

hours have been approved for the provision at DFARS 252.225-7035, Buy American Act—Free Trade Agreements—Balance of Payments Program Certificate. DoD estimates that the rule will result in a 5 percent reduction in the burden hours for the provision at DFARS 252.225-7000 (1,800 hours) and a 50 percent reduction in the burden hours for the provision at DFARS 252.225-7035 (500 hours).

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 225.1101 is amended by revising paragraph (2)(iii), paragraph (10)(i) introductory text, and paragraph (10)(ii) to read as follows:

§ 225.1101 Acquisition of supplies.

* * * * *

(2) * * *

(iii) An exception to the Buy American Act or Balance of Payments Program applies (see FAR 25.103, 225.103, and 225.7501); or

* * * * *

(10)(i) Except as provided in paragraph (10)(ii) of this section, 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.

* * * * *

(ii) Do not use the clause if—

(A) Purchase from foreign sources is restricted (see 225.401(a)(2)), unless the contracting officer anticipates a waiver of the restriction; or

(B) Acquiring information technology that is a commercial item, using fiscal year 2004 or subsequent funds (Section 535 of Division F of the Consolidated Appropriations Act, 2004 (Pub. L. 108-199), and the same provision in subsequent appropriations acts).

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■ 3. Section 225.7501 is amended by revising paragraphs (a)(2)(iv) and (v)

and adding paragraph (a)(2)(vi) to read as follows:

§ 225.7501 Policy.

* * * * *

(a) * * *

(2) * * *

(iv) An industrial gas;

(v) A brand drug specified by the Defense Medical Materiel Board; or

(vi) Information technology that is a commercial item, using fiscal year 2004 or subsequent funds (Section 535 of Division F of the Consolidated Appropriations Act, 2004 (Pub. L. 108-199), and the same provision in subsequent appropriations acts);

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 236

RIN 0750-AF41

Defense Federal Acquisition Regulation Supplement; Congressional Notification of Architect-Engineer Services/Military Family Housing Contracts (DFARS Case 2006-D015)

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 1031(a)(37) of the National Defense Authorization Act for Fiscal Year 2004. Section 1031(a)(37) amended the requirements for submission of a notification to Congress before the award of a contract for architectural and engineering services or construction design in connection with military construction, military family housing, or restoration or replacement of damaged or destroyed facilities.

DATES: *Effective date:* October 4, 2006.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before December 4, 2006, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2006-D015, 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-D015 in the subject line of the message.

- *Fax:* (703) 602-0350.

- *Mail:* Defense Acquisition Regulations System, Attn: Ms. Debra Overstreet, 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. Debra Overstreet, (703) 602-0310.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule revises DFARS 236.601 to implement Section 1031(a)(37) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136). Section 1031(a)(37) amended the requirements at 10 U.S.C. 2807, for submission of a notification to Congress before the award of a contract for architectural and engineering services or construction design in connection with military construction, military family housing, or restoration or replacement of damaged or destroyed facilities. The amendments increased the contract dollar threshold for submission from \$500,000 to \$1,000,000; and reduced the time period for submission, from 21 to 14 days before obligation of funds, when the notification is provided in electronic medium.

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 relates to reporting requirements that are internal to the Government. 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 subpart in accordance with 5 U.S.C. 610. Such comments should be submitted

separately and should cite DFARS Case 2006–D015.

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.*

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 1031(a)(37) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136). Section 1031(a)(37) amended the statutory requirements for submission of a notification to Congress before the award of a contract for architectural and engineering services or construction design in connection with military construction, military family housing, or restoration or replacement of damaged or destroyed facilities. 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 236

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

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

PART 236—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

■ 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.

■ 2. Section 236.601 is revised to read as follows:

§ 236.601 Policy

(1) Written notification to the congressional defense committees is required if the total estimated contract price for architect-engineer services or construction design, in connection with military construction, military family housing, or restoration or replacement of damaged or destroyed facilities, exceeds \$1,000,000. In accordance with 10 U.S.C. 480, unclassified notifications must be provided by electronic medium.

(i) For military construction or military family housing (10 U.S.C. 2807(b)), the notification—

(A) Must include the scope of the project and the estimated contract price; and

(B)(1) If provided by electronic medium, must be provided at least 14 days before the initial obligation of funds; or

(2) If provided by other than electronic medium, must be received by the congressional defense committees at least 21 days before the initial obligation of funds.

(ii) For restoration or replacement of damaged or destroyed facilities (10 U.S.C. 2854(b)), the notification—

(A) Must include the justification for the project, the estimated contract price, and the source of the funds for the project; and

(B)(1) If provided by electronic medium, must be provided at least 7 days before the initial obligation of funds; or

(2) If provided by other than electronic medium, must be received by the congressional defense committees at least 21 days before the initial obligation of funds.

(2) During the applicable notice period, synopsis of the proposed contract action and administrative actions leading to the award may be started.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 252

RIN 0750–AF49

Defense Federal Acquisition Regulation Supplement; Free Trade Agreements—Guatemala and Bahrain (DFARS Case 2006–D028)

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 the United States-Bahrain Free Trade Agreement and the Dominican Republic-Central America-United States Free Trade Agreement with respect to Guatemala. The Free Trade Agreements waive the applicability of the Buy American Act for some foreign supplies and construction materials and specify

procurement procedures designed to ensure fairness.

DATES: *Effective date:* October 4, 2006.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before December 4, 2006, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2006–D028, 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–D028 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 amends DFARS provisions and clauses to implement the Dominican Republic-Central America-United States Free Trade Agreement, with respect to Guatemala, and the United States-Bahrain Free Trade Agreement. Congress approved these trade agreements in the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (Public Law 109–53) and the United States-Bahrain Free Trade Agreement Implementation Act (Public Law 109–169).

The rule adds Bahrain and Guatemala to the definition of “Free Trade Agreement country.” In addition, the rule removes Guatemala from the definition of “Caribbean Basin country” because, in accordance with Section 201(a)(3) of Public Law 109–53, when the Dominican Republic-Central America-United States Free Trade Agreement enters into force with respect to a country, that country is no longer designated as a beneficiary country for purposes of the Caribbean Basin Economic Recovery Act.

The dollar thresholds for applicability of the Dominican Republic-Central America-United States Free Trade