

I. Discussion

DoD is revising the DFARS to implement a policy that will allow contracting officers to approve requests for waiver or reduction of rental charges for the use of Government property on work for foreign governments or international organizations. Over the past year the Director of Defense Security Cooperation Agency (DSCA) has seen a significant increase in the number of requests with extremely low dollar values over the rental period. Currently, DSCA is required to approve requests in which the agency has no equities. This final rule will allow the contracting officer to process the request for waiver or reduction of charges for the use of Government property on work for foreign governments or international organizations without a separate review by DSCA. Removing DSCA from the approval process will expedite contractors' requests, while still protecting the interests of the Government.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

Publication of proposed regulations, 41 U.S.C. 1707, is the statute, which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because the changes are not substantive and only modify the internal operating procedures of DoD.

III. 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 not a significant regulatory action and, therefore, was not

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.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501-1, and 41 U.S.C. 1707 does not require publication for public comment.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 245

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 245 is amended as follows:

PART 245—GOVERNMENT PROPERTY

■ 1. The authority citation for 48 CFR part 245 continues to read as follows:

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

■ 2. Section 245.302 is amended by revising paragraph (3)(ii) to read as follows:

245.302 Contracts with foreign governments or international organizations.

* * * * *

(3) * * *

(ii) Requests for waiver or reduction of charges for the use of Government property on work for foreign governments or international organizations shall be submitted to the contracting officer, who is authorized to approve the requests in consultation with the appropriate functional specialist.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 252

RIN 0750-A109

Defense Federal Acquisition Regulation Supplement: New Designated Country—Croatia (DFARS Case 2013-D031)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to add Croatia as a new designated country under the World Trade Organization Government Procurement Agreement (WTO GPA). Croatia joined the European Union, which is a party to the WTO GPA, on July 1, 2013.

DATES: Effective October 31, 2013.

FOR FURTHER INFORMATION CONTACT: Ms. Annette Gray, Defense Acquisition Regulations System, OUSD (AT&L)DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301-3060. Telephone 571-372-6093; facsimile 571-372-6101.

SUPPLEMENTARY INFORMATION:

I. Background

The European Union is a party to the WTO GPA and has assumed rights and obligations under the WTO GPA on behalf of its member states. On July 1, 2013, Croatia became a member of the European Union. Therefore, the European Union has committed to assume rights and obligations on behalf of Croatia under the WTO GPA. On June 27, 2012, the WTO Committee on Government Procurement accepted the European Union notification indicating Croatia's coverage. The United States, which is also a party to the WTO GPA, has agreed to waive discriminatory purchasing requirements for eligible products and suppliers of Croatia (78 FR 60368).

Therefore, this rule adds Croatia to the list of World Trade Organization Government Procurement Agreement countries wherever it appears in the DFARS, as part of the definition of "designated country."

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

"Publication of proposed regulations", 41 U.S.C. 1707, is the

statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it is just updating the lists of designated countries in order to reflect the fact that Croatia is now a member of the European Union.

III. 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 not a significant regulatory action and, therefore, was not 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.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501-1, and 41 U.S.C. 1707 does not require publication for public comment.

V. Paperwork Reduction Act

The Paperwork Reduction Act does apply, because the rule affects the response of an offeror that is offering a product of Croatia to the information collection requirements in the provisions at DFARS 252.225-7020, due to the changed definition of “designated country” at DFARS 252.225-7021. The offeror no longer needs to list a product from Croatia under “other end products,” because Croatia is now a designated country. This information collection requirement is currently approved under OMB clearances 0704-0229. The impact, however, is negligible.

List of Subjects in 48 CFR Part 252

Government procurement.

Manuel Quinones,

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.

252.225-7017 [Amended]

■ 2. Amend section 252.225-7017 by—
■ a. Removing the clause date “(AUG 2013)” and adding “(OCT 2013)” in its place; and

■ b. In paragraph (a), in the definition of “Designated country” in paragraph (i) adding, in alphabetical order, the country of “Croatia”.

252.225-7021 [Amended]

■ 3. Amend section 252.225-7021 by—
■ a. Removing the clause date “(AUG 2013)” and adding “(OCT 2013)” in its place; and

■ b. In paragraph (a), in the definition of “Designated country” in paragraph (i) adding, in alphabetical order, the country of “Croatia”.

252.225-7045 [Amended]

■ 4. Amend section 252.225-7045 by—
■ a. Removing the date “(AUG 2013)” and adding “(OCT 2013)” in its place; and

■ b. In paragraph (a), in the definition of “Designated country” in paragraph (1), adding, in alphabetical order, the country of “Croatia”.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 252

RIN 0750-AH79

Defense Federal Acquisition Regulation Supplement: New Free Trade Agreement—Panama (DFARS Case 2012-D044)

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

ACTION: Final rule.

SUMMARY: DoD has adopted as final, with changes, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement the United States—Panama Trade Promotion Agreement. This Trade Promotion Agreement is a free trade agreement that provides for mutually non-discriminatory treatment of eligible products and services from Panama.

DATES: Effective October 31, 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 68699 on November 16, 2012, to implement the United States—Panama Trade Promotion Agreement. No respondents submitted public comments in response to the interim rule; however, a conforming change was made to the Duty-Free Entry clause, an amendment was made to the Photovoltaic Devices—Certificate clause to correct the electronic Code of Federal Regulations, and a correction was made to Alternate I of the Buy American Act—Free Trade Agreements-Balance of Payments Program Certificate. Therefore, DoD is converting the interim rule to a final rule with changes.

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 not a significant regulatory action and, therefore, was not 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 final 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., because the Department of Defense only applies the trade agreements to the non-defense items listed at DFARS 225.401-70, and acquisitions that are set aside or