22.1012–2 [Removed]

22.1012–3 [Redesignated as 22.1012–2]

22.1012–4 and 22.1012–5 [Removed]

■ 23a. Remove sections 22.1012–2, 22.1012–4 and 22.1012–5; and redesignate 22.1012–3 as 22.1012–2.

■ 23b. In addition to the amendment above, revise the redesignated section 22.1012–2 to read as follows:

22.1012–2 Wage determinations based on collective bargaining agreements.

(a) In sealed bidding, a new or changed collective bargaining agreement shall not be effective under section 4(c) of the Act if the contracting agency has received notice of the terms of the new or changed collective bargaining agreement less than 10 days before bid opening and the contracting officer determines that there is not reasonable time to incorporate the new or changed terms of the collective bargaining agreement in the solicitation.

(b) For contractual actions other than sealed bidding, a new or changed collective bargaining agreement shall not be effective under section 4(c) of the Act if notice of the terms of the new or changed collective bargaining agreement is received by the contracting agency after award of a successor contract or a modification as specified in 22.1007(b), provided that the contract start of performance is within 30 days of the award of the contract or of the specified modification. If the contract does not specify a start of performance date which is within 30 days of the award of the contract or of the specified modification, or if contract performance does not commence within 30 days of the award of the contract or of the specified modification, any notice of the terms of a new or changed collective bargaining agreement received by the agency not less than 10 days before commencement of the work shall be effective for purposes of the successor contract under section 4(c) of the Act.

(c) The limitations in paragraphs (a) and (b) of this subsection shall apply only if timely notification required in 22.1010 has been given.

(d) If the contracting officer has submitted an e98 to Department of Labor requesting a wage determination based on a collective bargaining agreement and has not received a response from the Department of Labor within 10 days, the contracting officer shall contact the Wage and Hour Division by telephone to determine when the wage determination can be expected. (The telephone number is provided on the e98 website.) If the Department of Labor is unable to provide the wage determination by the latest date needed to maintain the acquisition schedule, the contracting officer shall incorporate the collective bargaining agreement itself in a solicitation or other contract action (*e.g.*, exercise of option) and include a wage determination referencing that collective bargaining agreement created by use of the WDOL website (see 22.1008–2(d)(2)).

■ 24. Revise section 22.1014 to read as follows:

22.1014 Delay over 60 days in bid opening or commencement of work.

If a wage determination was obtained through the e98 process, and bid opening, or commencement of work under a negotiated contract has been delayed, for whatever reason, more than 60 days from the date indicated on the previously submitted e98, the contracting officer shall submit a new e98. Any revision of a wage determination received by the contracting agency as a result of that communication shall supersede the earlier response as the wage determination applicable to the particular acquisition subject to the time frames in 22.1012–1(b) and (c).

22.1017 [Removed and Reserved]

■ 25. Remove and reserve section 22.1017.

PART 47—TRANSPORTATION

■ 26. Amend section 47.202 by revising paragraph (a) to read as follows:

47.202 Presolicitation planning.

* * * * *

(a) The Service Contract Act of 1965 (SCA) requirement to obtain a wage determination by accessing the Wage Determination OnLine website (*http://www.wdol.gov*) using the WDOL process or by submitting a request directly to the Department of Labor on this website using the e98 process before the issuance of an invitation for bid, request for proposal, or commencement of negotiations for any contract exceeding $2,500 that may be subject to the SCA (see Subpart 22.10);

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.212–5 [Amended]

■ 27. Amend section 52.212–5 by revising the date of the clause to read ''(JUN 2006)''; and by removing paragraph (c)(5).

52.222–47 [Removed and Reserved]

■ 28. Remove and reserve section 52.222–47.

■ 29. Amend section 52.222–48 by revising the section and clause headings as set forth below.

52.222–48 Exemption from Application of Service Contract Act Provisions—Contractor Certification.

* * * * *

EXEMPTION FROM APPLICATION OF SERVICE CONTRACT ACT PROVISIONS—CONTRACTOR CERTIFICATION (JUN 2006)

* * * * *

52.222–49 [Amended]

■ 30. Amend section 52.222–49 by removing from the introductory text ''and 22.1009–4(c)''.

PART 53—FORMS

53.222 [Amended]

■ 31. Amend section 53.222 by removing ''99,'' from the section heading; and removing and reserving paragraph (b).

53.301 [Amended]

■ 32. Remove sections 53.301–98, 53.301–98a, and 53.301–99.

