

7. *Need and purpose of this action.* The Commission, in compliance with § 3 of the Cable Television Consumer Protection and Competition Act of 1992, 47 U.S.C. § 543 (1992), pertaining to rate regulation, adopts revised rules and procedures intended to ensure that cable services are offered at reasonable rates with minimum regulatory and administrative burdens on cable entities.

8. *Summary of issues raised by the public in response to the Initial Regulatory Flexibility Analysis.* There were no comments submitted in response to the Initial Regulatory Flexibility Analysis. The Chief Counsel for Advocacy of the United States Small Business Administration (SBA) filed comments in the original rulemaking order. The Commission addressed the concerns raised by the Office of Advocacy in the Report and Order and Further Notice of Proposed Rulemaking, 58 FR 29736 (May 21, 1993).

9. *Significant alternatives considered and rejected.* In the course of this proceeding, petitioners representing cable interests and franchising authorities submitted several alternatives aimed at minimizing administrative burdens. The Commission has attempted to accommodate the concerns expressed by these parties. In this order, the Commission is providing relief to small systems and low-price systems by terminating the requirement that such systems report both their adjusted transition rate and their full reduction rate on forms requesting external cost adjustments.

#### IV. Paperwork Reduction Act

10. The requirements adopted herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose new or modified information collection requirements on the public. Implementation of any new or modified requirement will be subject to approval by the Office of Management and Budget as prescribed by the Act.

#### V. Ordering Clauses

11. Accordingly, it is ordered that, pursuant to Sections 4(i), 4(j), 303(r), 612 and 623 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 154(j), 303(r), 532, 542(c) and 543, the rules, requirements and policies discussed in this Order ARE ADOPTED.

12. It is further ordered that the revised reporting requirements adopted in this Order will become effective as soon as they may be approved by the

Office of Management and Budget but not sooner than May 28, 1996.

Federal Communications Commission.

William F. Caton,

*Acting Secretary.*

[FR Doc. 96-8455 Filed 4-5-96; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

#### 48 CFR Parts 1425 and 1452

RIN 1090-AA55

#### Department of the Interior Acquisition Regulation; Foreign Construction Materials

**AGENCY:** Office of the Secretary, Interior.

**ACTION:** Final rule.

**SUMMARY:** In the interests of streamlining processes and improving relationships with contractors, the Department of the Interior (DOI) is issuing this final rule which amends 48 CFR Chapter 14 by revising and updating the Department of the Interior Acquisition Regulation (DIAR).

**EFFECTIVE DATE:** May 8, 1996.

**FOR FURTHER INFORMATION CONTACT:** Ms. Mary L. McGarvey at (202) 208-3158, Department of the Interior, Office of Acquisition and Property Management, 1849 C. Street N.W. (MS5522 MIB), Washington, D.C. 20240.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

Under the auspices of the National Performance Review, a thorough review of the DIAR was conducted. The review revealed unnecessary and outdated regulations, and some excessively burdensome procedures.

In the interests of streamlining processes and improving relationships with contractors, essential portions of the DIAR are being reinvented and retained in 48 CFR, when appropriate. The review identified Sections that would remain codified. Specifically, Section 1425.203 which reflects the use of a 6% differential to evaluate U.S. versus foreign construction materials will remain codified. If a U.S. material exceeds the cost of the foreign product, then the cost of the U.S. material is unreasonable. Cost savings must be passed on to the Government in post-award approval to use foreign material. Sections 1425.205 and 1452.225-70 are the prescription and the clause associated with this DOI policy. We changed titles, rewrote language, and eliminated redundant FAR material

from the Sections. We removed §§ 1425.202 and 1425.204 from 48 CFR Chapter 14 under another final rule published in the Federal Register dated 2/13/96.

This final 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 contractors are required to either comply with the Buy American Act or seek exceptions. An Initial Regulatory Flexibility Analysis has, therefore, not been performed.

#### Paperwork Reduction Act

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department has received approval for this collection of information, with approval number 1090-0018, with the expiration date of September 30, 1988. The Paperwork Reduction Act applies because the proposed revisions impose additional recordkeeping requirements or information collection requirements or collection of information from offerors, contractors or members of the public which require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501 et seq. The rule requires contractors proposing to use foreign construction materials to submit information on foreign and domestic construction materials, as well as a justification for use of foreign material. This information will be evaluated by the government in determining if a request for a waiver of the Buy American Act should be granted.

#### Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average 1 hour, including examination of all bids received to see if foreign materials are proposed and an additional burden of applying the differential and comparing costs.

It is estimated that the information collection would affect 250 contractors (50 applicable contractors × 5 average bidders per contract). The amount of time required for each respondent to provide the required information would not exceed 1 hour, thus 250 burden hours.

Required Determinations: The Department believes that public comment is unnecessary because the revised material implements standard Government operating procedures. Therefore, in accordance with 5 U.S.C. 553(b)(B), the Department finds good cause to publish this document as a final rule. This rule was not subject to Office of Management and Budget

review under Executive Order 12866. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq), the Department has determined that this rule will not have a significant economic impact on a substantial number of small entities because minimal requirements are being added for small businesses and no protections are being withdrawn. The Department has determined that this rule does not constitute a major Federal action having a significant impact on the human environment under the National Environmental Policy Act of 1969. The Department has certified that this rule meets the applicable standards provided in Sections 2(a) and 2(b)(2) of Executive Order 12778.

