

in support of the Government during or in anticipation of litigation.

*Litigation support contractor* means a contractor (including an expert or technical consultant) providing litigation support under a contract with the Department of Defense that contains this clause.

*Sensitive information* means confidential information of a commercial, financial, proprietary, or privileged nature. The term includes technical data and computer software, but does not include information that is lawfully, publicly available without restriction.

*Technical data* means recorded information, regardless of the form or method of the recording, of a scientific or technical nature (including computer software documentation). The term does not include computer software or data incidental to contract administration, such as financial and/or management information.

(b) *Limitations on use or disclosure of litigation information.* Notwithstanding any other provision of this contract, the Contractor agrees and acknowledges—

(1) That all litigation information will be accessed and used for the sole purpose of providing litigation support;

(2) That the Contractor will take all precautions necessary to prevent unauthorized disclosure of litigation information;

(3) That litigation information shall not be used by the Contractor to compete against a third party for Government or nongovernment contracts; and

(4) That violation of paragraph (b)(1), (b)(2), or (b)(3), of this section, is a basis for the Government to terminate this contract.

(c) *Indemnification and creation of third party beneficiary rights.* The Contractor agrees—

(1) To indemnify and hold harmless the Government, its agents, and employees from any claim or liability, including attorneys' fees, court costs, and expenses, arising out of, or in any way related to, the misuse or unauthorized modification, reproduction, release, performance, display, or disclosure of any litigation information; and

(2) That any third party holding proprietary rights or any other legally protectable interest in any litigation information, in addition to any other rights it may have, is a third party beneficiary under this contract who shall have a right of direct action against the Contractor, and against any person to whom the Contractor has released or disclosed such data or software, for the unauthorized duplication, release, or disclosure of such information.

(d) *Contractor employees.* The Contractor shall ensure that its employees are subject to use and nondisclosure obligations consistent with this clause prior to the employees being provided access to or use of any litigation information covered by this clause.

(e) *Flowdown.* Include the substance of this clause, including this paragraph (e), in all subcontracts, including subcontracts for commercial items.

(End of clause)

■ 11. Add section 252.204–7015 to read as follows:

#### **252.204–7015 Disclosure of Information to Litigation Support Contractors.**

As prescribed in 204.7403(c), use the following clause:

#### **DISCLOSURE OF INFORMATION TO LITIGATION SUPPORT CONTRACTORS (FEB 2014)**

(a) *Definitions.* As used in this clause:

*Litigation support* means administrative, technical, or professional services provided in support of the Government during or in anticipation of litigation.

*Litigation support contractor* means a contractor (including an expert or technical consultant) providing litigation support under a contract with the Department of Defense that contains this clause.

*Sensitive information* means confidential information of a commercial, financial, proprietary, or privileged nature. The term includes technical data and computer software, but does not include information that is lawfully, publicly available without restriction.

(b) *Authorized disclosure.* Notwithstanding any other provision of this solicitation or contract, the Government may disclose to a litigation support contractor, for the sole purpose of litigation support activities, any information, including sensitive information, received—

(1) Within or in connection with a quotation or offer; or

(2) In the performance of or in connection with a contract.

(c) *Flowdown.* Include the substance of this clause, including this paragraph (c), in all subcontracts, including subcontracts for commercial items.

(End of clause)

#### **252.227–7013 [Amended]**

■ 12. Amend section 252.227–7013 by—

■ a. Removing the clause date (JUN 2013) and adding in its place (FEB 2014); and

■ b. In paragraph (a)(5), removing the phrase “*Covered Government support contractor* means a contractor” and adding in its place “*Covered Government support contractor* means a contractor (other than a litigation support contractor covered by 252.204–7014)”.

#### **252.227–7014 [Amended]**

■ 13. Amend section 252.227–7014 by—

■ a. Removing the clause date (MAY 2013) and adding in its place (FEB 2014); and

■ b. In paragraph (a)(6), removing the phrase “*Covered Government support contractor* means a contractor” and adding in its place “*Covered Government support contractor* means a contractor (other than a litigation support contractor covered by 252.204–7014)”.

