

# CHANGE REQUEST COVER SHEET

**Change Request Number:** 13-31A

**Date Received:** 1/8/2013

**Title:** Iran Sanctions Act Changes

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**Policy OR Guidance:** Guidance

**Section/Text Location Affected:** T3.6.4A.9

**Summary of Change:** Updates to (1) title of section, (2) activities subject to sanctions (3) transactions with Iran's Revolutionary Guard Corps (4) minimum period of debarment, and (5) administrative changes

**Reason for Change:** Consistency with recent changes to Iran Sanctions Act as per the Iran Threat Reduction and Syria Human Rights Act of 2012

**Development, Review, and/or Concurrence:** Procurement Legal; Acquisition Policy Division; and Contracting Organizations at HQ, Centers, and Service Areas.

**Target Audience:** Contracting workforce and program offices

**Potential Links within FAST for the Change:** None

**Briefing Planned:** No

**ASAG Responsibilities:** None

**Potential Links within FAST for the Change:** None

**Links for New/Modified Forms (or) Documents (LINK 1)**

**Links for New/Modified Forms (or) Documents (LINK 2)**

**Links for New/Modified Forms (or) Documents (LINK 3)**

## SECTIONS EDITED:

Procurement Guidance:

*T3.6.4 Foreign Acquisition*

*Foreign Acquisition*

**Section 9 : Prohibition on Contracting with Entities that Engage in Certain Activities or Transactions Relating to Iran** [\[Old Content\]](#)[\[New Content\]](#) [\[RedLine Content\]](#)

## SECTIONS EDITED:

### **Section 9 : Prohibition on Contracting with Entities that Engage in Certain Activities Relating to Iran**

**Old Content:** Procurement Guidance:

*T3.6.4 Foreign Acquisition*

*Foreign Acquisition*

**Section 9 : Prohibition on Contracting with Entities that Engage in Certain Activities Relating to Iran**

a. *Certification.*

(1) As required by the Iran Sanctions Act of 1996 and the Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010, unless an exception applies or a waiver is granted according to paragraph (c) or (d) of this section, each offeror must certify that the offeror, and any other person owned or controlled by the offeror, does not engage in any activity for which sanctions may be imposed under section 5 of the Iran Sanctions Act.

(2) In general, the following, which are described in detail in section 5 of the Iran Sanctions Act and section 106 of the Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010, are activities for which sanctions may be imposed on or after July 1, 2010:

(a) Knowingly making an investment of \$20,000,000 or more, or a combination of investments of \$5,000,000 or more that equal or exceed \$20,000,000 in a 12-month period, that directly and significantly contribute to the enhancement of Iran's ability to develop petroleum resources.

(b) Knowingly selling, leasing or providing to Iran goods, services, technology, information, or support with a fair market value of \$1,000,000 or more, or during a 12-month period with an aggregate fair market value of \$5,000,000 or more, that could directly and significantly facilitate the maintenance or expansion of Iran's domestic production of refined petroleum products, including any direct and significant assistance with respect to the construction, modernization, and repair of petroleum refineries.

(c) Knowingly selling or providing to Iran refined petroleum products with a fair market value of \$1,000,000 or more, or during a 12-month period with an aggregate fair market value of \$5,000,000 or more.

(d) Knowingly selling, leasing, or providing to Iran goods, services, technology, information, or support with a fair market value of \$1,000,000 or more, or during a 12-month period with an aggregate fair market value of \$5,000,000 or more, that could directly and significantly contribute to the enhancement of Iran's ability to import refined petroleum products, including:

(i) Certain insurance or reinsurance, underwriting, financing, or brokering for the sale, lease or provision of such items; or

(ii) Providing ships or shipping services to deliver refined petroleum products to Iran.

(e) Exporting, transferring, or otherwise providing to Iran any goods, services, technology, or other items knowing that it would contribute materially to the ability of Iran to acquire or develop chemical, biological, or nuclear weapons or related technologies, or develop destabilizing numbers and types of advanced conventional weapons.

(f) Exporting sensitive technology to the Government of Iran or to any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran.

b. *Remedies.* Upon determining a false certification under paragraph (a) of this section, FAA will take one or more of the following actions:

(1) The CO may terminate the contract.

