

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

A. Background

This interim rule amends the clause prescriptions at DFARS 225.1101 and

225.7503 to reflect increased dollar thresholds for application of the trade agreements. Every two years, the trade agreements thresholds are escalated according to a pre-determined formula set forth in the agreements. The United

States Trade Representative has specified the following new thresholds, as published at 72 FR 71166 on December 14, 2007, and corrected at 72 FR 73904 on December 28, 2007:

Trade agreement	Supply contract (equal to or exceeding)	Construction contract (equal to or exceeding)
World Trade Organization Government Procurement Agreement	\$194,000	\$7,443,000
Free Trade Agreements:		
Australia Free Trade Agreement	67,826	7,443,000
Bahrain Free Trade Agreement	194,000	8,817,449
Dominican Republic-Central America-United States Free Trade Agreement (El Salvador, Dominican Republic, Guatemala, Honduras, and Nicaragua)	67,826	7,443,000
Chile Free Trade Agreement	67,826	7,443,000
Morocco Free Trade Agreement	194,000	7,443,000
North American Free Trade Agreement:		
Canada	\$25,000	8,817,449
Mexico	67,826	8,817,449
Singapore Free Trade Agreement	67,826	7,443,000

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.*, because the trade agreement threshold changes are designed to keep pace with inflation and thus maintain the status quo. 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 2007-D023.

C. Paperwork Reduction Act

This 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. The dollar threshold changes are in line with inflation and maintain the status quo.

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 incorporates increased dollar thresholds for application of the World Trade Organization Government Procurement Agreement and the Free Trade Agreements, as determined by the United States Trade Representative. The increased thresholds became effective on January 1, 2008. 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 225

Government procurement.

Michele P. Peterson,
Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR part 225 is amended as follows:

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.

225.1101 [Amended]

- 2. Section 225.1101 is amended as follows:
 - a. In paragraph (10)(i) introductory text by removing “\$193,000” and adding in its place “\$194,000”; and
 - b. In paragraphs (10)(i)(A) and (B) by removing “\$64,786” and adding in its place “\$67,826”.
- 3. Section 225.7503 is amended as follows:
 - a. In paragraph (a) by removing “\$7,407,000” and adding in its place “\$7,443,000”; and
 - b. By revising paragraph (b) to read as follows:

225.7503 Contract clauses.

* * * * *

(b) Use the clause at 252.225-7045, Balance of Payments Program—Construction Material Under Trade Agreements, in solicitations and contracts for construction to be performed outside the United States with a value of \$7,443,000 or more. For acquisitions with a value of \$7,443,000 or more, but less than \$8,817,449, use the clause with its Alternate I.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 232 and 252

RIN 0750-AF76

Defense Federal Acquisition Regulation Supplement; Payment Withholding—Deletion of Duplicative Text (DFARS Case 2007-D010)

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

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove text addressing withholding of payments under time-and-materials and labor-hour contracts. The DFARS text is no longer necessary, since similar policy has been added to the Federal Acquisition Regulation (FAR).

DATES: *Effective Date:* January 24, 2008.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Schulze, Defense Acquisition Regulations System, OUSD(AT&L)DPAP(DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone 703-602-0326; facsimile 703-602-7887. Please cite DFARS Case 2007-D010.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS 232.111 and 252.232-7006 provide that, under time-and-materials and labor-contracts, there normally should be no need to withhold payment for a contractor with a record of timely submittal of a release discharging the Government from all liabilities, obligations, and claims under the contract. Similar policy was added to FAR 32.111 and 52.232-7 in the final rule published at 70 FR 43580 on July 27, 2005. Therefore, the DFARS text is no longer necessary, and sections 232.111 and 252.232-7006 are removed.

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 rule will not have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of DoD. Therefore, publication for public comment under 41 U.S.C. 418b is not required. However, DoD will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2007-D010.

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 Parts 232 and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 232 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 232 and 252 continues to read as follows:

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

PART 232—CONTRACT FINANCING

232.111 [Removed]

■ 2. Section 232.111 is removed.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.232-7006 [Removed and Reserved]

■ 3. Section 252.232-7006 is removed and reserved.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 234 and 235

RIN 0750-AF79

Defense Federal Acquisition Regulation Supplement; Research and Development Contract Type Determination (DFARS Case 2006-D053)

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 818 of the National Defense Authorization Act for Fiscal Year 2007. Section 818 requires DoD to modify regulations regarding the determination of contract type for major development programs to address assessment of program risk.

DATES: *Effective date:* January 24, 2008.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before March 24, 2008, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2006-D053, using any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *E-mail:* dfars@osd.mil. Include DFARS Case 2006-D053 in the subject line of the message.
- *Fax:* 703-602-7887.
- *Mail:* Defense Acquisition Regulations System, Attn: Mr. Mark Gomersall, OUSD(AT&L)DPAP(DARS), IMD 3D139, 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: Mr. Mark Gomersall, 703-602-0302.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule implements Section 818 of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109-364). Section 818 requires DoD to modify regulations regarding the determination of contract type for development programs. Such regulations must require the Milestone Decision Authority for a major defense acquisition program to select the contract type for a development program that is consistent with the level of program risk. The Milestone Decision Authority may select a fixed-price type contract, including a fixed-price incentive contract; or a cost-type contract, provided certain written determination requirements are satisfied.

The rule adds policy at DFARS 234.004 to implement the requirements of Section 818 of Public Law 109-364, applicable to major defense acquisition programs, and updates the policy at 235.006 to address requirements for other than major defense acquisition programs.

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.*, because the rule relates to internal DoD considerations and documentation requirements relating to the selection of contract type for development programs. 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-D053.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the rule does not