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Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

#### PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

##### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Paint Rock, Channel 296C3.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 05-3312 Filed 2-18-05; 8:45 am]

**BILLING CODE 6712-01-P**

## DEPARTMENT OF DEFENSE

### 48 CFR Parts 225 and 252

[DFARS Case 2003-D021]

#### Defense Federal Acquisition Regulation Supplement; Acquisition of Ball and Roller Bearings

**AGENCY:** Department of Defense (DoD).

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to restrictions on the acquisition of foreign ball and roller bearings. This proposed rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before April 25, 2005, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2003-D021, using any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Defense Acquisition Regulations Web Site: <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. Follow the instructions for submitting comments.
- E-mail: [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2003-D021 in the subject line of the message.

- Fax: (703) 602-0350.
- Mail: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062.
- Hand Delivery/Courier: Defense Acquisition Regulations Council, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202-3402.

All comments received will be posted to <http://emissary.acq.osd.mil/dar/dfars.nsf>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, (703) 602-0328.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

This proposed rule is a result of DFARS Transformation, which is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-

wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at <http://www.acq.osd.mil/dpap/dfars/transf.htm>.

10 U.S.C. 2534 and annual Defense appropriations acts contain restrictions on the acquisition of foreign ball and roller bearings. These restrictions are implemented in DFARS 225.7009 and in the clause at DFARS 252.225-7016, Restriction on Acquisition of Ball and Roller Bearings. This rule proposes to clarify DFARS 225.7009 and 252.225-7016 by (1) only addressing the exceptions, waivers, and waiver authority available to the contracting officer under current law; and (2) applying the exception to 10 U.S.C. 2534, authorized by Section 8003 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103-355; 41 U.S.C. 430), as implemented at DFARS 212.504(a)(xviii), to bearings that are commercial components of non-commercial end items or components.

The only exception to the annual Defense appropriations act restrictions on the acquisition of foreign bearings is the exception for contracts or subcontracts for the acquisition of commercial items, except for commercial ball and roller bearings acquired as end items. 10 U.S.C. 2534, as currently implemented at DFARS 225.7009-2(a)(2), provides an exception for commercial items incorporating ball or roller bearings. This exception does not apply to bearings that are commercial components of a non-commercial item. However, as a result of Section 8003 of the Federal Acquisition Streamlining Act of 1994, DFARS 212.504(a)(xviii) lists 10 U.S.C. 2534 as a law that is not applicable to subcontracts at any tier for the acquisition of commercial items. Applying this "any tier" interpretation to bearings would be consistent with the annual Defense appropriations acts' commercial item exception, and would provide a single consistent exception to the statutory restrictions on the acquisition of foreign bearings.

The annual Defense appropriations acts allow the Secretary of a military department to waive bearing domestic source restrictions on a case-by-case basis. The justification for the waiver must establish that (1) adequate domestic supplies are not available to meet DoD requirements on a timely basis; and (2) such an acquisition must

be made in order to acquire capability for national security purposes. The waiver authorities of 10 U.S.C. 2534 are unusable, except to the extent that they can also meet the waiver requirements of the annual Defense appropriations acts. Therefore, this proposed rule eliminates from the DFARS the exceptions and waivers authorized by 10 U.S.C. 2534, that are rendered ineffective by the overriding restrictions of the annual Defense appropriations acts.

The current DFARS also includes several more restrictive waiver requirements that derive from the 1992 DFARS. These waiver requirements relate to multiyear acquisitions and miniature and instrument ball bearings. Although 10 U.S.C. 2534(a) imposes the restrictions of the 1992 DFARS, 10 U.S.C. 2534(d) provides new waiver authority that supersedes the prior more restrictive waiver authority of the 1992 DFARS. This rule proposes to remove the 1992 waiver restrictions from the DFARS, which would substantially reduce paperwork burden for contractors.

