

(B) Contractor personnel performing such functions will be effectively supervised, reviewed, and evaluated; and

(C) Performance of such functions will not result in a reduction in the security of the installation or facility;

(iii) Contract performance will not extend beyond September 30, 2009; and

(iv) The total number of personnel employed to perform security-guard functions under all contracts entered into pursuant to this authority does not exceed—

(A) For fiscal year 2007, the total number of such personnel employed under such contracts on October 1, 2006;

(B) For fiscal year 2008, the number equal to 90 percent of the total number of such personnel employed under such contracts on October 1, 2006; and

(C) For fiscal year 2009, the number equal to 80 percent of the total number of such personnel employed under such contracts on October 1, 2006.

(2) Follow the procedures at PGI 237.102-70(d) to ensure that the personnel limitations specified in paragraph (d)(1)(iv) of this subsection are not exceeded.

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Part 237

RIN 0750-AF69

#### Defense Federal Acquisition Regulation Supplement; Limitation on Contracts for the Acquisition of Certain Services (DFARS Case 2006-D054)

**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 implement Section 832 of the National Defense Authorization Act for Fiscal Year 2007. Section 832 prohibits DoD from entering into a service contract to acquire a military flight simulator unless certain waiver criteria apply.

**EFFECTIVE DATE:** September 6, 2007.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Benavides, Defense Acquisition Regulations System, OUSD (AT&L)

DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-1302; facsimile (703) 602-7887. Please cite DFARS Case 2006-D054.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

Section 832 of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109-364) prohibits DoD from entering into a service contract to acquire a military flight simulator, unless the Secretary of Defense determines that a waiver is necessary for national security purposes and provides an economic analysis to the congressional defense committees at least 30 days before the waiver takes effect. This final rule adds text at DFARS 237.102-71 to reflect the provisions of Section 832 of Public Law 109-364.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

##### B. Regulatory Flexibility Act

This rule will not have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of DoD. Therefore, publication for public comment under 41 U.S.C. 418b is not required. However, DoD will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2006-D054.

##### 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 237

Government procurement.

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

■ Therefore, 48 CFR part 237 is amended as follows:

#### PART 237—SERVICE CONTRACTING

■ 1. The authority citation for 48 CFR part 237 continues to read as follows:

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

■ 2. Section 237.102-71 is added to read as follows:

#### 237.102-71 Limitation on service contracts for military flight simulators.

(a) *Definitions.* As used in this subsection—

(1) *Military flight simulator* means any system to simulate the form, fit, and function of a military aircraft that has no commonly available commercial variant.

(2) *Service contract* means any contract entered into by DoD, the principal purpose of which is to furnish services in the United States through the use of service employees as defined in 41 U.S.C. 357(b).

(b) Under Section 832 of Public Law 109-364, DoD is prohibited from entering into a service contract to acquire a military flight simulator. However, the Secretary of Defense may waive this prohibition with respect to a contract, if the Secretary—

(1) Determines that a waiver is necessary for national security purposes; and

(2) Provides an economic analysis to the congressional defense committees at least 30 days before the waiver takes effect. This economic analysis shall include, at a minimum—

(i) A clear explanation of the need for the contract; and

(ii) An examination of at least two alternatives for fulfilling the requirements that the contract is meant to fulfill, including the following with respect to each alternative:

(A) A rationale for including the alternative.

(B) A cost estimate of the alternative and an analysis of the quality of each cost estimate.

(C) A discussion of the benefits to be realized from the alternative.

(D) A best value determination of each alternative and a detailed explanation of the life-cycle cost calculations used in the determination.

(c) When reviewing requirements or participating in acquisition planning that would result in a military department or defense agency acquiring a military flight simulator, the contracting officer shall notify the program officials of the prohibition in paragraph (b) of this subsection. If the program officials decide to request a waiver from the Secretary of Defense under paragraph (b) of this subsection, the contracting officer shall follow the procedures at PGI 237.102-71.

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