

- a. Revising the date of the clause;
- b. Removing from paragraph (a) the definitions “North American Free Trade Agreement country” and “North American Free Trade Agreement country construction material” and adding, in alphabetical order, the definitions “Free Trade Agreement country” and “Free Trade Agreement country construction material”;
- c. Revising paragraph (b)(1);
- d. Amending paragraph (b)(2) by removing “NAFTA” and adding “FTA” in its place;
- e. Adding a new paragraph (e); and
- f. Revising Alternate I to read as follows:

**52.225–11 Buy American Act—Construction Materials Under Trade Agreements.**

\* \* \* \* \*

**Buy American Act—Construction Materials Under Trade Agreements (Jan 2004)**

(a) *Definitions.* \* \* \*

\* \* \* \* \*

*Free Trade Agreement country* means Canada, Chile, Mexico, or Singapore.

*Free Trade Agreement country construction material* means a construction material that—

(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a FTA country into a new and different construction material distinct from the materials from which it was transformed.

\* \* \* \* \*

(b) *Construction materials.* (1) This clause implements the Buy American Act (41 U.S.C. 10a–10d) by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the Trade Agreements Act and Free Trade Agreements (FTAs) apply to this acquisition. Therefore, the Buy American Act restrictions are waived for designated country and FTA country construction materials.

\* \* \* \* \*

(e) United States law will apply to resolve any claim of breach of this contract.

(End of clause)

*Alternate I (Jan 2004).* As prescribed in 25.1102(c)(3), delete the definitions of “Free Trade Agreement country” and “Free Trade Agreement country construction material” from the definitions in paragraph (a) of the basic clause, add the following definition of “Chilean construction material” to paragraph (a) of the basic clause, and substitute the following paragraphs (b)(1) and (b)(2) for paragraphs (b)(1) and (b)(2) of the basic clause:

*Chilean construction material* means a construction material that—

(1) Is wholly the growth, product, or manufacture of Chile; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in Chile into a new and different construction material distinct from the materials from which it was transformed.

(b) *Construction materials.* (1) This clause implements the Buy American Act (41 U.S.C. 10a–10d) by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the Trade Agreements Act, the Chile Free Trade Agreement, and the Singapore Free Trade Agreement apply to this acquisition. Therefore, the Buy American Act restrictions are waived for designated country and Chilean construction materials.

(2) The Contractor shall use only domestic, designated country, or Chilean construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.

■ 38. Amend section 52.225–12 by—

■ a. Revising the date of the provision;

■ b. Removing “NAFTA” from paragraphs (a), (d)(1) (twice), and (d)(3) (twice) and adding “FTA” in its place; and

■ c. Revising the date, paragraphs (a), (d)(1), and the introductory text of (d)(3) of Alternate II to read as follows:

**52.225–12 Notice of Buy American Requirement—Construction Materials Under Trade Agreements.**

\* \* \* \* \*

**Notice of Buy American Requirement—Construction Materials Under Trade Agreements (Jan 2004)**

\* \* \* \* \*

(End of provision)

*Alternate II (Jan 2004).* \* \* \*

(a) *Definitions.* *Chilean construction material*, *construction material*, *designated country construction material*, *domestic construction material*, and *foreign construction material*, as used in this provision, are defined in the clause of this solicitation entitled “Buy American Act—Construction Materials Under Trade Agreements” (Federal Acquisition Regulation (FAR) clause 52.225–11).

(d) *Alternate offers.* (1) When an offer includes foreign construction material, other than designated country or Chilean construction material, that is not listed by the Government in this solicitation in paragraph (b)(3) of FAR clause 52.225–11, the offeror also may submit an alternate offer based on use of equivalent domestic, designated country, or Chilean construction material.

\* \* \* \* \*

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of FAR clause 52.225–11 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic, designated country, or Chilean construction material, and the offeror shall be required to furnish such domestic, designated country, or Chilean construction material. An offer based on use of the foreign construction material for which an exception was requested—

\* \* \* \* \*

[FR Doc. 04–178 Filed 1–6–04; 8:45 am]

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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. It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 2001–19 which amend the FAR. An asterisk (\*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding these rules by referring to FAC 2001–19, 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 2001–19**

Item	Subject	FAR case	Analyst
I .....	New Consolidated Form for Selection of Architect-Engineer Contractors .....	2000–608A	Davis.

## LIST OF RULES IN FAC 2001–19—Continued

Item	Subject	FAR case	Analyst
II .....	Free Trade Agreements—Chile and Singapore, and Trade Agreements Thresholds (Interim) .....	2003–016	Davis.

**Item I—New Consolidated Form for Selection of Architect-Engineer Contractors (FAR Case 2000–608A)**

This amendment to final rule, FAR Case 2000–608, New Consolidated Form for Selection of Architect-Engineer Contractors, changes the effective date from January 12, 2004, to June 8, 2004. This final rule was published in FAC 2001–018 in the **Federal Register** at 68 FR 69227, December 11, 2003. This amendment also eliminates the reference to an applicability date. By changing the effective date, it allows the users of the SF 330 more time to prepare before the SF 330 is effective.

**Item II—Free Trade Agreements—Chile and Singapore, and Trade Agreements Thresholds (Interim) (FAR Case 2003–016)**

This interim rule amends FAR parts 5, 12, 13, 14, 17, 19, 22, 25, and 52 to

implement new Free Trade Agreements with Chile and Singapore, as approved by Congress (Pub. L. 108–77 and 108–78). These Free Trade Agreements are scheduled to go into effect January 1, 2004. Singapore is already a designated country under the Trade Agreements Act, but Chile was not previously a designated country. The threshold under these Free Trade Agreements for acquisition of end products and services is \$58,550 and the threshold for construction contracts is \$6,725,000. In acquisitions that exceed these thresholds and are subject to trade agreements, this rule allows the acquisition of end products or construction material from Chile or Singapore without application of the Buy American Act, and provides for certain procedures in the acquisition of services, unless the service is excluded from coverage by the trade agreement.

The interim rule directs the contracting officer to determine the origin of a service by the country in which the firm providing the services is established. The interim rule also implements new dollar thresholds for application of trade agreements, as published by the U.S. Trade Representative in the **Federal Register** at 68 FR 70861, December 19, 2003. Contracting officers must review the new thresholds in order to select the appropriate clauses to implement the Buy American Act, trade agreements, and sanctions of European Union country end products and services.

Dated: December 30, 2003.

**Laura Auletta,**

*Director, Acquisition Policy Division.*

[FR Doc. 04–179 Filed 1–6–04; 8:45 am]

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