

other firms that conduct prohibited business operations in Sudan; and

(viii) Any humanitarian efforts engaged in by the offeror, the human rights impact of doing business with the offeror for which the waiver is requested, and the extent of the offeror's business operations in Sudan.

(d) The consultation in 25.702-4(b) and the information in 25.702-4(c)(3) will be considered in determining whether to recommend that the President waive the requirement of subsection 25.702-2. In accordance with section 6(c) of the Sudan Accountability and Divestment Act of 2007, OFPP will semiannually submit a report to Congress, on April 15th and October 15th, on the waivers granted.

[FR Doc. 2011-27788 Filed 11-1-11; 8:45 am]

BILLING CODE 6820-EP-P

## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 25 and 52

[FAC 2005-54; FAR Case 2011-014; Item VIII; Docket 2011-0014, Sequence 1]

RIN 9000-AM11

#### Federal Acquisition Regulation; Successor Entities to the Netherlands Antilles

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

**ACTION:** Final rule.

**SUMMARY:** DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to revise the definitions of "Caribbean Basin country" and "designated country" due to the change in status of the islands that comprised the Netherlands Antilles.

**DATES:** *Effective Date:* November 2, 2011.

**FOR FURTHER INFORMATION CONTACT:** Ms. Cecelia L. Davis, Procurement Analyst, at (202) 219-0202, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501-4755. Please cite FAC 2005-54, FAR Case 2011-014.

#### SUPPLEMENTARY INFORMATION:

### I. Background

The Netherlands Antilles was designated as a beneficiary country under the Caribbean Basin Initiative (see 19 U.S.C. 2702). According to the initiative, successor political entities remain eligible as beneficiary countries. On October 10, 2010, Curacao and Sint Maarten became autonomous territories of the Kingdom of the Netherlands. Bonaire, Saba, and Sint Eustatius now fall under the direct administration of the Netherlands. Additional information about this change is available at <http://www.state.gov/r/pa/ei/bgn/22528.htm>.

With this change, the definitions have been revised to replace "Netherlands Antilles" with the five separate successor entities—Bonaire, Curacao, Saba, Sint Eustatius, and Sint Maarten.

This final rule amends definitions of "Caribbean Basin country" and "designated country" at FAR 25.003, and FAR clauses 52.225-5, Trade Agreements; 52.225-11, Buy American Act—Construction Materials under Trade Agreements; and 52.225-23, Required Use of American Iron, Steel, and Manufactured Goods—Buy American Act—Construction Materials Under Trade Agreements.

### II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

### III. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant FAR revision within the meaning of FAR 1.501-1 and 41 U.S.C. 1707 and does not require publication for public comment.

### IV. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does apply; however, these changes to the FAR do not impose additional information collection

requirements to the paperwork burden previously approved under OMB Control Number 9000-0141 titled: Buy American Act—Construction.

### List of Subjects in 48 CFR Parts 25 and 52

Government procurement.

Dated: October 21, 2011.

**Laura Auletta,**

*Acting Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.*

Therefore, DoD, GSA, and NASA amend 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. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

### PART 25—FOREIGN ACQUISITION

■ 2. Amend section 25.003 by revising the definition "Caribbean Basin country" and paragraph (4) in the definition "Designated country" to read as follows:

#### 25.003 Definitions.

\* \* \* \* \*

*Caribbean Basin country* means any of the following countries: Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago.

\* \* \* \* \*

*Designated country* \* \* \*

(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).

\* \* \* \* \*

### PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Amend section 52.212-5 by revising the date of the clause and paragraph (b)(39) to read as follows:

**52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.**

\* \* \* \* \*

**Contract Terms and Conditions  
Required to Implement Statutes or  
Executive Orders—Commercial Items  
(NOV 2011)**

\* \* \* \* \*

(b) \* \* \*

(39) 52.225–5, Trade Agreements (NOV 2011) (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).

■ 4. Amend section 52.225–5 by revising the date of the clause; and in paragraph (a), by revising paragraph (4) in the definition “Designated country” to read as follows:

**52.225–5 Trade Agreements.**

\* \* \* \* \*

**Trade Agreements (NOV 2011)**

(a) *Definitions.* \* \* \*

\* \* \* \* \*

*Designated country* \* \* \*

(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).

