

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL ITEMS (FEB 2008)

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(b) * * *

(17) 52.222–19, Child Labor—Cooperation with Authorities and Remedies (FEB 2008) (E.O. 13126).

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■ 8. Amend section 52.213–4 by revising the date of the clause and the first sentence in paragraph (b)(1)(i) to read as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

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TERMS AND CONDITIONS—SIMPLIFIED ACQUISITIONS (OTHER THAN COMMERCIAL ITEMS) (FEB 2008)

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(b) * * *

(1) * * *

(i) 52.222–19, Child Labor—Cooperation with Authorities and Remedies (FEB 2008) (E.O. 13126).

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■ 9. Amend section 52.222–19 by:

■ a. Revising the date of the clause;

■ b. Removing from paragraph (a)(3) “\$64,786” and adding “\$67,826” in its place; and

■ c. Removing from paragraph (a)(4) “\$193,000” and adding “\$194,000” in its place.

The revised text reads as follows:

52.222–19 Child Labor—Cooperation with Authorities and Remedies.

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CHILD LABOR—COOPERATION WITH AUTHORITIES AND REMEDIES (FEB 2008)

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 22, 25 and 52

[FAC 2005–24; FAR Case 2006–028; Item IV; Docket 2008–0001; Sequence 4]

RIN 9000–AK77

Federal Acquisition Regulation; FAR Case 2006–028, New Designated Countries—Dominican Republic, Bulgaria, and Romania

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 the interim rule published in the **Federal Register** at 72 FR 46357, August 17, 2007, as a final rule without change. This final rule amends the Federal Acquisition Regulation (FAR) to implement the Dominican Republic-Central America-United States Free Trade Agreement with respect to the Dominican Republic.

DATES: *Effective Date:* February 28, 2008.

FOR FURTHER INFORMATION CONTACT: Ms. Meredith Murphy, Procurement Analyst, at (202) 208–6925 for clarification of content. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755. Please cite FAC 2005–24, FAR case 2006–028.

SUPPLEMENTARY INFORMATION:

A. Background

DoD, GSA, and NASA published an interim rule with request for comments in the **Federal Register** at 72 FR 46357, August 17, 2007. The comment period closed October 16, 2007. No public comments were received in response to the interim rule.

The interim rule amended FAR part 25 and the corresponding clauses in FAR part 52 to implement the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA–DR) with respect to the Dominican Republic. Congress approved this trade agreement in the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (Pub. L. 109–53).

This trade agreement waives the applicability of the Buy American Act for some foreign supplies and construction materials from the Dominican Republic and specifies procurement procedures designed to ensure fairness in the acquisition of supplies and services.

The Dominican Republic has the same thresholds as the other CAFTA–DR countries (\$67,826 for supply and service contracts, \$7,443,000 for construction contracts).

The interim rule also added Bulgaria and Romania to the list of World Trade Organization Government Procurement Agreement countries wherever it appears, whether as a separate definition, part of the definition of designated countries, or as part of the list of countries exempt from the prohibition of acquisition of products produced by forced or indentured child labor (FAR parts 22.1503, 25.003, 52.222–19, 52.225–5, and 52.225–11).

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. Although the rule opens up Government procurement to the goods and services of Bulgaria, the Dominican Republic, and Romania, the Councils do not anticipate any significant economic impact on U.S. small businesses. No comments were received from small business concerns. Therefore, a Final Regulatory Flexibility Analysis was not performed.

C. Paperwork Reduction Act

The Paperwork Reduction Act does apply; however, these changes to the FAR do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Numbers 9000–0025, 9000–0130, 9000–0136, and 9000–0141 respectively. The final rule affects the certification and information collection requirements in the provisions at FAR 52.212–3, 52.225–4, 52.225–6, and 52.225–11.

List of Subjects in 48 CFR Parts 22, 25, and 52

Government procurement.

Dated: February 19, 2008.

Al Matera,

Director, Office of Acquisition Policy.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR parts 22, 25, and 52 which was published at 72 FR 46357, August 17, 2007, is adopted as a final rule without change.

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DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 30 and 52**

[FAC 2005-24; FAR Case 2005-027; Item V; Docket 2006-0020; Sequence 9]

RIN 9000-AK60

**Federal Acquisition Regulation; FAR
Case 2005-027, FAR Part 30-CAS
Administration**

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 revisions to the regulations related to the administration of the Cost Accounting Standards (CAS).

