

PROPOSAL ADEQUACY CHECKLIST—Continued

References	Submission item	Proposal page No.	If not provided EXPLAIN (may use continuation pages)
36. FAR 15.408(n) FAR 52.215–22 FAR 52.215–23	Excessive Pass-through Charges—Identification of Subcontract Effort: If the offeror intends to subcontract more than 70% of the total cost of work to be performed, does the proposal identify: (i) the amount of the offeror’s indirect costs and profit applicable to the work to be performed by the proposed subcontractor(s); and (ii) a description of the added value provided by the offeror as related to the work to be performed by the proposed subcontractor(s)?		

(End of provision)

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 225 and 252

RIN 0750–AH69

Defense Federal Acquisition Regulation Supplement: United States-Korea Free Trade Agreement (DFARS Case 2012–D025)

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

ACTION: Final rule.

SUMMARY: DoD has adopted as final, without change, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement the United States-Korea Free Trade Agreement. The Republic of Korea is already party to the World Trade Organization Government Procurement Agreement.

DATES: *Effective date:* March 28, 2013.

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

SUPPLEMENTARY INFORMATION:

I. Background

DoD published an interim rule in the **Federal Register** at 77 FR 30356 on May 22, 2012, to implement the United States-Korea Free Trade Agreement (see the United States-Korea Free Trade Agreement Implementation Act (Pub. L. 112–41) (19 U.S.C. 3805 note)). There were no public comments submitted in response to the interim rule.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, 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 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.* Korea is already a designated country under the World Trade Organization (WTO) Agreement on Government Procurement (GPA). Although the rule now opens up Government procurement to the goods and services of Korea at or above the threshold of \$100,000, DoD does not anticipate any significant economic impact on U.S. small businesses. DoD only applies the trade agreements to the non-defense items listed at DFARS 225.401–70, and acquisitions that are set aside or provide other forms of preference for small businesses are exempt. FAR 19.502–2 states that acquisitions that do not exceed \$150,000 (except as described in paragraph (1) of the definition of “simplified acquisition threshold” at FAR 2.101) are automatically reserved exclusively for small business concerns, unless the contracting officer

determines that there is not a reasonable expectation of obtaining offers from two or more responsible small business concerns.

IV. Paperwork Reduction Act

This rule affects the certification and information collection requirements in the provision at DFARS 252.225–7035, currently approved under OMB Control Number 0704–0229, titled Defense Federal Acquisition Regulation Supplement part 225, Foreign Acquisition, and related clauses, in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35). OMB Control Number 0704–0229 assessed the total burden related to part 225 at approximately 57,230 hours. The impact of this rule, however, is negligible, because it is just a question of under which category offered goods from the Republic of Korea would be listed. The rule also affects DFARS 252.225–7018, which is a variant of the Buy American-trade agreements certifications already approved, which was issued as an interim rule under DFARS Case 2011–D046 (76 FR 78858, December 20, 2011).

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Kortnee Stewart,

Editor, Defense Acquisition Regulations System.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR parts 225 and 252, which was published at 77 FR 30356 on May 22, 2012, is adopted as a final rule without change.

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