

government operations and procedures. The interim rule does not impose any additional requirements on small businesses. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2009–D027) in correspondence.

#### D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the DFARS do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

#### E. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because the statute became effective upon enactment, and it is imperative that DoD contracting officers be aware of the limitations on interagency procurements and the circumstances under which certain programs need not be delayed by such limitations. However, pursuant to 41 U.S.C. 418b and FAR 1.501–3, DoD will consider public comments received in response to this interim rule in the formation of the final rule.

#### List of Subjects in 48 CFR Part 217

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR part 217 is amended as follows:

#### PART 217—SPECIAL CONTRACTING METHODS

■ 1. The authority citation for 48 CFR part 217 continues to read as follows:

**Authority:** 41 U.S.C. 421 and 48 CFR chapter 1.

■ 2. Section 217.7800 is amended by revising paragraph (a) to read as follows:

##### 217.7800 Scope of subpart.

\* \* \* \* \*

(a) Implements section 854 of the National Defense Authorization Act for

Fiscal Year 2005 (Pub. L. 108–375), section 801 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110–181), and section 806 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111–84); and

\* \* \* \* \*

■ 3. Section 217.7801 is amended by adding the following definition in appropriate alphabetical order:

##### 217.7801 Definitions.

\* \* \* \* \*

*Non-DoD agency that is an element of the intelligence community* means the Office of the Director of National Intelligence; the Central Intelligence Agency; the intelligence elements of the Federal Bureau of Investigation; the intelligence elements of the Department of Energy; the Bureau of Intelligence and Research of the Department of State; the Office of Intelligence and Analysis of the Department of the Treasury; and the elements of the Department of Homeland Security concerned with the analysis of intelligence information, including the Office of Intelligence of the Coast Guard.

■ 4. Section 217.7802 is amended by adding paragraph (a)(3) to read as follows:

##### 217.7802 Policy.

(a) \* \* \*

(3) The limitation in paragraph (a) of this section does not apply to contracts entered into by a non-DoD agency that is an element of the intelligence community for the performance of a joint program conducted to meet the needs of DoD and the non-DoD agency.

\* \* \* \* \*

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#### DEPARTMENT OF DEFENSE

#### Defense Acquisition Regulations System

#### 48 CFR Part 225

[DFARS Case 2009–D022]

#### Defense Federal Acquisition Regulation Supplement; Finland—Public Interest Exception to the Buy American Act

**AGENCY:** Defense Acquisition Regulations System; Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD is issuing this final rule amending the Defense Federal Acquisition Regulation Supplement

(DFARS) to reflect a determination of the Secretary of Defense that it is inconsistent with the public interest to apply the restrictions of the Buy American Act to the acquisition of articles, materials, and supplies produced or manufactured in Finland.

**DATES:** *Effective Date:* June 8, 2010.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, 703–602–0328.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

A reciprocal defense procurement memorandum of understanding (RDP MOU) between the government of Finland and the Government of the United States has been in effect since 1991. The governments have negotiated and concluded a new RDP MOU to provide an updated basis for continued cooperation in defense procurement. The RDP MOU provides that, in relation to defense procurement, each country will accord to the industries of the other country treatment no less favorable than that accorded to its own industries, to the extent consistent with its laws, regulations, and international obligations.

The reciprocal opportunities that the RDP MOU affords to the governments and their defense industries enhances mutual military readiness and promotes standardization and interoperability of equipment between the armed forces of the two countries. Therefore, DoD has made a blanket determination that it is inconsistent with the public interest to apply the restrictions of the Buy American Act to the acquisition of articles, materials, and supplies produced or manufactured in Finland.

DoD is issuing this rule as a final rule because this rule does not have a significant effect beyond the internal operating procedures of DoD and does not have a significant cost or administrative impact on contractors or offerors. Therefore, public comment is not required in accordance with 41 U.S.C. 418b(a).

