

DEPARTMENT OF DEFENSE**Defense Acquisition Regulations System****48 CFR Parts 204, 236, and 252****Defense Federal Acquisition Regulation Supplement; Technical Amendments**

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

ACTION: Final rule.

SUMMARY: DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement (DFARS) to update an organization name and reference numbers.

DATES: *Effective Date:* September 8, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Michele Peterson, Defense Acquisition Regulations System, OUSD(AT&L)DPAP(DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0311; facsimile (703) 602-0350.

SUPPLEMENTARY INFORMATION: This final rule amends DFARS text as follows:

- *Section 204.805.* Reflects the change in name of the "General Accounting Office" to the "Government Accountability Office".
- *Section 236.602-1.* Updates a reference to a paragraph of the Federal Acquisition Regulation.
- *Section 252.225-7023.* Updates a DFARS reference within a contract clause.

List of Subjects in 48 CFR Parts 204, 236, and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 204, 236, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 204, 236, and 252 continues to read as follows:

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

PART 204—ADMINISTRATIVE MATTERS**204.805 [Amended]**

■ 2. Section 204.805 is amended in paragraph (2), in the second sentence, by removing "General Accounting" and adding in its place "Government Accountability".

PART 236—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS**236.602-1 [Amended]**

■ 3. Section 236.602-1 is amended in paragraph (a), in the first sentence, by removing "5.205(c)" and adding in its place "5.205(d)".

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**252.225-7023 [Amended]**

■ 4. Section 252.225-7023 is amended as follows:

- a. By revising the clause date to read "(SEP 2006)"; and
- b. In paragraph (b)(2), by removing "225.7020-3" and adding in its place "225.7010-3".

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DEPARTMENT OF DEFENSE**Defense Acquisition Regulations System****48 CFR Part 207**

[DFARS Case 2003-D044]

Defense Federal Acquisition Regulation Supplement; Acquisition Planning

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 on acquisition planning. 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:* September 8, 2006.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gomersall, Defense Acquisition Regulations System, OUSD(AT&L)DPAP(DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0302; facsimile (703) 602-0350. Please cite DFARS Case 2003-D044.

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.

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

- Increase the dollar thresholds for preparation of written acquisition plans;
- Update acquisition planning requirements for consistency with changes to the DoD 5000 series publications;
- Delete unnecessary text relating to contract administration and class justifications for other than full and open competition;
- Clarify requirements for funding of leases; and
- Delete text addressing the contents of written acquisition plans. Text on this subject has been relocated to the 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 54693 on September 16, 2005. DoD received no comments on the proposed rule and has adopted the proposed rule as a final rule, with minor editorial changes at 207.103(h) and 207.471(c).

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 addresses internal DoD requirements for acquisition planning.

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 207

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR part 207 is amended as follows:

PART 207—ACQUISITION PLANNING

■ 1. The authority citation for 48 CFR part 207 continues to read as follows:

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

207.102 [Removed]

■ 2. Section 207.102 is removed.

■ 3. Section 207.103 is revised to read as follows:

207.103 Agency-head responsibilities.

(d)(i) Prepare written acquisition plans for—

(A) Acquisitions for development, as defined in FAR 35.001, when the total cost of all contracts for the acquisition program is estimated at \$10 million or more;

(B) Acquisitions for production or services when the total cost of all contracts for the acquisition program is estimated at \$50 million or more for all years or \$25 million or more for any fiscal year; and

(C) Any other acquisition considered appropriate by the department or agency.

(ii) Written plans are not required in acquisitions for a final buy out or one-time buy. The terms “final buy out” and “one-time buy” refer to a single contract that covers all known present and future requirements. This exception does not apply to a multiyear contract or a contract with options or phases.

(e) Prepare written acquisition plans for acquisition programs meeting the thresholds of paragraphs (d)(i)(A) and (B) of this section on a program basis. Other acquisition plans may be written on either a program or an individual contract basis.

(g) The program manager, or other official responsible for the program, has overall responsibility for acquisition planning.

(h) For procurement of conventional ammunition, as defined in DoDD 5160.65, Single Manager for Conventional Ammunition (SMCA), the SCMA will review the acquisition plan to determine if it is consistent with retaining national technology and industrial base capabilities in accordance with 10 U.S.C. 2304(c)(3) and Section 806 of Public Law 105–261. The department or agency—

(i) Shall submit the acquisition plan to the address in PGI 207.103(h); and

(ii) Shall not proceed with the procurement until the SMCA provides written concurrence with the acquisition plan. In the case of a non-concurrence, the SCMA will resolve issues with the Army Office of the Executive Director for Conventional Ammunition.

207.104 [Removed]

■ 4. Section 207.104 is removed.

■ 5. Section 207.105 is revised to read as follows:

207.105 Contents of written acquisition plans.

In addition to the requirements of FAR 7.105, planners shall follow the procedures at PGI 207.105.

■ 6. Section 207.471 is amended by revising paragraphs (b) and (c) to read as follows:

207.471 Funding requirements.

* * * * *

(b) DoD leases are either capital leases or operating leases. See FMR 7000.14–R, Volume 4, Chapter 7, Section 070207.

(c) Use procurement funds for capital leases, as these are essentially installment purchases of property.

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DEPARTMENT OF DEFENSE**Defense Acquisition Regulations System****48 CFR Parts 225 and 252**

RIN 0750–AF34

Defense Federal Acquisition Regulation Supplement; Prohibition on Acquisition From Communist Chinese Military Companies (DFARS Case 2006–D007)

AGENCY: Defense Acquisition Regulations System, 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 Section 1211 of the National Defense Authorization Act for Fiscal Year 2006. Section 1211 prohibits DoD from acquiring United States Munitions List items from Communist Chinese military companies.

DATES: *Effective date:* September 8, 2006.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before November 7, 2006, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2006–D007, using any of the following methods:

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

• *E-mail:* dfars@osd.mil. Include DFARS Case 2006–D007 in the subject line of the message.

• *Fax:* (703) 602–0350.

• *Mail:* Defense Acquisition Regulations System, Attn: Ms. Amy Williams, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

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

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

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

SUPPLEMENTARY INFORMATION:**A. Background**

This interim rule adds DFARS policy and a contract clause to implement Section 1211 of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109–163). Section 1211 prohibits DoD from acquiring goods or services, through a contract or a subcontract with a Communist Chinese military company, if the goods or services being acquired are on the munitions list of the International Trafficking in Arms Regulations (the United States Munitions List at 22 CFR Part 121). Section 1211 also provides for certain exceptions and waiver authority.

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 does not expect this 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 the rule affects only those entities that are a part of the industrial base of the People’s Republic of China or that are owned or controlled by, or affiliated with, an element of the Government or armed forces of the People’s Republic of China. 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 2006–D007.