

**239.7102-2 Compromising emanations—TEMPEST or other standard.**

For acquisitions requiring information assurance against compromising emanations, the requiring activity is responsible for providing to the contracting officer—

(a) The required protections, *i.e.*, an established National TEMPEST standard (*e.g.*, NACSEM 5100, NACSIM 5100A) or a standard used by other authority;

(b) The required identification markings to include markings for TEMPEST or other standard, certified equipment (especially if to be reused);

(c) Inspection and acceptance requirements addressing the validation of compliance with TEMPEST or other standards; and

(d) A date through which the accreditation is considered current for purposes of the proposed contract.

**239.7103 Contract clause.**

Use the clause at 252.239-7000, Protection Against Compromising Emanations, in solicitations and contracts involving information technology that requires protection against compromising emanations.

**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

■ 3. Section 252.239-7000 is revised to read as follows:

**252.239-7000 Protection against compromising emanations.**

*As prescribed in 239.7103, use the following clause:*

Protection Against Compromising Emanations (JUN 2004)

(a) The Contractor shall provide or use only information technology, as specified by the Government, that has been accredited to meet the appropriate information assurance requirements of—

(1) The National Security Agency National TEMPEST Standards (NACSEM No. 5100 or NACSEM No. 5100A, Compromising Emanations Laboratory Test Standard, Electromagnetics (U)); or

(2) Other standards specified by this contract, including the date through which the required accreditation is current or valid for the contract.

(b) Upon request of the Contracting Officer, the Contractor shall provide documentation supporting the accreditation.

(c) The Government may, as part of its inspection and acceptance, conduct additional tests to ensure that information technology delivered under this contract satisfies the information assurance standards specified. The Government may conduct additional tests—

(1) At the installation site or contractor's facility; and

(2) Notwithstanding the existence of valid accreditations of information technology prior to the award of this contract.

(d) Unless otherwise provided in this contract under the Warranty of Supplies or Warranty of Systems and Equipment clause, the Contractor shall correct or replace accepted information technology found to be deficient within 1 year after proper installations.

(1) The correction or replacement shall be at no cost to the Government.

(2) Should a modification to the delivered information technology be made by the Contractor, the 1-year period applies to the modification upon its proper installation.

(3) This paragraph (d) applies regardless of f.o.b. point or the point of acceptance of the deficient information technology.  
(End of clause)

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**DEPARTMENT OF DEFENSE****48 CFR Part 252**

[DFARS Case 2004-D006]

**Defense Federal Acquisition Regulation Supplement; Designated Countries—New European Union Members**

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

**SUMMARY:** DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to add 10 new European Union Member States to the list of designated countries whose products DoD may acquire under the Trade Agreements Act, in accordance with a determination of the United States Trade Representative.

**EFFECTIVE DATE:** June 25, 2004.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, Defense Acquisition Regulations Council, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0328; facsimile (703) 602-0350. Please cite DFARS Case 2004-D006.

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

This final rule amends the clauses at DFARS 252.225-7021, Trade Agreements, and 252.225-7045, Balance of Payments Program—Construction Material Under Trade Agreements, to add 10 new European Union Member States to the definition of “designated country.” The new Member States are Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic, and Slovenia. The rule implements a determination of the United States Trade Representative that suppliers of

eligible products of these Member States may participate in U.S. Government procurements without discriminatory treatment (69 FR 25654, May 7, 2004).

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 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 2004-D006.

**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 Part 252**

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

■ Therefore, 48 CFR part 252 is amended as follows:

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

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

**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES****252.212-7001 [Amended]**

■ 2. Section 252.212-7001 is amended in paragraph (b), in entry “252.225-7021”, by removing “(JAN 2004)” and adding in its place “(JUN 2004)”.