(2) The suspending official may suspend the contractor according to the procedures in AMS Procurement Guidance T3.2.2.7.

(3) The debarring official may debar the contractor for a period not to exceed three years according to the procedures in AMS Procurement Guidance T3.2.2.7.

c. *Exception for trade agreements.* The certification requirements of paragraph (a) of this section do not apply to procuring eligible products, as defined in the NAFTA Implementation Act (Pub. L. 103-182, 107 Stat 2057) or the Agreement on Civil Aircraft (19 U.S.C. 2513) (see AMS Procurement Guidance T3.6.4).

d. *Waiver.*

(1) The President may waive the requirement for certification on a case-by-case basis if the President determines and certifies in writing to the appropriate congressional

committees (Committee on Armed Services of the Senate, Committee on Finance of the Senate, Committee on Banking, Housing, and Urban Affairs of the Senate, Committee on Foreign Relations of the Senate, Committee on Armed Services of the House of Representatives, Committee on Ways and Means of the House of Representatives, Committee on Financial Services of the House of Representatives, and Committee on Foreign Services of the House of Representatives) that it is in the national interest to do so.

(2) If FAA or a contractor seeks a waiver of the requirement, it must submit the request through the Office of Federal Procurement Policy (OFPP), allowing sufficient time for review and approval. Upon receipt of the waiver request, OFPP will consult with the President's National Security Council, the Office of Terrorism and Financial Intelligence in the Department of the Treasury, and the Office of Terrorism Finance and Economic Sanctions Policy, Bureau of Economic, Energy, and Business Affairs in the State Department, allowing sufficient time for review and approval.

(3) In general, all waiver requests should include the following information:

(a) Agency name, complete mailing address, and point of contact name, telephone number, and email address.

(b) Offeror's name, complete mailing address, and point of contact name.

(c) Description/nature of product or service.

(d) The total cost and length of the contract.

(e) Justification with market research demonstrating that no other offeror can provide the product or service and stating why the product or service must be procured from this offeror, as well as why it is in the national interest for the President to waive the prohibition on contracting with this offeror that-

(1) Conducts activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act of 1996; or

(2) Exports sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf of or at the direction of the government of Iran.

(f) Documentation regarding this offeror's past performance and integrity (see the Past Performance Information Retrieval System and any other relevant information).

(g) Information regarding the offeror's relationship or connection with other firms that conduct activities as specified under subparagraph d(3)(e) above.

(h) The activities in which the offeror is engaged as specified in subparagraph d.(3)(e) above.

e. *Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, Section 106.* The head of an executive agency may not enter into or extend a contract for the procurement of goods and services with a person that exports certain sensitive technology to Iran, as determined by the President and listed on the Excluded Parties List System.

**New Content: Procurement Guidance:**

*T3.6.4 Foreign Acquisition*

*Foreign Acquisition*

**Section 9 : Prohibition on Contracting with Entities that Engage in Certain Activities or Transactions Relating to Iran**

a. *Certification.*

(1) As required by the Iran Sanctions Act of 1996 and the Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010, and Titles II and III of the Iran Threat Reduction and Syria Human Rights Act of 2012 unless an exception applies or a waiver is granted according to paragraph (c) or (d) of this section, each offeror must certify that the offeror, and any other person owned or controlled by the offeror, does not engage in any activity for which sanctions may be imposed under section 5 of the Iran Sanctions Act. Such activities, which are described under section 5 of the Iran Sanctions Act relate to the energy sector of Iran and the development by Iran of weapons of mass destruction or other military capabilities.

(2) As required in section 6(b)(1)(B) of the Iran Sanctions Act, unless an exception applies or a waiver is granted in accordance with paragraphs (c) or (d) of this section, each offeror must certify that the offeror, and any other person owned or controlled by the offeror, does not knowingly engage in a transaction exceeding \$3,000 with Iran's Revolutionary Guard Corps or any of its officials, agents, affiliates, the property and interests in property of which are blocked in accordance with the International Emergency Economic Powers Act (see the Department of the Treasury's Office of Foreign Assets Control's (OFAC's) Specially Designated Nationals and Blocked Persons List on their website).

b. *Remedies.* Upon determining a false certification under paragraph (a) of this section, FAA will take one or more of the following actions:

(1) The CO may terminate the contract.