“Qualifying country” is defined at 225.003(10). The status as a qualifying country entitles these countries to various benefits, both as a matter of DoD policy and as legislated by Congress. The evaluation procedures at DFARS subpart 225.5 treat all qualifying country end products equally. Finland is a qualifying country, as listed at 225.003(10), entitled to all these benefits. However, at DFARS 225.872–1, the qualifying countries are divided into two lists. Most are listed in paragraph (a), but a few are listed in paragraph (b). For the countries in paragraph (a), DoD has already made a blanket

determination of the inapplicability of the Buy American Act to the acquisition of end products from that country. There is only one effect of a country being listed in paragraph (b). Although the evaluation procedures are the same, regardless of which paragraph a country is listed in, if an end product is from a country listed in paragraph (b), when purchasing the end product, the contracting officer has to prepare an individual determination and finding that the end product is exempt from application of the Buy American Act. Over time, the qualifying countries in paragraph (b) are moved to paragraph (a) when all the conditions for arriving at a blanket determination are met.

This final rule implements the recent blanket determination by USD(AT&L) at DFARS 225.872-1 by removing Finland from the list of qualifying countries in paragraph (b) and adding Finland to the list of qualifying countries in paragraph (a). This means that the contracting officer no longer needs to prepare an individual determination and findings when making an award to an offeror of an end product from Finland. However, since Finland is a qualifying country, this was a routine paperwork requirement, and the removal of this requirement only impacts the internal operating procedures of the Government.

This rule was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

## B. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule. This final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501 and public comment is not required in accordance with 41 U.S.C. 418b(a).

## C. Paperwork Reduction Act

This rule does not impose any new information collection requirements that 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 225

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR part 225 is amended as follows:

## PART 225—FOREIGN ACQUISITION

■ 1. The authority citation for 48 CFR part 225 continues to read as follows:

**Authority:** 41 U.S.C. 421 and 48 CFR chapter 1.

■ 2. Section 225.872-1 is amended by revising paragraphs (a) and (b) to read as follows:

### 225.872-1 General.

(a) As a result of memoranda of understanding and other international agreements, DoD has determined it inconsistent with the public interest to apply restrictions of the Buy American Act or the Balance of Payments Program to the acquisition of qualifying country end products from the following qualifying countries:

Australia  
Belgium  
Canada  
Denmark  
Egypt  
Federal Republic of Germany  
Finland  
France  
Greece  
Israel  
Italy  
Luxembourg  
Netherlands  
Norway  
Portugal  
Spain  
Sweden  
Switzerland  
Turkey  
United Kingdom of Great Britain and Northern Ireland.

(b) Individual acquisitions of qualifying country end products from the following qualifying country may, on a purchase-by-purchase basis (see 225.872-4), be exempted from application of the Buy American Act and the Balance of Payments Program as inconsistent with the public interest:

Austria  
\* \* \* \* \*  
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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Part 216

#### Defense Federal Acquisition Regulation Supplement; Letter Contract Definitization Schedule (DFARS Case 2007-D011)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD is adopting as final, without change, a proposed rule

amending the Defense Federal Acquisition Regulation Supplement (DFARS) to clarify requirements regarding definitization of letter contracts. The rule specifies that DoD letter contracts will be definitized using the DFARS procedures applicable to all other undefinitized contract actions.

**DATES:** *Effective Date:* June 8, 2010.

**FOR FURTHER INFORMATION CONTACT:** Ms. Meredith Murphy, Defense Acquisition Regulations System, OUSD(AT&L) DPAP(DARS), 3060 Defense Pentagon, Room 3B855, Washington, DC 20301-3060. Telephone 703-602-8383; facsimile 703-602-0350. Please cite DFARS Case 2007-D011.

### SUPPLEMENTARY INFORMATION:

#### A. Background

DoD published a proposed rule at 74 FR 34292 on July 15, 2009, to clarify requirements regarding definitization of letter contracts. The period for public comment closed on September 14, 2009. The differences between section 16.603 of the Federal Acquisition Regulation (FAR) and DFARS subpart 217.74 definitization requirements confused the acquisition community. This final rule clarifies at DFARS 216.603-2(c)(3) that the definitization requirements at DFARS 217.7404-3(a) apply to DoD letter contracts instead of the requirements at FAR 16.603-2(c)(3). This approach provides consistency in the manner in which DoD manages its undefinitized contract actions, and is in line with the specific provisions of 10 U.S.C. 2326 relating to DoD use of undefinitized contract actions.

DoD received no comments on the proposed rule. Therefore, DoD is finalizing the proposed rule without change.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule.

#### B. Regulatory Flexibility Act

This rule will not 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 it clarifies existing requirements pertaining to undefinitized contract actions.

#### C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*