

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 25 and 52****[FAC 90-36; FAR Case 95-304]****RIN 9000-AG80****Federal Acquisition Regulation;
Uruguay Round**

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

ACTION: Interim rule with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on an interim rule to amend the Federal Acquisition Regulation (FAR) to implement the renegotiated General Agreement on Tariffs and Trade (GATT) Government Procurement Agreement (1996 Code) (Uruguay Round) which becomes effective January 1, 1996. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

DATES: *Effective:* January 1, 1996. *Applicability:* This regulation applies to solicitations issued on or after January 1, 1996. *Comments Due:* Comments on the interim rule should be submitted to the FAR Secretariat at the address shown below on or before February 27, 1996 to be considered in the formulation of a final rule.

ADDRESSES: FAR Secretariat, Room 4037, GS Building, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O'Such at (202) 501-1759 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-36, FAR case 95-304.

SUPPLEMENTARY INFORMATION:**A. Background**

This interim rule amends the FAR to implement the renegotiated General Agreement on Tariffs and Trade (GATT) Government Procurement Agreement (1996 Code) (Uruguay Round) which becomes effective January 1, 1996. This agreement is implemented in statute by the Uruguay Round Agreement Act,

Public Law 103-465, which amends the Trade Agreements Act of 1979 (19 U.S.C. 2501-2582).

B. Regulatory Flexibility Act

This interim rule is not expected 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 rule does not impose any new requirements on contractors, large or small. The interim rule primarily changes the list of designated foreign countries and extends applicability of the Trade Agreements Act to all agencies for supply and construction contracts over certain dollar thresholds. However, those contracts which are now subject to the Trade Agreements Act were already subject to the Memorandum of Understanding Between the United States of America and the European Community on Government Procurement. This change should have minimal impact on U.S. firms. The interim rule will not diminish existing preferences for small businesses, because purchases under small and small disadvantaged business preference programs are exempted from the Trade Agreements Act. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected subpart will be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite FAC 90-36, FAR case 95-304, in correspondence.

C. Paperwork Reduction Act

This interim rule does not impose any new reporting or recordkeeping requirements which require Office of Management and Budget (OMB) approval under 44 U.S.C. 3501, *et seq.* Contractors, which previously were required to respond to the now deleted provision at 52.225-16, Buy American Act—Supplies under European Community Agreement Certificate, will now be required to respond to the comparable provision at 52.225-8, Buy American Act—Trade Agreements—Balance of Payments Program Certificate (OMB Control No. 9000-0046).

D. Determination to Issue an Interim Rule

A determination has been made under authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that compelling reasons exist to promulgate this interim rule without prior opportunity for

public comment. This action is necessary in order to implement the renegotiated General Agreement on Tariffs and Trade (GATT) Government Procurement Agreement (1996 Code) (Uruguay Round) which becomes effective January 1, 1996. This agreement is implemented in statute by the Uruguay Round Agreement Act, Public Law 103-465, which amends the Trade Agreements Act of 1979 (19 U.S.C. 2501-2582). However, pursuant to Public Law 98-577 and FAR 1.501, public comments received in response to this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Parts 25 and 52

Government procurement.

Dated: December 22, 1995.

Edward C. Loeb,

Acting Director, Office of Federal Acquisition Policy.

Federal Acquisition Circular**Number 90-36**

Federal Acquisition Circular (FAC) 90-36 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 90-36 is effective January 1, 1996. This regulation applies to solicitations issued on or after January 1, 1996.

Dated: December 21, 1995.

Eleanor R. Spector,

Director, Defense Procurement.

Dated: December 22, 1995.

Ida M. Ustad,

Associate Administrator, Office of Acquisition Policy, GSA.

Dated: December 20, 1995.

Deidre Lee,

Associate Administrator for Procurement, NASA.

Therefore, 48 CFR Parts 25 and 52 are amended 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**25.101 [Amended]**

2. At 25.101 in the definition of "Instrumentality" the phrase "European Economic Community" is revised to read "European Union".