

requirements for supplies available from the Committee for Purchase From People Who Are Blind or Severely Disabled also applies when contractors purchase the supply items for Government use.

3. Section 8.003 is added to read as follows:

8.003 Contract clause.

The contracting officer shall insert the clause at 52.208-9, Contractor Use of Mandatory Sources of Supply, in solicitations and contracts which require a contractor to purchase supply items for Government use that are available from the Committee for Purchase from People Who Are Blind or Severely Disabled. The contracting officer shall identify in the contract schedule the items which must be purchased from a mandatory source and the specific source.

PART 51—USE OF GOVERNMENT SOURCES BY CONTRACTORS

4. Section 51.101 is amended by adding paragraph (c) to read as follows:

51.101 Policy.

(c) Contracting officers shall authorize contractors purchasing supply items for Government use that are available from the Committee for Purchase from People Who Are Blind or Severely Disabled (see subpart 8.7) to purchase such items from the Defense Logistics Agency (DLA), the General Services Administration (GSA), and the Department of Veterans Affairs (VA) if they are available from these agencies through their distribution facilities. Mandatory supplies that are not available from DLA/GSA/VA shall be ordered through the appropriate central nonprofit agency (see 52.208-9(c)).

5. Section 51.102 is amended in the first sentence of the introductory text of paragraph (a) by inserting after the word "sources" the phrase "in accordance with 51.101 (a) or (b),"; adding a new second sentence; and revising paragraph (c)(3) to read as follows:

51.102 Authorization to use Government supply sources.

(a) * * * A written finding is not required when authorizing use of the Government supply sources in accordance with 51.101(c). * * *

* * * * *

(c) * * *

(3) Approval for the contractor to use Department of Veterans Affairs (VA) supply sources from the Deputy Assistant Secretary for Acquisition and Materiel Management (Code 90), Office of Acquisition and Materiel

Management, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420;

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

6. Section 52.208-9 is added to read as follows:

52.208-9 Contractor Use of Mandatory Sources of Supply.

As prescribed in 8.003, insert the following clause:

Contractor Use Of Mandatory Sources Of Supply (Mar 1996)

(a) Certain supplies to be provided under this contract for use by the Government are required by law to be obtained from the Committee for Purchase from People Who Are Blind or Severely Disabled (Javits-Wagner-O' Day Act (JWOD) (41 U.S.C. 48)). Additionally, certain of these supplies are available from the Defense Logistics Agency (DLA), the General Services Administration (GSA), or the Department of Veterans Affairs (VA). The Contractor shall obtain mandatory supplies to be provided for Government use under this contract from the specific sources indicated in the contract schedule.

(b) The Contractor shall immediately notify the Contracting Officer if a mandatory source is unable to provide the supplies by the time required, or if the quality of supplies provided by the mandatory source is unsatisfactory. The Contractor shall not purchase the supplies from other sources until the Contracting Officer has notified the Contractor that the mandatory source has authorized purchase from other sources.

(c) Price and delivery information for the mandatory supplies is available from the Contracting Officer for the supplies obtained through the DLA/GSA/VA distribution facilities. For mandatory supplies that are not available from DLA/GSA/VA, price and delivery information is available from the appropriate central nonprofit agency. Payments shall be made directly to the source making delivery. Points of contract for JWOD central nonprofit agencies are:

- (1) National Industries for the Blind (NIB)
1901 North Beauregard Street, Suite 200
Alexandria, VA 22311-1705 (703) 998-0770
- (2) NISH, 2235 Cedar Lane, Vienna, VA
22182-5200 (703) 560-6800

(End of clause)

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 9

[FAC 90-37; FAR Cases 93-301 and 93-306; Item III]

RIN 9000-AF40

Federal Acquisition Regulation; Made in America Labels/Unfair Trade Practices

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

ACTION: Interim rule adopted as final.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to implement sections 201 and 202 of the Defense Production Act. Section 201 directs that the FAR be amended to address the responsibility of contractors who engage in unfair trade practices as defined in section 201. Section 202 directs that the FAR be amended to address the responsibility of persons that intentionally affix a label bearing a fraudulent "Made in America" inscription to a product sold in or shipped to the United States. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

