

FAR Part 10 and Part 210, to determine—

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(2) If the contracting officer cannot determine whether the criteria in paragraph (c)(1) of this section are met, the contracting officer includes a written explanation in the contract file as to why such a determination could not be made (Section 816 of Public Law 109-163).

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 205 and 225

RIN 0750-AF33

Defense Federal Acquisition Regulation Supplement; Berry Amendment Notification Requirement (DFARS Case 2006-D006)

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 833(a) of the National Defense Authorization Act for Fiscal Year 2006. Section 833(a) requires the posting of a notice on the FedBizOpps Internet site, when certain exceptions to domestic source requirements apply to an acquisition.

DATES: *Effective Date:* August 2, 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) 602-7887. Please cite DFARS Case 2006-D006.

SUPPLEMENTARY INFORMATION:

A. Background

DoD published an interim rule at 71 FR 58536 on October 4, 2006, to implement Section 833(a) of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109-163). Section 833(a) amended 10 U.S.C. 2533a to add a requirement for the posting of a notice on the FedBizOpps Internet site, within 7 days after award of a contract exceeding the simplified acquisition threshold, for the acquisition of (1) certain clothing, fiber,

yarn, or fabric items, when DoD has determined that adequate domestic items are not available; or (2) chemical warfare protective clothing, when an exception to domestic source requirements applies because the acquisition furthers an agreement with a qualifying country.

One source submitted comments on the interim rule, as discussed below.

Comments: The respondent strongly supported the initiative to insert transparency into the process of waiving domestic source requirements. Although the law allows posting within 7 days after contract award, the respondent encouraged a more immediate notice to industry, preferably before contract award. The respondent also suggested that there should be a permanent posting of current domestic nonavailability determinations, so that industry (especially a company just entering the contracting arena) would have information regarding the materials or components for which a waiver has been granted. The respondent recommended that this information be available in an easily accessible and permanent location to permit better compliance with domestic source requirements.

DoD Response: When drafting the interim rule, DoD determined that the least burdensome approach for posting the notice would be to make it part of the synopsis that is published after contract award in accordance with FAR 5.301. Therefore, the final rule continues to provide for posting of the notice within 7 days after contract award, consistent with the statutory provisions. A listing of current domestic nonavailability determinations is available on the Defense Procurement and Acquisition Policy Web site, at <http://www.acq.osd.mil/dpap/paic/dnad.htm>.

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 relates to a notification requirement that is performed by the Government.

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 205 and 225

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 205 and 225, which was published at 71 FR 58536 on October 4, 2006, is adopted as a final rule without change.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 225 and 252

RIN 0750-AF54

Defense Federal Acquisition Regulation Supplement; Berry Amendment Restrictions—Clothing Materials and Components Covered (DFARS Case 2006-D031)

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 833(b) of the National Defense Authorization Act for Fiscal Year 2006. Section 833(b) expands the foreign source restrictions applicable to the acquisition of clothing to also include clothing materials and components, other than sensors, electronics, or other items added to, and not normally associated with, clothing and the materials and components thereof.

DATES: *Effective Date:* August 2, 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) 602-7887. Please cite DFARS Case 2006-D031.

SUPPLEMENTARY INFORMATION: