

predicted interference contour extends the system's composite interference contour over water only (disregarding uninhabited islands) must, at least 15 days before the station is put into operation, give written notice to the television stations which may be affected of the proposed station's technical characteristics, the date it will be put into operation, and the licensee's representative (name and phone number) to contact in the event a television station experiences interference. No prior FCC authorization is required to construct and operate such a station, but, at the time the station is added, the AMTS licensee must make a record of the technical and administrative information concerning the station and, upon request, supply such information to the FCC. In addition, when the station is added, the AMTS licensee must send notification of the station's location to the American Radio Relay League, Inc., 225 Main Street, Newington, CT 06111-1494, and Interactive Systems, Inc., Suite 1103, 1601 North Kent Street, Arlington, VA 22209.

\* \* \* \* \*

11. Section 80.477 is amended by adding a new paragraph (d) to read as follows:

**§ 80.477 AMTS points of communication.**

\* \* \* \* \*

(d) AMTS licensees may use AMTS coast and ship frequencies on a secondary basis for fixed service communications to support AMTS deployment in remote fixed locations at which other communications facilities are not available.

12. A new § 80.481 is added to read as follows:

**§ 80.481 Alternative technical parameters for AMTS transmitters.**

In lieu of the technical parameters set forth in this part, AMTS transmitters may utilize any modulation or channelization scheme so long as emissions are attenuated in accordance with § 80.211 at the band edges of each station's assigned channel group or groups.

**PART 95—PERSONAL RADIO SERVICES**

13. The authority citation for Part 95 continues to read as follows:

**Authority:** Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

14. Section 95.1013 is amended by revising paragraph (a) to read as follows:

**§ 95.1013 Antennas.**

(a) The maximum allowable ERP for a station in the LPRS other than an AMTS station is 100 mW. The maximum allowable ERP for an AMTS station in the LPRS is 1 W, so long as emissions are attenuated, in accordance with § 80.211 of this chapter, at the band edges.

\* \* \* \* \*

[FR Doc. 00-31310 Filed 12-12-00; 8:45 am]

**BILLING CODE 6712-01-U**

**DEPARTMENT OF DEFENSE**

**48 CFR Parts 212, 225, and 252**

[DFARS Case 2000-D301]

**Defense Federal Acquisition Regulation Supplement; Domestic Source Restrictions-Ball and Roller Bearings and Vessel Propellers**

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

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

**SUMMARY:** The Director of Defense Procurement has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 8064 of the DoD Appropriations Act for Fiscal Year 2001 and Section 805 of the DoD Authorization Act for Fiscal Year 2001. These laws place restrictions on the acquisition of vessel propellers and ball and roller bearings from foreign sources. **DATES:** *Effective date:* December 13, 2000.

*Comment date:* Comments on the interim rule should be submitted to the address shown below on or before February 12, 2001, to be considered in the formation of the final rule.

**ADDRESSES:** E-mailed comments are preferred. Submit comments to: dfars@acq.osd.mil. Please cite DFARS Case 2001-D301 in the subject line.

Respondents that cannot submit comments by e-mail may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, OUSD(AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062; facsimile (703) 602-0350. Please cite DFARS Case 2000-D301.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, (703) 602-0288.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

This interim rule amends the DFARS to implement Section 8064 of the DoD Appropriations Act for Fiscal Year 2001 (Public Law 106-259) and Section 805

of the DoD Authorization Act for Fiscal Year 2001 (Public Law 106-398). Section 8064 of Public Law 106-259 restricts the acquisition of ball and roller bearings and vessel propellers to those produced by a domestic source and of domestic origin. The restriction does not apply to the purchase of commercial items, except ball or roller bearings purchased as end items. Section 805 of Public Law 106-398 extends the restriction on acquisition of ball and roller bearings at 10 U.S.C. 2534 through fiscal year 2005.

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 interim 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.* An initial regulatory flexibility analysis has been prepared and is summarized as follows: The objective of this interim rule is to protect the domestic industrial base for ball and roller bearings and vessel propellers as required by Section 8064 of Public Law 106-259 and 10 U.S.C. 2534. By restricting foreign competition, the rule will benefit domestic small business concerns that manufacture ball or roller bearings, bearing components, vessel propellers, or vessel propeller casings. This rule does not duplicate, overlap, or conflict with other relevant Federal rules.

DoD has submitted a copy of the initial regulatory flexibility analysis to the Chief Counsel for Advocacy of the Small Business Administration. Interested parties may obtain a copy of the analysis from the point of contact specified herein. Comments are invited. 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 2000-D301.

**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.*

**D. Determination To Issue an Interim Rule**

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish this interim rule prior to affording the public an opportunity to

comment. This interim rule implements Section 8064 of the DoD Appropriations Act for Fiscal Year 2001 (Public Law 106-259) and Section 805 of the DoD Authorization Act for Fiscal Year 2001 (Public Law 106-398). Section 8064 of Public Law 106-259 restricts the acquisition of ball and roller bearings and vessel propellers to those produced by a domestic source and of domestic origin. Section 805 of Public Law 106-398 extends the restriction on acquisition of ball and roller bearings at 10 U.S.C. 2534 through fiscal year 2005. Section 8064 of Public Law 106-259 became effective on August 9, 2000, and Section 805 of Public Law 106-398 became effective on October 30, 2000. DoD will consider comments received in response to this interim rule in the formation of the final rule.

**List of Subjects in 48 CFR Parts 212, 225, and 252**

Government procurement.

**Michele P. Peterson,**  
*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, 48 CFR Parts 212, 225, and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 212, 225, and 252 continues to read as follows:

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

**PART 212—ACQUISITION OF COMMERCIAL ITEMS**

2. Section 212.503 is amended by revising paragraph (a)(xi) to read as follows:

**212.503 Applicability of certain laws to Executive Agency contracts for the acquisition of commercial items.**

(a) \* \* \*

(xi) Domestic Content Restrictions in the National Defense Appropriations Acts for Fiscal Years 1996 and Subsequent Years, unless the restriction specifically applies to commercial items. For the restriction that specifically applies to commercial ball or roller bearings as end items, see 225.7019-2(b) (Section 8064 of Public Law 106-259).

\* \* \* \* \*

3. Section 212.504 is amended by revising paragraph (a)(xxv) to read as follows:

**212.504 Applicability of certain laws to subcontracts for the acquisition of commercial items.**

(a) \* \* \*

(xxv) Domestic Content Restrictions in the National Defense Appropriations

Acts for Fiscal Years 1996 and Subsequent Years, unless the restriction specifically applies to commercial items. For the restriction that specifically applies to commercial ball or roller bearings as end items, see 225.7019-2(b) (Section 8064 of Public Law 106-259).

\* \* \* \* \*

**PART 225—FOREIGN ACQUISITION**

**225.7019-1 [Amended]**

4. Section 225.7019-1 is amended in paragraph (a) by removing the phrase “fiscal year 2000” and adding in its place “fiscal year 2005”.

5. Section 225.7019-2 is amended by revising paragraph (b) to read as follows:

**225.7019-2 Exceptions.**

\* \* \* \* \*

(b) The restriction in 225.7019-1(b) does not apply to contracts or subcontracts for acquisition of commercial items, except for commercial ball and roller bearings acquired as end items.

6. Section 225.7019-4 is revised to read as follows:

**225.7019-4 Contract clause.**

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

(1) The restrictions in 225.7019-1 do not apply or a waiver has been granted; or

(2) The contracting officer knows that the items being acquired do not contain ball or roller bearings.

(b) In solicitations and contracts that use simplified acquisition procedures, use the clause with its Alternate I.

7. Sections 225.7020 through 225.7020-4 are added to read as follows:

**225.7020 Restriction on vessel propellers.**

**225.7020-1 Restriction.**

In accordance with Section 8064 of the National Defense Appropriations Act for Fiscal Year 2001 (Public Law 106-259), do not use fiscal year 2000 or 2001 funds to acquire vessel propellers other than those produced by a domestic source of domestic origin, *i.e.*, vessel propellers—

(a) Manufactured in the United States or Canada; and

(b) For which all component castings were poured and finished in the United States or Canada.

**225.7020-2 Exceptions.**

This restriction does not apply to contracts or subcontracts for acquisition of commercial items.

**225.7020-3 Waiver.**

The Secretary of the department responsible for acquisition may waive this restriction 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.

**225.7020-4 Contract clause.**

Use the clause at 252.225-7023, Restriction on Acquisition of Vessel Propellers, in solicitations and contracts for the acquisition of vessels or vessel propellers, unless—

(a) An exception under 225.7020-2 is known to apply or a waiver has been granted in accordance with 225.7020-3; or

(b) The vessels being acquired do not contain vessel propellers.

**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

8. Section 252.212-7001 is amended by revising the clause date; and in paragraph (a) by adding, in numerical order, a new entry “252.225-7016” to read as follows:

**252.212-7001 Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items.**

\* \* \* \* \*

Contract Terms and Conditions Required To Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items (Dec 2000)

(a) \* \* \*

252.225-7016 Restriction on Acquisition of Ball and Roller Bearings (\_\_\_Alternate I) (Section 8064 of Pub. L. 106-259).

