DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 252
RIN 0750–AG60

Defense Federal Acquisition Regulation Supplement; Balance of Payments Program Exemption for Commercial Information Technology—Construction Material (DFARS Case 2009–D041)

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 implement the exemption from the Balance of Payments Program for construction material that is commercial information technology.

DATES: Effective Date: October 29, 2010.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, 703–602–0328.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is amending the DFARS to implement in the clauses at 252.225–7044, Balance of Payments Program—Construction Material, and 252.225–7045, Balance of Payments Program—Construction Material under Trade Agreements, the exemption from the Balance of Payments Program for construction material that is commercial information technology.

DoD published a proposed rule in the Federal Register (75 FR 32636) on June 8, 2010. DoD received no comments on the proposed rule. Therefore, DoD is adopting the proposed rule as a final rule without change.

II. Executive Order 12866

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. 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 this rule does not impose economic burdens on contractors. The purpose and effect of this rule is to provide an exception to the Balance of Payments Program for commercial information technology to be used in overseas construction projects.

IV. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104–13) does not apply because the proposed rule contains no information collection requirements.

List of Subjects in 48 CFR Part 252

Government procurement.

Ynette R. Shelkin,
Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 252 is amended as follows:

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR part 252 continues to read as follows:


2. Section 252.225–7044 is amended by revising the clause date, revising paragraph (b)(1), redesignating paragraph (b)(2) as paragraph (b)(3), and adding new paragraph (b)(2) to read as follows:


BALANCE OF PAYMENTS PROGRAM—CONSTRUCTION MATERIAL (OCT 2010)

(b) * * * * *

(1) Construction material valued at or below the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation;

(2) Information technology that is a commercial item; or

3. Section 252.225–7045 is amended by:

a. Revising the clause date, revising paragraph (c)(1), redesignating paragraph (c)(2) as paragraph (c)(3), and adding new paragraph (c)(2); and

b. In Alternate I, by revising the clause date, revising paragraph (c)(1), redesignating paragraph (c)(2) as paragraph (c)(3), and adding new paragraph (c)(2).

The revisions and additions read as follows: