

**Item XII—Accepting and Dispensing of \$1 Coin (FAR Case 2006–027) (Interim)**

This interim rule implements the Presidential \$1 Coin Act of 2005 (Pub. L. 109–145). The Presidential \$1 Coin Act of 2005 requires the Secretary of the Treasury to mint and issue annually four new \$1 coins bearing the likenesses of the Presidents of the United States in the order of their service and to continue to mint and issue “Sacagawea–design” coins for circulation. In order to promote circulation of the coins, Section 104 of the Public Law also requires that Federal agencies take action so that, by January 1, 2008, entities that operate any business, including vending machines, on any premises owned by the United States or under the control of any agency or instrumentality of the United States, are capable of accepting and dispensing \$1 coins and that the entities display notices of this capability on the business premises.

**Item XIII—Technical Amendments**

Editorial changes are made at FAR 31.201–5, 32.006–1, 32.006–2, 52.212–5, 52.232–16, and 52.245–1 in order to update references.

Dated: July 30, 2007

**Al Matera,**

*Acting Director, Contract Policy Division.*

**Federal Acquisition Circular**

Federal Acquisition Circular (FAC) 2005–19 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005–19 is effective August 17, 2007, except for Items II, IV, VI, and VII which are effective September 17, 2007.

Dated: July 25, 2007.

**Shay D. Assad,**

*Director, Defense Procurement and Acquisition Policy.*

Dated: July 18, 2007.

**George Barclay,**

*Acting Senior Procurement Executive, General Services Administration.*

Dated: July 17, 2007.

**Sheryl Goddard,**

*Acting Assistant Administrator for Procurement, National Aeronautics and Space Administration.*

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**BILLING CODE 6820–EP–S**

**DEPARTMENT OF DEFENSE****GENERAL SERVICES  
ADMINISTRATION****NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION****48 CFR Parts 1, 25, and 52**

[FAC 2005–19; FAR Case 2005–034; Item I; Docket 2006–0020; Sequence 9]

**RIN 9000–AK52**

**Federal Acquisition Regulation; FAR  
Case 2005–034, Reporting of  
Purchases from Overseas Sources**

**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 a final rule with changes the interim rule published in the **Federal Register** at 71 FR 57375, September 28, 2006. This final rule implements 41 U.S.C. 10a, Buy American Act, as amended by Section 8306 of Public Law 110–28.

**DATES:** Effective Date: August 17, 2007.

**FOR FURTHER INFORMATION CONTACT:**

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 2005–19, FAR case 2005–034.

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

This final rule implements 41 U.S.C. 10a, which requires the head of each Federal agency to submit a report to Congress relating to acquisitions of articles, materials, or supplies that are manufactured outside the United States. The provision at 52.225–18 requests from offerors necessary data regarding place of manufacture.

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 71 FR 57375, September 28, 2006. The 60–day comment period on the interim rule ended on November 27, 2006. The Councils received one public comment.

**Comment:** The respondent did not suggest any changes to the interim rule. Rather, the comment related to a statement in the **Federal Register** notice that the amendment is mandatory for solicitations issued and contracts awarded on or after October 1, 2006. The respondent considers this statement

to be incorrect because the interim rule prescribes only a solicitation provision, which is to be incorporated in solicitations, not contracts.

**Response:** The **Federal Register** notice states that the amendment is mandatory for solicitations issued and contracts awarded on or after October 1, 2006. The respondent is correct that the solicitation provision is used only in solicitations, not contracts. However, other aspects of the interim rule are applicable to contracts. The contracting officer is required to enter into the FPDS data on all contracts awarded on or after October 1, 2006, even if the solicitation did not include the new FAR provision at 52.225–18, Place of Manufacture.

Section 8306 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Pub. L. 110–28), signed on May 25, 2007, amended the Buy American Act (41 U.S.C. 10a) to include an agency reporting requirement for acquisition of articles manufactured outside the United States. Therefore, the statutory citation at FAR 25.004(a) is amended in this final rule to cite 41 U.S.C. 10a rather than Section 837 of Division A of the Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006 (Pub. L. 109–115) and similar sections in subsequent appropriations acts.

As a conforming amendment, it is necessary to include the new Office of Management and Budget (OMB) Control Number in FAR 1.106. In addition, a technical correction deletes OMB Control Number 9000–0023 as a control number associated with FAR clause 52.225–2, because 52.225–2 no longer implements the Balance of Payments Program and OMB Control Number 9000–0023 has expired.