[REMOVE SF'S 98, 98A AND 99]

[FR Doc. 06–5708 Filed 6–27–06; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 25 and 52

[FAC 2005–10; FAR Case 2006–006; Item V; Docket 2006–0020, Sequence 10]

RIN 9000–AK49

Federal Acquisition Regulation; FAR Case 2006–006, Free Trade Agreements—El Salvador, Honduras, and Nicaragua

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 (Councils) have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to implement the Dominican Republic-Central America-United States Free Trade Agreement with respect to El Salvador, Honduras, and Nicaragua.

DATES: *Effective Date:* June 28, 2006.

Comment Date: Interested parties should submit written comments to the FAR Secretariat on or before August 28, 2006 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAC 2005–10, FAR case 2006–006 by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Agency Web site: *http://www.acquisition.gov/far/ProposedRules/comments.htm*. Click on the FAR case number to submit comments.
- E-mail: *farcase.2006–006@gsa.gov*. Include FAC 2005–10, FAR case 2006–006, in the subject line of the message.
- Fax: 202–501–4067.
- Mail: General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW, Room 4035, ATTN: Laurieann Duarte, Washington, DC 20405.

Instructions: Please submit comments only and cite FAC 2005–10, FAR case 2006–006, in all correspondence related to this case. All comments received will be posted without change to *http://www.acquisition.gov/far/ProposedRules/comments.htm*, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT For clarification of content, contact Ms. Gloria Sochon, Procurement Analyst, at (202) 219–0311. Please cite FAC 2005–10, FAR case 2006–006. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Background

This rule amends FAR Part 25 and the clauses at 52.212–3, Offeror Representations and Certifications—Commercial Items, 52.212–5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items, 52.225–3, Buy American Act—Free Trade Agreements—Israeli Trade Act, 52.225–4, Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate, 52.225–5, Trade Agreements, 52.225–11, Buy American Act—Construction Materials under Trade Agreements, and 52.225–12, Notice of Buy American Act Requirement—Construction Materials under Trade Agreements, to implement the Dominican Republic—Central America—United States Free Trade Agreement (CAFTA-DR) with respect to El Salvador, Honduras, and Nicaragua. Congress approved the CAFTA-DR in the Dominican Republic—Central America—United States Free Trade Agreement Implementation Act (Public Law 109–53). Other signatory countries to the CAFTA-DR are Costa Rica, the Dominican Republic, and Guatemala. These regulations will be amended when the CAFTA-DR takes effect for these other countries. The CAFTA-DR waives the applicability of the Buy American Act for some foreign supplies and construction materials from El Salvador, Honduras, and Nicaragua and specifies procurement procedures designed to ensure fairness in the acquisition of supplies and services.

The excluded services for the CAFTA-DR are the same as for the Chile FTA and NAFTA. For supply and service contracts, the CAFTA-DR has the same threshold as the other FTAs ($64,786), except the Morocco FTA and the NAFTA with respect to supply contracts involving Canada. For construction contracts, CAFTA-DR has the same threshold as the Chile FTA, Morocco FTA, Singapore FTA, and the WTO GPA ($7,407,000), lower than the NAFTA threshold of $8,422,165.

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 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.* Although the rule opens up Government procurement to the goods and services of El Salvador, Honduras, and Nicaragua, the Councils do not anticipate any significant economic impact on U.S. small businesses. The Department of Defense only applies the trade agreements to the non-defense items listed at DFARS 225.401–70, and acquisitions that are set aside for small businesses are exempt. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. 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.* (FAC 2005–10, FAR case 2006–006), 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.*

D. Determination to Issue an Interim Rule

A determination has been made under the 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 urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because the CAFTA-DR took effect with respect to El Salvador on March 1, 2006, and took effect with respect to Honduras and Nicaragua on April 1, 2006. However, pursuant to Public Law 98–577 and FAR 1.501, the Councils will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Parts 25 and 52

Government procurement.

Dated: June 20, 2006.

Ralph De Stefano,

Director, Contract 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. 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—

■ a. Revising the definition ''Caribbean Basin country''

■ b. Revising paragraph (2) of the definition ''Designated country'' and removing from paragraph (4) of the definition ''El Salvador,'', ''Honduras,'', and ''Nicaragua,'' and

■ c. Revising the definition ''Free Trade Agreement country''.

■ The revised text reads 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, Dominican Republic, Grenada, Guatemala, Guyana, Haiti,

Jamaica, Montserrat, Netherlands Antilles, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, or Trinidad and Tobago.

