

**List of Subjects in 48 CFR Part 219**

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

■ Accordingly, the interim rule amending 48 CFR Part 219, which was published at 70 FR 43072 on July 26, 2005, is adopted as a final rule with the following change:

**PART 219—SMALL BUSINESS PROGRAMS**

■ 1. The authority citation for 48 CFR Part 219 continues to read as follows:

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

■ 2. Section 219.805–1 is amended by revising paragraph (b)(2)(A) to read as follows:

**219.805–1 General.**

(b)(2)(A) For acquisitions that exceed the competitive threshold, the SBA also may accept the requirement for a sole source 8(a) award on behalf of a small business concern owned by a Native Hawaiian Organization (Section 8020 of Pub. L. 109–148).

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[FR Doc. E6–9506 Filed 6–15–06; 8:45 am]

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**DEPARTMENT OF DEFENSE****Defense Acquisition Regulations System****48 CFR Part 225**

RIN 0750–AF32

**Defense Federal Acquisition Regulation Supplement; Berry Amendment Exceptions—Acquisition of Perishable Food, and Fish, Shellfish, or Seafood (DFARS Case 2006–D005)**

**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 831 of the National Defense Authorization Act for Fiscal Year 2006 and Section 8118 of the Defense Appropriations Act for Fiscal Year 2005. These statutes relate to the acquisition of perishable foods for DoD activities located outside the United States, and the acquisition of domestic fish, shellfish, and seafood.

**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–D005, 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–D005 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**

10 U.S.C. 2533a (the Berry Amendment) requires DoD to acquire certain items from domestic sources, unless an exception applies. The requirements of 10 U.S.C. 2533a are implemented at DFARS 225.7002, and the exceptions are listed at DFARS 225.7002–2. This interim rule amends the exceptions at DFARS 225.7002–2 to implement Section 831 of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109–163) and Section 8118 of the Defense Appropriations Act for Fiscal Year 2005 (Pub. L. 108–287). Section 831 of Public Law 109–163 amended 10 U.S.C. 2533a(d)(3) to expand the exception that permits the acquisition of non-domestic perishable foods by activities located outside the United States, to also permit the acquisition of such foods by activities that are making purchases on behalf of activities located outside the United States. Section 8118 of Public Law 108–287 established a permanent requirement for the acquisition of domestic fish, shellfish, and seafood, including fish, shellfish, and seafood contained in foods manufactured or processed in the United States. This requirement previously had been included in Defense Appropriations Acts on an annual basis.

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 applies only to: (1) The acquisition of perishable foods for DoD activities located outside the United States; and (2) continuation of the existing requirement for the acquisition of domestic fish, shellfish, and seafood. 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–D005.

**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 831 of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109–163), which became effective upon enactment on January 6, 2006. Section 831 facilitates the acquisition of perishable foods for personnel of activities located outside the United States, by expanding the exception to domestic source requirements for those acquisitions. 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.

■ 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.

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(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.