obligation under the contract to the predecessor's employees to fill vacancies created by increased staffing levels or by employee termination, either voluntarily or for cause, continues for 3 months after commencement of the contract. Except as provided in paragraph (c) of this clause, the Contractor shall not offer employment under the contract to any person prior to having complied fully with this obligation.

(c) Notwithstanding the Contractor's obligation under paragraph (b) of this clause, the Contractor (1) may employ on the contract any employee who has worked for the Contractor for at least 3 months immediately preceding the commencement of this contract and who would otherwise face layoff or discharge, (2) is not required to offer a right of first refusal to any employee(s) of the predecessor contractor who are not service employees, and (3) is not required to offer a right of first refusal to any employee(s) of the predecessor contractor who the Contractor reasonably believes, based on the particular employee's past performance, has failed to perform suitably on the job. Examples of permissible sources for this determination include evidence of disciplinary action based on poor performance or evidence from the contracting agency that the particular employee did not perform suitably. Offers of employment are governed by the following:

(i) The offer shall state the time within which the employee must accept such offer, but in no case shall the period for acceptance be less than 10 days.

(ii) The offer may be made by separate written notice to each employee, or orally at a meeting attended by a group of the predecessor contractor's employees.

(iii) An offer need not be to a position similar to that which the employee previously held, but the employee must be qualified for the position.

(iv) An offer to a position providing lower pay or benefits than the employee held with the predecessor contractor will be considered *bona fide* if the Contractor shows valid business reasons.

(v) To ensure that an offer is effectively communicated, the Contractor should take reasonable efforts to make the offer in a language that each worker understands; for example, by having a co-worker or other person fluent in the worker's language at the meeting to translate or otherwise assist an employee who is not fluent in English.

(d) For a period of 1 year, the Contractor shall maintain copies of any written offers of employment or a contemporaneous written record of any oral offers of employment, including the date, location, and attendance roster of any employee meeting(s) at which the offers were extended, a summary of each meeting, a copy of any written notice that may have been distributed, and the names of the predecessor's employees to whom an offer was made. Copies of such documentation shall be provided upon request to any authorized representative of the contracting agency or the Department of Labor.

(e) The Contractor shall, no less than 60 days before completion of this contract, furnish the Contracting Officer with a certified list of the names of all service employees engaged in the performance of building services, working for the Contractor at the Federal facility at the time the list is submitted. The list also shall contain anniversary dates of employment on the contract either with the current or predecessor contractors of each service employee, as appropriate. The Contracting Officer will provide the list to the successor contractor, and the list shall be provided upon request to employees or their representatives. Submission of this list will satisfy the requirements of paragraph (n) of the clause at 52.222–41, Service Contract Act of 1965, as Amended.

(f) The requirements of this clause do not apply to services where a majority of the Contractor's employees performing the particular services under the contract work at the public building and at other locations under contracts not subject to Executive Order 12933, *provided* that the employees are not deployed in a manner that is designed to avoid the purposes of the Executive Order.

(g) If it is determined, pursuant to regulations issued by the Secretary of Labor, that the Contractor is not in compliance with the requirements of this clause or any regulation or order of the Secretary, appropriate sanctions may be imposed and remedies invoked against the Contractor, as provided in Executive Order 12933, the regulations of the Secretary of Labor at 29 CFR part 9, and relevant orders of the Secretary of Labor, or as otherwise provided by law.

(h) The Contractor is advised that the Contracting Officer shall withhold or cause to be withheld from the Contractor, under this or any other Government contract with the Contractor, such sums as an authorized official of the Department of Labor requests, upon a determination by the Administrator of the Wage and Hour Division, the Administrative Law Judge, or the Administrative Review Board, that the Contractor failed to comply with the terms of this clause, and that wages lost as a result of the violations are due to employees or that other monetary relief is appropriate.

(i) The Contractor shall cooperate in any investigation by the contracting agency or the Department of Labor into possible violations of the provisions of this clause and shall make records requested by such official(s) available for inspection, copying, or transcription upon request.

(j) Disputes concerning the requirements of this clause shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with applicable law and the procedures of the Department of Labor set forth in 29 CFR part 9. Disputes concerning the requirements of this clause include disputes between or among any of the following: The Contractor, the contracting agency, the U.S. Department of Labor, and the employees under the contract or its predecessor contract.

(End of clause)

[FR Doc. 97–21497 Filed 8–21–97; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 25

[FAC 97–01; FAR Case 97–019; Item XIII]

RIN 9000–AH68

Federal Acquisition Regulation; Designation of Hong Kong

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 amending the Federal Acquisition Regulation (FAR) to add Hong Kong as a designated country under the Trade Agreements Act of 1979, as directed by the United States Trade Representative. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

DATE: *Effective* August 22, 1997.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Paul Linfield, Procurement Analyst, at (202) 501–1757. Please cite FAC 97–01, FAR case 97–019.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR 25.401 to add Hong Kong as a designated country under the Trade Agreements Act of 1979, as directed by the United States Trade Representative. The accession of Hong Kong to the World Trade Organization Agreement on Government Procurement became effective on June 19, 1997.

B. Regulatory Flexibility Act

This 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 comment is not required. Therefore, the Regulatory Flexibility Act does not apply. However, 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 97–01, FAR case 97–019), 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 Part 25

Government procurement.

Dated: August 7, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 25 is amended 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. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

25.401 [Amended]

2. Section 25.401 is amended in the definition of ''Designated country'' by adding, in alphabetical order, ''Hong Kong''.

[FR Doc. 97–21498 Filed 8–21–97; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

[FAC 97–01; FAR Case 96–012; Item XIV]

RIN 9000–AH43

Federal Acquisition Regulation; Foreign Differential Pay

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

ACTION: Interim rule adopted as final.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to convert the interim rule published as Item VI of Federal Acquisition Circular 90–44 on December 31, 1996, to a final rule without change. The rule amends the Federal Acquisition Regulation (FAR) to remove the prohibition on the calculation of foreign differential pay based directly on an employee's specific increase in income taxes resulting from assignment overseas. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

DATE: *Effective* October 21, 1997.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Jeremy Olson, Procurement Analyst, at (202) 501–3221. Please cite FAC 97–01, FAR case 96–012.

SUPPLEMENTARY INFORMATION:

A. Background

An interim rule was published on December 31, 1996 (61 FR 69294). The interim rule revised the cost principle at FAR 31.205–6, Compensation for personal services, to permit contractors to calculate any increased compensation for foreign overseas differential pay on the basis of an employee's specific increase in taxes resulting from foreign assignment. The interim rule is converted to a final rule with no change.

Public comments were received from one source. The comments were considered in developing the final rule.

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 most contracts awarded to small entities use simplified acquisition procedures or are awarded on a competitive fixed-price basis and do not require application of the cost principle contained in this rule.

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 Part 31

Government procurement.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR Part 31 which was published at 61 FR 69294, December 31, 1996, is adopted as a final rule without change.

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

Dated: August 7, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 97–21499 Filed 8–21–97; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

[FAC 97–01; FAR Case 96–003; Item XV]

RIN 9000–AH35

Federal Acquisition Regulation; Local Government Lobbying Costs

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

ACTION: Interim rule adopted as final.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to convert the interim rule published as Item XI of Federal Acquisition Circular 90–43 on December 20, 1996, to a final rule without change. The rule amends the Federal Acquisition Regulation (FAR) to make allowable the costs of any lobbying activities to influence local legislation in order to directly reduce contract cost, or to avoid material impairment of the contractor's authority to perform the contract. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

DATES: Effective October 21, 1997.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Ms.