* * * * *

Designated country * * *

(1) * * *

(2) A Free Trade Agreement country (Australia, Canada, Chile, El Salvador, Honduras, Mexico, Morocco, Nicaragua, or Singapore);

* * * * *

Free Trade Agreement country means Australia, Canada, Chile, El Salvador, Honduras, Mexico, Morocco, Nicaragua, or Singapore.

* * * * *

■ 3. Amend section 25.400 by removing from the end of paragraph (a)(2)(iv) the word ''and'' adding at the end of paragraph (a)(2)(v) the word ''and''; and adding a new paragraph (a)(2)(vi) to read as follows:

25.400 Scope of Subpart.

(a) * * *

(2) * * *

(i) * * *

(vi) CAFTA-DR (The Dominican Republic-Central America-United States Free Trade Agreement, as approved by Congress in the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (Pub. L. 109–53);

* * * * *

25.401 [Amended]

■ 4. Amend section 25.401 in paragraph (b), in the table heading, by removing from the third column ''NAFTA and Chile FTA'' and adding ''NAFTA, CAFTA-DR, and Chile FTA'' in its place.

25.402 [Amended]

■ 5. Amend section 25.402 in paragraph (b), in the table, by adding after ''Australia FTA'' the entry ''CAFTA-DR (El Salvador, Honduras, and Nicaragua'') and in its corresponding line items ''64,786'', ''64,786'', and ''7,407,000'', respectively.

■ 6. Amend section 25.405 by adding a new sentence to the end of the paragraph to read as follows:

25.405 Caribbean Basin Trade Initiative.

* * * In accordance with Section 201 (a)(3) of the Dominican Republic—Central America—United States Free Trade Implementation Act (Pub. L. 109–53), when the CAFTA-DR agreement enters into force with respect to a country, that country is no longer designated as a beneficiary country for purposes of the Caribbean Basin Economic Recovery Act, and is therefore no longer included in the definition of ''Caribbean Basin country'' for purposes of the Caribbean Basin Trade Initiative.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 7. Amend section 52.212–3 by—

■ a. Revising the date of the clause;

■ b. Removing from paragraph (g)(1)(i) ''and ''United States'' and adding ''''Free Trade Agreement country,'' and ''United States'''' in its place;

■ c. Revising paragraph (g)(1)(ii); and

■ d. Revising the paragraph headings for (g)(2) and (g)(3) by removing the parenthetical ''(JAN 2004)''.

■ The revised text reads as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

* * * * *

OFFEROR REPRESENTATIONS AND CERTIFICATIONS—COMMERCIAL ITEMS (JUN 2006)

* * * * *

(g)(1) * * *

(i) * * *

(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products (other than Moroccan end products) or Israeli end products as defined in the clause of this solicitation entitled ''Buy American Act—Free Trade Agreements—Israeli Trade Act'':

Free Trade Agreement Country End Products (Other than Moroccan End Products) or Israeli End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN

[List as necessary]

* * * * *

52.212–5 [Amended]

■ 8. Amend section 52.212–5 by—

■ a. Revising the date of the clause to read ''(JUN 2006)'';

■ b. Removing from paragraph (b)(24)(i) ''(APR 2006)'' and adding ''(JUN 2006)'' in its place and adding to the end of the paragraph '', and 109–53''; and

■ c. Removing from paragraph (b)(25) ''(APR 2006)'' and adding ''(JUN 2006)'' in its place.

■ 9. Amend section 52.225–3 by—

■ a. Revising the date of the clause;

■ b. Removing from paragraph (a) the definition ''End product of Australia, Canada, Chile, Mexico, or Singapore''; and adding, in alphabetical order, the definitions ''Free Trade Agreement country'', ''Free Trade Agreement country end product'', and ''Moroccan end product''; and

■ c. Revising the last sentence in paragraph (c).

■ The revised and added text reads as follows:

52.225–3 Buy American Act—Free Trade Agreements—Israeli Trade Act.

* * * * *

BUY AMERICAN ACT—FREE TRADE AGREEMENTS—ISRAELI TRADE ACT (JUN 2006)

* * * * *

Definitions. * * *

* * * * *

Free Trade Agreement country means Australia, Canada, Chile, El Salvador, Honduras, Mexico, Morocco, Nicaragua, or Singapore.

Free Trade Agreement country end product means an article that—

(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

* * * * *

Moroccan end product means an article that—

(1) Is wholly the growth, product, or manufacture of Morocco; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Morocco into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but

for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

* * * * *

(c) * * * If the Contractor specified in its offer that the Contractor would supply a Free Trade Agreement country end product (other than a Moroccan end product) or an Israeli end product, then the Contractor shall supply a Free Trade Agreement country end product (other than a Moroccan end product), an Israeli end product or, at the Contractor's option, a domestic end product.

