

**DEPARTMENT OF DEFENSE****GENERAL SERVICES  
ADMINISTRATION****NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION****48 CFR Chapter 1****Docket FAR–2008–0003, Sequence 1****Federal Acquisition Regulation;  
Federal Acquisition Circular 2005–26;  
Introduction**

**AGENCIES:** Department of Defense (DoD),  
General Services Administration (GSA),

and National Aeronautics and Space  
Administration (NASA).

**ACTION:** Summary presentation of  
interim rule.

**SUMMARY:** This document summarizes  
the Federal Acquisition Regulation  
(FAR) rule agreed to by the Civilian  
Agency Acquisition Council and the  
Defense Acquisition Regulations  
Council in this Federal Acquisition  
Circular (FAC) 2005–26. A companion  
document, the Small Entity Compliance  
Guide (SECG), follows this FAC. The  
FAC, including the SECG, is available  
via the Internet at [http://  
www.regulations.gov/](http://www.regulations.gov/).

**DATES:** For effective dates and comment  
dates, see separate documents which  
follow.

**FOR FURTHER INFORMATION CONTACT** For  
clarification of content, contact the  
analyst whose name appears in the table  
below in relation to the FAR case.  
Please cite FAC 2005–26, FAR Case  
2008–004. Interested parties may also  
visit our website at [http://  
www.regulations.gov](http://www.regulations.gov). For information  
pertaining to status or publication  
schedules, contact the FAR Secretariat  
at (202) 501–4755.

**RULE LISTED IN FAC 2005–26**

Item	Subject	FAR case	Analyst
I .....	Prohibition on Restricted Business Operations in Sudan and Imports from Burma (Interim) .....	2008–004	Murphy.

**SUPPLEMENTARY INFORMATION:** A  
summary of the FAR rule follows. For  
the actual revisions and/or amendments  
to this FAR case, refer to FAR Case  
2008–004. FAC 2005–26 amends the  
FAR as specified below:

**Prohibition on Restricted Business  
Operations in Sudan and Imports from  
Burma (FAR Case 2008–004) (Interim)**

This interim rule amends FAR  
Subparts 4.12, 15.1, 25.7, 25.11, and  
Part 52 to implement Section 6 of the  
Sudan Accountability and Divestment  
Act of 2007, and Executive Orders  
13310 and 13448. Section 6 requires  
certification that the contractor does not  
conduct certain business operations in  
Sudan. This case also updates the list of  
countries from which most imports are  
prohibited, to reflect Burma as well as  
Sudan.

Dated: June 6, 2008.

**Al Matera,**

*Director, Office of Acquisition Policy.*

**Federal Acquisition Circular**

Federal Acquisition Circular (FAC)  
2005–26 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 2005–26 is effective June 12,  
2008.

Dated: June 6, 2008.

**Shay D. Assad,**

*Director, Defense Procurement, Acquisition  
Policy, and Strategic Sourcing.*

Dated: May 30, 2008.

**David A. Drabkin,**

*Acting Chief Acquisition Officer & Senior  
Procurement Executive, Office of the Chief  
Acquisition Officer, U.S. General Services  
Administration.*

Dated: May 30, 2008.

**William P. McNally,**

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

[FR Doc. E8–13151 Filed 6–11–08; 8:45 am]

**BILLING CODE 6820–EP–S**

**DEPARTMENT OF DEFENSE****GENERAL SERVICES  
ADMINISTRATION****NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION****48 CFR Parts 4, 15, 25, and 52**

**[FAC 2005–26; FAR Case 2008–004; Docket  
2008–0001, Sequence 04]**

**RIN 9000–AL01**

**Federal Acquisition Regulation; FAR  
Case 2008–004, Prohibition on  
Restricted Business Operations in  
Sudan and Imports from Burma**

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

**ACTION:** Interim rule with request for  
comments.

**SUMMARY:** The Civilian Agency  
Acquisition Council and the Defense  
Acquisition Regulations Council  
(Councils) have agreed on an interim  
rule amending the Federal Acquisition  
Regulation (FAR) to implement Section  
6 of the Sudan Accountability and  
Divestment Act of 2007. Section 6  
requires certification in each contract  
entered into by an Executive agency,  
that the contractor does not conduct  
certain business operations in Sudan.

**DATES:** *Effective Date:* June 12, 2008.

*Comment Date:* Interested parties  
should submit written comments to the  
FAR Secretariat on or before August 11,  
2008 to be considered in the  
formulation of a final rule.

**ADDRESSES:** Submit comments  
identified by FAC 2005–26, FAR case  
2008–004, by any of the following  
methods:

- Regulations.gov: [http://  
www.regulations.gov](http://www.regulations.gov). Submit comments  
via the Federal eRulemaking portal by  
inputting “FAR Case 2008–004” under  
the heading “Comment or Submission”.  
Select the link “Send a Comment or  
Submission” that corresponds with FAR  
Case 2008–004. Follow the instructions  
provided to complete the “Public  
Comment and Submission Form”.  
Please include your name, company  
name (if any), and “FAR Case 2008–  
004” on your attached document.

- Fax: 202–501–4067.

- Mail: General Services  
Administration, Regulatory Secretariat  
Division (VPR), 1800 F Street, NW,  
Room 4041, Washington, DC 20405.

**Instructions:** Please submit comments only and cite FAC 2005–26, FAR case 2008–004, in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

**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 Regulatory Secretariat Division at (202) 501–4755. Please cite FAC 2005–26, FAR case 2008–004.

#### **SUPPLEMENTARY INFORMATION:**

##### **A. Background**

This interim rule implements section 6 of the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110–174), which was signed on December 31, 2007. Section 6 of this Act requires certification in each contract entered into by an executive agency, that the contractor does not conduct certain business operations in Sudan (as described in section 3(d) of the Act).

The Councils have added these restrictions to FAR Subpart 25.7, Prohibited Sources, because the current sections 25.701 and 25.702 are related to each other, they have been combined into a single section, and the new restrictions added as a new section 25.702.

Subsection 25.702–1 provides the statutory definitions of the following terms from the Act:

- Appropriate congressional committees.
- Business operations.
- Marginalized populations of Sudan.
- Person.
- Restricted business operations (referring to the business operations described in section 3(d) of the Act).

Subsections 25.702–2 and 25.702–3 state the certification requirements and the remedies specified in the Act. Subsection 25.702–4 permits the President to waive the certification requirement. Consistent with the structure of FAR Part 25, the prescription for the solicitation provision is provided at FAR 25.1103(d).

The new solicitation provision 52.225–20, Prohibition on Conducting Restricted Business Operations in Sudan—Certification, provides all the required definitions and the condition that, by submission of its offer, the offeror certifies that it does not conduct any restricted business operations in Sudan. If the offeror cannot

affirmatively make the certification that it does not conduct restricted business operations in Sudan, then it is not allowed to submit an offer. The Councils are determining whether this law should also apply to existing contracts to ensure compliance with the overall intent of the law.

The Act does not require flow down of the certification provision. Section 6 addresses only contracts entered into by executive agencies.

The FAR Council has made a policy determination to apply the prohibition to contracts for the acquisition of commercial items. In accordance with Section 34 of the Office of Federal Procurement Policy (OFPP) Act (41 U.S.C. 430), the law would not apply to acquisitions of commercial items unless the FAR Council made a written determination that it would not be in the best interest of the Federal Government to waive the provision of law for the acquisition of commercial items. This is because the Sudan Accountability and Divestment Act of 2007—

- Does impose restrictions on the procurement of property or services by the Federal Government;
- Does not provide civil or criminal penalties; and
- Does not specifically refer to Section 34 of the OFPP Act.

