

**List of Subjects in 48 CFR Part 225**

Government procurement.

**Jennifer Lee Hawes,**

*Regulatory Control Officer, 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.

■ 2. Amend section 225.7700 by adding paragraph (e) to read as follows:

**225.7700 Scope.**

\* \* \* \* \*

(e) Section 216 of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114–328).

\* \* \* \* \*

■ 3. Add sections 225.7705, 225.7705–1, 225.7705–2, and 225.7705–3 to subpart 225.77 to read as follows:

**225.7705 Prohibition on use of funds for contracts of certain programs and projects in Afghanistan that cannot be safely accessed.**

This section implements section 1216 of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114–328).

**225.7705–1 Prohibition.**

The contracting officer shall not obligate or expend funds for a construction or other infrastructure program or project of the Department in Afghanistan if military or civilian personnel of the United States Government or their representatives, with authority to conduct oversight of such program or project, cannot safely access such program or project. In limited circumstances, this prohibition may be waived in accordance with section 225.7705–2.

**225.7705–2 Waiver of prohibition.**

(a) The prohibition in 225.7705–1 may be waived upon issuance of a determination, approved in accordance with paragraph (b) of this section, that—

(1) The program or project clearly contributes to United States national interests or strategic objectives;

(2) The Government of Afghanistan has requested or expressed a need for the program or project;

(3) The program or project has been coordinated with the Government of Afghanistan, and with any other implementing agencies or international donors;

(4) Security conditions permit effective implementation and oversight of the program or project;

(5) Safeguards to detect, deter, and mitigate corruption and waste, fraud, and abuse of funds are in place;

(6) Adequate arrangements have been made for the sustainment of the program or project following its completion, including arrangements with respect to funding and technical capacity for sustainment; and

(7) Meaningful metrics have been established to measure the progress and effectiveness of the program or project in meeting its objectives.

(b) The following officials are authorized to approve the determination described in paragraph (a) of this section:

(1) In the case of a program or project with an estimated lifecycle cost of less than \$1 million, by the contracting officer.

(2) In the case of a program or project with an estimated lifecycle cost of \$1 million or more, but less than \$20 million, by the senior U.S. officer in the Combined Security Transition Command-Afghanistan.

(3) In the case of a program or project with an estimated lifecycle cost of \$20 million or more, but less than \$40 million, by the Commander of United States Forces-Afghanistan.

(4) In the case of a program or project with an estimated lifecycle cost of \$40 million or more, by the Secretary of Defense.

(c) Congressional notification is required within 15 days of issuance of a determination to waive the prohibition for programs or projects valued at \$40 million or more in accordance with paragraph (b)(4) of this section.

**225.7705–3 Procedures.**

(a) The contracting officer shall not obligate or expend funds for contracts for a construction or other infrastructure program or project in Afghanistan, awarded after December 23, 2016, unless the requiring activity provides the following documentation:

(1) Written affirmation that military or civilian personnel of the United States Government or their representatives, with authority to conduct oversight of such program or project, can safely access such program or project; or

(2)(i) For programs or projects valued at less than \$1 million, sufficient information upon which to base the determination described in 225.7705–2(a); or

(ii)(A) For programs or projects valued at \$1 million or more, a copy of the approved determination described in 225.7705–2(a) and (b); and

(B) For programs or projects valued at \$40 million or more, a copy of the Congressional notification described in 225.7705–2(c).

(b) After contract award, the contracting officer shall review the requiring activity's progress reports (e.g., contracting officer's representative reports) that addresses whether access continues to be safe or security conditions continue to permit effective implementation and oversight of the contract. If the requiring activity does not affirm continued safe access or, if a determination to waive the prohibition has been approved, that security conditions continue to permit effective implementation and oversight of the contract, then the contracting officer shall consult with the requiring activity to take any appropriate actions.