(2) The suspending official may suspend the contractor according to the procedures in AMS Suspensions Procurement Guidance.

(3) The debarring official may debar the contractor for a period of at least two years according to the procedures in AMS Debarment Procurement Guidance.

c. *Exception for trade agreements.* The certification requirements of paragraph (a) of this section do not apply to procuring eligible products, as defined in the NAFTA Implementation Act (Pub. L. 103-182, 107 Stat 2057) or the Agreement on Civil Aircraft (19 U.S.C. 2513) (see AMS Trade Agreements Procurement Guidance).

d. *Waiver.*

(1) The President may waive the requirement for certification on a case-by-case basis if the President determines and certifies in writing to the appropriate congressional committees (Committee on Armed Services of the Senate, Committee on Finance of the Senate, Committee on Banking, Housing, and Urban Affairs of the Senate, Committee on Foreign Relations of the Senate, Committee on Armed Services of the House of Representatives, Committee on Ways and Means of the House of Representatives, Committee on Financial Services of the House of Representatives, and Committee on Foreign Services of the House of Representatives) that it is in the national interest to do so.

(2) If FAA or a contractor seeks a waiver of the requirement, it must submit the request through the Office of Federal Procurement Policy (OFPP), allowing sufficient time for review and approval. Upon receipt of the waiver request, OFPP will consult with the President's National Security Council, the Office of Terrorism and Financial Intelligence in the Department of the Treasury, and the Office of Terrorism Finance and Economic Sanctions Policy, Bureau of Economic, Energy, and Business Affairs in the State Department, allowing sufficient time for review and approval.

(3) In general, all waiver requests should include the following information:

(a) Agency name, complete mailing address, and point of contact name, telephone number, and email address.

(b) Offeror's name, complete mailing address, and point of contact name.

(c) Description/nature of product or service.

(d) The total cost and length of the contract.

(e) Justification with market research demonstrating that no other offeror can provide the product or service and stating why the product or service must be procured from this offeror, as well as why it is in the national interest for the President to waive the prohibition on contracting with this offeror that-

(i) Conducts activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act of 1996; or

(ii) Exports sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf of or at the direction of the government of Iran.

(iii) Engages in any transactions with Iran's Revolutionary Guard Corps as described in a(2) above. In addition to the requirements of d(3) above, the justification for such transactions must address why a waiver is essential to the security interests of the United States.

(f) Documentation regarding this offeror's past performance and integrity (see the Past Performance Information Retrieval System and any other relevant information).

(g) Information regarding the offeror's relationship or connection with other firms that conduct activities as specified under subparagraph d(3)(e) above.

(h) The activities in which the offeror is engaged as specified in subparagraph d.(3)(e) above.

e. *Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, Section 106.* The head of an executive agency may not enter into or extend a contract for the procurement of goods and services with a person that exports certain sensitive technology to Iran, as determined by the President and listed on the System for Award Management (SAM).

**Red Line Content: Procurement Guidance:**

*T3.6.4 Foreign Acquisition*

*Foreign Acquisition*

**Section 9 : Prohibition on Contracting with Entities that Engage in Certain Activities or Transactions Relating to Iran**

a. *Certification.*

(1) As required by the Iran Sanctions Act of 1996 and the Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010, and Titles II and III of the Iran Threat Reduction and Syria Human Rights Act of 2012 unless an exception applies or a waiver is granted according to paragraph (c) or (d) of this section, each offeror must certify that the offeror, and any other person owned or controlled by the offeror, does not engage in any activity for which sanctions may be imposed under section 5 of the Iran Sanctions Act. ~~(2) In general, the following~~ Such activities, which are described ~~in detail in~~ under section 5 of the ~~Iran Sanctions Act and section 106~~ relate to the ~~Comprehensive~~ energy ~~Iran~~ sector ~~Sanctions, of Accountability~~ Iran and ~~Divestment Act of 2010, are~~ the activities for which sanctions may be imposed on development by Iran of weapons of mass destruction or ~~after July 1, 2010~~ other military capabilities.