Section 6 of Pub. L. 110–174 establishes a public policy that contractors who conduct certain business operations in Sudan shall not be permitted to do business with the Federal Government. An exemption for commercial item acquisitions would exclude a significant portion of Federal contracting and the contractors who provide these products and services, thereby undermining the overarching public policy purpose of the law.

In addition, the Councils have taken this opportunity to add Burma to the list of countries from which most imports are prohibited. This update is made in accordance with Executive Order (E.O.) 13310, Blocking Property of the Government of Burma and Prohibiting Certain Transactions (68 FR 44853, July 30, 2003), and E.O. 13448, Blocking Property and Prohibiting Certain Transactions Related to Burma (72 FR 60223, October 23, 2007). The FAR at 25.701(b) and the clause at 52.225–13(b) are modified.

This is a significant regulatory action and, therefore, is subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is a major rule under 5 U.S.C. 804.

##### **B. Regulatory Flexibility Act**

The interim rule is not expected to 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 rule will only impact an offeror that is conducting restricted business operations in Sudan and wants to do business with the Government. Since there are already numerous sanctions against dealing with Sudan (e.g., E.O.s 13412, 13400, and 13067, and 31 CFR Part 538), it is expected that the number of entities impacted by this rule will be minimal. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. The Councils will consider comments from small entities concerning the affected FAR Parts 4, 15, 25, and 52 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 2005–26, FAR case 2008–004), in all 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.*

##### **D. Determination to Issue an Interim Rule**

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because the rule implements section 6 of The Sudan Accountability and Divestment Act of 2007 (Pub. L. 110–174), which was signed on December 31, 2007, and was effective upon enactment. However, pursuant to Pub. L. 98–577 and FAR 1.501, the Councils will consider public comments received in response to this interim rule in the formation of the final rule.

##### **List of Subjects in 48 CFR Parts 4, 15, 25, and 52**

Government procurement.

Dated: June 6, 2008.

**Al Matera,**

*Director, Office of Acquisition Policy.*

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 4, 15, 25, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 4, 15, 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 4—ADMINISTRATIVE MATTERS

### 4.203 [Amended]

■ 2. Amend section 4.203 by—

■ a. Removing from paragraph (a) “paragraph (b)” and adding “paragraph (l)” in its place; and

■ b. Removing from paragraphs (b) and (e)(1)(i) “52.212–3(b)” and adding “52.212–3(l)” in its place.

### 4.1201 [Amended]

■ 3. Amend section 4.1201 by removing from paragraph (c) “52.212–3(l)” and adding “52.212–3(b)” in its place.

■ 4. Amend section 4.1202 by redesignating paragraphs (y), (z), and (aa), as paragraphs (z), (aa), and (bb), respectively; and adding a new paragraph (y) to read as follows:

### 4.1202 Solicitation provision and contract clause.

\* \* \* \* \*

(y) 52.225–20, Prohibition on Conducting Restricted Business Operations in Sudan—Certification.

\* \* \* \* \*

## PART 15—CONTRACTING BY NEGOTIATION

### 15.102 [Amended]

■ 5. Amend section 15.102 by removing from paragraph (b) “52.212–3(1)” and adding “52.212–3(b)” in its place.

## PART 25—FOREIGN ACQUISITION

■ 6. Revise Subpart 25.7 to read as follows:

Sec.

25.700 Scope of subpart.

25.701 Restrictions on acquisitions of supplies or services from prohibited sources.

25.702 Prohibition on contracting with entities that conduct restricted business operations in Sudan.

25.702–1 Definitions.

25.702–2 Certification.

25.702–3 Remedies.

25.702–4 Waiver.

### Subpart 25.7—Prohibited Sources

#### 25.700 Scope of subpart.

This subpart implements—

(a) Economic sanctions administered by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury prohibiting transactions involving certain countries, entities, and individuals; and

(b) The Sudan Accountability and Divestment Act of 2007 (Pub. L. 110–174).

#### 25.701 Restrictions on acquisitions of supplies or services from prohibited sources.

(a) Except as authorized by OFAC, agencies and their contractors and subcontractors must not acquire any supplies or services if any proclamation, Executive order, or statute administered by OFAC, or if OFAC’s implementing regulations at 31 CFR Chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) Except as authorized by OFAC, most transactions involving Cuba, Iran, and Sudan are prohibited, as are most imports from Burma or North Korea into the United States or its outlying areas.

In addition, lists of entities and individuals subject to economic sanctions are included in OFAC’s List of Specially Designated Nationals and Blocked Persons at <http://www.treas.gov/offices/enforcement/ofac/sdn>. More information about these restrictions, as well as updates, is available in OFAC’s regulations at 31 CFR Chapter V and/or on OFAC’s website at <http://www.treas.gov/offices/enforcement/ofac>.

(c) Refer questions concerning the restrictions in paragraphs (a) or (b) of this section to the Department of the Treasury, Office of Foreign Assets Control, Washington, DC 20220, (Telephone (202) 622–2490).

#### 25.702 Prohibition on contracting with entities that conduct restricted business operations in Sudan.

##### 25.702–1 Definitions.

As used in this section—  
*Appropriate Congressional committees* means—

(1) The Committee on Banking, Housing, and Urban Affairs, The Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate; and

(2) The Committee on Financial Services, the Committee on Foreign Relations, and the Permanent Select Committee on Intelligence of the House of Representatives.

*Business operations* means engaging in commerce in any form, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

*Marginalized populations of Sudan* means—

(1) Adversely affected groups in regions authorized to receive assistance under section 8(c) of the Darfur Peace and Accountability Act (Pub. L. 109–344) (50 U.S.C. 1701 note); and

(2) Marginalized areas in Northern Sudan described in section 4(9) of such Act.

*Person* means—

(1) A natural person, corporation, company, business association, partnership, society, trust, any other nongovernmental entity, organization, or group;

(2) Any governmental entity or instrumentality of a government, including a multilateral development institution (as defined in section 1701(c)(3) of the International Financial Institutions Act (22 U.S.C. 262r(c)(3)); and

(3) Any successor, subunit, parent company or subsidiary of any entity described in paragraphs (1) or (2) of this definition.

*Restricted business operations*—

(1) Means, except as provided in paragraph (2) of this definition, business operations in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment, as those terms are defined in the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110–174).

(2) Does not include business operations that the person conducting the business can demonstrate—

(i) Are conducted under contract directly and exclusively with the regional government of southern Sudan;

(ii) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;

(iii) Consist of providing goods or services to marginalized populations of Sudan;

(iv) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;

(v) Consist of providing goods or services that are used only to promote health or education; or

(vi) Have been voluntarily suspended.

##### 25.702–2 Certification.

As required by the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110–174), each offeror must certify that it does not conduct restricted business operations in Sudan.

**25.702-3 Remedies.**

Upon the determination of a false certification under subsection 25.702-2—

- (a) The contracting officer may terminate the contract;
- (b) The suspending official may suspend the contractor in accordance with the procedures in Subpart 9.4; and
- (c) The debarring official may debar the contractor for a period not to exceed 3 years in accordance with the procedures in Subpart 9.4.

**25.702-4 Waiver.**

(a) The President may waive the requirement of subsection 25.702-2 on a case-by-case basis if the President determines and certifies in writing to the appropriate congressional committees that it is in the national interest to do so.

(b) An agency seeking waiver of the requirement shall submit the request through the Administrator of the Office of Federal Procurement Policy.

■ 7. Amend section 25.1103 by adding paragraph (d) to read as follows:

**25.1103 Other provisions and clauses.**

\* \* \* \* \*

(d) The contracting officer shall include in each solicitation for the acquisition of products or services (other than commercial items procured under Part 12) the provision at 52.225-20, Prohibition on Conducting Restricted Business Operations in Sudan—Certification.

