

Buy American Act—Construction Materials
Under Trade Agreements (Date)

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(b) * * *

(4) * * *

(i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the restrictions of the Buy American Act is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;

* * * * *

(End of clause)

Alternate I (Date) * * *

(b) *Construction materials.* (1) This clause implements the Buy American Act (41 U.S.C. 10a–10d) by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the Trade Agreements Act applies to this acquisition. Therefore, the Buy American Act restrictions are waived for designated country construction materials.

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29. Amend section 52.225–12 by—

a. Revising the section and provision headings;

b. Removing “Balance of Payments Program—” from paragraph (a) of the provision;

c. Removing “or Balance of Payments Program” from the first and third sentences of paragraph (b) of the provision;

d. Removing “or Balance of Payments Program” from paragraph (c)(1) of the provision;

e. Removing “(Feb 2000)” from Alternate I and adding “(Date)” in its place, and by removing “or Balance of Payments Program” from paragraph (b) of the Alternate; and

f. Removing “(June 2000)” from Alternate II and adding “(Date)” in its place, and by removing “Balance of Payments Program—” from paragraph (a) of the Alternate. The revised text reads as follows:

52.225–12 Notice of Buy American Act Requirement—Construction Materials under Trade Agreements.

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Notice of Buy American Act Requirement—
Construction Materials Under Trade
Agreements (Date)

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(End of provision)

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DEPARTMENT OF DEFENSE

**GENERAL SERVICES
ADMINISTRATION**

**NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION**

48 CFR Parts 2, 31, and 35

[FAR Case 2000–401]

RIN 9000–AI91

**Federal Acquisition Regulation;
Definitions of “Applied Research” and
“Development”**

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

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to move the definitions of “Applied Research” and “Development” from separate areas of the FAR into the same FAR section pertaining to definitions.

DATES: Interested parties should submit comments in writing on or before November 13, 2000 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVRs), 1800 F Street, NW, Room 4035, ATTN: Laurie Duarte, Washington, DC 20405. Submit electronic comments via the Internet to: farcase.2000–401@gsa.gov

Please submit comments only and cite FAR case 2000–401 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Ralph De Stefano, Procurement Analyst, at (202) 501–1757. Please cite FAR case 2000–401.

SUPPLEMENTARY INFORMATION:

A. Background

This rule amends FAR Subpart 2.1 to consolidate the definitions of “Applied Research” and “Development” found in 31.205–18 and 35.001 into the definitions section at FAR 2.101 and makes editorial changes for clarity. The Councils’ amendments are intended to reorganize, simplify, and clarify FAR language. The Councils do not intend any substantive changes to the FAR by these amendments.

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 is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule 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, while we have made changes in accordance with plain language guidelines, we have not substantively changed procedures for award and administration of contracts. Therefore, we have not prepared an Initial Regulatory Flexibility Analysis. We invite comments from small businesses and other interested parties. We will consider comments from small entities concerning the affected FAR parts 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.* (FAR case 2000–401), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed 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.*

List of Subjects in 48 CFR Parts 2, 31, and 35

Government procurement.

Dated: September 5, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose that 48 CFR parts 2, 31, and 35 be amended as set forth below:

1. The authority citation for 48 CFR parts 2, 31, and 35 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 2—DEFINITIONS OF WORDS
AND TERMS**

2. Amend section 2.101 by adding the definitions “Applied research” and “Development” to read as follows:

2.101 Definitions.

* * * * *

Applied research—(1) Means effort that—

(i) Normally follows basic research, but may not be severable from the related basic research;

(ii) Attempts to determine and exploit the potential of scientific discoveries or

improvements in technology, materials, processes, methods, devices, or techniques; and

(iii) Attempts to advance the state of the art.

(2) Does not include efforts whose principle aim is design, development, or test of specific items or services to be considered for sale.

* * * * *

Development—(1) Means the systematic use, under whatever name, of scientific and technical knowledge in the design, development, test, or evaluation of a potential new product or service (or of an improvement in an existing product or service) for the purpose of meeting specific performance requirements or objectives.

(2) Includes the functions of design engineering, prototyping, and engineering testing, but does not include—

(i) Subcontracted technical effort that is for the sole purpose of developing an additional source for an existing product; or

(ii) Development effort for manufacturing or production materials, systems, processes, methods, equipment, tools, and techniques not intended for sale.

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PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

3. Amend section 31.205–18 by revising paragraph (a), removing the definitions “Applied research” and “Development” and removing “as used in this subsection” from the definitions of “Basic research”, “Bid and proposal (B&P) costs”, “Company”, “Independent research and development (IR&D)”, and “Systems and other concept formulation studies”. The revised text reads as follows:

31.205–18 Independent research and development and bid and proposal costs.

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

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4. Revise paragraph (b)(1) of section 31.205–25 to read as follows:

31.205–25 Manufacturing and production engineering costs.

* * * * *

(b) * * *

(1) Basic research and applied research efforts related to new technology, materials, systems, processes, methods, equipment, tools and techniques. Such technical effort is governed by 31.205–18, Independent research and development and bid and proposal costs; and

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PART 35—RESEARCH AND DEVELOPMENT CONTRACTING

35.001 [Amended]

5. Amend section 35.001 by removing the definitions “Applied research” and “Development”.

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