[FR Doc. 2018–07733 Filed 4–12–18; 8:45 am]

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**DEPARTMENT OF DEFENSE****Defense Acquisition Regulations System****48 CFR Part 237**

[Docket DARS–2018–0013]

RIN 0750–AJ49

**Defense Federal Acquisition Regulation Supplement: Educational Service Agreements (DFARS Case 2017–D039)**

**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 remove limiting language related to educational service agreements. This deletion will allow DoD to make agreements that permit payment for Masters of Laws degrees and other legal training programs, in accordance with applicable law, regulation, and policy.

**DATES:** Effective April 13, 2018.

**FOR FURTHER INFORMATION CONTACT:** Carrie Moore, telephone 571–372–6093.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

DFARS subpart 237.72, Educational Service Agreements, prescribes policies and procedures for acquiring educational services from schools, colleges, universities, or other educational institutions. An educational service agreement (ESA) is an ordering

agreement under which the Government may acquire educational services. DFARS 237.7202(a) prohibits the use of ESAs as a contracting method for training in the legal profession, except when in connection with the detailing of commissioned officers to law schools under 10 U.S.C. 2004.

The limitation at DFARS 237.7202(a) was established at a time when legal training was acquired only for the purpose of obtaining doctorate degrees for military judge advocates. DoD's need for legal training has evolved since the implementation of the text at DFARS 237.7202(a). Since 10 U.S.C. 2004 contains no prohibition against acquiring other training in the legal profession, this rule amends the DFARS to delete the language at DFARS 237.7202(a). Removal of this limitation will allow DoD to make agreements that permit payment for masters of laws degrees and other legal training needs, in accordance with applicable law, regulation, and policy.

## 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 codified at Title 41 of the United States Code (formerly known as the Office of Federal Procurement Policy Act). Specifically, 41 U.S.C. 1707(a)(1) 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 is simply allowing the contracting officer to use an ESA when acquiring training in the legal profession. Contracting officers can already use ESAs for the acquisition of training in any other profession. This requirement affects only the internal operating procedures of the Government.

## III. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule does not add any new provisions or clauses or impact existing provisions or clauses. There are no

reporting, recordkeeping, or other compliance requirements in this rule.

## IV. 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.

## V. Executive Order 13771

This rule is not subject to E.O. 13771, Reducing Regulation and Controlling Regulatory Costs, because the rule relates to agency organization, management, or personnel.

## VI. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see section II. of this rule), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

## VII. 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 237

Government procurement.

**Jennifer Lee Hawes**,  
Regulatory Control Officer Defense  
Acquisition Regulations System.

Therefore, 48 CFR part 237 is amended as follows:

## PART 237—SERVICE CONTRACTING

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

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

## 237.7202 [Amended]

■ 2. Amend section 237.7202 by removing paragraph (a) and redesignating paragraph (b) as an undesignated paragraph.

[FR Doc. 2018-07735 Filed 4-12-18; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 160808696-7010-02]

RIN 0648-BH86

### Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2017-18 Biennial Specifications and Management Measures; Inseason Adjustments

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule; inseason adjustments to biennial groundfish management measures.

**SUMMARY:** This final rule announces inseason changes to management measures in the Pacific Coast groundfish fisheries. This action, which is authorized by the Pacific Coast Groundfish Fishery Management Plan, is intended to allow fisheries to access more abundant groundfish stocks while protecting overfished and depleted stocks.

**DATES:** This final rule is effective April 13, 2018.

**FOR FURTHER INFORMATION CONTACT:** Karen Palmigiano, phone: 206-526-4491, fax: 206-526-6736, or email: [karen.palmigiano@noaa.gov](mailto:karen.palmigiano@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

#### Electronic Access

This rule is accessible via the internet at the Office of the Federal Register website at <https://www.federalregister.gov>. Background information and documents are available at the Pacific Fishery Management Council's website at <http://www.pcouncil.org/>.

#### Background

The Pacific Coast Groundfish Fishery Management Plan (PCGFMP) and its implementing regulations at title 50 in the Code of Federal Regulations (CFR), part 660, subparts C through G, regulate fishing for over 90 species of groundfish