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

■ 8. Amend section 52.212-1 by revising the date of the provision; and by removing from paragraph (b)(8) “52.212-3(1)” and adding “52.212-3(b)” in its place. The revised text reads as follows:

**52.212-1 Instructions to Offerors—Commercial Items.**

\* \* \* \* \*

INSTRUCTIONS TO OFFERORS—  
COMMERCIAL ITEMS (JUN 2008)

\* \* \* \* \*

- 9. Amend section 52.212-3 by—
- a. Revising the date of the provision;
- b. Removing from the introductory text of the provision “paragraph (1)” and “paragraphs (b) through (k)” and adding “paragraph (b)” and “paragraphs (c) through (m)” in its place, respectively; and
- c. Adding in paragraph (a), in alphabetical order, the definition “Restricted business operations”;
- d. Revising paragraphs (b) and (l); and
- e. Adding paragraph (m) to read as follows:

**52.212-3 Offeror Representations and Certifications—Commercial Items.**

\* \* \* \* \*

OFFEROR REPRESENTATIONS AND  
CERTIFICATIONS—COMMERCIAL ITEMS  
(JUN 2008)

\* \* \* \* \*

(a) \* \* \*

*Restricted business operations* means business operations in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment, as those terms are defined in the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110-174). Restricted business operations do not include business operations that the person conducting the business can demonstrate—

- (1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;
- (2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;
- (3) Consist of providing goods or services to marginalized populations of Sudan;
- (4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;
- (5) Consist of providing goods or services that are used only to promote health or education; or
- (6) Have been voluntarily suspended.

\* \* \* \* \*

(b)(1) *Annual Representations and Certifications.* Any changes provided by the offeror in paragraph (b)(2) of this provision do not automatically change the representations and certifications posted on the Online Representations and Certifications Application (ORCA) website.

(2) The offeror has completed the annual representations and certifications electronically via the ORCA website at <http://orca.bpn.gov>. After reviewing the ORCA database information, the offeror verifies by submission of this offer that the representations and certifications currently posted electronically at FAR 52.212-3, Offeror Representations and Certifications—Commercial Items, have been entered or updated in the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201), except for paragraphs \_\_\_\_.

[Offeror to identify the applicable paragraphs at (c) through (m) of this provision that the offeror has completed for the purposes of this solicitation only, if any. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

Any changes provided by the offeror are applicable to this solicitation only, and do

not result in an update to the representations and certifications posted on ORCA.]

\* \* \* \* \*

(l) *Taxpayer Identification Number (TIN)* (26 U.S.C. 6109, 31 U.S.C. 7701). (Not applicable if the offeror is required to provide this information to a central contractor registration database to be eligible for award.)

(1) All offerors must submit the information required in paragraphs (l)(3) through (l)(5) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the Internal Revenue Service (IRS).

(2) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(3) *Taxpayer Identification Number (TIN).*

- ☐ TIN: \_\_\_\_\_.
- ☐ TIN has been applied for.
- ☐ TIN is not required because:
- ☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;
- ☐ Offeror is an agency or instrumentality of a foreign government;
- ☐ Offeror is an agency or instrumentality of the Federal Government.

(4) *Type of organization.*

- ☐ Sole proprietorship;
- ☐ Partnership;
- ☐ Corporate entity (not tax-exempt);
- ☐ Corporate entity (tax-exempt);
- ☐ Government entity (Federal, State, or local);
- ☐ Foreign government;
- ☐ International organization per 26 CFR 1.6049-4;
- ☐ Other \_\_\_\_\_.

(5) *Common parent.*

- ☐ Offeror is not owned or controlled by a common parent;
- ☐ Name and TIN of common parent:  
Name \_\_\_\_\_.
- TIN \_\_\_\_\_.

(m) *Restricted business operations in Sudan.* By submission of its offer, the offeror certifies that it does not conduct any restricted business operations in Sudan.

