

**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 225.7002-2 is amended by revising paragraphs (e) and (l) to read as follows:

**225.7002-2 Exceptions.**

\* \* \* \* \*

(e) Acquisitions of perishable foods by or for activities located outside the United States for personnel of those activities.

\* \* \* \* \*

(l) Acquisitions of foods manufactured or processed in the United States, regardless of where the foods (and any component if applicable) were grown or produced. However, in accordance with Section 8118 of the DoD Appropriations Act for Fiscal Year 2005 (Pub. L. 108-287), this exception does not apply to fish, shellfish, or seafood manufactured or processed in the United States or fish, shellfish, or seafood contained in foods manufactured or processed in the United States.

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**DEPARTMENT OF DEFENSE****Defense Acquisition Regulations System****48 CFR Part 237**

RIN 0750-AF37

**Defense Federal Acquisition Regulation Supplement; Security-Guard Services Contracts (DFARS Case 2006-D011)**

**AGENCY:** Defense Acquisition Regulations System, 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 Section 344 of the National Defense Authorization Act for Fiscal Year 2006. Section 344 extends, through September 30, 2007, the period during which contractor performance of security-guard functions at military installations or facilities is authorized to fulfill additional requirements resulting from the terrorist

attacks on the United States on September 11, 2001.

**DATES:** *Effective date:* June 16, 2006.

*Comment date:* Comments on the interim rule should be submitted to the address shown below on or before August 15, 2006, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2006-D011, using any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- E-mail: [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2006-D011 in the subject line of the message.

- Fax: (703) 602-0350.

- Mail: Defense Acquisition Regulations System, Attn: Ms. Robin Schulze, OUSD(AT&L)DPAP(DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062.

- Hand Delivery/Courier: Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202-3402.

All comments received generally will be posted without change to <http://emissary.acq.osd.mil/dar/dfars.nsf>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Robin Schulze, (703) 602-0326.

**SUPPLEMENTARY INFORMATION:****A. Background**

10 U.S.C. 2465 prohibits DoD from entering into contracts for the performance of firefighting or security-guard functions at military installations or facilities, unless an exception applies. Section 332 of the National Defense Authorization Act for Fiscal Year 2003 (Pub. L. 107-314) provided temporary authority for DoD to waive the prohibition at 10 U.S.C. 2465, to fulfill additional requirements for security-guard functions at military installations or facilities resulting from the terrorist attacks on the United States on September 11, 2001. This authority applied to security-guard functions performed through December 1, 2005. Section 324 of the National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108-175) conditionally extended the expiration date of this authority to September 30, 2006. Section 344 of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109-163) has extended the authority through September 30, 2007. This interim rule amends DFARS 237.102-70 to reflect the new expiration date.

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 does not expect this rule to 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.* Although the rule may provide opportunities for small business concerns to receive contracts for the performance of security-guard functions at military installations or facilities, the economic impact is not expected to be substantial. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2006-D011.

**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 an interim rule prior to affording the public an opportunity to comment. This interim rule implements Section 344 of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109-163). Section 344 extends, through September 30, 2007, the period during which contractor performance of security-guard functions at military installations or facilities is authorized to fulfill additional requirements resulting from the terrorist attacks on the United States on September 11, 2001. Comments received in response to this interim rule will be considered in the formation of the final rule.

**List of Subjects in 48 CFR Part 237**

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

■ Therefore, 48 CFR part 237 is amended as follows:

**PART 237—SERVICE CONTRACTING**

■ 1. The authority citation for 48 CFR part 237 continues to read as follows:

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

■ 2. Section 237.102-70 is amended by revising paragraph (d)(3) to read as follows:

**237.102-70 Prohibition on contracting for firefighting or security-guard functions.**

\* \* \* \* \*

(d) \* \* \*

(3) Contract performance will not extend beyond September 30, 2007.

[FR Doc. E6-9486 Filed 6-15-06; 8:45 am]

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Part 252

RIN 0750-AF43

#### Defense Federal Acquisition Regulation Supplement; Free Trade Agreement—El Salvador, Honduras, and Nicaragua (DFARS Case 2006-D019)

**AGENCY:** Defense Acquisition Regulations System, 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 the Dominican Republic-Central America-United States Free Trade Agreement with respect to El Salvador, Honduras, and Nicaragua. The Free Trade Agreement waives the applicability of the Buy American Act for some foreign supplies and construction materials and specifies procurement procedures designed to ensure fairness.

**DATES:** *Effective date:* June 16, 2006.

*Comment date:* Comments on the interim rule should be submitted in writing to the address shown below on or before August 15, 2006, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2006-D019, using any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2006-D019 in the subject line of the message.
- Fax: (703) 602-0350.
- Mail: Defense Acquisition

Regulations System, Attn: Ms. Amy Williams, OUSD(AT&L)DPAP(DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062.

- Hand Delivery/Courier: Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202-3402.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, (703) 602-0328.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

This interim rule amends DFARS provisions and clauses to implement the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) with respect to El Salvador, Honduras, and Nicaragua. Congress approved the CAFTA-DR in the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (Pub. L. 109-53). Other signatory countries to the CAFTA-DR are Costa Rica, the Dominican Republic, and Guatemala. The DFARS will be further amended when the CAFTA-DR takes effect for these countries. The CAFTA-DR waives the applicability of the Buy American Act for some foreign supplies and construction materials and specifies procurement procedures designed to ensure fairness.

For supply and service contracts, the CAFTA-DR has the same dollar threshold as the other Free Trade Agreements (\$64,786), except that the Morocco Free Trade Agreement has a higher threshold that is equal to the threshold for the World Trade Organization Government Procurement Agreement (\$193,000); and the North American Free Trade Agreement (NAFTA) has a lower threshold with respect to supply contracts involving Canada (\$25,000). For construction contracts, the CAFTA-DR and the Morocco Free Trade Agreement have the same threshold as the Australia Free Trade Agreement, the Chile Free Trade Agreement, the Singapore Free Trade Agreement, and the World Trade Organization Government Procurement Agreement (\$7,407,000), which is lower than the NAFTA threshold of \$8,422,165 for construction contracts. Therefore, the DFARS provision and clause that implement the Free Trade Agreements below the World Trade Organization Government Procurement Agreement threshold (DFARS 252.225-7035 and 252.225-7036) apply to end products from all Free Trade Agreement countries except Morocco. The construction contract clause that implements trade agreements (DFARS 252.225-7045) applies to all designated

country construction material except Mexican construction material, because Canada, the other NAFTA country, is a member of the World Trade Organization Government Procurement Agreement.

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 does not expect this rule to 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.* Although the rule opens up DoD procurement to the products of El Salvador, Honduras, and Nicaragua, DoD does not believe there will be a significant economic impact on U.S. small businesses. DoD applies the trade agreements to only those non-defense items listed at DFARS 225.401-70, and procurements that are set aside for small businesses are exempt from application of the trade agreements. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. 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 2006-D019.

##### C. Paperwork Reduction Act

This interim rule affects the certification and information collection requirements in the provisions at DFARS 252.225-7020 and 252.225-7035, currently approved under Office of Management and Budget Control Number 0704-0229. The impact, however, is negligible.

##### 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 an interim rule prior to affording the public an opportunity to comment. This interim rule implements the Dominican Republic-Central America-United States Free Trade Agreement with respect to El Salvador, Honduras, and Nicaragua, as approved by Congress in Public Law 109-53. The Free Trade Agreement waives the applicability of the Buy American Act for some foreign supplies and construction materials from El Salvador, Honduras, and Nicaragua, and specifies procurement procedures designed to ensure fairness. The Free Trade