~~(a2) Knowingly making an investment of \$20,000,000 or more, or a combination of investments of \$5,000,000 or more that equal or exceed~~ As \$20,000,000 required in a ~~12-~~

month period, that directly and significantly contribute to the enhancement of Iran's ability to develop petroleum section resources. ~~6~~(b) Knowingly selling, leasing or providing to Iran goods, services, technology, information, or support with a fair market value of ~~\$(1,000,000 or more, or during a 12-month period with an aggregate fair market value)~~(B) of \$5,000,000 or more, that could directly and significantly facilitate the maintenance or expansion of Iran's domestic production of refined petroleum Sanctions products Act, including any direct and unless significant assistance with respect to the an exception applies or a waiver construction, is modernization, granted and repair of petroleum in accordance with paragraphs refineries. (c) Knowingly selling or providing to Iran refined petroleum products with a fair market value (d) of \$1,000,000 or this more section, or during a 12-month period with an each aggregate fair market value of offeror must certify that the \$5,000,000 offeror,000 or and more. (d) any Knowingly other selling, person leasing, owned or providing to controlled Iran by goods, the services offeror, technology, does information, not or support with knowingly engage in a fair market value transaction of exceeding \$1,000,000 or more, or during a 12-month period with an aggregate fair market value of \$5,000,000 or more, that could directly and significantly contribute to the enhancement of Iran's ability to import Revolutionary refined Guard petroleum products, including: — Corps (i) or Certain insurance or reinsurance any of its officials, underwriting agents, financing affiliates, or brokering for the sale, property lease or provision of such and interests in property of items; which or — are (ii) Providing blocked ships or in shipping services to deliver refined petroleum products to accordance with the International Emergency Economic Powers Act Iran. (e) Exporting, transferring, or otherwise providing to Iran any goods, services, technology, or other items knowing that it would contribute materially to see the ability Department of Iran to acquire or develop chemical, biological, or nuclear weapons or related technologies, or develop destabilizing numbers the and Treasury's types Office of advanced Foreign conventional Assets weapons. Control's (f) OFAC's Exporting sensitive technology to the Government of Iran or to any entities or individuals, Specially owned or controlled Designated Nationals and by, Blocked or acting Persons List on behalf or at the direction of, the government of their Iran website).

b. *Remedies.* Upon determining a false certification under paragraph (a) of this section, FAA will take one or more of the following actions:

(1) The CO may terminate the contract.

(2) The suspending official may suspend the contractor according to the procedures in AMS Suspensions Procurement Guidance T3.2.2.7.

(3) The debarring official may debar the contractor for a period not of to exceed at least three two years according to the procedures in AMS Debarment Procurement Guidance T3.2.2.7.

c. *Exception for trade agreements.* The certification requirements of paragraph (a) of this section do not apply to procuring eligible products, as defined in the NAFTA Implementation Act (Pub.



L. 103-182, 107 Stat 2057) or the Agreement on Civil Aircraft (19 U.S.C. 2513) (see AMS [Trade Agreements](#) Procurement Guidance-~~T3.6.4~~).

d. *Waiver.*

(1) The President may waive the requirement for certification on a case-by-case basis if the President determines and certifies in writing to the appropriate congressional committees (Committee on Armed Services of the Senate, Committee on Finance of the Senate, Committee on Banking, Housing, and Urban Affairs of the Senate, Committee on Foreign Relations of the Senate, Committee on Armed Services of the House of Representatives, Committee on Ways and Means of the House of Representatives, Committee on Financial Services of the House of Representatives, and Committee on Foreign Services of the House of Representatives) that it is in the national interest to do so.

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(~~4~~i) Conducts activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act of 1996; or

(~~2~~ii) Exports sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf of or at the direction of the government of Iran.

*(iii) Engages in any transactions with Iran's Revolutionary Guard Corps as described in a(2) above. In addition to the requirements of d(3) above, the justification for such transactions must address why a waiver is essential to the security interests of the United States.*

(f) Documentation regarding this offeror's past performance and integrity (see the Past Performance Information Retrieval System and any other relevant information).

(g) Information regarding the offeror's relationship or connection with other firms that conduct activities as specified under subparagraph d(3)(e) above.

(h) The activities in which the offeror is engaged as specified in subparagraph d.(3)(e) above.

e. *Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, Section 106.* The head of an executive agency may not enter into or extend a contract for the procurement of goods and services with a person that exports certain sensitive technology to Iran, as determined by the President and listed on the ~~Excluded Parties List~~System for Award Management (SAM).

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