

clarification of content, contact Ms. Cecelia Davis, Procurement Analyst, at (202) 219-0202. Please cite FAC 2001-02, FAR case 2001-025.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

This final rule amends FAR 25.003, the clause at FAR 52.225-5, Trade Agreements, and the clause at 52.225-11, Buy American Act—Balance of Payments Program—Construction Materials under Trade Agreements, to add Iceland to the list of designated countries under the Trade Agreements Act (TAA).

In addition, if the TAA applies, Executive Order 13126 of June 12, 1999, Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor, does not apply to contracts for the acquisition of products from foreign countries that are party to the Agreement on Government Procurement. Therefore, this final rule also adds Iceland to the list of excepted countries of origin at 22.1503(b)(4) and the associated clause at 52.222-19, Child Labor—Cooperation with Authorities and Remedies.

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

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 comment is not required. However, the Councils will 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 2001-02, FAR case 2001-025), 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 22, 25, and 52

Government procurement.

Dated: December 5, 2001.

Al Matera,

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 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 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

##### 22.1503 [Amended]

2. In section 22.1503, amend paragraph (b)(4) by adding “Iceland,” after “Hong Kong,”.

#### PART 25—FOREIGN ACQUISITION

##### 25.003 [Amended]

3. In section 25.003, amend the definition “Designated country” by adding, in alphabetical order, the word “Iceland”.

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

##### 52.222-19 [Amended]

4. In section 52.222-19, revise the date of the clause by removing “(FEB 2001)” and adding “(DEC 2001)” in its place; and in paragraph (a)(4) remove “Hong Kong,” and add “Hong Kong, Iceland,” in its place.

##### 52.225-5 [Amended]

5. In section 52.225-5, revise the date of the clause by removing “(APR 2000)” and adding “(DEC 2001)” in its place; and in paragraph (a) in the definition “Designated country” add, in alphabetical order, the word “Iceland”.

##### 52.225-11 [Amended]

6. In section 52.225-11, revise the date of the clause by removing “(FEB 2000)” and adding “(DEC 2001)” in its place; and in paragraph (a) in the definition “Designated country,” add, in alphabetical order, the word “Iceland”.

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#### DEPARTMENT OF DEFENSE

#### GENERAL SERVICES ADMINISTRATION

#### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

##### 48 CFR Part 39

[FAC 2001-02; FAR Case 2000-609; Item IX]

RIN 9000-AJ11

#### Federal Acquisition Regulation; Contractor Personnel in the Procurement of Information Technology Services

**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 to adopt as final, without change, the interim rule published as Item II of Federal Acquisition Circular 97-25 published in the **Federal Register** on May 2, 2001. The rule amends the Federal Acquisition Regulation (FAR) to implement Section 813 of the Floyd D. Spence National Defense Authorization Act for fiscal year 2001 (Pub. L. 106-398). The Act requires that the FAR be amended to address the use, in the procurement of information technology services, of requirements regarding the experience and education of contractor personnel.

**DATES:** Effective Date: December 18, 2001.

**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. Linda Nelson, Procurement Analyst, at (202) 501-1900. Please cite FAC 2001-02, FAR case 2000-609.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 66 FR 22084, May 2, 2001, adding a new subsection to Subpart 39.1 to implement Section 813 of the Floyd D. Spence National Defense Authorization Act for fiscal year 2001 (Pub. L. 106-398). Section 813 prohibits the use of minimum experience or education requirements for contractor personnel in solicitations for the acquisition of

information technology services, unless—

1. The contracting officer first determines that the needs of the agency cannot be met without such requirement; or

2. The needs of the agency require the use of a type of contract other than a performance-based contract.

Public comments were received from two sources. The comments were considered in developing the final rule. The interim rule is converted to a final rule without change.

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, 5 U.S.C. 601, *et seq.*, applies to this final rule. The Councils prepared a Final Regulatory Flexibility Analysis (FRFA) and it is summarized as follows

This rule amends Part 39 of the Federal Acquisition Regulation to implement Section 813 of the Floyd D. Spence National Defense Authorization Act for fiscal year 2001 (Pub. L. 106–398). The objective of this rule is to revise the FAR to address the use of requirements regarding the experience and education of contractor personnel when acquiring information technology services. The rule prohibits the use of minimum experience or education requirements for contractor personnel in solicitations for the acquisition of information technology services, unless the contracting officer first determines the needs of the agency cannot be met without that requirement; or the needs of the agency require the use of a type of contract other than a performance-based contract.

The rule will apply to all large and small entities that seek award of Federal information service contracts. In fiscal year 2000, we estimated that Federal agencies awarded approximately 14,578 contracts totaling approximately \$3.4 billion to small entities for information technology services. The rule should have a positive economic impact on small businesses because it will make it easier for them to hire employees to work on information technology service contracts, as well as increase their business opportunities in obtaining Federal contracts.

Interested parties may obtain a copy of the FRFA from the FAR Secretariat. The FAR Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

## 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 Part 39

Government procurement.

Dated: December 5, 2001.

Al Matera,

Director, Acquisition Policy Division.

## Interim Rule Adopted as Final Without Change

Accordingly, DoD, GSA, and NASA adopt the interim rule amending 48 CFR part 39, which was published in the **Federal Register** on May 2, 2001 (66 FR 22084), as a final rule without change.

**Authority:** 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

## 48 CFR Chapter 1

### Federal Acquisition Regulation; Small Entity Compliance Guide

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

**ACTION:** Small Entity Compliance Guide.

**SUMMARY:** This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator for the National Aeronautics and Space Administration. This *Small Entity Compliance Guide* has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121). It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 2001–02 which amend the FAR. An asterisk (\*) next to a rule indicates that a regulatory flexibility analysis has been prepared in accordance with 5 U.S.C. 604. Interested parties may obtain further information regarding these rules by referring to FAC 2001–02 which precedes this document. These documents are also available via the Internet at <http://www.arnet.gov/far>.

**FOR FURTHER INFORMATION CONTACT:** Laurie Duarte, FAR Secretariat, (202) 501–4225. For clarification of content, contact the analyst whose name appears in the table below.

## LIST OF RULES IN FAC 2001–02

Item	Subject	FAR case	Analyst
I .....	Definitions of “Component” and “End Product” .....	2000–015	Davis.
II .....	Energy Efficiency of Supplies and Services .....	1999–011	Smith.
III .....	Prompt Payment and the Recovery of Overpayment .....	1999–023	Olson.
IV * .....	Javits-Wagner-O’Day Act Subcontract Preference Under Service Contracts.	1999–017	Nelson.
V .....	Discussion Requirements .....	1999–022	DeStefano.
VI .....	Definition of Subcontract in FAR Subpart 15.4 .....	2000–017	Olson.
VII .....	North American Industry Classification System .....	2000–604	Cundiff.
VIII .....	Iceland—Newly Designated Country under Trade Agreements Act .....	2001–025	Davis.
IX * .....	Contractor Personnel in the Procurement of Information Technology Services.	2000–609	Nelson.