

**DEPARTMENT OF DEFENSE****GENERAL SERVICES  
ADMINISTRATION****NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION****48 CFR Part 25**

[FAC 2001–24; FAR Case 2003–007; Item VII]

RIN 9000–AJ72

**Federal Acquisition Regulation; Buy  
American Act—Nonavailable Articles**

**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 add certain food and textile items to the list of articles not available from domestic sources in sufficient and reasonably available commercial quantities of a satisfactory quality.

**DATES:** Effective Date: July 19, 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 2003–007.

**SUPPLEMENTARY INFORMATION:****A. Background**

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 68 FR 54296, September 16, 2003. The proposed rule amended FAR 25.104(a), adding certain food and textile items to the list of articles not available from domestic sources in sufficient and reasonably available commercial quantities of a satisfactory quality.

The Councils received two responses to the proposed rule. One respondent opposed the rule because she does not think that the “American public” wants these items. She believes that if we do not produce these items in the United States, then we should do without them. The Councils nonconcur with this comment. The Defense Logistics Agency has provided support for the need for these items and demonstrated non-availability. The Buy American Act does not require that we

“do without” items that are domestically nonavailable.

The second respondent fully supported the proposed rule. In addition, they provided a list of additional food items that are nonavailable in the United States. Evaluation of this additional list is outside the scope of this case.

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 Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not 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 the items being added to the list are not available from domestic sources.

**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 25**

Government procurement.

Dated: June 10, 2004.

**Ralph J. De Stefano,**

*Acting Director, Acquisition 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 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).

■ 2. Amend section 25.104 in paragraph (a) by adding, in alphabetical order, the articles “Bamboo shoots,” “Goat hair canvas,” “Grapefruit sections, canned,” “Modacrylic fur ruff,” and “Water chestnuts,” to read as follows:

**25.104 Nonavailable articles.**

(a) \* \* \*

* * *	* * *
Bamboo shoots	
* * *	* * *
Goat hair canvas	
Grapefruit sections, canned	
* * *	* * *

Modacrylic fur ruff.

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Water chestnuts.

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**DEPARTMENT OF DEFENSE****GENERAL SERVICES  
ADMINISTRATION****NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION****48 CFR Part 31**

[FAC 2001–24; FAR Case 2002–006; Item VIII]

RIN 9000–AJ65

**Federal Acquisition Regulation;  
Application of Cost Principles and  
Procedures and Accounting for  
Unallowable Costs**

**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 revise FAR 31.204, Application of principles and procedures, to improve clarity and structure.

**DATES:** Effective Date: July 19, 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 Mr. Edward Loeb, Policy Advisor, at (202) 501–0650. Please cite FAC 2001–24, FAR case 2002–006.

**SUPPLEMENTARY INFORMATION:****A. Background**

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at (68 FR 28108) on May 22, 2003, with request for comments. The rule proposed to amend FAR 31.204, Application of principles and procedures, and FAR 31.201–6, Accounting for unallowable costs. Nine respondents submitted comments; however, no comments related to FAR 31.204. Therefore, the Councils concluded that the proposed rule should be converted to a final rule without changes.