, the countries “Cyprus”, “Czech Republic”, “Estonia”, “Hungary”, “Latvia”, “Lithuania”, “Malta”, “Poland”, “Slovak Republic”, and “Slovenia”.

**PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

**52.212-5 [Amended]**

■ 4. Amend section 52.212-5 by revising the date of the clause to read “(Jun 2004)”; and by removing “(Jan 2004)” from paragraphs (b)(15) and (b)(24) of the clause and adding “(Jun 2004)” in their place.

**52.213-4 [Amended]**

■ 5. Amend section 52.213-4 by revising the date of the clause to read “(Jun 2004)”; and by removing “(Jan 2004)” from paragraph (b)(1)(i) of the clause and adding “(Jun 2004)” in its place.

■ 6. Amend section 52.222-19 by revising the date of the clause and paragraph (a)(4) of the clause to read as follows:

**52.222-19 Child Labor—Cooperation with Authorities and Remedies.**

\* \* \* \* \*

**Child Labor—Cooperation With Authorities and Remedies—(Jun 2004)**

(a) \* \* \*

(4) Aruba, Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Italy, Japan, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, or the United Kingdom and the anticipated value of the acquisition is \$175,000 or more.

\* \* \* \* \*

**52.225-5 [Amended]**

■ 7. Amend section 52.225-5 by revising the date of the clause to read “(Jun 2004)”; and in paragraph (a) of the clause, in the definition “Designated country”, by adding, in alphabetical order, the countries “Cyprus”, “Czech Republic”, “Estonia”, “Hungary”, “Latvia”, “Lithuania”, “Malta”, “Poland”, “Slovak Republic”, and “Slovenia”.

**52.225-11 [Amended]**

■ 8. Amend section 52.225-11 by revising the date of the clause to read “(Jun 2004)”; and in paragraph (a) of the clause, in the definition “Designated country”, by adding, in alphabetical order, the countries “Cyprus”, “Czech Republic”, “Estonia”, “Hungary”, “Latvia”, “Lithuania”, “Malta”, “Poland”, “Slovak Republic”, and “Slovenia”.

[FR Doc. 04-13623 Filed 6-17-04; 8:45 am]

**BILLING CODE 6820-EP-P**