

as those terms are defined at § 358.3(l); and

(2) With respect to an electric Transmission Provider, engages in marketing, sales or brokering activities as those terms are defined at § 358.3(e).

\* \* \* \* \*

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Parts 215, 225, and 253

#### 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 references within the DFARS text.

**EFFECTIVE DATE:** March 27, 2007.

**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:

- *Sections 215.404-71-3 and 215.404-71-4.* Removes obsolete cross-references, and adds a reference to the TreasuryDirect Web site for interest rate information.
- *Section 225.7014.* Updates a cross-reference.
- *Section 225.7401.* Updates the section to provide a more specific description of the Procedures, Guidance, and Information (PGI) text referenced in paragraph (a).
- *Part 253.* Adds a reference to the DoD Forms Management Program Web site.

#### List of Subjects in 48 CFR Parts 215, 225, and 253

Government procurement.

**Michele P. Peterson,**  
Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 215, 225, and 253 are amended as follows:

■ 1. The authority citation for 48 CFR parts 215, 225, and 253 continues to read as follows:

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

#### PART 215—CONTRACTING BY NEGOTIATION

##### 215.404-71-3 [Amended]

■ 2. Section 215.404-71-3 is amended in paragraph (b)(7), in the first sentence, by removing “(see 230.7101-1(a))” and adding in its place “(see [http://www.treasurydirect.gov/govt/rates/tcir/tcir\\_opdirsemi.htm](http://www.treasurydirect.gov/govt/rates/tcir/tcir_opdirsemi.htm))”.

##### 215.404-71-4 [Amended]

■ 3. Section 215.404-71-4 is amended in paragraph (e)(2) by removing “(see 230.7001)”.

#### PART 225—FOREIGN ACQUISITION

##### 225.7014 [Amended]

■ 4. Section 225.7014 is amended by removing “236.274(a)” and adding in its place “236.273(a)”.

■ 5. Section 225.7401 is amended by revising the section heading and paragraph (a) to read as follows:

##### 225.7401 Contracts requiring performance or delivery in a foreign country.

(a) If an acquisition requires performance of work in a foreign country by contractor personnel other than host country personnel, or delivery of items to a Unified Combatant Command designated operational area, follow the procedures at PGI 225.7401(a).

\* \* \* \* \*

#### PART 253—FORMS

■ 6. Subpart 253.3 is added to read as follows:

##### Subpart 253.3—Illustration of Forms

##### 253.303 Agency forms.

DoD forms are available at <http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm>.

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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:** Final rule.

**SUMMARY:** DoD has adopted as final, without change, 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.

**EFFECTIVE DATE:** March 27, 2007.

**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 2006-D007.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

DoD published an interim rule at 71 FR 53045 on September 8, 2006, to implement Section 1211 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 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 (USML) at 22 CFR Part 121).

One source submitted comments on the interim rule. That source recommended addition of an exception to the policy that, before issuance of a solicitation, the requirements activity must notify the contracting officer whether the items to be acquired are on the USML. The exception would apply to items that include critical military technology, since those items are already subject to controls that limit

issuance of the solicitation and the associated technical data package to United States and Canadian firms.

DoD does not agree with the recommended change. A company located in the United States or Canada could fall within the definition of a Communist Chinese military company if it is owned or controlled by, or affiliated with, an element of the Government or armed forces of the People's Republic of China. Also, the prohibition applies to subcontracts as well as contracts. An item of critical military technology could contain a subcontracted component that is not subject to the same controls as the end item, but is on the USML. Therefore, the contracting officer needs the specified notification from the requirements activity to identify all USML items and to ensure that the clause at DFARS 252.225-7007 is included in solicitations and contracts for those items.

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 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.

#### 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 Parts 225 and 252

Government procurement.

**Michele P. Peterson,**  
*Editor, Defense Acquisition Regulations System.*

#### Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule amending 48 CFR Parts 225 and 252, which was published at 71 FR 53045 on September 8, 2006, is adopted as a final rule without change.

[FR Doc. E7-5480 Filed 3-26-07; 8:45 am]

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Parts 232 and 252

RIN 0750-AF28

#### Defense Federal Acquisition Regulation Supplement; Electronic Submission and Processing of Payment Requests (DFARS Case 2005-D009)

**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 policy addressing requirements for DoD contractors to submit payment requests in electronic form. The rule clarifies the situations under which DoD will grant exceptions to requirements for electronic submission of payment requests.

**EFFECTIVE DATE:** March 27, 2007.

**FOR FURTHER INFORMATION CONTACT:** Mr. John McPherson, 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 2005-D009.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

This final rule amends DFARS Subpart 232.70 and the corresponding contract clause at 252.232-7003 to clarify the situations under which DoD will grant exceptions to requirements for electronic submission of payment requests.

DoD published a proposed rule at 71 FR 14149 on March 21, 2006. Two sources submitted comments on the proposed rule. A discussion of the comments is provided below.

1. *Comment:* One respondent recommended expansion of the DFARS text that permits the administrative contracting officer to authorize submission of a non-electronic payment request, to also provide this authority to the procuring contracting officer. The respondent stated that the expansion is necessary to identify authorized officials for contracts that are not administered by the Defense Contract Management Agency.

*DoD Response:* DoD agrees that this authority belongs to the contracting officer administering the contract.

However, there may be several contracting officers providing administrative support for a contract. Therefore, DoD has revised the rule to make this approval the responsibility of the contracting officer administering the contract for payment.

2. *Comment:* One respondent stated there should be a distinction between the requirement for contractors to submit payment requests in electronic form and the requirement for DoD procurement officials to process supporting documents in electronic form.

*DoD Response:* It is DoD policy for all required documentation to be submitted and processed in electronic form to facilitate the payment process. DoD believes the DFARS rule implements this policy and has made no related changes regarding this requirement in the final rule.

3. *Comment:* One respondent recommended limiting the alternative payment request methods to conventional mail or facsimile. The respondent pointed out that each new alternative method of submission requires the establishment of business rules to properly monitor payment requests and to ensure timely payment. In addition, submission by methods such as e-mail will require the printing and scanning of documents and will increase the workload of the payment office.

*DoD Response:* The final rule includes changes that limit the alternative payment request methods to conventional mail or facsimile. DoD recognizes that the Defense Finance and Accounting Service (DFAS) has established procedures with adequate controls for the paper and facsimile submission process to ensure prevention of duplicate payments and to provide an adequate audit trail. E-mail submission is not viable at this time, because DFAS presently does not have procedures in place to process such submissions and to maintain sufficient process control.

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 is designed to avoid any such impact by permitting alternative means of requesting payment when submission of electronic payment