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

## B. Regulatory Flexibility Act

The proposed rule may 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 it permits the acquisition of foreign commercial bearings that are components of noncommercial items. Although existing language at DFARS 212.504(a)(xviii) provides that 10 U.S.C. 2534 is not applicable to subcontracts at any tier for the acquisition of commercial items, DoD is not certain to what extent this authority has been implemented due to the inconsistent requirements in DFARS Part 225. This proposed rule resolves that inconsistency. An initial regulatory flexibility analysis has been prepared and is summarized as follows:

This proposed rule establishes a consistent exception to restrictions on the acquisition of foreign ball and roller bearings, to apply to the acquisition of commercial bearings. The objective of the proposed rule is to increase clarity of the regulations and reduce administrative burden for DoD contractors. The legal basis for the proposed rule is 10 U.S.C. 2534; Section 8059 of the Defense Appropriations Act for Fiscal Year 2005 (Pub. L. 108-287); and Section 8003 of the Federal Acquisition Streamlining Act of 1994

(Pub. L. 103-355; 41 U.S.C. 430). The proposed rule will apply to manufacturers of commercial bearings, and manufacturers of noncommercial products that incorporate commercial bearings. Manufacturers of domestic commercial bearings may face increased competition from foreign commercial bearing manufacturers, but manufacturers of noncommercial products incorporating bearings will be relieved of extensive administrative burdens in tracking the source of commercial bearings and requesting waivers from domestic source requirements. All entities will benefit from the increased simplicity and clarity of the regulations.

A copy of the analysis may be obtained from the point of contact specified herein. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003-D021.

## C. Paperwork Reduction Act

The information collection and recordkeeping requirements of the clause at 252.225-7016, Restriction on Acquisition of Ball and Roller Bearings, are approved through March 31, 2007, under Office of Management and Budget Clearance 0704-0229. The proposed changes will reduce the estimated annual burden on contractors by 301,600 hours.

## List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Michele P. Peterson,

*Editor, Defense Acquisition Regulations System.*

Therefore, DoD proposes to amend 48 CFR Parts 225 and 252 as follows:

### PART 225—FOREIGN ACQUISITION

1. The authority citation for 48 CFR Parts 225 and 252 continues to read as follows:

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

2. Sections 225.7009-1 through 225.7009-4 are revised to read as follows:

#### 225.7009-1 Scope.

This section implements—  
(a) 10 U.S.C. 2534; and  
(b) Section 8064 of the Fiscal Year 2001 DoD Appropriations Act (Public Law 106-259) and similar sections in subsequent DoD appropriations acts.

#### 225.7009-2 Restriction.

Do not acquire ball and roller bearings or bearing components unless the bearings and bearing components are manufactured in the United States or Canada.

#### 225.7009-3 Exception.

The restriction in 225.7009-2 does not apply to contracts or subcontracts for the acquisition of commercial items, except for commercial ball and roller bearings acquired as end items.

#### 225.7009-4 Waiver.

The Secretary of the department responsible for acquisition may waive the restriction in 225.7009-2, on a case-by-case basis, by certifying to the House and Senate Committees on Appropriations that—

(a) Adequate domestic supplies are not available to meet DoD requirements on a timely basis; and

(b) The acquisition must be made in order to acquire capability for national security purposes.

3. Section 225.7009-5 is added to read as follows:

#### 225.7009-5 Contract clause.

Use the clause at 252.225-7016, Restriction on Acquisition of Ball and Roller Bearings, in solicitations and contracts, unless—

(a) The items being acquired are commercial items other than ball or roller bearings acquired as end items;

(b) The items being acquired do not contain ball and roller bearings; or

(c) A waiver has been granted in accordance with 225.7009-4.

## PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

### 252.212-7001 [Amended]

4. Section 252.212-7001 is amended as follows:

a. By revising the clause date to read “(XXX 2005)”;

b. In paragraph (b), in entry “252.225-7016”, by removing “(MAY 2004)” and adding in its place “(XXX 2005)”;

c. In paragraph (b), in entry “252.225-7016”, by removing “(APR 2003)” and adding in its place “(XXX 2005)”.