(End of provision)

■ 10. Amend section 52.212-5 by revising the date of the clause and paragraph (b)(31) to read as follows:

**52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.**

\* \* \* \* \*

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

\* \* \* \* \*

(b) \* \* \*

(31) 52.225–13, Restrictions on Certain Foreign Purchases (JUN 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

\* \* \* \* \*

- 11. Amend section 52.225–13 by—
- a. Revising the date of the clause; and
  - b. Removing from paragraph (b) “from North Korea” and adding “from Burma or North Korea” in its place;

#### 52.225–13 Restrictions on Certain Foreign Purchases.

\* \* \* \* \*

#### RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008)

\* \* \* \* \*

- 12. Add section 52.225–20 to read as follows:

#### 52.225–20 Prohibition on Conducting Restricted Business Operations in Sudan—Certification.

As prescribed at 25.1103(d), insert the following provision:

#### PROHIBITION ON CONDUCTING RESTRICTED BUSINESS OPERATIONS IN SUDAN—CERTIFICATION (JUN 2008)

(a) *Definitions.* As used in this provision—

*Business operations* means engaging in commerce in any form, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

*Marginalized populations of Sudan* means—

(1) Adversely affected groups in regions authorized to receive assistance under section 8(c) of the Darfur Peace and Accountability Act (Pub. L. 109–344) (50 U.S.C. 1701 note); and

(2) Marginalized areas in Northern Sudan described in section 4(9) of such Act.

*Person* means—

(1) A Natural person, corporation, company, business association, partnership,

society, trust, any other nongovernmental entity, organization, or group;

(2) Any governmental entity or instrumentality of a government, including a multilateral development institution (as defined in section 1701(c)(3) of the International Financial Institutions Act (22 U.S.C. 262r(c)(3)); and

(3) Any successor, subunit, parent company or subsidiary of any entity described in paragraphs (1) or (2) of this definition.

*Restricted business operations* means business operations in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment, as those terms are defined in the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110–174). Restricted business operations do not include business operations that the person conducting the business can demonstrate—

(1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;

(2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;

(3) Consist of providing goods or services to marginalized populations of Sudan;

(4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;

(5) Consist of providing goods or services that are used only to promote health or education; or

(6) Have been voluntarily suspended.

(b) *Certification.* By submission of its offer, the offeror certifies that it does not conduct any restricted business operations in Sudan.

(End of provision)

[FR Doc. E8–13154 Filed 6–11–08; 8:45 am]

BILLING CODE 6820–EP–S

#### RULE LISTED IN FAC 2005–26

Subject	FAR case	Analyst
Prohibition on Restricted Business Operations in Sudan and Imports from Burma (Interim) .....	2008–004	Murphy.

**SUPPLEMENTARY INFORMATION:** A summary of the FAR rule follows. For the actual revisions and/or amendments to this FAR case, refer to FAR Case 2008–004. FAC 2005–26 amends the FAR as specified below:

#### Prohibition on Restricted Business Operations in Sudan and Imports from Burma (FAR Case 2008–004) (Interim)

This interim rule amends FAR Subparts 4.12, 15.1, 25.7, 25.11, and Part 52 to implement Section 6 of the Sudan Accountability and Divestment Act of 2007, and Executive Orders 13310 and 13448. Section 6 requires certification that the contractor does not conduct certain business operations in

## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Chapter 1

[Docket FAR–2008–0003, Sequence 1]

#### Federal Acquisition Regulation; Federal Acquisition Circular 2005–26; 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 of 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 the rule appearing in Federal Acquisition Circular (FAC) 2005–26 which amends the FAR. Interested parties may obtain further information regarding this rule by referring to FAC 2005–26 which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

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

Sudan. This case also updates the list of countries from which most imports are prohibited, to reflect Burma as well as Sudan.

Dated: June 6, 2008.

**Al Matera,**

*Director, Office of Acquisition Policy.*

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