List of Subjects in 48 CFR Parts 1425 and 1452

Government procurement, Reporting and recordkeeping requirements.

Dated: March 15, 1996.

Bonnie Cohen,

Assistant Secretary—Policy, Management and Budget.

Chapter 14 of Title 48 of the Code of Federal Regulations is amended as follows:

1. The authority citation for 48 CFR parts 1425 and 1452 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

2. 48 CFR part 1425 is revised to read as follows:

**PART 1425—FOREIGN ACQUISITION**

**Subpart 1425.2—Buy American Act—Construction Materials**

Sec. 1425.203–70 Evaluating offers and price adjustment proposals.

1425.205 Solicitation provision and contract clause.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

**Subpart 1425.2—Buy American Act—Construction Materials**

**§ 1425.203–70 Evaluating offers and price adjustment proposals.**

(a) Upon receipt of an offered foreign construction material, the CO will conduct a 2 part test to determine, first, if the cost of the components made in the U.S. exceeds 50% of the cost for all the components; and second, if the item meets the first test, whether the item is manufactured in the U.S.

(b) The cost of U.S. material is unreasonable if it exceeds the cost of the foreign construction material by more than 6%. The CO will compute the cost

of construction material to include all delivery costs to the construction site, and any applicable duty (whether or not a duty-free entry certificate is issued.) This evaluation will be made for each foreign construction material proposed in the offer not excepted by the Government either in the solicitation at 48 CFR 1452.225–70(a) or by subsequent amendment.

(c) The contractor shall pass to the Government any cost savings resulting from post-award approval to use foreign material. The CO may approve exceptions based on cost if the contractor can document that it used U.S. as well as foreign quotes to calculate the price it offered to the Government. If it is shown that the contractor did not obtain the quotes before award, the Director, PAM is authorized to disapprove requests for exceptions to the use of U.S. material. In case of disapproval, the contractor shall use the U.S. material and shall not pass on the additional cost of the U.S. material to the Government.

**§ 1425.205 Solicitation provision and contract clause.**

In addition to using the clauses required in FAR 25.205, the CO will insert the clause at 48 CFR 1452.225–70, Use of Foreign Construction Materials—Department of the Interior, in solicitations and contracts for construction, alteration, or repair inside the U.S. If the Government has determined that a U.S. construction material is unavailable, it will be listed under paragraph (a) of the clause.

3. Section 1452.225–70 is revised to read as follows:

**§ 1425.225–70 Use of Foreign Construction Materials.**

As prescribed in 48 CFR 1425.205, insert the following clause in solicitations and contracts for construction, alteration, or repair inside the United States:

Use of Foreign Construction Materials—Department of the Interior (APR 1996)

(a) The Government has determined that the Buy American Act is not applicable to the following construction materials because they are not mined, produced, or manufactured in the U.S. in sufficient quantities of a satisfactory quality:

- (1) \_\_\_\_\_
- (2) \_\_\_\_\_
- (3) \_\_\_\_\_

(b) Offers based on the use of foreign construction materials other than those listed in (a) above may be acceptable if the Government determines that U.S. construction material is not available, would be impracticable or constitute unreasonable price. Please contract the Contracting Officer with questions or comments concerning non-

availability or impracticability of U.S. material.

(c)(1) Offers based upon use of foreign construction material for cost savings will be considered reasonable if the cost of each foreign construction material, plus 6 percent, is less than the cost of comparable U.S. construction material. The Contracting Officer will compute the cost of each foreign construction material to include all delivery costs to the construction site, and any applicable duty (whether or not a duty-free entry certificate is issued.) This evaluation will be made for each foreign construction material included in the offer but not listed in subparagraph (a) above in this clause.

(2) Any contractor cost savings from post award approved substitution of foreign construction material for U.S. construction material shall be passed to the Government.

(d)(1) This offer is based on the use of foreign construction material not listed in (a) above. For each foreign item proposed the offeror shall furnish the following information for the foreign material offered: item description, supplier, unit of measure, quantity, unit price, duty (even if a duty free certificate is issued), delivery costs, and total price. The offeror shall furnish the following information for each U.S. material comparable to the foreign material: item description, supplier, unit of measure, quantity, unit price, delivery costs and total price.

(2) If the Government rejects the use of foreign construction material listed under paragraph (d)(1) above, the Government will evaluate the offer using the offeror's stated price for the comparable U.S. construction material, and the offeror shall be required to furnish such domestic construction material at the originally offered price. In preaward situations, an offer which does not state a price for a comparable U.S. construction material will be rejected by the Government. In postaward situations an offer proposing foreign material which does not state the price for the comparable U.S. construction material will be rejected by the Government. The contractor shall use comparable U.S. material for the project and any additional cost for the use of this U.S. material shall be absorbed by the contractor.

(End of clause)

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**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 541**

[Docket No. 96–17; Notice 01]

RIN: 2127–AG34

**Federal Motor Vehicle Theft Prevention Standard; Final Listing of Model Year 1997 High-Theft Vehicle Lines**

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.