

count toward its small disadvantaged business goal, subcontracts awarded to—

(1) Protege firms which are qualified organizations employing the severely disabled; and

(2) Former protege firms that meet the criteria in section 831(g)(4) of Public Law 101–510.

(d) The master plan is approved by the Contractor's cognizant contract administration activity.

(e) In those subcontracting plans which specifically identify small businesses, the Contractor shall notify the Administrative Contracting Officer of any substitutions of firms that are not small business firms, for the small business firms specifically identified in the subcontracting plan. Notifications shall be in writing and shall occur within a reasonable period of time after award of the subcontract. Contractor-specified formats shall be acceptable.

(f)(1) For DoD, the Contractor shall submit reports in eSRS as follows:

(i) The Standard Form 294, Subcontracting Report for Individual Contracts, shall be submitted in accordance with the instructions on that form.

(ii) An SSR for other than a commercial subcontracting plan, or construction and related maintenance repair contracts, shall be submitted in eSRS to the department or agency within DoD that administers the majority of the Contractor's individual subcontracting plans. An example would be Defense Finance and Accounting Service or Missile Defense Agency.

(2) For DoD, the authority to acknowledge receipt or reject reports in eSRS is as follows:

(i) Except as provided in paragraph (f)(2)(ii) of this clause, the authority to acknowledge receipt or reject SSRs in eSRS resides with the SSR Coordinator at the department or agency that administers the majority of the Contractor's individual subcontracting plans.

(ii) The authority to acknowledge receipt or reject SSRs for construction and related maintenance and repair contracts resides with the SSR Coordinator for each department or agency.

(End of clause)

■ 6. Revise section 252.219–7010 to read as follows:

**252.219–7010 Notification of Competition Limited to Eligible 8(a) Concerns—Partnership Agreement**

As prescribed in 219.811–3(2), use the following clause:

**NOTIFICATION OF COMPETITION LIMITED TO ELIGIBLE 8(A) CONCERNS—PARTNERSHIP AGREEMENT (MAR 2016)**

(a) Offers are solicited only from small business concerns expressly certified by the Small Business Administration (SBA) for participation in the SBA's 8(a) Program and which meet the following criteria at the time of submission of offer:

(1) The Offeror is in conformance with the 8(a) support limitation set forth in its approved business plan.

(2) The Offeror is in conformance with the Business Activity Targets set forth in its approved business plan or any remedial action directed by the SBA.

(3) If the competition is to be limited to 8(a) concerns within one or more specific SBA regions or districts, then the offeror's approved business plan is on the file and serviced by \_\_\_\_\_. *[Contracting Officer completes by inserting the appropriate SBA District and/or Regional Office(s) as identified by the SBA.]*

(b) By submission of its offer, the Offeror represents that it meets all of the criteria set forth in paragraph (a) of this clause.

(c) Any award resulting from this solicitation will be made directly by the Contracting Officer to the successful 8(a) offeror selected through the evaluation criteria set forth in this solicitation.

(d)(1) *Agreement.* A small business concern submitting an offer in its own name shall furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States or its outlying areas, unless—

(i) The SBA has determined that there are no small business manufacturers or processors in the Federal market place in accordance with FAR 19.502–2(c);

(ii) The acquisition is processed under simplified acquisition procedures and the total amount of this contract does not exceed \$25,000, in which case a small business concern may furnish the product of any domestic firm; or

(iii) The acquisition is a construction or service contract.

(2) The \_\_\_\_\_ *[insert name of SBA's contractor]* will notify the \_\_\_\_\_ *[insert name of contracting agency]* Contracting Officer in writing immediately upon entering an agreement (either oral or written) to transfer all or part of its stock or other ownership interest to any other party.

(End of clause)

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**DEPARTMENT OF DEFENSE**

**Defense Acquisition Regulations System**

**48 CFR Part 225**

[Docket DARS–2015–0053]

RIN 0750–AI77

**Defense Federal Acquisition Regulation Supplement: Buy American and Balance of Payments Program—Clause Prescription (DFARS Case 2015–D037)**

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

**ACTION:** Final rule.

**SUMMARY:** DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to clarify how the clause prescription addresses applicability when an exception to the Buy American

statute or Balance of Payments Program applies.

