end products as eligible products under the Trade Agreements Act, with the exception of the end products from the Dominican Republic and Honduras. This rule implements that determination. The prior determination expired September 30, 1999, except that the determination regarding the end products of Panama extended until September 30, 2000.

This rule was not subject to Office of Management and Budget 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 final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comments is not required. However, the Councils 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.* (FAC 97–17, FAR case 2000–003), in correspondence.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the 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: April 13, 2000.

**Edward C. Loeb,**

*Director, Federal Acquisition Policy Division.*

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. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c):

## PART 25—FOREIGN ACQUISITION

2. Revise the definition ''Caribbean Basin country'' in section 25.003 to read as follows:

**25.003 Definitions.**

* * * * *

*Caribbean Basin country* means any of the following countries: Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, British Virgin Islands, Costa Rica, Dominica, El Salvador, Grenada, Guatemala, Guyana, Haiti, Jamaica, Montserrat, Netherlands Antilles, Nicaragua, Panama, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago.

* * * * *

3. In section 25.400, revise paragraph (a)(2) to read as follows:

**25.400 Scope of subpart.**

(a) * * *

(2) The Caribbean Basin Trade Initiative (the determination of the U.S. Trade Representative that end products granted duty-free entry from countries designated by the President as beneficiaries under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701, *et seq.*), with the exception of the Dominican Republic and Honduras, must be treated as eligible products under the Trade Agreements Act);

* * * * *

4. Revise section 25.404 to read as follows:

**25.404 Caribbean Basin Trade Initiative.**

Under the Caribbean Basin Trade Initiative, the United States Trade Representative has determined that, for acquisitions subject to the Trade Agreements Act, Caribbean Basin country end products must be treated as eligible products. This determination is effective until September 30, 2000. The U.S. Trade Representative may extend these dates through a document in the **Federal Register**.

## PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

**52.225–5 [Amended]**

5. Amend section 52.225–5 by revising the date of the clause to read ''(APR 2000)''; and in paragraph (a), in the definition ''Caribbean Basin country'', by removing ''Dominican Republic,'' and ''Honduras,''.

[FR Doc. 00–10133 Filed 4–24–00; 8:45 am]

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## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

## 48 CFR Parts 26 and 52

**[FAC 97–17; FAR Case 1999–301 (99–301); Item IV]**

**RIN 9000–AI52**

## Federal Acquisition Regulation; Utilization of Indian Organizations and Indian-Owned Economic Enterprises

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

**ACTION:** Final rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to delete DoD-unique language pertaining to incentive payments made to prime contractors for the utilization of Indian organizations and Indian-owned economic enterprises.

**DATES:** *Effective Date:* June 26, 2000. *Applicability Date:* The FAR, as amended by this rule, is applicable to solicitations issued on or after June 26, 2000.

**FOR FURTHER INFORMATION CONTACT:** The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Victoria Moss, Procurement Analyst, at (202) 501–4764. Please cite FAC 97–17, FAR case 1999–301.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

DoD, GSA, and NASA published a proposed rule in the **Federal Register** on October 27, 1999 (64 FR 57964). Six sources submitted comments in response to the proposed rule. The Councils considered all comments in the development of the final rule.

Section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544) established the Indian Incentive Program. Annual DoD appropriations acts have restricted DoD payments under the Program to those contractors that submitted subcontracting plans pursuant to 15 U.S.C. 637(d) and those contractors participating in the test program for comprehensive small business

subcontracting plans established by Section 854 of Public Law 101–189. Section 8024 of the DoD Appropriations Act for Fiscal Year 1999 (Public Law 105–262) eliminated the link between a DoD contractor's subcontracting plan requirement and the contractor's eligibility for participation in the Indian Incentive Program. This change now allows DoD to make incentive payments to small businesses that subcontract to Indian organizations or Indian-owned economic enterprises when the contract includes the clause at FAR 52.226–1, Utilization of Indian Organizations and Indian-Owned Economic Enterprises. This rule removes obsolete DoD-unique implementing guidance from the FAR. The Defense Acquisition Regulations Council is adding guidance to the Defense Federal Acquisition Regulation Supplement under a separate case to implement the change made in Section 8024 of Public Law 105–262.