\* \* \* \* \*

■ 5. Amend section 52.225–11 by revising the date of the clause; and in paragraph (a), by revising paragraph (4) in the definition “Designated country” to read as follows:

**52.225–11 Buy American Act—  
Construction Materials under Trade  
Agreements.**

\* \* \* \* \*

**Buy American Act—Construction  
Materials Under Trade Agreements  
(NOV 2011)**

(a) *Definitions.* \* \* \*

\* \* \* \* \*

*Designated country* \* \* \*

(4) A Caribbean Basin country ((Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).

\* \* \* \* \*

■ 6. Amend section 52.225–23 by revising the date of the clause, and paragraph (4) in the definition “Designated country” to read as follows:

**52.225–23 Required Use of American Iron,  
Steel, and Manufactured Goods—Buy  
American Act—Construction Materials  
Under Trade Agreements.**

\* \* \* \* \*

**Required Use of American Iron, Steel,  
and Manufactured Goods—Buy  
American Act—Construction Materials  
Under Trade Agreements (NOV 2011)**

\* \* \* \* \*

*Designated country* \* \* \*

(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).

\* \* \* \* \*

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**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES  
ADMINISTRATION**

**NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION**

**48 CFR Part 31**

[FAC 2005–54; FAR Case 2009–006; Item  
IX; Docket 2010–0084, Sequence 1]

RIN 9000–AL39

**Federal Acquisition Regulation; Labor  
Relations Costs**

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

**ACTION:** Final rule.

**SUMMARY:** DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement the Executive Order (E.O.) on Economy in Government Contracting, issued on January 30, 2009, and amended on October 30, 2009. This E.O. treats as unallowable the costs of any activities undertaken to persuade employees, whether employees of the recipient of Federal disbursements or of any other entity, to exercise or not to exercise, or concerning the manner of exercising, the right to organize and bargain collectively through representatives of the employee’s own choosing.

**DATES:** *Effective Date:* December 2, 2011.

**FOR FURTHER INFORMATION CONTACT:** Mr. Edward N. Chambers, Procurement Analyst, at (202) 501–3221, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755. Please cite FAC 2005–54, FAR Case 2009–006.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 75 FR 19345 on April 14, 2010, to implement E.O. 13494, Economy in Government Contracting, dated January 30, 2009, published in the **Federal Register** at 74 FR 6101 on February 4, 2009, as amended on October 30, 2009 (published in the **Federal Register** at 74 FR 57239 on November 5, 2009). This E.O. promotes economy and efficiency in Government contracting by providing that certain costs that are not directly related to the contractor’s provision of goods and services to the Government shall be unallowable for payment, thereby directly reducing Government expenditures and reinforcing the fiscally responsible handling of taxpayer funds. Specifically, this E.O. states that the costs of the activities of preparing and distributing materials, hiring or consulting legal counsel or consultants, holding meetings (including paying the salaries of the attendees at meetings held for this purpose), and planning or conducting activities by managers, supervisors, or union representatives during work hours, when they are undertaken to persuade employees to exercise or not to exercise, or concern the manner of exercising, rights to organize and bargain collectively are unallowable costs.

In order to implement E.O. 13494, DoD, GSA, and NASA have amended FAR 31.205–21, the cost principle addressing labor relations costs. Currently, this cost principle states that costs incurred in maintaining satisfactory relations between the contractor and its employees, including costs of shop stewards, labor management committees, employee publications, and other related activities, are allowable. To implement the requirements of the E.O., DoD, GSA, and NASA issued a proposed rule that would amend this cost principle by adding a new paragraph addressing the handling of persuader activities—that is, activity involving the persuading of employees to exercise or not exercise their rights to organize and bargain collectively. By doing so, the proposed rule differentiated the handling of costs incurred through persuader activities, which are unallowable, from those incurred in maintaining satisfactory labor relations, which remain allowable. Specifically, the proposed rule stated that the costs of any activities undertaken to persuade employees, of any entity, to exercise or not to exercise, or concerning the manner of exercising, the right to organize and bargain collectively through representatives of