**DATES:** Effective March 25, 2016.

**FOR FURTHER INFORMATION CONTACT:** Mr. Christopher Stiller, telephone 571–372–6176.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

DoD published a proposed rule in the **Federal Register** at 80 FR 72672 on November 20, 2015, to revise the DFARS to clarify when it is appropriate to omit DFARS clause 252.225–7001 with regard to exceptions to the Buy American statute and Balance of Payment Program. There were no public comments submitted in response to the proposed rule. There are no changes from the proposed rule made in the final rule.

**II. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items**

The clause at DFARS 252.225–7001, Buy American Act and Balance of Payments Program, applies to acquisitions at or below the simplified acquisition threshold and for commercial items, including commercially available off-the-shelf items. This rule merely clarifies when it is appropriate to omit DFARS clause 252.225–7001 in accordance with existing exceptions to the Buy American statute and Balance of Payment Program.

**III. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

**IV. Regulatory Flexibility Act**

A final regulatory flexibility analysis (FRFA) has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

This rule is necessary to ensure that contracting officers do not mistakenly omit the clause at DFARS 252.225-7001, Buy American and Balance of Payments Program, when it is appropriate for inclusion in a solicitation and contract. The objective of the rule is to clarify the prescription for use of DFARS clause 252.225-7001 to state that the clause does not apply when the acquisition is for supplies for use either within the United States and an exception to the Buy American statute applies, or outside the United States and an exception to the Balance of Payments Program applies.

There were no significant issues raised by the public in response to the initial regulatory flexibility analysis.

This rule will apply to small entities that are awarded contracts that contain DFARS clause 252.225-7001; however, there is no impact on these small entities because the rule merely clarifies the clause prescription to correctly address applicability when an exception to the Buy American statute or Balance of Payments Program applies.

The rule does not impose any additional reporting, recordkeeping, or other compliance requirements.

No alternatives were identified that will accomplish the objectives of the rule.

#### IV. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

#### List of Subjects in 48 CFR Part 225

Government procurement.

Jennifer L. Hawes,

*Editor, Defense Acquisition Regulations System.*

Therefore, 48 CFR part 225 is amended as follows:

#### PART 225—FOREIGN ACQUISITION

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

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

##### 225.1100 [Amended]

- 2. In section 225.1100, remove “Subparts” in two places and add “subparts” in their place.
- 3. Amend section 225.1101 by—
  - a. Revising paragraph (2)(i)(C);
  - b. Redesignating paragraphs (2)(i)(D) and (E) as paragraphs (2)(i)(E) and (F); and
  - c. Adding a new paragraph (2)(i)(D).

The revision and addition read as follows:

##### 225.1101 Acquisition of supplies.

\* \* \* \* \*

(2)(i) \* \* \*

(C) The acquisition is for supplies for use within the United States and an exception to the Buy American statute applies, *e.g.*, nonavailability or public interest (see FAR 25.103 and 225.103);

(D) The acquisition is for supplies for use outside the United States and an exception to the Balance of Payments Program applies (see 225.7501);

\* \* \* \* \*

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#### DEPARTMENT OF DEFENSE

##### Defense Acquisition Regulations System

##### 48 CFR Parts 211 and 225

[Docket DARS-2016-0003]

RIN 0750-AI85

##### Defense Federal Acquisition Regulation Supplement: Prohibition on Requiring the Use of Fire-resistant Rayon Fiber (DFARS Case 2016-D012)

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

**ACTION:** Final rule.

**SUMMARY:** DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to delete obsolete text requiring the use of fire-resistant rayon fiber.

**DATES:** Effective March 25, 2016.

**FOR FURTHER INFORMATION CONTACT:** Mr. Christopher Stiller, at 571-372-6176.

**SUPPLEMENTARY INFORMATION:**

##### I. Background

DFARS 225.7016 prohibits requiring the use of fire-resistant rayon fiber in any solicitation issued before January 1, 2015. This prohibition was implemented in accordance with section 821 of the National Defense Authorization Act for Fiscal Year 2011. Since the effective period imposed by the statute has passed, the DFARS text is now obsolete. Therefore, this final rule removes DFARS 225.7016 and the cross reference at 211.170.

##### II. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the Federal Acquisition

Regulation (FAR) is 41 U.S.C. 1707 entitled “Publication of proposed regulations.” Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it merely removes obsolete text from the DFARS and affects only the internal operating procedures of the Government. As such, the change has no significant cost or administrative impact on contractors or offerors.

##### III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

##### IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501-1, and 41 U.S.C. 1707 does not require publication for public comment.

##### V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).