* * * * *

■ 10. Amend section 52.225–4 by—

■ a. Revising the date of the clause;

■ b. Revising the second sentence of paragraph (a); and

■ c. Revising paragraph (b).

■ The revised text reads as follows:

52.225–4 Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate.

* * * * *

BUY AMERICAN ACT—FREE TRADE AGREEMENTS—ISRAELI TRADE ACT CERTIFICATE (JUN 2006)

(a) * * * The terms ''component,'' ''domestic end product,'' ''end product,'' ''foreign end product,'' ''Free Trade Agreement country,'' ''Free Trade Agreement country end product,'' ''Israeli end product,'' ''Moroccan end product,'' and ''United States'' are defined in the clause of this solicitation entitled ''Buy American Act—Free Trade Agreements—Israeli Trade Act.''

(b) The offeror certifies that the following supplies are Free Trade Agreement country end products (other than Moroccan end products) or Israeli end products as defined in the clause of this solicitation entitled ''Buy American Act—Free Trade Agreements—Israeli Trade Act'':

Free Trade Agreement Country End Products (Other than Moroccan End Products) or Israeli End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN
_____	_____
_____	_____
_____	_____

[List as necessary]

* * * * *

■ 11. Amend section 52.225–5 by—

■ a. Revising the date of the clause; and

■ b. In paragraph (a), in the definition ''Designated country'', revising paragraph (2), and removing from paragraph (4) ''El Salvador'', ''Honduras,'', and ''Nicaragua,''.

■ The revised text reads as follows:

52.225–5 Trade Agreements.

* * * * *

TRADE AGREEMENTS (JUN 2006)

* * * * *

(a) *Definitions.* * * *

Designated country * * *

(1) * * *

(2) Free Trade Agreement country (Australia, Canada, Chile, El Salvador, Honduras, Mexico, Morocco, Nicaragua, or Singapore).

* * * * *

■ 12. Amend section 52.225–11 by—

■ a. Revising the date of the clause;

■ b. In paragraph (a), in the definition ''Designated country'', revising paragraph (2), and removing from paragraph (4) ''El Salvador,'' ''Honduras,'' and Nicaragua,''; and

■ c. Revising Alternate I.

■ The revised text reads as follows:

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

* * * * *

BUY AMERICAN ACT—CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (JUN 2006)

* * * * *

(a) *Definitions.* * * *

Designated country * * *

(2) Free Trade Agreement country (Australia, Canada, Chile, El Salvador, Honduras, Mexico, Morocco, Nicaragua, or Singapore);

* * * * *

Alternate I ''(JUN 2006)''. As prescribed in 25.1102(c)(3), add the following definition of ''Mexican construction material'' to paragraph (a) of the basic clause, and substitute the following paragraphs (b)(1) and (b)(2) for paragraphs (b)(1) and (b)(2) of the basic clause:

Mexican construction material means a construction material that—

(1) Is wholly the growth, product, or manufacture of Mexico; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in Mexico into a new and different construction material distinct from the materials from which it was transformed.

(b) *Construction materials.* (1) This clause implements the Buy American Act (41 U.S.C. 10a - 10d) by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the WTO GPA and all the Free Trade Agreements except NAFTA apply to this acquisition. Therefore, the Buy American Act restrictions are waived for designated country construction materials other than Mexican construction materials.

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

■ 13. In section 52.225–12, amend Alternate II by revising the introductory text; removing paragraph (a); and revising paragraph (d)(1) and the introductory text of paragraph (d)(3) to read as follows:

52.225–12 Notice of Buy American Act Requirement—Construction Materials Under Trade Agreements.

* * * * *

Alternate II ''(JUN 2006)''. As prescribed in 25.1102(d)(3), add the definition of ''Mexican construction material'' to paragraph (a) and substitute the following paragraph (d) for paragraph (d) of the basic provision:

* * * * *

(d) *Alternate offers.* (1) When an offer includes foreign construction material, except foreign construction material from a designated country other than Mexico, that is not listed by the Government in this solicitation in paragraph (b)(3) of FAR clause 52.225–11, the offeror also may submit an alternate offer based on use of equivalent domestic or designated country construction material other than Mexican construction material.

* * * * *

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of FAR clause 52.225–11 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic or designated country construction material other than Mexican construction material. An offer based on use of the foreign construction material for which an exception was requested—

* * * * *

[FR Doc. 06–5707 Filed 6–27–06; 8:45 am]

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