

89 Tobacco products (only 8975)

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■ 3. Section 225.1101 is amended by revising paragraph (10)(i) to read as follows:

§ 225.1101 Acquisition of supplies.

* * * * *

(10)(i) Use the clause at 252.225–7036, Buy American Act—Free Trade Agreements—Balance of Payments Program, instead of the clause at FAR 52.225–3, Buy American Act—Free Trade Agreements—Israeli Trade Act, in solicitations and contracts for the items listed at 225.401–70, when the estimated value equals or exceeds \$25,000, but is less than \$193,000, and a Free Trade Agreement applies to the acquisition.

(A) Use the basic clause when the estimated value equals or exceeds \$64,786.

(B) Use the clause with its Alternate I when the estimated value equals or exceeds \$25,000 but is less than \$64,786.

* * * * *

■ 4. Section 225.7503 is revised to read as follows:

§ 225.7503 Contract clauses.

Unless the entire acquisition is exempt from the Balance of Payments Program—

(a) Use the clause at 252.225–7044, Balance of Payments Program—Construction Material, in solicitations and contracts for construction to be performed outside the United States with a value greater than the simplified acquisition threshold but less than \$7,407,000.

(b) Use the clause at 252.225–7045, Balance of Payments Program—Construction Material Under Trade Agreements, in solicitations and contracts for construction to be performed outside the United States with a value of \$7,407,000 or more. For acquisitions with a value of \$7,407,000 or more, but less than \$8,422,165, use the clause with its Alternate I.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.212–7001 [Amended]

■ 5. Section 252.212–7001 is amended as follows:

■ a. By revising the clause date to read “(FEB 2006)”; and

■ b. In paragraph (b), in entry “252.225–7021”, by removing “(DEC 2005)” and adding in its place “(FEB 2006)”.

■ 6. Section 252.225–7021 is amended by revising the clause date and paragraph (a)(3)(ii) to read as follows:

§ 252.225–7021 Trade agreements.

* * * * *

Trade Agreements (FEB 2006)

(a) * * *

(3) * * *

(ii) A Free Trade Agreement country (Australia, Canada, Chile, Mexico, Morocco, or Singapore);

* * * * *

■ 7. Section 252.225–7045 is amended as follows:

■ a. By revising the clause date;

■ b. In paragraph (a), by revising paragraph (2) of the definition of “Designated country”; and

■ c. By revising Alternate I to read as follows:

§ 252.225–7045 Balance of Payments Program—Construction Material Under Trade Agreements.

* * * * *

Balance of Payments Program—Construction Material Under Trade Agreements (Feb 2006)

(a) * * *

Designated country means—

* * * * *

(2) A Free Trade Agreement country (Australia, Canada, Chile, Mexico, Morocco, or Singapore);

* * * * *

Alternate I (Feb 2006). As prescribed in 225.7503(b), delete the definitions of “designated country” and “designated country construction material” from the definitions in paragraph (a) of the basic clause, add the following definition of “Australian, Chilean, or Moroccan construction material” to paragraph (a) of the basic clause, and substitute the following paragraphs (b) and (c) for paragraphs (b) and (c) of the basic clause:

Australian, Chilean, or Moroccan construction material means a construction material that—

(1) Is wholly the growth, product, or manufacture of Australia, Chile, or Morocco; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in Australia, Chile, or Morocco into a new and different construction material distinct from the materials from which it was transformed.

(b) This clause implements the Balance of Payments Program by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the WTO GPA and all Free Trade Agreements except NAFTA apply to this acquisition. Therefore, the Balance of

Payments Program restrictions are waived for WTO GPA country, Australian, Chilean, or Moroccan, least developed country, or Caribbean Basin country construction material.

(c) The Contractor shall use only domestic, WTO GPA country, Australian, Chilean, or Moroccan, least developed country, or Caribbean Basin country construction material in performing this contract, except for—

(1) Construction material valued at or below the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation; or

(2) The construction material or components listed by the Government as follows:

[Contracting Officer to list applicable excepted materials or indicate “none”]

[FR Doc. 06–1635 Filed 2–22–06; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 231

[DFARS Case 2004–D026]

Defense Federal Acquisition Regulation Supplement; Business Restructuring Costs—Delegation of Authority To Make Determinations Relating to Payment

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

ACTION: Final rule.

SUMMARY: DoD has adopted as final, without change, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 819 of the National Defense Authorization Act for Fiscal Year 2005. Section 819 contains changes concerning delegation of authority to make determinations relating to payment of defense contractors for business restructuring costs.

DATES: *Effective Date:* February 23, 2006.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Sain, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0293; facsimile (703) 602–0350. Please cite DFARS Case 2004–D026.

SUPPLEMENTARY INFORMATION:

A. Background

DoD published an interim rule at 70 FR 43074 on July 26, 2005, to implement section 819 of the National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108-375). Section 819 amended 10 U.S.C. 2325(a)(2) to permit the Director of the Defense Contract Management Agency to make determinations of savings related to contractor restructuring costs that are expected to be less than \$25 million over a 5-year period. In addition, the DFARS rule removed unnecessary references to requirements for certifications for business combinations that occurred before November 1997; and clarified requirements for projected restructuring costs and savings to be computed on a present value basis.

DoD received no comments on the interim rule. Therefore, DoD has adopted the interim 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 cost principle addressed in this rule applies only to DoD contractors that incur restructuring costs for external restructuring activities.

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 231

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule amending 48 CFR part 231, which was published at 70 FR 43074 on July 26, 2005, is adopted as a final rule without change.

[FR Doc. 06-1633 Filed 2-22-06; 8:45 am]

BILLING CODE 5001-08-P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 236

[DFARS Case 2003-D034]

Defense Federal Acquisition Regulation Supplement; Construction Contracting

AGENCY: Defense Acquisition Regulations System, 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 contracting for construction. This rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

DATES: *Effective Date:* February 23, 2006.

FOR FURTHER INFORMATION CONTACT: Mr. Euclides Barrera, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0296; facsimile (703) 602-0350. Please cite DFARS Case 2003-D034.

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 DFARS text defining and addressing the use of network analysis systems, as this subject is addressed in the United Facilities Guide Specifications used by the military departments in specifying construction requirements; and

- Deletes DFARS text on distribution and use of contractor performance reports, handling of Government estimates of construction costs, use of bid schedules with additive or deductive items, and technical working agreements with foreign governments. Text on these subjects has been relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI), available at <http://www.acq.osd.mil/dpap/dars/pgi>.

DoD published a proposed rule at 70 FR 35605 on June 21, 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 updates and streamlines DFARS text, but makes no significant change to DoD contracting policy.

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 236

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR part 236 is amended as follows:

■ 1. The authority citation for 48 CFR part 236 continues to read as follows:

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

PART 236—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

236.102 [Amended]

■ 2. Section 236.102 is amended by removing paragraph (4) and redesignating paragraph (5) as paragraph (4).

■ 3. Section 236.201 is amended by revising paragraph (c) to read as follows:

236.201 Evaluation of contractor performance.

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