

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 Parts 25 and 52

Government procurement.

Dated: June 11, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

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

2. Section 25.701 is amended in paragraph (a)(4) by removing “or”; in (a)(5) by removing the period and inserting “; or” in its place; and by adding (a)(6) to read as follows:

25.701 Restrictions.

(a) * * *

(6) Sudan (Executive Order 13067).

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PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.213-4 [Amended]

3. Section 52.213-4 is amended by revising the date of the clause to read “(Aug 1998)”; and in paragraph (a)(2)(i) of the clause by removing “(Oct 1996)” and inserting “(Aug 1998)” in its place.

4. Section 52.225-11 is amended by revising the date of the clause and paragraph (a) to read as follows:

52.225-11 Restrictions on Certain Foreign Purchases.

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Restrictions on Certain Foreign Purchases (Aug 1998)

(a) Unless advance written approval of the Contracting Officer is obtained, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services originating from sources within, or that were located in or transported from or through, countries whose products are banned from importation into the United States by Executive order or regulations of the Office of Foreign Assets Control, Department of the Treasury. Those countries

include Cuba, Iran, Iraq, Libya, North Korea, and Sudan.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 27

[FAC 97-05; FAR Case 97-614; Item VIII]

RIN 9000-A104

Federal Acquisition Regulation; Software Copyrights

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 amending the Federal Acquisition Regulation (FAR) to clarify that computer software produced under Government contracts may be special works to which the Government may obtain copyright. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: August 21, 1998.

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 Mr. Jack O'Neill, Procurement Analyst, at (202) 501-3856. Please cite FAC 97-05, FAR case 97-614.

SUPPLEMENTARY INFORMATION:

A. Background

The definition of “data” to which the FAR clause at 52.227-17, Rights in Data—Special Works, applies includes computer software. However, FAR 27.405, which provides guidance for use of the clause, does not include computer software among its examples of special works. This final rule clarifies that the Government may use the clause to retain copyright to certain computer

software produced under Government contracts, when appropriate.

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, comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAC 97-05, FAR case 97-614), in correspondence.

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 27

Government procurement.

Dated: June 11, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 27 is amended as set forth below:

PART 27—PATENTS, DATA, AND COPYRIGHTS

1. The authority citation for 48 CFR Part 27 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).

2. Section 27.405 is amended in paragraph (a)(1)(vii) by removing “or” at the end of (a)(1)(viii) by removing the period and inserting “; or” in its place; and adding paragraph (a)(1)(ix) to read as follows:

27.405 Other data rights provisions.

(a) *Production of special works.* (1)

* * *

(ix) The development of computer software programs, where the program—
(A) May give a commercial advantage; or;

(B) Is agency mission sensitive, and release could prejudice agency mission, programs, or follow-on acquisitions.

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