

required. However, DoD will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2005–D020.

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.*

List of Subjects in 48 CFR Part 219

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR part 219 is amended as follows:

PART 219—SMALL BUSINESS PROGRAMS

■ 1. The authority citation for 48 CFR part 219 continues to read as follows:

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

219.800 [Amended]

■ 2. Section 219.800 is amended in paragraph (a), in the last sentence, by removing “2005” and adding in its place “2006”.

[FR Doc. 05–19456 Filed 9–29–05; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

48 CFR Part 225

[DFARS Case 2005–D019]

Defense Federal Acquisition Regulation Supplement; Defense Logistics Agency Waiver Authority

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to authorize the Defense Logistics Agency Component Acquisition Executive to waive domestic source restrictions on the acquisition of ball and roller bearings, when adequate domestic supplies are not available to meet DoD requirements on a timely basis.

EFFECTIVE DATE: September 30, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations Council, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense

Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0328; facsimile (703) 602–0350. Please cite DFARS Case 2005–D019.

SUPPLEMENTARY INFORMATION:

A. Background

The annual DoD appropriations acts restrict the acquisition of ball and roller bearings to those produced by a domestic source and of domestic origin (Section 8064 of the Fiscal Year 2001 DoD Appropriations Act (Public Law 106–259) and similar sections in subsequent DoD appropriations acts). The appropriations acts provide that the Secretary of the military department responsible for the procurement may waive the restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet DoD requirements on a timely basis, and that such an acquisition must be made in order to acquire capability for national security purposes. This final rule revises DFARS 225.7009–3(c) to delegate this waiver authority to the Defense Logistics Agency (DLA) Component Acquisition Executive, for DLA acquisitions that meet the specified criteria.

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

B. Regulatory Flexibility Act

This rule will not have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of DoD. Therefore, publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2005–D019.

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.*

List of Subjects in 48 CFR Part 225

Government procurement.

Michele P. Peterson,

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 225.7009–3 is amended by revising paragraph (c) introductory text to read as follows:

225.7009–3 Waiver.

* * * * *

(c) The Secretary of the department responsible for acquisition or, for the Defense Logistics Agency, the Component Acquisition Executive, may waive the restriction in 225.7009–1(b), on a case-by-case basis, by certifying to the House and Senate Committees on Appropriations that—

* * * * *

[FR Doc. 05–19457 Filed 9–29–05; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

48 CFR Parts 225, 229, and 252

[DFARS Case 2004–D012]

Defense Federal Acquisition Regulation Supplement; Prohibition of Foreign Taxation on U.S. Assistance Programs

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a statutory prohibition on foreign taxation under contracts funded by U.S. assistance programs. The rule addresses the responsibilities of the contractor and the contracting officer regarding the prohibition.

DATES: This interim rule is effective September 30, 2005. Comments on the interim rule should be submitted in writing to the address shown below on or before November 29, 2005, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2004–D012, using any of the following methods:

• Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

• Defense Acquisition Regulations Web site: <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. Follow the instructions for submitting comments.

• E-mail: dfars@osd.mil. Include DFARS Case 2004–D012 in the subject line of the message.

• Fax: (703) 602–0350.

• Mail: Defense Acquisition Regulations Council, Attn: Ms. Debra Overstreet, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

• Hand Delivery/Courier: Defense Acquisition Regulations Council, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

All comments received will be posted to <http://emissary.acq.osd.mil/dar/dfars.nsf>.

FOR FURTHER INFORMATION CONTACT: Ms. Debra Overstreet, (703) 602–0296.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule adds policy and a contract clause to implement Section 579 of Division E of the Consolidated Appropriations Act, 2003 (Pub. L. 108–7), Section 506 of Division D of the Consolidated Appropriations Act, 2004 (Pub. L. 108–199), and Section 506 of Division D of the Consolidated Appropriations Act, 2005 (Pub. L. 108–447). These statutes require that a bilateral agreement providing for U.S. assistance to a foreign country must specify that the U.S. assistance shall be exempt from taxation by the foreign government. Therefore, the foreign government is prohibited from imposing taxes on commodities acquired under contracts funded by such U.S. assistance. The interim rule addresses the responsibilities of the contractor and the contracting officer regarding the prohibition.