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**

DoD, GSA, and NASA 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 this final rule does not change the rules for buying, it only amends the statutory citation and finalizes an information collection requirement. It does not have a significant economic impact to ask offerors of manufactured end products

to check off a box to indicate whether products offered to the Federal Government are predominantly manufactured in the United States or outside the United States. The offeror is not even required to identify the country of manufacture if the product is manufactured outside the United States. No comments were received with regard to impact on small entities.

### 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 Number 9000-0161.

The FAR Secretariat obtained an emergency approval of the new information collection requirement, estimated at 38,146 hours, under OMB Control Number 9000-0161, FAR Case 2005-034, Reporting of Overseas Purchases, from OMB under 44 U.S.C. 3501, *et seq.* An estimated burden of 38,146 hours was granted temporary approval under OMB Control Number 9000-0161. We received no comments regarding the estimated burden hours.

### List of Subjects in 48 CFR Parts 1, 25 and 5

Government procurement.

Dated: July 30, 2007.

Al Matera,

Acting Director, Contract Policy Division.

### Interim Rule Adopted as Final With Changes

■ Accordingly, the interim rule amending 48 CFR parts 25 and 52 which was published at 71 FR 57375, September 28, 2006, is adopted as a final rule with changes.

■ 1. The authority citation for 48 CFR parts 1, 25, and 52 continues to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

### PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

#### 1.106 [Amended]

■ 2. Amend section 1.106 by removing from FAR Segment 52.225-2 “9000-0023 and” and by adding, in numerical order, new FAR Segment “52.225-18” with OMB Control Number “9000-0161.”

### PART 25—FOREIGN ACQUISITION

■ 3. Amend section 25.004 by revising paragraph (a) to read as follows:

### 25.004 Reporting of acquisition of end products manufactured outside the United States.

(a) In accordance with the requirements of 41 U.S.C. 10a, the head of each Federal agency must submit a report to Congress on the amount of the acquisitions made by the agency from entities that manufacture end products outside the United States in that fiscal year.

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 3, 12, and 52

[FAC 2005-19; FAR Case 2005-035; Item II; Docket 2006-0020; Sequence 8]

RIN 9000-AD76

### Federal Acquisition Regulation; FAR Case 2005-035, Changes to Lobbying Restrictions

**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) in order to be consistent with the Lobbying Disclosure Act of 1995 and the Office of Management and Budget (OMB) Interim Final Guidance, and to improve clarity of the regulation through improved use of plain language and compliance with FAR drafting conventions.

**DATES:** Effective Date: September 17, 2007.

**FOR FURTHER INFORMATION CONTACT** Mr. Ernest Woodson, Procurement Analyst, at (202) 501-3775, for clarification of content. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501-4755. Please cite FAC 2005-19, FAR case 2005-035.

#### SUPPLEMENTARY INFORMATION:

#### A. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 71 FR 54255 on September 14, 2006.

The final rule is not significantly different from the proposed rule. Among the various changes, this final rule—

- Includes the new concept of “lobbying contact” and brings in the concept of registrants under the Lobbying Act of 1995.

- Includes the OMB guidance that the term “appropriated funds” does not include profit or fee from a covered Federal action and that to the extent the contractor can demonstrate that the contractor has sufficient monies, other than Federal appropriated funds, the Government will assume that these other monies were spent for any influencing activities that would be unallowable if paid for with Federal appropriated funds.

- Formalizes in the regulations the changes that were already incorporated in the OMB Standard Form (SF) LLL, Disclosure of Lobbying Activities.

- Removes 31 U.S.C. 1352, Limitations on Payment to Influence Certain Federal Transactions, from the list of laws that are inapplicable to subcontracts for the acquisition of commercial items.

- Makes the text, provisions, and clauses, easier to understand, for both contracting officers and offerors/contractors.

The comment period closed on November 13, 2006. We received 3 public comments, each addressing a different aspect of the rule. The Councils addressed these comments in the formulation of the final rule as follows:

#### Commercial contracts

**Comment:** One respondent comments that the rule deletes in FAR 12.504(a), paragraph (3) “31 U.S.C. 1352, Limitation on Payments to Influence Certain Federal Transactions (see FAR Subpart 3.8),” thereby making lobbying payments unacceptable under commercial subcontracts acquired under FAR Part 12. The respondent is concerned that although the rule requires a certification and disclosure, it does not include any means to enforce the prohibition on commercial contracts.

**Response:** The rule provides civil and criminal penalties for any person who makes an expenditure prohibited by the rule.

The requirements of the law are generally conveyed to the contractor through clauses. Paragraph (e) of FAR 52.212-3, Offeror Representations and Certifications—Commercial Items, already provides for offeror lobbying certification. The proposed rule also added language to paragraph (e) relating to the requirement to submit OMB SF