

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 22, 25, and 52**

[FAC 2005–42; FAR Case 2009–014; Item VII; Docket 2009–0027, Sequence 1]

RIN 9000–AL34

**Federal Acquisition Regulation; FAR
Case 2009–014, New Designated
Country—Taiwan**

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 adopted as final, without change, an interim rule amending the Federal Acquisition Regulation (FAR) to add Taiwan (known in the World Trade Organization as “the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei)”) as a designated country, due to the accession of Taiwan to membership in the World Trade Organization Agreement on Government Procurement.

DATES: *Effective Date:* June 16, 2010.

FOR FURTHER INFORMATION CONTACT: Ms. Lori Sakalos, Procurement Analyst, at (202) 208–0498, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755. Please cite FAC 2005–42, FAR Case 2009–014.

SUPPLEMENTARY INFORMATION:**A. Background**

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 74 FR 40461 on August 11, 2009. On July 15, 2009, Taiwan became a designated country based on its accession to the World Trade Organization Agreement on Government Procurement. The interim rule added Taiwan to the list of World Trade Organization Government Procurement Agreement countries in FAR sections 22.1503, 25.003, 52.222–19, 52.225–5, 52.225–11, and 52.225–23. No comments were received as a result of the interim rule.

This is a significant regulatory action and, therefore, was 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, although this rule opens up Government procurement to the goods and services of Taiwan, the Councils do not anticipate any significant economic impact on U.S. small businesses. The Department of Defense only applies the trade agreements to the non-defense items listed at DFARS 225.401–70, and acquisitions that are set aside for small businesses are exempt.

C. Paperwork Reduction Act

The Paperwork Reduction Act does apply; because the final rule affects the certification and information collection requirement in the provision at FAR 52.225–11 currently approved under OMB Control Number 9000–0141, Buy American Act—Construction. The impact, however, is negligible.

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

Government procurement.

Dated: June 2, 2010.

Edward Loeb,

Acting Director, Acquisition Policy Division.

Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule amending 48 CFR parts 22, 25, and 52, which was published in the **Federal Register** at 74 FR 40461 on August 11, 2009, is adopted as a final rule without change.

[FR Doc. 2010–14173 Filed 6–15–10; 8:45 am]

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

[FAC 2005–42; FAR Case 2009–013; Item VIII; Docket 2009–0026; Sequence 1]

RIN 9000–AL40

**Federal Acquisition Regulation; FAR
Case 2009–013, 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) are issuing a final rule amending the Federal Acquisition Regulation (FAR) to revise the list of articles determined to be domestically nonavailable.

DATES: *Effective Date:* July 16, 2010.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Cecelia L. Davis, Procurement Analyst, at (202) 219–0202. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755. Please cite FAC 2005–42, FAR Case 2009–013.

SUPPLEMENTARY INFORMATION:**A. Background**

The Buy American Act does not apply with respect to articles, materials, or supplies if articles, materials, or supplies of the class or kind to be acquired, either as end items or components, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

A domestic nonavailability determination has been made for the articles listed in FAR 25.104(a). As stated at FAR 25.103, this determination does not necessarily mean that there is no domestic source for the listed items, but that domestic sources can only meet 50 percent or less of total U.S. Government and nongovernment demand. Before acquisition of an article on the list, the procuring agency is responsible for conducting market research appropriate to the circumstances, including seeking domestic sources.

The Councils published a proposed rule in the **Federal Register** at 74 FR 39597 on August 7, 2009. The Councils received no public comments. Therefore, the Councils are adding “Yeast, active dry and instant active dry.”, and “Pineapple, canned.”, to the list of nonavailable articles at 25.104(a). The list is further corrected to read “Modacrylic fiber” in lieu of “Modacrylic fur ruff”, as explained in the proposed rule.

In addition, as required by FAR 25.104(b), the entire list of nonavailable articles was published for public comment. Because no public comments were received, there will be no further changes to the list at this time.

This is not a significant regulatory action and, therefore, was not subject to review under section 6 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 Councils have not identified any domestic small businesses that can fulfill the Government's requirements for the added items.

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. chapter 35, *et seq.*

List of Subjects in 48 CFR part 25

Government procurement.

Dated: June 2, 2010.

Edward Loeb,

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 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).

25.104 [Amended]

■ 2. Amend section 25.104 in paragraph (a) by removing the article “Modacrylic

fur ruff.” and adding “Modacrylic fiber.” in its place; and adding, in alphabetical order, the articles “Pineapple, canned.” and “Yeast, active dry and instant active dry.”.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 30 and 52

[FAC 2005-42; FAR Case 2009-025; Item IX; Docket 2010-0087, Sequence 1]

RIN 9000-AL58

Federal Acquisition Regulation; FAR Case 2009-025, Disclosure and Consistency of Cost Accounting Practices for Contracts Awarded to Foreign Concerns

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) are issuing an interim rule amending the Federal Acquisition Regulation (FAR) to align the FAR with the revised Cost Accounting Standards (CAS) Board clause, Disclosure and Consistency of Cost Accounting Practices-Foreign Concerns.

DATES: *Effective Date:* June 16, 2010.

Comment Date: Interested parties should submit written comments to the Regulatory Secretariat on or before August 16, 2010 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAC 2005-42, FAR Case 2009-025, by any of the following methods:

* Regulations.gov: <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by inputting “FAR Case 2009-025” under the heading “Enter Keyword or ID” and selecting “Search”. Select the link “Submit a Comment” that corresponds with “FAR Case 2009-025”. Follow the instructions provided at the “Submit a Comment” screen. Please include your name, company name (if any), and “FAR Case 2009-025” on your attached document.

* Fax: 202-501-4067.

* Mail: General Services

Administration, Regulatory Secretariat (MVCB), 1800 F Street, NW., Room 4041, ATTN: Hada Flowers, Washington, DC 20405.

Instructions: Please submit comments only and cite FAC 2005-42, FAR Case 2009-025, 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: Mr. Edward N. Chambers, Procurement Analyst, at (202) 501-3221 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501-4755. Please cite FAC 2005-42, FAR Case 2009-025.

SUPPLEMENTARY INFORMATION:

A. Background

On March 26, 2008, the CAS Board published a final rule in the **Federal Register** at 73 FR 15939 to utilize the clause, Disclosure and Consistency of Cost Accounting Practices-Foreign Concerns, in CAS-covered contracts and subcontracts awarded to foreign concerns.

In order to maintain consistency between CAS and FAR in matters relating to the administration of CAS, the Councils are amending the FAR as follows:

1. FAR 30.201-4(c)(1) and (2), the prescription for use of FAR clause 52.230-4 is revised to reflect the amendments promulgated by the CAS Board on March 26, 2008.

2. FAR 30.201-4(d) is revised to include use of FAR clause 52.230-6, Administration of Cost Accounting Standards, in all contracts containing FAR clause 52.230-4 which is necessary based upon changes promulgated by the CAS Board on March 26, 2008.

3. FAR clause 52.230-4 is replaced in its entirety and re-titled “Disclosure and Consistency of Cost Accounting Practices—Foreign Concerns” to reflect the amendments promulgated by the CAS Board on March 26, 2008.

4. FAR clause 52.230-6, Administration of Cost Accounting Standards, is revised to include reference to FAR clause 52.230-4 based on changes promulgated by the CAS Board on March 26, 2008.

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.