

Flexibility Act, 5 U.S.C. 601, *et seq.*, because it merely adds three countries to the definition of European country in section 25.401 and the same three countries are added to the definition of sanctioned member state of the EC. This is mostly a ministerial rule. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90-27, FAR Case 95-601), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 25 and 52

Government procurement.

Dated: May 24, 1995.

C. Allen Olson,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR parts 25 and 52 are amended as set forth below:

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

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 25—FOREIGN ACQUISITION

2. Section 25.401 is amended by revising the definition “EC country” to read as follows:

25.401 Definitions.

* * * * *

EC country, as used in this subpart, means Austria, Belgium, Denmark, Federal Republic of Germany, Finland, France, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom.

* * * * *

3. Section 25.1001 is amended by revising the definition “Sanctioned member state of the EC” to read as follows:

25.1001 Definitions.

* * * * *

Sanctioned member state of the EC means Austria, Belgium, Denmark, Finland, France, Ireland, Italy, Luxembourg, the Netherlands, Sweden, and the United Kingdom.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.225-15 [Amended]

4. Section 52.225-15 is amended by revising the date in the clause heading to read “(MAY 1995)”; and in the definition of “EC country” by adding in alphabetical order the countries “Austria”, “Finland”, and “Sweden”.

52.225-17 [Amended]

5. Section 52.225-17 is amended by revising the date in the clause heading to read “(MAY 1995)”; and in the definition of “European Community country” by adding in alphabetical order the countries “Austria”, “Finland”, and “Sweden”.

52.225-18 [Amended]

6. Section 52.225-18 is amended by revising the date in the clause heading to read “(MAY 1995)”; and in the definition of “Sanctioned member state of the EC” by adding in alphabetical order the countries “Austria”, “Finland”, and “Sweden”.

52.225-19 [Amended]

7. Section 52.225-19 is amended by revising the date in the clause heading to read “(MAY 1995)”; and in the definition of “Sanctioned member state of the European Community (EC)” by adding in alphabetical order the countries “Austria”, “Finland”, and “Sweden”.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 25 and 52

[FAC 90-27; FAR Case 94-5; Item V]

Federal Acquisition Regulation; Trade Sanctions—Germany

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 have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to reflect the termination of the trade sanctions on the Federal Republic of

Germany that had been imposed in May 1993. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

EFFECTIVE DATE: May 31, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O’Such at (202) 501-1759 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-27, FAR case 94-5.

SUPPLEMENTARY INFORMATION:

A. Background

A U.S. Trade Representative determination, published in the **Federal Register** at 59 FR 11360, March 10, 1994, terminated the sanctions that had been imposed on the Federal Republic of Germany, published at 58 FR 31136, May 28, 1993, on the basis of assurance from Germany that it would not apply the discriminatory provisions of the Utilities Directive of the European Union to procurement of U.S. goods by its telecommunications utilities.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98-577, and publication for public comments is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90-27, FAR case 94-5), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 25 and 52

Government procurement.

Dated: May 24, 1995.

C. Allen Olson,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR Parts 25 and 52 are amended as set forth below:

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

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 25—FOREIGN ACQUISITION

25.1001 [Amended]

2. Section 25.1001 is amended in the definition of "Sanctioned member state of the EC" by removing "Federal Republic of Germany,".

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.225-18 [Amended]

3. Section 52.225-18 is amended by removing "Federal Republic of Germany," from the definition "Sanctioned member state of the EC".

52.225-19 [Amended]

4. Section 52.225-19 is amended by removing "Federal Republic of Germany," from the definition "Sanctioned member state of the European Community (EC)".

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

[FAC 90-27; FAR Case 94-9; Item VI]

RIN 9000-AC14

Federal Acquisition Regulation; Interdivisional Transfers

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

ACTION: Interim rule with request for comment.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule amending the Federal Acquisition Regulation (FAR). The cost principle criteria for cost of interdivisional transfers are amended to permit interdivisional transfers at price rather than cost under criteria that more closely approximate those applied to subcontracts eligible for exemption or waiver of cost or pricing data.

This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

DATES: *Effective Date:* May 31, 1995.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before July 31, 1995 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW, Room 4035, Attn: Ms. Beverly Fayson, Washington, DC 20405.

Please cite FAC 90-27, FAR case 94-9 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501-3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-27, FAR case 94-9.

SUPPLEMENTARY INFORMATION:

A. Background

This interim FAR rule revises FAR 31.205-26, Material Costs, to make it clear that interdivisional transfers made at price should be treated in the same manner as subcontracts for purposes of applying the requirements of FAR 15.804-3.

B. Regulatory Flexibility Act

This 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 most contracts awarded to small entities are awarded on a competitive, fixed-price basis and the cost principles do not apply. The cost principles only apply to contracts for which cost or pricing data has been submitted. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610 of the Act. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAC 90-27, FAR case 94-9), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collection of information from offerors, contractors, or members of the public which require the approval of OMB 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 compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary to provide an immediate benefit to Government and Industry. The rule will permit interdivisional transfers at price rather than cost for commercial items, under criteria identical to those used in applying the exception provisions of the Truth in Negotiations Act to subcontracts. However, pursuant to Public Law 98-577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Part 31

Government procurement.

C. Allen Olson,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR part 31 is amended as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 31.205-26 is amended by revising paragraph (e) to read as follows:

31.205-26 Material costs.

* * * * *

(e) Allowance for all materials, supplies, and services that are sold or transferred between any divisions, subsidiaries, or affiliates of the contractor under a common control shall be on the basis of cost incurred in accordance with this subpart. However, allowance may be at a price when it is the established practice of the transferring organization to price interorganizational transfers at other than cost for commercial work of the contractor or any division, subsidiary, or affiliate of the contractor under a common control, and when—

(1)(i) The price is based on an "established catalog or market price of commercial items sold in substantial quantities to the general public" in accordance with 15.804-3;

(ii) The price is based on "adequate price competition" in accordance with 15.804-3; or

(iii) A waiver is granted in accordance with 15.804-3(i); and