

rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD does not expect this interim rule 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 it impacts only those incumbent contractors for which an in-sourcing determination has been made. The DFARS change relates solely to a notification requirement of a decision, made outside of acquisition regulatory channels, to convert a contracted function to performance by DoD civilian employees. The impact of this interim rule will be to heighten the awareness of impacted firms. An initial regulatory flexibility analysis has been performed and is summarized as follows:

This action implements section 938 of the National Defense Authorization Act (NDAA) for Fiscal Year 2012 regarding private sector notification of in-sourcing actions. Section 938 of the NDAA requires the Secretary of Defense to establish procedures for the timely notification of any contractor that performs a function that the Secretary plans to convert (in-source) to performance by DoD civilian employees and to also provide the congressional defense committees a copy of any such notification.

The interim rule will apply to all small business concerns that have contracts with DoD agencies that are being in-sourced. The most recent data from the DoD Office of Small Business Programs for fiscal years 2009 thru 2012 shows an average of 59,362 small business concerns have contracts with DoD. The degree of potential impact of this rule to those concerns, however, is unknown since there is no way to gauge in advance the extent of any future in-sourcing decisions.

There are no projected reporting, recordkeeping, and other compliance requirements associated with this rule. The rule does not duplicate, overlap, or conflict with any other Federal rules. DoD has not identified any alternatives that would fulfill the requirements of the statute and reduce impact on small businesses. Any impact of the rule is expected to be beneficial to small businesses, by giving them timely notification of planned in-sourcing actions.

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 2012–D036), in correspondence.

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).

VI. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense, pursuant to 41 U.S.C. 1707(d), that urgent and compelling reasons exist to promulgate this rule on an interim basis without prior opportunity for public comment. This action is necessary to implement section 938 of the National Defense Authorization Act (NDAA) for Fiscal Year 2012, which requires DoD to provide notification to the private sector of in-sourcing action determinations. Section 938 requires the Secretary of Defense to establish procedures for the timely notification of any incumbent contractor who performs a function that the Secretary plans to convert (in-source) to performance by DoD civilian employees. The notification must also be provided to the congressional defense committees. In-sourcing decisions may have a significant economic effect on firms that have contracts with DoD. Firms that are not notified on a timely basis of an in-sourcing determination that impacts them have less time to prepare for lost revenue and to make staffing adjustments. The rule, in addition to ensuring that there will be timely notification to affected contractors, should help facilitate a more seamless transition in services when implementing in-sourcing requirements. Nonetheless, pursuant to 41 U.S.C. 1707 and FAR 1.501–3(b), 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 237

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 237 are 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. 1303 and 48 CFR chapter 1.

■ 2. Section 237.102–79 is revised to read as follows:

237.102–79 Private sector notification requirements in support of in-sourcing actions.

In accordance with 10 U.S.C. 2463, contracting officers shall provide written notification to affected incumbent contractors of Government in-sourcing determinations. Notification shall be provided within 20 business days of the contracting officer's receipt of a decision from the cognizant component in-sourcing program official. The notification will summarize the requiring official's final determination as to why the service is being in-sourced and shall be coordinated with the component's in-sourcing program official. No formal hiring or contract-related actions may be initiated prior to such notification, except for preliminary internal actions associated with hiring or contract modification. The memorandum on private sector notification requirements in support of in-sourcing actions is available at PGI 237.1, under the Supplemental Information tab.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 245

RIN 0750–AI03

Defense Federal Acquisition Regulation Supplement: Approval of Rental Waiver Requests (DFARS Case 2013–D006)

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 remove the Director of Defense Security Cooperation Agency from the approval process for waiver or reduction of charges for the use of Government property on work for foreign governments or international organizations.

DATES: Effective October 31, 2013.

FOR FURTHER INFORMATION CONTACT: Annette Gray, telephone 571–372–6093.

SUPPLEMENTARY INFORMATION:

I. Discussion

DoD is revising the DFARS to implement a policy that will allow contracting officers to approve requests for waiver or reduction of rental charges for the use of Government property on work for foreign governments or international organizations. Over the past year the Director of Defense Security Cooperation Agency (DSCA) has seen a significant increase in the number of requests with extremely low dollar values over the rental period. Currently, DSCA is required to approve requests in which the agency has no equities. This final rule will allow the contracting officer to process the request for waiver or reduction of charges for the use of Government property on work for foreign governments or international organizations without a separate review by DSCA. Removing DSCA from the approval process will expedite contractors' requests, while still protecting the interests of the Government.

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

Publication of proposed regulations, 41 U.S.C. 1707, is the statute, which applies to the publication of the Federal Acquisition Regulation. 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 the changes are not substantive and only modify the internal operating procedures of DoD.

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).

List of Subjects in 48 CFR Part 245

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 245 is amended as follows:

PART 245—GOVERNMENT PROPERTY

■ 1. The authority citation for 48 CFR part 245 continues to read as follows:

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

■ 2. Section 245.302 is amended by revising paragraph (3)(ii) to read as follows:

245.302 Contracts with foreign governments or international organizations.

* * * * *

(3) * * *

(ii) Requests for waiver or reduction of charges for the use of Government property on work for foreign governments or international organizations shall be submitted to the contracting officer, who is authorized to approve the requests in consultation with the appropriate functional specialist.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 252

RIN 0750-A109

Defense Federal Acquisition Regulation Supplement: New Designated Country—Croatia (DFARS Case 2013-D031)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to add Croatia as a new designated country under the World Trade Organization Government Procurement Agreement (WTO GPA). Croatia joined the European Union, which is a party to the WTO GPA, on July 1, 2013.

DATES: Effective October 31, 2013.

FOR FURTHER INFORMATION CONTACT: Ms. Annette Gray, Defense Acquisition Regulations System, OUSD (AT&L)DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301-3060. Telephone 571-372-6093; facsimile 571-372-6101.

SUPPLEMENTARY INFORMATION:

I. Background

The European Union is a party to the WTO GPA and has assumed rights and obligations under the WTO GPA on behalf of its member states. On July 1, 2013, Croatia became a member of the European Union. Therefore, the European Union has committed to assume rights and obligations on behalf of Croatia under the WTO GPA. On June 27, 2012, the WTO Committee on Government Procurement accepted the European Union notification indicating Croatia's coverage. The United States, which is also a party to the WTO GPA, has agreed to waive discriminatory purchasing requirements for eligible products and suppliers of Croatia (78 FR 60368).

Therefore, this rule adds Croatia to the list of World Trade Organization Government Procurement Agreement countries wherever it appears in the DFARS, as part of the definition of "designated country."

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

"Publication of proposed regulations", 41 U.S.C. 1707, is the