

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 25 and 52

[FAR Case 1999-008]

RIN 9000-A154

Federal Acquisition Regulation; Restrictions on Acquisitions From Yugoslavia and Afghanistan

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to implement Executive Orders 13121 and 13129. These Executive orders prohibit the importation into the United States of any goods or services from Yugoslavia (Serbia and Montenegro) or the territory of Afghanistan controlled by the Taliban.

DATES: Interested parties should submit comments in writing on or before January 31, 2000 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVRs), 1800 F Street, NW, Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Address e-mail comments submitted via the Internet to: farcase.1999-008@gsa.gov.

Please submit comments only and cite FAR case 1999-008 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 at (202) 501-4755 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Paul Linfield, Procurement Analyst, at (202) 501-1757. Please cite FAR case 1999-008.

SUPPLEMENTARY INFORMATION:

A. Background

This rule proposes to amend FAR 25.70(a) and the clauses at FAR 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items,

and FAR 52.225-11, Restrictions on Certain Foreign Purchases, to implement Executive Order 13121 of April 30, 1999, and Executive Order 13129 of July 4, 1999. These Executive orders prohibit the importation into the United States of any goods or services from Yugoslavia (Serbia and Montenegro) or the territory of Afghanistan controlled by the Taliban. As a matter of policy, the Government does not acquire, even for overseas use, supplies or services that cannot be imported lawfully into the United States.

This rule was not subject to Office of Management and Budget 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

This proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because it only applies to acquisition of items from Yugoslavia or Afghanistan. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Subparts 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. (FAR case 1999-008), 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: November 24, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose that 48 CFR parts 25 and 52 be amended 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. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 25—FOREIGN ACQUISITION

2. Revise paragraph 25.701(a) to read as follows:

25.701 Restrictions.

(a) The Government generally does not acquire supplies or services that cannot be imported lawfully into the United States. Therefore, even for overseas use, agencies and their contractors and subcontractors must not acquire any supplies or services originating from sources within, or that were located in or transported from or through—

- (1) Cuba (31 CFR part 515);
(2) Iran (31 CFR part 560);
(3) Iraq (31 CFR part 575);
(4) Libya (31 CFR part 550);
(5) North Korea (31 CFR part 500);
(6) Sudan (31 CFR part 538);
(7) Territory of Afghanistan controlled by the Taliban (Executive order 13129);

or

- (8) Yugoslavia (Serbia and Montenegro) (Executive Order 13121).

\* \* \* \* \*

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. In section 52.212-5, revise the date of the clause; redesignate paragraph (a)(2) as (a)(3); add new paragraph (a)(2); and amend newly designated paragraph (a)(3) by removing "U.S.C" and adding "U.S.C." in its place. The revised text read as follows:

52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

\* \* \* \* \*

Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (Date)

(a) \* \* \*

(2) 52.225-11, Restrictions on Certain Foreign Purchases (E.O.'s 12722, 12724, 13059, 13067, 13121, and 13129); and

\* \* \* \* \*

4. In section 52.225-11, revise the date of the clause and paragraph (a); in paragraph (b) remove "Government" and insert "government" in its place; and revise paragraph (c) to read as follows:

52.225-11 Restrictions on Certain Foreign Purchases.

\* \* \* \* \*

Restrictions on Certain Foreign Purchases (Date)

(a) The Contractor shall not acquire, for use in the performance of this contract, any supplies or services originating from sources within, or that were located in or transported from or through, countries whose products are banned from importation into the United

States under regulations of the Office of Foreign Assets Control, Department of the Treasury. Those countries are Cuba, Iran, Iraq, Libya, North Korea, Sudan, the territory

of Afghanistan controlled by the Taliban, and Yugoslavia (Serbia and Montenegro).

\* \* \* \* \*

(c) The Contractor shall insert this clause, including this paragraph (c), in all subcontracts.

(End of clause)

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**BILLING CODE 6820-EP-M**