EFFECTIVE DATE: January 26, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph De Stefano (202) 501-1758 in reference to these combined FAR cases. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90-37, FAR cases 93-301 and 93-306.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule implements the requirements of sections 201 and 202 of the Defense Production Act. Section 201 of the Defense Production Act (Public Law 102-558) provides that any contractor who has engaged in unfair trade practices may be found to lack such business integrity to affect the contractor's responsibility to perform a Government contract or subcontract. Section 201 defines "unfair trade

practices" as the commission by a contractor of any of the following acts: (1) A violation of Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), as determined by the International Trade Commission (2) A violation, as determined by the Secretary of Commerce, of any agreement of the group known as the "Coordination Committee" for purposes of the Export Administration Act of 1979 (50 U.S.C. App. 2401, *et seq.*) or any similar bilateral or multilateral export control agreement, or (3) A knowingly false statement regarding a material element of a certification concerning the foreign content of an item of supply, as determined by the Secretary of the Department or the head of the agency to which such certificate was furnished. Section 201 mandates that this statement of public contract law policy be implemented by amending FAR subpart 9.4, not later than 270 days after the date of enactment of the Defense Production Act (October 28, 1992).

Section 202 of the Defense Production Act (Public Law 102-558) provides that any person determined to have intentionally affixed a label bearing a "Made in America" inscription (or any inscription having the same meaning) to a product sold in or shipped to the United States, when such product was not made in the United States, may be found to lack business integrity or business honesty to such a degree as to affect their responsibility to perform a Federal contract or subcontract. Section 202 mandates that this statement of policy be implemented by amending FAR Subpart 9.4 (Debarment, Suspension, and Ineligibility) not later than 270 days (July 28, 1993) after the date of enactment of the Defense Production Act (October 28, 1992).

A combined interim rule was published in the Federal Register at 59 FR 11368 on March 10, 1994. Two sources submitted public comments. No changes were made as a result of those comments.

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 under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule only applies to entities who engage in unfair trade practices or who intentionally affix fraudulent "Made in America" labels to products sold in or shipped to the United States.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 9

Government procurement.

Dated: January 11, 1996.

Edward C. Loeb,
Acting Director, Office of Federal Acquisition Policy.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR part 9, which was published at 59 FR 11371, March 10, 1994, (FAC 90-20, Item II) is adopted as a final rule without change.

The authority citation for 48 CFR part 9 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).

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 9 and 52

[FAC 90-37; FAR Case 92-615; Item IV]

RIN 9000-AF57

Federal Acquisition Regulation; Debarment and Suspension Certificate

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 have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to add tax evasion as a cause for consideration for suspension or debarment. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

EFFECTIVE DATE: March 26, 1996.

FOR FURTHER INFORMATION CONTACT:

Mr. Ralph De Stefano at (202) 501-1758 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 90-37, FAR case 92-615.

SUPPLEMENTARY INFORMATION:

A. Background

The Twentieth Report by the Committee on Government Operations entitled "Coins, Contracting, and Chicanery: Treasury and Justice Departments Fail to Coordinate" dated May 27, 1992, among other things, stated that there was a very real possibility that the U.S. Government did business with a man indicted as being one of the biggest tax evaders in history. In order to prevent this from happening in the future, a revision to the FAR was proposed to address tax evasion.

A proposed rule was published in the Federal Register at 58 FR 63494 on December 1, 1993. Four sources submitted public comments. No changes were made as a result of those comments.

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 under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because offerors already must certify whether they have been convicted of or had a civil judgment rendered against them for a list of offenses. This rule will add "tax evasion" to the existing certification, as well as to the list of offenses for which contractors may be suspended or debarred from Federal contracts.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 9 and 52

Government procurement.