

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

[FAR Case 2001–015]

RIN: 9000–AJ35

**Federal Acquisition Regulation;
Prohibited Sources**

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 implement Executive Order 13192, Lifting and Modifying Measures With Respect to the Federal Republic of Yugoslavia (Serbia and Montenegro), and other regulations of the Department of the Treasury that enforce economic sanctions imposed by the President.

DATES: Interested parties should submit comments in writing on or before May 20, 2002 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to: farcase.2001-015@gsa.gov. Please submit comments only and cite FAR case 2001–015 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 Ms. Cecelia Davis, Procurement Analyst, at (202) 219–0202. Please cite FAR case 2001–015.

SUPPLEMENTARY INFORMATION:**A. Background**

This rule amends FAR Subpart 25.7 and the clause at 52.225–13, Restrictions on Certain Foreign Purchases, to implement Executive Order 13192, Lifting and Modifying Measures With Respect to the Federal Republic of Yugoslavia (Serbia and Montenegro), and other regulations of the Department of the Treasury that

enforce economic sanctions imposed by the President.

This proposed rule removes Serbia from the list of prohibited sources at FAR 25.701; slightly modifies the restrictions relating to acquisition of supplies or services from Cuba, Iran, Iraq, Libya, North Korea, Sudan, and the territory of Afghanistan controlled by the Taliban; and requires authorization by the Department of the Treasury for any exceptions to these prohibitions, even when purchased overseas for use overseas. In addition, the rule expands the prohibition against acquisition from entities controlled by the Government of Iraq or other specially designated nationals to include all blocked persons, and provides the Department of Treasury website for access to the list of Specially Designated Nationals and Blocked Persons.

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.

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 the proposed amendments will only affect acquisitions from prohibited sources. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Parts 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.* (FAR case 2001–015), 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 25 and 52

Government procurement.

Dated: March 13, 2002.

Al Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 25 and 52 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. Revise section 25.701 to read as follows:

25.701 Restrictions.

(a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, agencies and their contractors and subcontractors must not acquire any supplies or services, if any Executive order administered by OFAC, or the Foreign Assets Control regulations set forth at 31 CFR chapter V would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) Most transactions involving Cuba, Iran, Iraq, Libya, Sudan and the Taliban-controlled regions of Afghanistan are prohibited, as are most imports into the United States from North Korea. In addition, lists of proscribed entities and individuals are included in OFAC's list of Specially Designated Nationals and Blocked Persons. More information about these restrictions is available in the Foreign Assets Control regulations at 31 CFR chapter V and on OFAC's website at <http://www.treas.gov/ofac>.

25.702 [Amended]

3. Amend section 25.702 by removing “622–2520” and adding “622–2490” in its place.

25.1103 [Amended]

4. Amend section 25.1103 in paragraph (a) by removing “with a value exceeding \$2,500”.

**PART 52—SOLICITATION PROVISIONS
AND CONTRACT CLAUSES****52.212–5 [Amended]**

5. Amend section 52.212–5 by redesignating paragraph (b)(20) as (b)(21) and redesignating paragraph (b)(21) as (b)(20), and in newly designated paragraph (b)(21) by removing “13121.”

52.213–4 [Amended]

6. Amend section 52.213–4 in paragraph (a)(1)(ii) by removing “13121.”

7. Amend section 52.225–13 by revising the date of the clause and paragraphs (a) and (b) to read as follows:

52.225-13 Restrictions on Certain Foreign Purchases.

* * * * *

Restrictions on Certain Foreign Purchases (Date)

(a) Except as authorized by the Office of Foreign Assets Control in the Department of the Treasury, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services, if any

Executive order administered by the Office of Foreign Assets Control, or the Foreign Assets Control regulations set forth at 31 CFR chapter V would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) Most transactions involving Cuba, Iran, Iraq, Libya, Sudan and the Taliban-controlled regions of Afghanistan are prohibited, as are most imports into the United States from North Korea. Lists of proscribed entities and

individuals are included in OFAC's list of Specially Designated Nationals and Blocked Persons. More information about these restrictions is available in the Foreign Assets Control regulations at 31 CFR chapter V and on OFAC's website at <http://www.treas.gov/ofac>.

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[FR Doc. 02-6515 Filed 3-19-02; 8:45 am]

BILLING CODE 6820-EP-P