

material would be inconsistent with the public interest or the application of the Buy American Act to a particular unmanufactured construction material would be impracticable or inconsistent with the public interest.

(c) * * *

(3) Unless the Government determines that an exception to section 1605 of the Recovery Act or the Buy American Act applies, use of foreign construction material other than manufactured construction material from a Recovery Act designated country or unmanufactured construction material from a designated country is noncompliant with the applicable Act.

* * * * *

Alternate I (Oct 2010). * * *

(b) *Construction materials.* (1) The restrictions of section 1605 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) (Recovery Act) do not apply to Recovery Act designated country manufactured construction material. The restrictions of the Buy American Act do not apply to designated country unmanufactured construction material. Consistent with U.S. obligations under international agreements, this clause implements—

(i) Section 1605 of the Recovery Act, by requiring, unless an exception applies, that all manufactured construction material in the project is manufactured in the United States and, if the construction material consists wholly or predominantly of iron or steel, the iron or steel was produced in the United States (produced in the United States means that all manufacturing processes of the iron or steel must take place in the United States, except metallurgical processes involving refinement of steel additives); and

(ii) The Buy American Act by providing a preference for unmanufactured construction material mined or produced in the United States over unmanufactured construction material mined or produced in a nondesignated country.

(2) The Contractor shall use only domestic construction material, Recovery Act designated country manufactured construction material, or designated country unmanufactured construction material, other than Bahrainian, Mexican, or Omani construction material, in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.

■ 17. Amend section 52.225-24 by—

■ a. Revising the section heading;

■ b. Revising the heading and the date of the provision;

■ c. Removing from paragraph (a) the word “Other”; and

■ d. Revising paragraph (c).

The revised text reads as follows:

52.225-24 Notice of Required Use of American Iron, Steel, and Manufactured Goods—Buy American Act—Construction Materials Under Trade Agreements.

* * * * *

Notice of Required Use of American Iron, Steel, and Manufactured Goods—Buy American Act—Construction Materials Under Trade Agreements (Oct 2010)

* * * * *

(c) *Evaluation of offers.* (1) If the Government determines that an exception based on unreasonable cost of domestic construction material applies in accordance with FAR 25.604, the Government will evaluate an offer requesting exception to the requirements of section 1605 of the Recovery Act or the Buy American Act by adding to the offered price of the contract—

(i) 25 percent of the offered price of the contract, if foreign manufactured construction material is included in the offer based on an exception for the unreasonable cost of comparable manufactured domestic construction material; and

(ii) 6 percent of the cost of foreign unmanufactured construction material included in the offer based on an exception for the unreasonable cost of comparable domestic unmanufactured construction material.

(2) If the solicitation specifies award on the basis of factors in addition to cost or price, the Contracting Officer will apply the evaluation factors as specified in paragraph (c)(1) of this provision and use the evaluated cost or price in determining the offer that represents the best value to the Government.

(3) Unless paragraph (c)(2) of this provision applies, if two or more offers are equal in price, the Contracting Officer will give preference to an offer that does not include foreign construction material excepted at the request of the offeror on the basis of unreasonable cost.

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[FR Doc. 2010-21027 Filed 8-27-10; 8:45 am]

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LIST OF RULES IN FAC 2005-45

Item	Subject	FAR case	Analyst
I	Inflation Adjustment of Acquisition-Related Thresholds	2008-024	Jackson.
II	Definition of Cost or Pricing Data	2005-036	Chambers.
III	American Recovery and Reinvestment Act of 2009 (the Recovery Act)—Buy American Requirements for Construction Materials.	2009-008	Davis.

SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR cases, refer to the specific item number and

subject set forth in the documents following these item summaries.

FAC 2005-45 amends the FAR as specified below:

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket FAR 2010-0077, Sequence 7]

Federal Acquisition Regulation; Federal Acquisition Circular 2005-45; Small Entity Compliance Guide

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

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator of the National Aeronautics and Space Administration. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 2005-45 which amend the FAR. Interested parties may obtain further information regarding these rules by referring to FAC 2005-45, which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

DATES: For effective dates see separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below. Please cite FAC 2005-45 and the specific FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501-4755.

Item I—Inflation Adjustment of Acquisition-Related Thresholds (FAR Case 2008-024)

This final rule amends the FAR to implement section 807 of the Ronald W.

Reagan National Defense Authorization Act for Fiscal Year 2005. Section 807 requires an adjustment every 5 years of acquisition-related thresholds for inflation using the Consumer Price Index for all urban consumers, except for Davis-Bacon Act, Service Contract Act, and trade agreements thresholds. The Councils have also used the same methodology to adjust nonstatutory FAR acquisition-related thresholds in 2010.

This is the second review of FAR acquisition-related thresholds. The Councils published a proposed rule in the **Federal Register** at 75 FR 5716, February 4, 2010.

The effect of the final rule on heavily-used thresholds is the same as stated in the preamble to the proposed rule:

- The micro-purchase base threshold of \$3,000 (FAR 2.101) is not changed.
- The simplified acquisition threshold (FAR 2.101) is raised from \$100,000 to \$150,000.
- The FedBizOpps preaward and post-award notices (FAR part 5) remain at \$25,000 because of trade agreements.
- Commercial items test program ceiling (FAR 13.500) is raised from \$5,500,000 to \$6,500,000.
- The cost or pricing data threshold (FAR 15.403-4) is raised from \$650,000 to \$700,000.
- The prime contractor subcontracting plan (FAR 19.702) floor is raised from \$550,000 to \$650,000, and

the construction threshold of \$1,000,000 increases to \$1,500,000.

Item II—Definition of Cost or Pricing Data (FAR Case 2005-036)

This final rule amends the FAR by redefining “cost or pricing data,” adding a definition of “certified cost or pricing data,” and changing the term “information other than cost or pricing data,” to “data other than certified cost or pricing data.” The rule clarifies the existing authority for contracting officers to require certified cost or pricing data or data other than certified cost or pricing data, and the existing requirements for submission of the various types of pricing data. The rule is required to eliminate confusion and misunderstanding, especially regarding the authority of the contracting officer to request data other than certified cost or pricing data when there is no other means to determine that proposed prices are fair and reasonable. Most significantly, the rule clarifies that data other than certified cost or pricing data may include the identical types of data as certified cost or pricing data but without the certification. Because the rule clarifies existing requirements, it will have only minimal impact on the Government, offerors, and automated systems.

Item III—American Recovery and Reinvestment Act of 2009 (the Recovery Act)—Buy American Requirements for Construction Materials (FAR Case 2009-008)

This final rule converts the interim rule published in the **Federal Register** at 74 FR 14623, March 31, 2009, to a final rule with changes. This final rule implements section 1605 of Division A of the American Recovery and Reinvestment Act (Recovery Act) of 2009. It prohibits the use of funds appropriated for or otherwise made available by the Recovery Act for any project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. Section 1605 mandates application of the Recovery Act Buy American requirement in a manner consistent with U.S. obligations under international agreements. Least developed countries continue to be treated as designated countries per congressional direction. Section 1605 also provides for waivers under certain limited circumstances.

Dated: August 18, 2010.

Edward Loeb,

Director, Acquisition Policy Division.

[FR Doc. 2010-21044 Filed 8-27-10; 8:45 am]

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