

56A, Voluntary Industry Distributor Accreditation Program, establishes that civil aerospace parts distributors may not exceed the 24-month requirement if they were accredited prior to revision of the circular and that accredited distributors shall be audited at least once every 36 months. The Aviation Suppliers Association Quality System Standard ASA-100 requires an accreditation audit every 36 months and a surveillance audit during the 36-month period. The National Aerospace and Defense Contractors Accreditation Program (NADCAP)—Performance Review Institute (PRI) establishes product qualification to be generally valid for 3 years or as determined by the specific Qualified Products Group.

In calendar year 2003, the year before the interim rule took effect, 62.8% of Defense Logistics Agency (DLA) contracts for currently identified aviation critical safety items were awarded to small businesses. During the first 8 months of calendar year 2005 (the year after the interim rule became effective), 62.9% of DLA contracts for critical safety items were awarded to small businesses. There has been no significant impact on contract awards to small businesses as a result of the DFARS rule.

Regardless of whether the contractor or DoD designates an item as a critical safety item, the contractor is required to deliver conforming products. This is especially important when the consequences of item failure could be catastrophic. Small businesses that understand the design intent of a critical safety item, and the item's application in the weapon system, its critical attributes, and its failure implications, should have high-performing manufacturing, supplier management, and quality control processes. While the contractor/OEM and DoD may have different methods of categorizing parts, the critical safety item designation is not expected to have a significant cost impact on small businesses with approved quality systems.

### 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 Parts 209, 217, and 246

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

■ Accordingly, the interim rule amending 48 CFR parts 209, 217, and 246, which was published at 69 FR 55987 on September 17, 2004, is adopted as a final rule with the following changes:

#### PART 209—CONTRACTOR QUALIFICATIONS

■ 1. The authority citation for 48 CFR parts 209 and 246 continues to read as follows:

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

■ 2. Section 209.270-3 is amended by revising paragraph (a) to read as follows:

##### 209.270-3 Policy.

(a) The head of the contracting activity responsible for procuring an aviation critical safety item may enter into a contract for the procurement, modification, repair, or overhaul of such an item only with a source approved by the head of the design control activity.

\* \* \* \* \*

■ 3. Section 209.270-4 is amended by removing the introductory text and revising paragraph (a) to read as follows:

##### 209.270-4 Procedures.

(a) The head of the design control activity shall—

(1) Identify items that meet the criteria for designation as aviation critical safety items. See additional information at PGI 209.270-4;

(2) Approve qualification requirements in accordance with procedures established by the design control activity; and

(3) Qualify and identify aviation critical safety item suppliers and products.

\* \* \* \* \*

#### PART 246—QUALITY ASSURANCE

■ 4. Section 246.407 is amended by revising paragraph (S-70) to read as follows:

##### 246.407 Nonconforming supplies or services.

\* \* \* \* \*

(S-70) The head of the design control activity is the approval authority for acceptance of any nonconforming aviation critical safety items or nonconforming modification, repair, or

overhaul of such items (see 209.270). Authority for acceptance of minor nonconformances in aviation critical safety items may be delegated as determined appropriate by the design control activity. See additional information at PGI 246.407.

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### DEPARTMENT OF DEFENSE

#### 48 CFR Part 219

[DFARS Case 2005-D020]

#### Defense Federal Acquisition Regulation Supplement; Extension of Partnership Agreement—8(a) Program

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

**ACTION:** Final rule.

**SUMMARY:** DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to reflect an extension in the expiration date of a partnership agreement between DoD and the Small Business Administration (SBA). The partnership agreement permits DoD to award contracts to 8(a) Program participants on behalf of SBA.

**EFFECTIVE DATE:** September 30, 2005.

**FOR FURTHER INFORMATION CONTACT:** Ms. Deborah Tronic, Defense Acquisition Regulations Council, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0289; facsimile (703) 602-0350. Please cite DFARS Case 2005-D020.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

By partnership agreement dated February 1, 2002, between the SBA and DoD, the SBA delegated to DoD its authority to enter into contracts under Section 8(a) of the Small Business Act (15 U.S.C. 637(a)). The expiration date of the partnership agreement has been extended from September 30, 2005, to September 30, 2006. This final rule amends DFARS 219.800 to reflect the extension.

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 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 2005–D020.

### 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 219

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

■ Therefore, 48 CFR part 219 is amended as follows:

#### PART 219—SMALL BUSINESS PROGRAMS

■ 1. The authority citation for 48 CFR part 219 continues to read as follows:

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

#### 219.800 [Amended]

■ 2. Section 219.800 is amended in paragraph (a), in the last sentence, by removing “2005” and adding in its place “2006”.

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## DEPARTMENT OF DEFENSE

### 48 CFR Part 225

[DFARS Case 2005–D019]

#### Defense Federal Acquisition Regulation Supplement; Defense Logistics Agency Waiver Authority

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

**ACTION:** Final rule.

**SUMMARY:** DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to authorize the Defense Logistics Agency Component Acquisition Executive to waive domestic source restrictions on the acquisition of ball and roller bearings, when adequate domestic supplies are not available to meet DoD requirements on a timely basis.

**EFFECTIVE DATE:** September 30, 2005.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, Defense Acquisition Regulations Council, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense

Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0328; facsimile (703) 602–0350. Please cite DFARS Case 2005–D019.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

The annual DoD appropriations acts restrict the acquisition of ball and roller bearings to those produced by a domestic source and of domestic origin (Section 8064 of the Fiscal Year 2001 DoD Appropriations Act (Public Law 106–259) and similar sections in subsequent DoD appropriations acts). The appropriations acts provide that the Secretary of the military department responsible for the procurement may waive the restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet DoD requirements on a timely basis, and that such an acquisition must be made in order to acquire capability for national security purposes. This final rule revises DFARS 225.7009–3(c) to delegate this waiver authority to the Defense Logistics Agency (DLA) Component Acquisition Executive, for DLA acquisitions that meet the specified criteria.

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 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 2005–D019.

##### 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 225

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

■ Therefore, 48 CFR part 225 is amended as follows:

## PART 225—FOREIGN ACQUISITION

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

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

■ 2. Section 225.7009–3 is amended by revising paragraph (c) introductory text to read as follows:

#### 225.7009–3 Waiver.

\* \* \* \* \*

(c) The Secretary of the department responsible for acquisition or, for the Defense Logistics Agency, the Component Acquisition Executive, may waive the restriction in 225.7009–1(b), on a case-by-case basis, by certifying to the House and Senate Committees on Appropriations that—

\* \* \* \* \*

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## DEPARTMENT OF DEFENSE

### 48 CFR Parts 225, 229, and 252

[DFARS Case 2004–D012]

#### Defense Federal Acquisition Regulation Supplement; Prohibition of Foreign Taxation on U.S. Assistance Programs

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

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

**SUMMARY:** DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a statutory prohibition on foreign taxation under contracts funded by U.S. assistance programs. The rule addresses the responsibilities of the contractor and the contracting officer regarding the prohibition.

**DATES:** This interim rule is effective September 30, 2005. Comments on the interim rule should be submitted in writing to the address shown below on or before November 29, 2005, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2004–D012, 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.