\* \* \* \* \*

9. Section 252.225-7016 is amended by revising the clause date and paragraph (c)(1); and by adding Alternate I to read as follows:

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

\* \* \* \* \*

Restriction on Acquisition of Ball and Roller Bearings (Dec 2000)

\* \* \* \* \*

(c)(1) The restriction in paragraph (b) of this clause does not apply to ball or roller bearings that are acquired as components if—

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

(ii) The ball or roller bearings are commercial components manufactured in the United Kingdom.

\* \* \* \* \*

Alternate I (Dec 2000) As prescribed in 225.7019-4(b), substitute the following paragraph (c)(1)(ii) for paragraph (c)(1)(ii) of the basic clause:

(c)(1)(ii) The ball or roller bearings are commercial components.

10. Section 252.225-7023 is added to read as follows:

**252.225-7023 Restriction on Acquisition of Vessel Propellers.**

As prescribed in 225.7020-4, use the following clause:

Restriction on Acquisition of Vessel Propellers (Dec 2000)

(a) Except as provided in paragraph (b) of this clause, the Contractor shall deliver under this contract, whether as end items or components of end items, vessel propellers—

(1) Manufactured in the United States or Canada; and

(2) For which all component castings were poured and finished in the United States or Canada.

(b) The restriction in paragraph (a) of this clause—

(1) Does not apply to vessel propellers that are commercial items; and

(2) For other than commercial items, may be waived upon request from the Contractor in accordance with subsection 225.7020-3 of the Defense Federal Acquisition Regulation Supplement.

(End of clause)

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BILLING CODE 5000-04-M

**DEPARTMENT OF DEFENSE**

**48 CFR Part 215**

[DFARS Case 2000-D300]

**Defense Federal Acquisition Regulation Supplement; Profit Incentives To Produce Innovative New Technologies**

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

**ACTION:** Final rule.

**SUMMARY:** The Director Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 813 of the National Defense Authorization Act for Fiscal Year 2000. Section 813 requires DoD to review its profit guidelines to consider whether appropriate modifications, such as placing increased emphasis on technical risk as a factor for determining

appropriate profit margins, would provide an increased profit incentive for contractors to develop and produce complex and innovative new technologies.

**EFFECTIVE DATE:** December 13, 2000.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, Defense Acquisition Regulations Council, OUSD (AT&L) DP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0288; facsimile (703) 602-0350. Please cite DFARS Case 2000-D300.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

This final rule amends DoD profit policy to implement Section 813 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65). The rule amends the weighted guidelines method of profit computation at DFARS 215.404-71 to combine the management and cost control elements of the performance risk factor; to establish a new "technology incentive" range for technical risk; and to slightly modify some of the cost control standards. In addition, the rule amends DFARS 215.404-4(b) to clarify that DoD departments and agencies must use a structured approach for developing a prenegotiation profit for fee objective on any negotiated contract action when cost or pricing data is obtained.

DoD published a proposed rule at 65 FR 32066 on May 22, 2000. Five sources submitted comments on the proposed rule. DoD considered all comments in the development of the final rule. The final rule is similar to the proposed rule, except for changes at 215.404-71-2(c)(3) that: (1) Permit use of the technology incentive range for acquisitions that include application of innovative new technologies; and (2) specify that the technology incentive range does not apply to efforts restricted to studies, analyses, or demonstrations that have a technical report as their primary deliverable.

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 certifies that this final rule will not 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 most contracts awarded to small entities are below \$500,000, are

based on adequate price competition, or are for commercial items, and do not require submission of cost or pricing data.

**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 215**

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, 48 CFR Part 215 is amended as follows:

1. The authority citation for 48 CFR Part 215 continues to read as follows:

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

**PART 215—CONTRACTING BY NEGOTIATION**

2. Section 215.404-4 is amended by revising paragraph (b)(1) introductory text to read as follows:

**215.404-4 Profit.**

(b) \* \* \* (1) Departments and agencies must use a structured approach for developing a prenegotiation profit or fee objective on any negotiated contract action when cost or pricing data is obtained, except for cost-plus-award-fee contracts (see 215.404-74) or contracts with Federally Funded Research and Development Centers (FFRDCs) (see 215.404-75). There are three structured approaches—

\* \* \* \* \*

3. Section 215.404-71-2 is revised to read as follows:

**215.404-71-2 Performance risk.**

(a) *Description.* This profit factor addresses the contractor's degree of risk in fulfilling the contract requirements. The factor consists of two parts:

(1) Technical—the technical uncertainties of performance.

(2) Management/cost control—the degree of management effort necessary—

(i) To ensure that contract requirements are met; and

(ii) To reduce and control costs.

(b) *Determination.* The following extract from the DD Form 1547 is annotated to describe the process.