■ 3. Section 252.225-7021 is amended by revising the clause date and paragraph (a)(4) to read as follows:

**252.225-7021 Trade Agreements.**

\* \* \* \* \*

Trade Agreements (JUN 2004)

(a) \* \* \*

(4) *Designated country* means—

Aruba  
Austria  
Bangladesh  
Belgium  
Benin  
Bhutan  
Botswana  
Burkina Faso

Burundi  
 Canada  
 Cape Verde  
 Central African Republic  
 Chad  
 Comoros  
 Cyprus  
 Czech Republic  
 Denmark  
 Djibouti  
 Equatorial Guinea  
 Estonia  
 Finland  
 France  
 Gambia  
 Germany  
 Greece  
 Guinea  
 Guinea-Bissau  
 Haiti  
 Hong Kong  
 Hungary  
 Iceland  
 Ireland  
 Israel  
 Italy  
 Japan  
 Kiribati  
 Korea, Republic of  
 Latvia  
 Lesotho  
 Liechtenstein  
 Lithuania  
 Luxembourg  
 Malawi  
 Maldives  
 Mali  
 Malta  
 Mozambique  
 Nepal  
 Netherlands  
 Niger  
 Norway  
 Poland  
 Portugal  
 Rwanda  
 Sao Tome and Principe  
 Sierra Leone  
 Singapore  
 Slovak Republic  
 Slovenia  
 Somalia  
 Spain  
 Sweden  
 Switzerland  
 Tanzania U.R.  
 Togo  
 Tuvalu  
 Uganda  
 United Kingdom  
 Vanuatu  
 Western Samoa  
 Yemen

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■ 4. Section 252.225–7045 is amended by revising the clause date and, in paragraph (a), the definition of “Designated country” to read as follows:

**252.225–7045 Balance of Payments Program—Construction Material Under Trade Agreements.**

\* \* \* \* \*

Balance of Payments Program—Construction Material Under Trade Agreements (JUN 2004)

(a) \* \* \*

“Designated country” means—

Aruba  
 Austria  
 Bangladesh  
 Belgium  
 Benin  
 Bhutan  
 Botswana  
 Burkina Faso  
 Burundi  
 Canada  
 Cape Verde  
 Central African Republic  
 Chad  
 Comoros  
 Cyprus  
 Czech Republic  
 Denmark  
 Djibouti  
 Equatorial Guinea  
 Estonia  
 Finland  
 France  
 Gambia  
 Germany  
 Greece  
 Guinea  
 Guinea-Bissau  
 Haiti  
 Hong Kong  
 Hungary  
 Iceland  
 Ireland  
 Israel  
 Italy  
 Japan  
 Kiribati  
 Korea, Republic of  
 Latvia  
 Lesotho  
 Liechtenstein  
 Lithuania  
 Luxembourg  
 Malawi  
 Maldives  
 Mali  
 Malta  
 Mozambique  
 Nepal  
 Netherlands  
 Niger  
 Norway  
 Poland  
 Portugal  
 Rwanda  
 Sao Tome and Principe  
 Sierra Leone  
 Singapore  
 Slovak Republic  
 Slovenia  
 Somalia  
 Spain  
 Sweden  
 Switzerland  
 Tanzania U.R.  
 Togo  
 Tuvalu  
 Uganda  
 United Kingdom  
 Vanuatu  
 Western Samoa

Yemen

\* \* \* \* \*

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## DEPARTMENT OF HOMELAND SECURITY

### Transportation Security Administration

#### 49 CFR Part 1507

[Docket No. TSA–2003–15900]

RIN 1652–AA28

#### Privacy Act of 1974: Implementation of Exemption

**AGENCY:** Transportation Security Administration (TSA), DHS.

**ACTION:** Final rule.

**SUMMARY:** TSA is adding a new part to the Code of Federal Regulations that will exempt eight systems of records from one or more provisions of the Privacy Act. This rule will enable TSA to withhold records in response to requests for information pertaining to active investigations and in other instances where disclosure could reveal sensitive information.

**DATES:** Effective July 26, 2004.

**FOR FURTHER INFORMATION CONTACT:** Conrad Huygen, Privacy Act Officer, Information Management Programs, Office of Finance and Administration, TSA–17, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220; telephone (571) 227–1954; facsimile (571) 227–2912.

#### SUPPLEMENTARY INFORMATION:

##### Availability of Rulemaking Document

You can get an electronic copy using the Internet by—

(1) Searching the Department of Transportation’s electronic Docket Management System (DMS) Web page (<http://dms.dot.gov/search>);

(2) Accessing the Government Printing Office’s Web page at [http://www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html); or

(3) Visiting TSA’s Law and Policy Web Page at <http://www.tsa.dot.gov/public/index.jsp>.

In addition, copies are available by writing or calling the individual in the **FOR FURTHER INFORMATION CONTACT** section. Make sure to identify the docket number of this rulemaking.

##### Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of