

C. Other Changes

1. Subparagraph 252.204–7000(b)(1) of the proposed rule, which provided exceptions for information required as part of an official Defense Contract Audit Agency audit or DoD Inspector General investigation, or by a Congressional or Federal subpoena, is removed, because the clause did not previously protect the information from release under these circumstances.

2. Subparagraph 252.204–7000(b)(3) of the proposed rule is revised to delete “except as otherwise provided by applicable Federal statutes regulations, or Executive orders.” Subparagraph 252.204–7000(d) of the proposed rule is revised to clarify that the paragraph requiring the flowdown of the contract clause should also be included in any subcontracts, in order to provide flowdown to lower tier subcontracts.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

A final regulatory flexibility analysis has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, and is summarized as follows:

This final rule implements guidance provided by the Undersecretary of Defense for Acquisition, Technology and Logistics (AT&L) in a memorandum dated May 24, 2010, by providing a fundamental research exception to the general rule against disclosure of unclassified information. The subject matter of this final rule was previously included in proposed rule 2011–D039, which was published in the **Federal Register** on June 29, 2011 (76 FR 38089); however, the text was deemed more appropriate for a stand-alone case because this subject matter deals with the release of information and not the safeguarding of information. An initial regulatory flexibility analysis was

prepared, and no public comments were received. Also, DoD received no comments by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule.

This final rule applies to all Federal contractors, regardless of size or business ownership, when responding to solicitations or being awarded contracts that include requirements that meet the definition of fundamental research as contained within NSDD 189. The final rule is not expected to have a significant impact on small entities, because the rule aims to implement policy guidance that is already being followed within DoD regarding restrictions on the disclosure of fundamental research.

The rule does not contain any reporting or recordkeeping requirements and does not require contractors to expend significant cost or effort. There are no known significant alternatives to the rule that would further minimize any economic impact of the rule on small entities.

V. Paperwork Reduction Act

The rule does not add any new information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 252

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 252 is amended as follows:

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for part 252 continue to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR Chapter 1.

■ 2. Revise section 252.204–7000 to read as follows:

252.204–7000 Disclosure of information.

As prescribed in 204.404–70(a), use the following clause:

DISCLOSURE OF INFORMATION (AUG 2013)

(a) The Contractor shall not release to anyone outside the Contractor's organization any unclassified information, regardless of medium (e.g., film, tape, document), pertaining to any part of this contract or any program related to this contract, unless—

(1) The Contracting Officer has given prior written approval;

(2) The information is otherwise in the public domain before the date of release; or

(3) The information results from or arises during the performance of a project that has been scoped and negotiated by the contracting activity with the Contractor and research performer and determined in writing by the Contracting Officer to be fundamental research in accordance with National Security Decision Directive 189, National Policy on the Transfer of Scientific, Technical and Engineering Information, in effect on the date of contract award and the USD (AT&L) memoranda on Fundamental Research, dated May 24, 2010, and on Contracted Fundamental Research, dated June 26, 2008, (available at DFARS PGI 204.4).

(b) Requests for approval under paragraph (a)(1) shall identify the specific information to be released, the medium to be used, and the purpose for the release. The Contractor shall submit its request to the Contracting Officer at least 10 business days before the proposed date for release.

(c) The Contractor agrees to include a similar requirement, including this paragraph (c), in each subcontract under this contract. Subcontractors shall submit requests for authorization to release through the prime contractor to the Contracting Officer.

(End of clause)

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 252

RIN 0750–A100

Defense Federal Acquisition Regulation Supplement: Least Developed Countries That Are Designated Countries (DFARS Case 2013–D019)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a revision by the United States Trade Representative (USTR) to the list of least developed countries that are designated countries under the Trade Agreements Act of 1979.

DATES: *Effective:* August 8, 2013.

FOR FURTHER INFORMATION CONTACT: Amy G. Williams, telephone 571–372–6106.

SUPPLEMENTARY INFORMATION:

I. Background

19 U.S.C. 2511(b)(4) allows the President to designate least developed countries as eligible countries under the Trade Agreements Act of 1979, allowing non-discriminatory treatment of the products of such countries in acquisitions subject to the World Trade Organization Government Procurement Agreement. This statutory authority has been delegated to the United States Trade Representative (USTR). The USTR selects the countries for such designation from the United Nations (UN) Least Developed Countries List. The USTR consults with other Government agencies on trade policy matters through the Trade Policy Review Group and the Trade Policy Staff Committee. These changes are necessary to reflect the UN General Assembly's current list of least developed countries. Based on changes to the UN Least Developed Countries List and the approval of the Trade Policy Staff Committee, the USTR has revised the list of least developed countries that are designated as eligible countries as follows:

- Changed the name of East Timor to Timor-Leste, reflecting the changed name on the UN list.
- Removed the Maldives, which is no longer a least developed country.
- Added South Sudan, which seceded from Sudan to form an independent state on July 9, 2011, and was formally recognized as a least developed country by the UN in December 2012. Although the United States continues to impose sanctions against Sudan, South Sudan is not subject to sanctions.

This final rule revises the definitions of "designated country" in various DFARS clauses (DFARS 252.225-7017, Photovoltaic Devices; DFARS 252.225-7021, Trade Agreements; and DFARS 252.225-7045, Balance of Payments Program—Construction Material Under Trade Agreements).

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

"Publication of proposed regulations," 41 U.S.C. 1707, is the statute that applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency

issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it only revises the list of least developed countries that the USTR has designated as eligible for non-discriminatory treatment under the Trade Agreements Act. Addition of South Sudan and removal of Maldives will have no significant effect beyond the internal operating procedures of the Government or a significant cost or administrative impact on contractors or offerors.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, it was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501-1 and 41 U.S.C. 1707 does not require publication for public comment.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 252

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 252 is amended as follows:

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

- 1. The authority citation for 48 CFR part 252 continue to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

252.225-7017 [Amended]

- 2. Amend section 252.225-7017 by—
 - a. Removing the clause date "(DEC 2012)" and adding "(AUG 2013)" in its place; and
 - b. In paragraph (a), in the definition of "Designated country" in paragraph (iii), removing the countries of "East Timor" and "Maldives" and adding, in alphabetical order, the countries of "South Sudan" and "Timor-Leste".

252.225-7021 [Amended]

- 3. Amend section 252.225-7021 by—
 - a. Removing the clause date "(DEC 2012)" and adding "(AUG 2013)" in its place; and
 - b. In paragraph (a), in the definition of "Designated country" in paragraph (iii), removing the countries of "East Timor" and "Maldives" and adding, in alphabetical order, the countries of "South Sudan" and "Timor-Leste".

252.225-7045 [Amended]

- 4. Amend section 252.225-7045 by—
 - a. Removing the clause date "(NOV 2012)" and adding "(AUG 2013)" in its place; and
 - b. In paragraph (a), in the definition of "Designated country" in paragraph (3), removing the countries of "East Timor" and "Maldives" and adding, in alphabetical order, the countries of "South Sudan" and "Timor-Leste".

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 95

[Docket No. DOT-OST-2013-0015]

RIN 2105-AE22

Advisory Committees (RRR)

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule removes DOT's advisory committee regulations. The DOT is removing the regulations because they have been made obsolete by other laws, regulations, and agency procedures.