

**List of Subjects in 48 CFR Chapter 2**

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

■ Therefore, 48 CFR Appendix F to Chapter 2 is amended as follows:

■ 1. The authority citation for 48 CFR Appendix F to subchapter I continues to read as follows:

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

**Appendix F to Chapter 2—Material Inspection and Receiving Report**

■ 2. Appendix F to Chapter 2 is amended in Part 1, Section F–103, by revising paragraph (c) to read as follows:

**F–103 Use.**

\* \* \* \* \*

(c) The contractor prepares the MIRR, except for entries that an authorized Government representative is required to complete. The contractor shall furnish sufficient copies of the completed form, as directed by the Government representative.

\* \* \* \* \*

■ 3. Appendix F to Chapter 2 is amended by revising Part 2 to read as follows:

**PART 2—CONTRACT QUALITY ASSURANCE ON SHIPMENTS BETWEEN CONTRACTORS****F–201 Procedures.**

Follow the procedures at PGI F–201 for evidence of required Government contract quality assurance at a subcontractor's facility.

■ 4. Appendix F to Chapter 2 is amended in Part 3, Section F–301, by revising paragraph (b)(21)(iii) in the first sentence and paragraph (b)(21)(iv)(D) introductory text to read as follows:

**F–301 Preparation instructions.**

\* \* \* \* \*

(b) \* \* \*  
(21) \* \* \*

(iii) When contract terms provide for use of Certificate of Conformance and shipment is made under these terms, the contractor shall enter in capital letters "CERTIFICATE OF CONFORMANCE" in Block 21a on the next line following the CQA and acceptance statements.

\* \* \* \* \*

(iv) \* \* \*

(D) When Certificate of Conformance procedures apply, inspection or inspection and acceptance are at source, and the contractor's Certificate of Conformance is required, the contractor shall enter in capital letters

"CERTIFICATE OF CONFORMANCE" as required by paragraph (b)(21)(iii) of this section.

\* \* \* \* \*

■ 5. Appendix F to Chapter 2 is amended by revising Part 7 to read as follows:

**PART 7—DISTRIBUTION OF THE DD FORM 250–1****F–701 Distribution.**

Follow the procedures at PGI F–701 for distribution of DD Form 250–1.

**F–702 Corrected DD Form 250–1.**

Follow the procedures at PGI F–702 when corrections to DD Form 250–1 are needed.

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**DEPARTMENT OF DEFENSE****Defense Acquisition Regulations System**

**48 CFR Parts 201, 205, 207, 211, 217, 219, 223, 225, 228, 232, 237, and 252**

**RIN 0750–AF16**

**Defense Federal Acquisition Regulation Supplement; Inflation Adjustment of Acquisition-Related Thresholds (DFARS Case 2004–D022)**

**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 adjust acquisition-related thresholds for inflation. Section 807 of the National Defense Authorization Act for Fiscal Year 2005 requires periodic adjustment of statutory acquisition-related dollar thresholds, except those established by the Davis-Bacon Act, the Service Contract Act, or trade agreements. This rule also amends other acquisition-related thresholds that are BASED on policy rather than statute.

**DATES:** *Effective Date:* December 19, 2006.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0328; facsimile (703) 602–0350. Please cite DFARS Case 2004–D022.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

This final rule implements Section 807 of the National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108–375). Section 807 provides for adjustment of statutory acquisition-related dollar thresholds every 5 years, except for those established by the Davis-Bacon Act, the Service Contract Act, or trade agreements. This case presented an opportunity to review all acquisition-related dollar thresholds, including those that are non-statutory. DoD published a proposed rule at 71 FR 3446 on January 23, 2006. DoD received one comment from a public-private partnership in response to the proposed rule. That comment related to the proposed increase in the micro-purchase spending limit for the General Services Administration SmartPay Purchase Card Program. The comment did not specifically relate to this DFARS case and, therefore, has been forwarded to the General Services Administration for consideration.

A matrix showing the thresholds reviewed in preparation of this final rule is available at <http://www.acq.osd.mil/dpap/dars/dfars/changenotice/index.htm>, within the change notice summary containing the same date as this final rule. The statute requires adjustment of acquisition-related thresholds for inflation using the Consumer Price Index for all-urban consumers. Acquisition-related thresholds in statutes that were in effect on October 1, 2000, are subject to 5 years of inflation. The inflation adjustment factors in the proposed rule were calculated on the basis of December 2004 data. For the final rule, data through October 2005 was used. This resulted in a slight increase in the calculated inflation adjustment factors. For the 5-year period from October 2000 through October 2005, the inflation adjustment factor increased from 13 percent to 14.5 percent. However, due to rounding, most thresholds shown in the proposed rule did not change. The exceptions are—

- DFARS 217.170 and 217.171 (Multiyear Contracting)—Increased from \$565.5 million to \$572.5 million; and
- DFARS 237.170–2 (Service Contracting)—Increased from \$77.5 million to \$78.5 million.

The threshold at DFARS 207.170–3 (Consolidation of Contract Requirements) is the only threshold in the final rule that was not addressed in the proposed rule, because the calculated threshold now rounds up to \$5.5 million, from \$5 million.

