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United States Government Accountability Office
Washington, DC 20548

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July 3, 2008

The Honorable Joseph I. Lieberman
Chairman

The Honorable Susan M. Collins
Ranking Minority Member

Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Henry A. Waxman
Chairman

The Honorable Thomas M. Davis III
Ranking Minority Member

Committee on Oversight and Government Reform
House of Representatives

Subject: *Department of Defense, General Services Administration, and National Aeronautics and Space Administration: Federal Acquisition Regulation; FAR Case 2008-004, Prohibition on Restricted Business Operations in Sudan and Imports from Burma*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Defense, General Services Administration, and National Aeronautics and Space Administration (agencies), entitled “Federal Acquisition Regulation; FAR Case 2008-004, Prohibition on Restricted Business Operations in Sudan and Imports from Burma” (RIN: 9000-AL01). We received the rule on June 20, 2008. It was published in the *Federal Register* as an interim rule with request for comments on June 12, 2008. 73 Fed. Reg. 33,636.

The interim rule requires every contract entered into by an executive branch agency to contain a certification stating that the contractor does not conduct certain business operations in Sudan. In addition, this interim rule adds Burma to the list of countries from which most imports are prohibited.

The interim rule has an announced effective date of June 12, 2008. The Congressional Review Act requires major rules to have a 60-day delay in their effective date following publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). This interim rule was

published on June 12, 2008, and received on June 20, 2008, which means that the interim rule will not have the required 60-day delay in its effective date.

Enclosed is our assessment of the agencies' compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that, except for the delay in the effective date, the agencies complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Michael R. Volpe, Assistant General Counsel, at (202) 512-8236.

signed

Robert J. Cramer
Associate General Counsel

Enclosure

cc: David A. Drabkin
Acting Chief Acquisition Officer
and Senior Procurement Executive
General Services Administration

ENCLOSURE

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF DEFENSE,
GENERAL SERVICES ADMINISTRATION, AND
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
ENTITLED
"FEDERAL ACQUISITION REGULATION; FAR CASE 2008-004,
PROHIBITION ON RESTRICTED BUSINESS OPERATIONS
IN SUDAN AND IMPORTS FROM BURMA"
(RIN: 9000-AL01)

(i) Cost-benefit analysis

According to the General Services Administration, it did not prepare a cost-benefit analysis of this interim rule because the rule was a statutory mandate.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The agencies determined that this interim rule will not have a significant impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The agencies' submission to the Comptroller General did not describe any actions relevant to the Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The agencies determined that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment because this rule, in part, implements a statute, which became effective on December 31, 2007. Sudan Accountability and Divestment Act, Pub. L. No. 110-174 (Dec. 31, 2007). The agencies state that they will consider comments received on this interim rule in the formation of the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The agencies determined that this interim rule does not impose information collection requirements under the Act.

Statutory authorization for the rule

The agencies promulgated this interim rule under the authority of chapter 137 of title 10, section 121(c) of title 40, and section 2473(c) of title 42, United States Code.

Executive Order No. 12,866

The agencies determined that this interim rule is significant under the Order.