5. Section 252.225-7016 is revised to read as follows:

#### 252.225-7016 Restriction on Acquisition of Ball and Roller Bearings.

As prescribed in 225.7009-5, use the following clause:

Restriction on Acquisition of Ball and Roller Bearings (XXX 2005)

(a) *Definition.* *Bearing components*, as used in this clause, means the bearing element, retainer, inner race, or outer race.

(b) Except as provided in paragraph (c) of this clause, all ball and roller bearings and ball and roller bearing components delivered under this contract, either as end items or components of end items, shall be wholly manufactured in the United States or Canada. Unless otherwise specified, raw materials, such as preformed bar, tube, or rod stock and lubricants, need not be mined or produced in the United States or Canada.

(c) The restriction in paragraph (b) of this clause does not apply to ball or roller bearings that are acquired as components if—

(1) The end items or components containing ball or roller bearings are commercial items; or

(2) The ball or roller bearings are commercial components.

(d) The restriction in paragraph (b) of this clause may be waived upon request from the Contractor in accordance with subsection 225.7009-4 of the Defense Federal Acquisition Regulation Supplement.

(e) The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts, except those for—

(1) Commercial items; or

(2) Items that do not contain ball or roller bearings.

(End of clause)

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## DEPARTMENT OF DEFENSE

### 48 CFR Part 237

[DFARS Case 2003-D042]

#### Defense Federal Acquisition Regulation Supplement; Advisory and Assistance Services

**AGENCY:** Department of Defense (DoD).

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to the acquisition of advisory and assistance services. This proposed rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before April 25, 2005, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2003-D042, using any of the following methods:

• Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

• Defense Acquisition Regulations Web Site: <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. Follow the instructions for submitting comments.

• E-mail: [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2003-D042 in the subject line of the message.

• Fax: (703) 602-0350.

• Mail: Defense Acquisition Regulations Council, Attn: Ms. Robin Schulze, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062.

• Hand Delivery/Courier: Defense Acquisition Regulations Council, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202-3402.

All comments received will be posted to <http://emissary.acq.osd.mil/dar/dfars.nsf>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Robin Schulze, (703) 602-0326.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at <http://www.acq.osd.mil/dpap/dfars/transf.htm>.

This proposed rule is a result of the DFARS Transformation initiative. The proposed changes—

• Delete the definition of “advisory and assistance services” at DFARS 237.201. The definition is used primarily for budget reporting under 10 U.S.C. 2212, and is adequately addressed in financial management regulations.

• Delete obsolete text on contracting for engineering and technical services at DFARS 237.203. This text was based on DoD Directive 1130.2, Engineering and Technical Services—Management Control, which was cancelled in 1990.

• Delete a reference listing of DoD publications that govern the conduct of audits at DFARS 237.270. This list will be relocated to the new DFARS companion resource, Procedures, Guidance, and Information, available at <http://www.acq.osd.mil/dpap/dars/pgi>.

• Delete obsolete text on management controls and requesting activity responsibilities at DFARS 237.271 and 237.272. This text was based on OMB

Circular A-120, Guidelines for the Use of Advisory and Assistance Services, which was rescinded in 1993. OMB Circular A-120 was replaced by OFPP Policy Letter 93-1, Management Oversight of Service Contracting, which is implemented in FAR Subpart 37.5.

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 does not expect this rule to 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 makes no significant change to contracting policy. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003-D042.

##### 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, DoD proposes to amend 48 CFR part 237 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.

##### 237.201 and 237.203 [Removed]

2. Sections 237.201 and 237.203 are removed.

3. Section 237.270 is revised to read as follows:

##### 237.270 Acquisition of audit services.

(a) *General policy.*

(1) Do not contract for audit services unless—

(i) The cognizant DoD audit organization determines that expertise required to perform the audit is not available within the DoD audit organization; or