DATES: Effective Date: March 31, 2008.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Loeb, Procurement Analyst, at (202) 501-0650 for clarification of content. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501-4755. Please cite FAC 2005-24, FAR case 2005-027.

SUPPLEMENTARY INFORMATION:**A. Background**

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 71 FR 58338, October 3, 2006 to make administrative corrections to FAR Part 30, "CAS Administration," subsequent

to the issuance of the final rule (FAR case 1999-025) at 70 FR 11743, March 9, 2005. Among other changes, the Council's March 9, 2005 final rule streamlined the process for submitting, negotiating, and resolving cost impacts resulting from a change in cost accounting practice or noncompliance with stated practices. The Councils received public comments in response to the proposed rule. The Councils' responses to the public comments received in response to the proposed rule follow.

***The Use of Auditors and Other
Technical Advisors***

Comment: One commenter recommended elimination of the words "as appropriate" from FAR 30.601(c) since it would be imprudent for the CFAO not to request and consider the expert advice of the contract auditor in performing CAS administration. The commenter also recommended that the phrase be eliminated from FAR 1.602-2(c) for consistency.

Response: Nonconcur. The Councils agree that it is generally prudent for the CFAO to consider the advice of auditors and other specialists in performing contract administration responsibilities. However, the Councils believe the CFAO is in the best position to determine the need for technical assistance on a particular issue, as well as the nature of the technical assistance required. Accordingly, it may not be necessary for the CFAO to obtain audit or technical advice in all cases in order to effectively and responsibly perform his/her duties. In those cases, requiring the CFAO to obtain such advice would infringe on the CFAO's authority and may unnecessarily delay the administration of contracts. Any revision to FAR 1.602-2(c) would be beyond the purview of this case.

***Cost Impacts of CAS Noncompliances
That Affect Both Cost Estimates and
Cost Accumulations***

Comment: One commenter recommended that contractors be required to submit separate cost impacts when a single noncompliance affects both cost estimates and cost accumulations (one for the impact on cost estimating and another for the cost impact on cost accumulations). The commenter also recommended that those separate cost impacts be administered separately, rather than considered as a whole. The commenter opined that while "it might be convenient for the contractor to combine the cost impacts, it could make it difficult for the Government to analyze the noncompliance(s) and to

determine whether the cost impacts are material or not."

Response: Nonconcur. The Councils believe that the recommendation would not comply with paragraph (a)(5) of the clause at 48 CFR 9903.201-4(a) and 48 CFR 9903.201-6 which require the Government to recover the increased costs in the aggregate of a noncompliance. These provisions are intended to ensure the Government's full recovery of any increased costs in the aggregate while also prohibiting the recovery of more than the increased costs in the aggregate. The recommendation would require the calculation and recovery of the impact on cost estimates separately and apart from the calculation and recovery of the impact on cost accumulations, when both are the result of a single noncompliance. The Councils believe that the separate consideration of the impacts on cost estimating and on cost accumulations may result in the Government's recovery of an amount which is either more or less than the cost impact in the aggregate of a particular noncompliance.

As it is currently written, FAR 30.605(h) provides a systematic approach to the calculation of the increased or decreased costs in the aggregate of a noncompliance that affects both cost estimates and cost accumulations. Pursuant to FAR 30.605(h)(6), the cost impact of the cost estimating noncompliance (calculated in accordance with FAR 30.605(h)(3)) is combined with the cost impact of the cost accumulation noncompliance (calculated in accordance with FAR 30.605(h)(4)) and the impact on profit and fee (calculated in accordance with FAR 30.605(h)(5)), in order to arrive at the cost impact in the aggregate of a noncompliance that affects both cost estimates and cost accumulations. The Councils believe that this approach to determining the cost impact of a noncompliance affecting both cost estimates and cost accumulations complies with the CAS Board's Rules and Regulations.

***Combining Cost Impacts of Multiple
Unilateral Cost Accounting Practice
Changes***

Comment: One commenter recommended that the combination of cost impacts resulting from unilateral cost accounting practice changes be permitted as prescribed in DoD CAS Working Group Paper 76-8, Interim Guidance on the Use of the Offset Principle in Contract Price Adjustments Resulting from Accounting Changes. The commenter "disagrees with the Councils' interpretation of the statute