The threshold at DFARS 216.203–4, for use of the economic price

adjustment clause at FAR 52.216-4, was increased from \$50,000 to \$55,000 in the proposed rule. This threshold change is no longer applicable as a result of the final rule published at 71 FR 39006 on July 11, 2006, which specified the simplified acquisition threshold as the general threshold for DoD use of the FAR economic price adjustment clauses.

The threshold at DFARS 236.601, for congressional notification of certain architect-engineer or construction design contracts, was increased from \$500,000 to \$550,000 in the proposed rule. This threshold change is no longer applicable as a result of the interim rule published at 71 FR 58540 on October 4, 2006, which increased the threshold to \$1 million to implement a statutory change.

The threshold in the clause at DFARS 252.232-7009, Mandatory Payment by Governmentwide Commercial Purchase Card, was increased from \$2,500 to \$3,000 in the proposed rule. The final rule revises this threshold to the micro-purchase threshold, for consistency with the corresponding clause prescription at DFARS 232.1110.

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 adjustment of acquisition-related dollar thresholds is intended to keep pace with inflation and thus maintain the status quo.

#### C. Paperwork Reduction Act

This rule does not impose any new information collection requirements that require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.* The information collection requirements of the provision and clauses at 252.225-7003, 252.225-7004, and 252.225-7006 are approved for use through May 31, 2007, under OMB Control Number 0704-0229.

#### List of Subjects in 48 CFR Parts 201, 205, 207, 211, 217, 219, 223, 225, 228, 232, 237, and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR Parts 201, 205, 207, 211, 217, 219, 223, 225, 228, 232, 237, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR Parts 201, 205, 207, 211, 217, 219, 223, 225, 228, 232, 237, and 252 continues to read as follows:

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

#### PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM

■ 2. Section 201.109 is added to read as follows:

##### 201.109 Statutory acquisition-related dollar thresholds-adjustment for inflation.

(d) A matrix showing the most recent escalation adjustments of statutory acquisition-related dollar thresholds is available at PGI 201.109.

#### PART 205—PUBLICIZING CONTRACT ACTIONS

##### 205.303 [Amended]

■ 3. Section 205.303 is amended by removing “\$5 million” and adding in its place “\$5.5 million” as follows:

- a. In paragraph (a)(i) introductory text, in the first and second sentences;
- b. In paragraph (a)(i)(A), in the second sentence; and
- c. In paragraph (a)(i)(B), in the first and second sentences.

#### PART 207—ACQUISITION PLANNING

##### 207.170-3 [Amended]

■ 4. Section 207.170-3 is amended in paragraph (a) introductory text by removing “\$5,000,000” and adding in its place “\$5.5 million”.

#### PART 211—DESCRIBING AGENCY NEEDS

##### 211.503 [Amended]

■ 5. Section 211.503 is amended in paragraph (b), in the first and second sentences, by removing “\$500,000” and adding in its place “\$550,000”.

#### PART 217—SPECIAL CONTRACTING METHODS

■ 6. Section 217.170 is amended by revising paragraph (d)(1)(i) to read as follows:

##### 217.170 General.

\* \* \* \* \*

(d)(1) \* \* \*

(i) Exceed \$500 million for supplies (see 217.172(c) and 217.172(e)(4)) or \$572.5 million for services (see 217.171(a)(6));

\* \* \* \* \*

##### 217.171 [Amended]

■ 7. Section 217.171 is amended in paragraph (a)(6) by removing “\$500

million” and adding in its place “\$572.5 million”.

#### PART 219—SMALL BUSINESS PROGRAMS

##### 219.502-2 [Amended]

■ 8. Section 219.502-2 is amended in paragraph (a)(i) by removing “\$2 million” and adding in its place “\$2.5 million”.

#### PART 223—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

■ 9. Section 223.803 is revised to read as follows:

##### 223.803 Policy.

No DoD contract may include a specification or standard that requires the use of a class I ozone-depleting substance or that can be met only through the use of such a substance unless the inclusion of the specification or standard is specifically authorized at a level no lower than a general or flag officer or a member of the Senior Executive Service of the requiring activity in accordance with Section 326, Public Law 102-484 (10 U.S.C. 2301 (repealed) note). This restriction is in addition to any imposed by the Clean Air Act and applies after June 1, 1993, to all DoD contracts, regardless of place of performance.

#### PART 225—FOREIGN ACQUISITION

##### 225.7204 [Amended]

■ 10. Section 225.7204 is amended as follows:

- a. In paragraphs (a) and (b) by removing “\$10 million” and adding in its place “\$11.5 million”; and
- b. In paragraph (c) by removing “\$500,000” and adding in its place “\$550,000”.

#### PART 228—BONDS AND INSURANCE

##### 228.102-1 [Amended]

■ 11. Section 228.102-1 is amended in the second sentence of the introductory text and in paragraph (1) by removing “\$25,000” and adding in its place “\$30,000”.

#### PART 232—CONTRACT FINANCING

##### 232.404 [Amended]

■ 12. Section 232.404 is amended in paragraph (a)(9) by removing “\$2,500” and adding in its place “\$3,000”.

**232.502-1 [Amended]**

■ 13. Section 232.502-1 is amended in paragraph (b)(1) by removing "\$50,000" and adding in its place "\$55,000".

**PART 237—SERVICE CONTRACTING****237.170-2 [Amended]**

■ 14. Section 237.170-2 is amended in paragraphs (a)(1) and (2) by removing "\$50,000,000" and adding in its place "\$78.5 million".

**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

■ 15. Section 252.209-7004 is amended by revising the clause date and paragraph (a) to read as follows:

**252.209-7004 Subcontracting with Firms That are Owned or Controlled by the Government of a Terrorist Country.**

\* \* \* \* \*

**Subcontracting With Firms That are Owned or Controlled by the Government of a Terrorist Country (Dec 2006)**

(a) Unless the Government determines that there is a compelling reason to do so, the Contractor shall not enter into any subcontract in excess of \$30,000 with a firm, or a subsidiary of a firm, that is identified in the Excluded Parties List System as being ineligible for the award of Defense contracts or subcontracts because it is owned or controlled by the government of a terrorist country.

\* \* \* \* \*

**252.225-7003 [Amended]**

■ 16. Section 252.225-7003 is amended as follows:

■ a. By revising the clause date to read "(DEC 2006)";

■ b. In paragraph (b)(1) by removing "\$10 million" and adding in its place "\$11.5 million"; and

■ c. In paragraph (b)(2)(i) by removing "\$500,000" and adding in its place "\$550,000".

**252.225-7004 [Amended]**

■ 17. Section 252.225-7004 is amended as follows:

■ a. By revising the clause date to read "(DEC 2006)"; and

■ b. In paragraph (b)(1) by removing "\$500,000" and adding in its place "\$550,000".

**252.225-7006 [Amended]**

■ 18. Section 252.225-7006 is amended as follows:

■ a. By revising the clause date to read "(DEC 2006)"; and

■ b. In paragraph (f)(1) by removing "\$500,000" and adding in its place "\$550,000".

**252.232-7009 [Amended]**

■ 19. Section 252.232-7009 is amended as follows:

■ a. By revising the clause date to read "(DEC 2006)"; and

■ b. By removing "\$2,500" and adding in its place "the micro-purchase threshold in Part 2 of the Federal Acquisition Regulation,".

**252.249-7002 [Amended]**

■ 20. Section 252.249-7002 is amended as follows:

■ a. By revising the clause date to read "(DEC 2006)"; and

■ b. In paragraph (d)(1) by removing "\$500,000" and adding in its place "\$550,000".

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

RIN 0750-AF17

**Defense Federal Acquisition Regulation Supplement; Restriction on Carbon, Alloy, and Armor Steel Plate (DFARS Case 2005-D002)**

**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 clarify the restriction on the acquisition of foreign carbon, alloy, or armor steel plate. The restriction implements provisions of annual DoD appropriations acts.

**DATES:** *Effective Date:* December 19, 2006.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0328; facsimile (703) 602-0350. Please cite DFARS Case 2005-D002.

**SUPPLEMENTARY INFORMATION:****A. Background**

Section 8111 of the Fiscal Year 1992 DoD Appropriations Act (Pub. L. 102-172) and similar sections in subsequent

DoD Appropriations Acts (the most recent being Section 8024 of Pub. L. 109-289) contain a restriction on the acquisition of carbon, alloy, or armor steel plate, that is not melted and rolled in the United States or Canada, for use in any Government-owned facility or property under the control of the Department of Defense. This restriction is implemented in the DFARS at 225.7011-1 through 225.7011-3 and in the corresponding contract clause at 252.225-7030.

DoD published a proposed rule at 70 FR 73189 on December 9, 2005, to clarify the applicability of the restriction. Two respondents provided comments on the proposed rule. One of the respondents applauded DoD's initiative to clarify the restriction and recommended adoption of the rule as proposed. The other respondent raised two issues regarding the proposed rule. A discussion of these issues is provided below.

1. *Property under the control of DoD.* The respondent interpreted the statutory phrase "property under the control of the Department of Defense" to mean personal property as well as real property, and recommended amendment of the rule to reflect this interpretation.

DoD has not adopted this recommendation, as DoD believes that limitation of the restriction to real property is consistent with the statutory provisions; and that, if the statutory phrase "for use in any \* \* \* property under the control of the Department of Defense" were intended to include all personal property controlled by DoD, the words of the statute "for use in any Government-owned facility" would be without added meaning. The current interpretation of the statute has been in use since 1992 without objection.

2. *Use as a raw material.* The respondent stated that the rule's limitation of the restriction to plate used as a "raw material" sets a limitation that does not appear in the statute. In addition, the respondent stated that carbon, alloy, and armor steel plate is not a "raw material"; it is a finished steel mill product that can be used "as is" in certain applications or as an intermediate material for the fabrication of other products. Therefore, the respondent recommended that the phrase "as a raw material" be removed from the rule.

DoD notes that the phrase "as a raw material" has been in the clause at 252.225-7030 since 1992 without objection. The phrase was added to the clause as a result of a public comment submitted by an industry association in response to the interim rule published