

This rule is necessary to ensure that contracting officers do not mistakenly omit the clause at DFARS 252.225-7001, Buy American and Balance of Payments Program, when it is appropriate for inclusion in a solicitation and contract. The objective of the rule is to clarify the prescription for use of DFARS clause 252.225-7001 to state that the clause does not apply when the acquisition is for supplies for use either within the United States and an exception to the Buy American statute applies, or outside the United States and an exception to the Balance of Payments Program applies.

There were no significant issues raised by the public in response to the initial regulatory flexibility analysis.

This rule will apply to small entities that are awarded contracts that contain DFARS clause 252.225-7001; however, there is no impact on these small entities because the rule merely clarifies the clause prescription to correctly address applicability when an exception to the Buy American statute or Balance of Payments Program applies.

The rule does not impose any additional reporting, recordkeeping, or other compliance requirements.

No alternatives were identified that will accomplish the objectives of the rule.

IV. 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 225

Government procurement.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 225 is amended as follows:

PART 225—FOREIGN ACQUISITION

■ 1. The authority citation for part 225 continues to read as follows:

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

225.1100 [Amended]

- 2. In section 225.1100, remove “Subparts” in two places and add “subparts” in their place.
- 3. Amend section 225.1101 by—
 - a. Revising paragraph (2)(i)(C);
 - b. Redesignating paragraphs (2)(i)(D) and (E) as paragraphs (2)(i)(E) and (F); and
 - c. Adding a new paragraph (2)(i)(D).

The revision and addition read as follows:

225.1101 Acquisition of supplies.

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(2)(i) * * *

(C) The acquisition is for supplies for use within the United States and an exception to the Buy American statute applies, *e.g.*, nonavailability or public interest (see FAR 25.103 and 225.103);

(D) The acquisition is for supplies for use outside the United States and an exception to the Balance of Payments Program applies (see 225.7501);

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 211 and 225

[Docket DARS-2016-0003]

RIN 0750-A185

Defense Federal Acquisition Regulation Supplement: Prohibition on Requiring the Use of Fire-resistant Rayon Fiber (DFARS Case 2016-D012)

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 delete obsolete text requiring the use of fire-resistant rayon fiber.

DATES: Effective March 25, 2016.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Stiller, at 571-372-6176.

SUPPLEMENTARY INFORMATION:

I. Background

DFARS 225.7016 prohibits requiring the use of fire-resistant rayon fiber in any solicitation issued before January 1, 2015. This prohibition was implemented in accordance with section 821 of the National Defense Authorization Act for Fiscal Year 2011. Since the effective period imposed by the statute has passed, the DFARS text is now obsolete. Therefore, this final rule removes DFARS 225.7016 and the cross reference at 211.170.

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

The statute that applies to the publication of the Federal Acquisition

Regulation (FAR) is 41 U.S.C. 1707 entitled “Publication of proposed regulations.” 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 merely removes obsolete text from the DFARS and affects only the internal operating procedures of the Government. As such, the change has no 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, 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 Parts 211 and 225

Government procurement.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 211 and 225 are amended as follows:

■ 1. The authority citation for 48 CFR parts 211 and 225 continues to read as follows:

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

PART 211—DESCRIBING AGENCY NEEDS

211.170 [Removed]

■ 2. Remove section 211.170.

PART 225—FOREIGN ACQUISITION

225.7016 [Removed]

■ 3. Remove section 225.7016.

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