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

B. Regulatory Flexibility Act

This interim 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 the administrative notification requirements of the rule are expected to affect less than 10 contracts per year. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2004–D012.

C. Paperwork Reduction Act

The information collection requirements of the rule do not reach the threshold for requiring Office of Management and Budget approval under 44 U.S.C. 3501, *et seq.*

D. 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 publish an interim rule prior to affording the public an opportunity to comment. This interim rule implements Section 579 of Division E of the Consolidated Appropriations Act, 2003 (Pub. L. 108–7), Section 506 of Division D of the Consolidated Appropriations Act, 2004 (Pub. L. 108–199), and Section 506 of Division D of the Consolidated Appropriations Act, 2005 (Pub. L. 108–447). These statutes prohibit a government of a foreign country from imposing taxes on the United States under contracts funded by U.S. assistance provided to that country. The rule is needed for effective implementation of the statutory prohibition, as it addresses requirements for prompt notification to the appropriate parties if a foreign government imposes such taxes, so that corrective action can be taken. Comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR part 225, 229, and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 225, 229, and 252 are amended as follows:

PART 225—FOREIGN ACQUISITION

■ 1. The authority citation for 48 CFR parts 225, 229, and 252 continues to read as follows:

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

■ 2. Section 225.7301 is amended by adding paragraph (e) to read as follows:

225.7301 General.

* * * * *

(e) See 229.170 for policy on contracts financed under U.S. assistance programs that involve payment of foreign country value added taxes or customs duties.

PART 229—TAXES

■ 3. Sections 229.170 through 229.170–4 are added to read as follows:

229.170 Reporting of foreign taxation on U.S. assistance programs.

229.170–1 Definition.

Commodities, as used in this section, means any materials, articles, supplies, goods, or equipment.

229.170–2 Policy.

(a) By law, bilateral agreements with foreign governments must include a provision that commodities acquired under contracts funded by U.S. assistance programs shall be exempt from taxation by the foreign government. If taxes or customs duties nevertheless are imposed, the foreign government must reimburse the amount of such taxes to the U.S. Government (Section 579 of Division E of the Consolidated Appropriations Act, 2003 (Pub. L. 108–7), as amended by Section 506 of Division D of the Consolidated Appropriations Act, 2004 (Pub. L. 108–199), and similar sections in subsequent acts).

(b) This foreign tax exemption—

(1) Applies to a contract or subcontract for commodities when—

(i) The funds are appropriated by the annual foreign operations appropriations act; and

(ii) The value of the contract or subcontract is \$500 or more;

(2) Does not apply to the acquisition of services;

(3) Generally is implemented through letters of offer and acceptance, other country-to-country agreements, or Federal interagency agreements; and

(4) Requires reporting of noncompliance for effective implementation.

229.170–3 Reports.

The contracting officer shall submit a report to the designated Security Assistance Office when a foreign government or entity imposes tax or customs duties on commodities acquired under contracts or subcontracts meeting the criteria of 229.170–2(b)(1). Follow the procedures at PGI 229.170–3 for submission of reports.

229.170–4 Contract clause.

Use the clause at 252.229–7011, Reporting of Foreign Taxes—U.S. Assistance Programs, in solicitations and contracts funded with U.S. assistance appropriations provided in the annual foreign operations appropriations act.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Section 252.229–7011 is added to read as follows:

252.229–7011 Reporting of Foreign Taxes—U.S. Assistance Programs.

As prescribed in 229.170–4, use the following clause:

Reporting of Foreign Taxes—U.S. Assistance Programs (SEP 2005)

(a) *Definition. Commodities*, as used in this clause, means any materials, articles, supplies, goods, or equipment.

(b) Commodities acquired under this contract shall be exempt from all value added taxes and customs duties imposed by the recipient country. This exemption is in addition to any other tax exemption provided through separate agreements or other means.

(c) The Contractor shall inform the foreign government of the tax exemption, as documented in the Letter of Offer and Acceptance, country-to-country agreement, or interagency agreement.

(d) If the foreign government or entity nevertheless imposes taxes, the Contractor shall promptly notify the Contracting Officer and shall provide documentation showing that the foreign government was apprised of the tax exemption in accordance with paragraph (c) of this clause.

(e) The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts for commodities that exceed \$500.

(End of clause)

[FR Doc. 05–19463 Filed 9–29–05; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE**48 CFR Part 237**

[DFARS Case 2003–D042]

Defense Federal Acquisition Regulation Supplement; Advisory and Assistance Services

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to the acquisition of advisory and assistance services. This rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

EFFECTIVE DATE: September 30, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Schulze, Defense Acquisition Regulations Council, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0326; facsimile (703) 602–0350. Please cite DFARS Case 2003–D042.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at <http://www.acq.osd.mil/dpap/dars/dfars/transformation/index.htm>.

This final rule is a result of the DFARS Transformation initiative. The rule—

- Deletes the definition of “advisory and assistance services” at DFARS 237.201. The definition is used primarily for budget reporting under 10 U.S.C. 2212, and is adequately addressed in financial management regulations.

- Deletes obsolete text on contracting for engineering and technical services at DFARS 237.203. This text was based on DoD Directive 1130.2, Engineering and Technical Services—Management Control, which was cancelled in 1990.

- Deletes a reference listing of DoD publications that govern the conduct of audits at DFARS 237.270. This list has been relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI). Additional information on PGI is available at <http://www.acq.osd.mil/dpap/dars/pgi>.

- Deletes obsolete text on management controls and requesting activity responsibilities at DFARS 237.271 and 237.272. This text was based on OMB Circular A–120, Guidelines for the Use of Advisory and Assistance Services, which was rescinded in 1993. OMB Circular A–120 was replaced by OFPP Policy Letter 93–1, Management Oversight of Service Contracting, which is implemented in FAR Subpart 37.5.

DoD published a proposed rule at 70 FR 8562 on February 22, 2005. DoD received no comments on the proposed rule. Therefore, DoD has adopted the proposed rule as a final rule without change.

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

B. Regulatory Flexibility Act

DoD certifies that this final 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 the rule makes no significant change to DoD policy for the acquisition of advisory and assistance services.

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.*

List of Subjects in 48 CFR Part 237

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR Part 237 is amended as follows:

PART 237—SERVICE CONTRACTING

■ 1. The authority citation for 48 CFR Part 237 continues to read as follows:

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

237.201 and 237.203 [Removed]

■ 2. Sections 237.201 and 237.203 are removed.

■ 3. Section 237.270 is revised to read as follows:

237.270 Acquisition of audit services.

(a) *General policy.* (1) Do not contract for audit services unless—

(i) The cognizant DoD audit organization determines that expertise required to perform the audit is not available within the DoD audit organization; or

(ii) Temporary audit assistance is required to meet audit reporting requirements mandated by law or DoD regulation.

(2) See PGI 237.270 for a list of DoD publications that govern the conduct of audits.

(b) *Contract period.* Except in unusual circumstances, award contracts for recurring audit services for a 1-year period with at least 2 option years.

(c) *Approvals.* Do not issue a solicitation for audit services unless the requiring activity provides evidence that the cognizant DoD audit organization has approved the statement of work. The requiring agency shall obtain the same evidence of approval for subsequent material changes to the statement of work.

(d) *Solicitation provisions and contract clauses.* (1) Use the provision at