This rule was not subject to Office of Management and Budget 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 Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not 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 merely deletes obsolete DoD-unique implementing guidance from the FAR. The rule will have no effect on small entities doing business with civilian agencies.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act (Pub. L. 104–13) does not apply because the 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 26 and 52**

Government procurement.

Dated: April 13, 2000.

**Edward C. Loeb,**

*Director, Federal Acquisition Policy Division.*

Therefore, DoD, GSA, and NASA amend 48 CFR parts 26 and 52 as set forth below:

1. The authority citation for 48 CFR parts 26 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 26—OTHER SOCIOECONOMIC PROGRAMS

### 26.101 [Amended]

2. Amend section 26.101 as follows:

a. In the definition ''Indian'', remove ''which'' and insert ''that'' in its place;

b. In the definition ''Indian-owned economic enterprise'', remove ''shall constitute'' and insert ''constitutes'' in its place; and

c. In the definition ''Indian tribe'', remove ''which'' and insert ''that'' in its place.

3. Revise section 26.104 to read as follows:

### 26.104 Contract clause.

Contracting officers in civilian agencies may insert the clause at 52.226–1, Utilization of Indian Organizations and Indian-Owned Economic Enterprises, in solicitations and contracts if—

(a) In the opinion of the contracting officer, subcontracting possibilities exist for Indian organizations or Indian-owned economic enterprises; and

(b) Funds are available for any increased costs as described in paragraph (b)(2) of the clause at 52.226–1.

## PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Amend section 52.226–1 as follows:

a. Revise the date of the clause;

b. Remove paragraph (a);

c. Redesignate paragraphs (b) through (d) as (a) through (c), respectively;

d. In the newly designated paragraph (a):

(1) Remove ''which'' from the definition ''Indian'' and insert ''that'' in its place;

(2) Remove ''shall constitute'' from the definition ''Indian-owned economic enterprise'' and insert ''constitutes'' in its place; and

(3) Remove ''which'' from the definition ''Indian tribe'' and insert ''that'' in its place.

e. Revise newly designated paragraphs (b) and (c).

The revised text reads as follows:

### 52.226–1 Utilization of Indian Organizations and Indian-Owned Economic Enterprises.

* * * * *

Utilization of Indian Organizations and Indian-Owned Economic Enterprises (June 2000)

* * * * *

(b) The Contractor shall use its best efforts to give Indian organizations and Indian-owned economic enterprises (25 U.S.C. 1544) the maximum practicable opportunity to participate in the subcontracts it awards to the fullest extent consistent with efficient performance of its contract.

(1) The Contracting Officer and the Contractor, acting in good faith, may rely on the representation of an Indian organization or Indian-owned economic enterprise as to its eligibility, unless an interested party challenges its status or the Contracting Officer has independent reason to question that status. In the event of a challenge to the representation of a subcontractor, the Contracting Officer will refer the matter to the U.S. Department of the Interior, Bureau of Indian Affairs (BIA), Attn: Chief, Division of Contracting and Grants Administration, 1849 C Street, NW., MS 2626–MIB, Washington, DC 20240–4000.

The BIA will determine the eligibility and notify the Contracting Officer. No incentive payment will be made within 50 working days of subcontract award or while a challenge is pending. If a subcontractor is determined to be an ineligible participant, no incentive payment will be made under the Indian Incentive Program.

(2) The Contractor may request an adjustment under the Indian Incentive Program to the following:

(i) The estimated cost of a cost-type contract.

(ii) The target cost of a cost-plus-incentive-fee prime contract.

(iii) The target cost and ceiling price of a fixed-price incentive prime contract.

(iv) The price of a firm-fixed-price prime contract.

(3) The amount of the adjustment to the prime contract is 5 percent of the estimated cost, target cost, or firm-fixed-price included in the subcontract initially awarded to the Indian organization or Indian-owned economic enterprise.

(4) The Contractor has the burden of proving the amount claimed and must assert its request for an adjustment prior to completion of contract performance.

(c) The Contracting Officer, subject to the terms and conditions of the contract and the availability of funds, will authorize an incentive payment of 5 percent of the amount paid to the subcontractor. The Contracting Officer will seek funding in accordance with agency procedures.

(End of clause)

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