

DEPARTMENT OF DEFENSE**Defense Acquisition Regulations System****48 CFR Part 252****Defense Federal Acquisition Regulation Supplement; Technical Amendments**

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement (DFARS) to provide needed editorial changes.

DATES: *Effective Date:* July 24, 2012.

FOR FURTHER INFORMATION CONTACT: Ms. Ynette Shelkin, Defense Acquisition Regulations System, OUSD(AT&L)DPAP(DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301-3060. Telephone 571-372-6089; facsimile 571-372-6094.

SUPPLEMENTARY INFORMATION: This final rule amends the DFARS as follows:

1. Adds paragraph (d)(1)(vii) to clause 252.204-7007, Alternate A, Annual Representations and Certifications, which was inadvertently removed from the Code of Federal Regulations with the publication of DFARS Case 2011-D048 (77 FR 19128), and makes a conforming change to the clause date.
2. Conforms statutory titles to the new Positive Law Codification of Title 41, United States Code, "Public Contracts," in Alternates IV and V of clause 252.225-7036, Buy American—Free Trade Agreements—Balance of Payments Program and makes conforming changes to the dates of the Alternates, which were inadvertently omitted from publication of the final rule under DFARS Case 2012-D003 (77 FR 35879).

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:

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

■ 2. Section 252.204-7007 is amended—

■ a. By removing the clause date "(JUN 2012)" and adding "(JUL 2012)" in its place; and

■ b. By adding paragraph (d)(1)(vii) to read as follows:

252.204-7007 Alternate A, Annual Representations and Certifications.

* * * * *

(d) * * *

(1) * * *

(vii) 252.247-7022, Representation of Extent of Transportation by Sea. Applies to all solicitations except those for direct purchase of ocean transportation services or those with an anticipated value at or below the simplified acquisition threshold.

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252.225-7036 [Amended]

■ 3. Section 252.225-7036 is amended in Alternates IV and V by removing the clause date "(MAY 2012)" and adding "(JUN 2012)" in its place and in paragraph (c), by removing "Act".

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DEPARTMENT OF DEFENSE**Defense Acquisition Regulations System****48 CFR Parts 215, 225, and 252****RIN 0750-AH42****Defense Federal Acquisition Regulation Supplement: Contracting With the Canadian Commercial Corporation (DFARS Case 2011-D049)**

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 clarify the requirements for the Canadian Commercial Corporation to submit data other than certified cost or pricing data.

DATES: *Effective date:* July 24, 2012.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, telephone 571-372-6106.

SUPPLEMENTARY INFORMATION:**I. Background**

DoD published a proposed rule in the **Federal Register** at 76 FR 61296 on October 4, 2011. DoD also issued a correction to a sentence in the

Background Summary of the **Federal Register** notice on October 18, 2011, at 76 FR 64297. One respondent submitted public comments in response to the proposed rule.

With some exceptions, as provided at DFARS 225.870-1(c), the Canadian Commercial Corporation awards and administers DoD contracts with contractors located in Canada. DoD has waived the requirement for the Canadian Commercial Corporation and its subcontractors to submit certified cost or pricing data (see DFARS 215.403-1(c)(4)(C)). However, the purpose of this rule is to clarify that the requirement to submit data other than certified cost or pricing data has not been waived.

II. Discussion and Analysis**A. Summary of Significant Changes in the Final Rule as a Result of Public Comments**

1. DFARS 215.408(5) has been revised to raise the threshold for cost-reimbursement contracts from the simplified acquisition threshold to \$700,000.

2. DFARS 215.408(5) has also raised the level to which the head of the contracting activity can delegate approval authority for using the provision at 252.215-7003 and the clause at 252.215-7004 in accordance with 215.408(5)(i)(B) and (ii)(B), respectively, from one level above the contracting officer to two levels above the contracting officer.

3. DFARS 225.870-4(c)(5) and 252.215-7003 now include the text at FAR 15.403-3(a)(4) to notify the contracting officer and the offerors that in order to be eligible for award, offerors must provide data necessary to determine that the price is fair and reasonable.

4. The clause at 252.215-7004 has been revised to require data other than certified cost or pricing data for modifications only when they exceed the simplified acquisition threshold. The contracting officer may modify the clause to specify a higher threshold.

B. Analysis of Public Comments**1. Use of Domestic Policies, Procedures, and Practices**

Comment: The respondent cited the Defence Production Sharing Agreement of 1956 and the need to apply Canadian domestic policies, practices, and procedures when conducting price analysis on a Canadian supplier.

Response: Data other than certified cost or pricing data can be released in line with Canadian laws and