

provisions are no longer necessary, since all products will be treated without the restrictions of the Buy American Act. The interim rule applies to all offerors responding to solicitations for commercial information technology where the Buy American Act previously applied (generally, acquisitions between \$2,500 and \$175,000). This rule does not apply to the Department of Defense, which uses DFARS clauses to implement the Buy American Act. This exception will allow small entities to compete without meeting the Buy American Act domestic end product requirements.

- It is anticipated that small business concerns will continue to receive the same number of awards in the range of \$2,500 to \$100,000, because these awards are generally set-aside for small business concerns.

- It is also expected that small business concerns will continue to receive awards in the range of \$100,000 to \$175,000, but in this range they will face competition from foreign end products.

- This rule will not have an effect on small businesses affected by the "non-manufacturer rule" which means that a contractor under a small business set-aside or 8(a) contract shall be a small business under the applicable size standard and shall provide either its own product or that of another domestic small business manufacturing or processing concern. If there is a small business set-aside, and there is no SBA waiver of the nonmanufacturer rule, then FAR 52.219-6(c) and/or FAR 52.219-18(d) require that a domestic product must be furnished. In this case, the rule will have no effect on small businesses because the nonmanufacturer rule is not changed.

- If SBA did waive the nonmanufacturer rule, then there is no requirement to purchase a domestic product but an evaluation preference would apply.

- The rule could have an impact on small businesses when there is no small business set-aside because small businesses may lose the evaluation preference for acquisitions between \$25,000 and \$175,000.

The FAR Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. Interested parties may obtain a copy from the FAR Secretariat. We invite comments from small business concerns and other interested parties on this issue. The Councils will also consider comments from small entities concerning the affected FAR Part 25 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 601, *et seq.* (FAC 2005-07, FAR case 2005-022), in correspondence.

### C. Paperwork Reduction Act

The Paperwork Reduction Act does apply because the changes to the FAR will slightly reduce the information collection requirements currently approved by the Office of Management and Budget OMB Clearances 9000-0024 and 9000-0130.

We estimate a reduction of approximately 5 percent (300 hours) for OMB Clearance 9000-0024 and a reduction of 50 hours to 9000-0130.

### D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary to implement the changes resulting from the enactment of Section 517 of Division H, Title V of the Consolidated Appropriations Act, 2005 (Pub. L. 108-447), effective December 8, 2004. However, pursuant to Public Law 98-577 and FAR 1.501, the Councils will consider public comments received in response to this interim rule in the formation of the final rule.

#### List of Subjects in 48 CFR Part 25

Government procurement.

Dated: December 22, 2005.

**Gerald Zaffos,**

*Director, Contract Policy Division.*

■ 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 25.103 by adding paragraph (e) to read as follows:

#### 25.103 Exceptions.

\* \* \* \* \*

(e) *Information technology that is a commercial item.* The restriction on purchasing foreign end products does not apply to the acquisition of information technology that is a commercial item, when using fiscal year 2004 or subsequent fiscal year funds (Section 535(a) of Division F, Title V, Consolidated Appropriations Act, 2004, and similar sections in subsequent appropriations acts).

■ 3. Amend section 25.1101 by—

■ a. Revising paragraph (a)(1)(ii);

■ b. Amending paragraph (b)(1)(i)(A) by removing "and" from the end of the sentence;

■ c. Redesignating paragraph (b)(1)(i)(B) as (b)(1)(i)(C) and adding a new paragraph (b)(1)(i)(B) to read as follows:

#### 25.1101 Acquisition of supplies.

\* \* \* \* \*

(a)(1) \* \* \*

(ii) The acquisition is for supplies for use within the United States and an exception to the Buy American Act applies (e.g., nonavailability, public interest, or information technology that is a commercial item); or

\* \* \* \* \*

(b)(1)(i) \* \* \*

(B) The acquisition is not for information technology that is a commercial item, using fiscal year 2004 or subsequent fiscal year funds; and

\* \* \* \* \*

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 25 and 52

[FAC 2005-07; FAR Case 2005-026; Item VIII]

RIN 9000-AK37

### Federal Acquisition Regulation; Removal of Sanctions Against Libya

**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 Executive Order 13357, which removed sanctions against Libya.

**DATES:** *Effective Date:* February 2, 2006.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact Ms. Kimberly Marshall, Procurement Analyst, at (202) 219-0986. Please cite FAC 2005-07, FAR case 2005-026. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501-4755.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

This final rule amends FAR Subpart 25.7, Prohibited Sources, and the clause at 52.225-13, Restrictions on Certain Foreign Purchases, by removing Libya from the list of countries sanctioned by

the Department of the Treasury, Office of Foreign Assets Control (OFAC).

On September 20, 2004, the President signed Executive Order 13357 terminating the national emergency declared in Executive Order 12543 of January 7, 1986, with respect to the policies and actions of the Government of Libya and revoking that Order, as well as revoking Executive Order 12544 of January 8, 1986, and Executive Order 12801 of April 15, 1992, all of which imposed sanctions against Libya in response to the national emergency. This Executive Order 13357 also revoked Executive Order 12538 of November 15, 1985, which prohibited the importation into the United States of petroleum products refined in Libya. Upon issuance of Executive Order 13357, OFAC issued notice that the prohibitions of the Libyan Sanctions Regulations, 31 CFR part 550, would be lifted as of September 21, 2004. OFAC has confirmed that there are no more sanctions against Libya. At a later date, OFAC will add a note to the Libya Sanction Regulations (LSR) to notify the public that those regulations are no longer in effect. In their view, Executive Order 13357, their issuance of a press release, and a statement on their official website that the regulations lifted are sufficient authorization until they publish a notice in the **Federal Register**.

This final rule also makes conforming changes to the clause dates 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 Acquisition (Other than Commercial Items), and updates the OFAC websites.

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 25 and 52 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 2005–07, FAR case 2005–026), in correspondence.

## 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 25 and 52

Government procurement.

Dated: December 22, 2005.

Gerald Zaffos,

Director, Contract Policy Division.

■ 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

#### 25.701 [Amended]

■ 2. Amend section 25.701 by removing from the first sentence of paragraph (b) “Libya,”; removing from the second sentence “<http://www.epls.gov/TerList1.htm>” and adding “<http://www.treas.gov/offices/enforcement/ofac/sdn>” in its place; and removing from the third sentence “<http://www.treas.gov/ofac>” and adding “<http://www.treas.gov/offices/enforcement/ofac>” in its place.

### PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

#### 52.212–5 [Amended]

■ 3. Amend section 52.212–5 by removing from the heading of the clause “(SEP 2005)” and adding “(FEB 2006)” in its place; and removing from paragraph (b)(26) of the clause “(MAR 2005)” and adding “(FEB 2006)” in its place.

#### 52.213–4 [Amended]

■ 4. Amend section 52.213–4 by—  
 ■ a. Removing from the heading of the clause “(JUL 2005)” and adding “(FEB 2006)” in its place; and  
 ■ b. Removing from paragraph (a)(1)(iv) of the clause “(MAR 2005)” and adding “(FEB 2006)” in its place.

#### 52.225–13 [Amended]

■ 5. Amend section 52.225–13 by—  
 ■ a. Removing from the heading of the clause “(MAR 2005)” and adding “(FEB 2006)” in its place; and  
 ■ b. Removing from the first sentence of paragraph (b) of the clause “Libya,”; removing from the second sentence “<http://epls.arnet.gov/News.html>” and adding “[enforcement/ofac/sdn” in its place; and removing from the third sentence “<http://www.treas.gov/ofac>” and adding “<http://www.treas.gov/offices/enforcement/ofac>” in its place.](http://www.treas.gov/offices/</a></p>
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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 44 and 52

[FAC 2005–07 FAR Case 2003–024, Item IX]

RIN 9000–AK39

### Federal Acquisition Regulation; Elimination of Certain Subcontract Notification Requirements

**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 modify the language regarding advance notification requirements. This change is required to implement Section 842 of the National Defense Authorization Act for Fiscal Year 2004, Public Law 108–136, which resulted in revisions to 10 U.S.C. 2306(e).

**DATES:** *Effective Date:* January 3, 2006.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact Ms. Rhonda Cundiff, Procurement Analyst, at (202) 501–0044. Please cite FAC 2005–07, FAR case 2003–024. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 70 FR 11761, March 9, 2005, with a request for comments by May 9, 2005. The interim rule revised FAR 44.201–2, Advance notification requirements, and amended Alternate I of FAR clause 52.244–2, Subcontracts. The change is required in order to implement Section 842 of the National Defense Authorization Act for Fiscal Year 2004,