#### **252.227–7015 [Amended]**

■ 14. Amend section 252.227–7015 by—

■ a. Removing the clause date (JUN 2013) and adding in its place (FEB 2014); and

■ b. In paragraph (a)(2), removing the phrase “*Covered Government support contractor* means a contractor” and adding in its place “*Covered Government support contractor* means a contractor (other than a litigation support contractor covered by 252.204–7014)”.

#### **252.227–7018 [Amended]**

■ 15. Amend section 252.227–7018 by—

■ a. Removing the clause date (MAY 2013) and adding in its place (FEB 2014); and

■ b. In paragraph (a)(6), removing the phrase “*Covered Government support contractor* means a contractor” and adding in its place “*Covered Government support contractor* means a contractor (other than a litigation support contractor covered by 252.204–7014)”.

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## **DEPARTMENT OF DEFENSE**

### **Defense Acquisition Regulations System**

#### **48 CFR Parts 204, 225, and 252**

#### **Defense Federal Acquisition Regulation Supplement; Technical Amendments**

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

**ACTION:** Final rule.

**SUMMARY:** DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement (DFARS) to provide needed editorial changes.

**DATES:** Effective February 28, 2014.

**FOR FURTHER INFORMATION CONTACT:** Mr. Manuel Quinones, Defense Acquisition Regulations System, OUSD(AT&L)DPAP(DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 571–372–6088; facsimile 571–372–6094.

**SUPPLEMENTARY INFORMATION:** This final rule amends the DFARS as follows:

1. Correct 204.1105 and 252.204–7004 to conform to the FAR by changing “clause” to “provision”.
2. Correct a cross reference at 204.7103–1(d).
3. Redesignate 225.004 as 225.070 and revise the text.

4. Correct 252.225–7029 clause title in the eCFR.

#### List of Subjects in 48 CFR Parts 204, 225, and 252

Government procurement.

**Manuel Quinones,**

*Editor, Defense Acquisition Regulations System.*

Therefore, 48 CFR parts 204, 225, and 252 is amended as follows:

■ 1. The authority citation for 48 CFR parts 204, 225, and 252 continues to read as follows:

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

#### PART 204—ADMINISTRATIVE MATTERS

##### 204.1105 [Amended]

■ 2. Section 204.1105 is amended by removing the word “clause” and adding the word “provision” in its place.

##### 204.7103–1 [Amended]

■ 3. Section 204.7103–1 is amended, in paragraph (d), by removing “See 204.7105(a).” and adding “See 204.7105.” in its place.

#### PART 225—AMENDED

##### 225.004 [Redesignated as 225.070]

■ 4. Section 225.004 is redesignated as 225.070 and revised to read as follows:

##### 225.070 Reporting of acquisition of end products manufactured outside the United States.

Follow the procedures at PGI 225.070 for entering the data on the acquisition of end products manufactured outside the United States.

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

##### 252.204–7004 [Amended]

■ 5. Section 252.225–7004 is amended by—

■ a. Removing the clause date “(MAY 2013)” and adding “(FEB 2014)” in its place.

■ b. Removing, in paragraph (a), the word “clause” and adding the word “provision” in its place.

##### 252.225–7029 [Amended]

■ 6. Section 252.225–7029 clause title is amended by removing the word “the” in two places.

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#### DEPARTMENT OF DEFENSE

#### Defense Acquisition Regulations System

#### 48 CFR Parts 206, 212, 225, and 252

RIN 0750–AH98

#### Defense Federal Acquisition Regulation Supplement: Acquisitions in Support of Operations in Afghanistan (DFARS Case 2013–D009)

**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 two sections of the National Defense Authorization Act for Fiscal Year 2013 that require compliance with domestic source restrictions in the case of any textile components supplied by DoD to the Afghan National Army or the Afghan National Police for purposes of production of uniforms, and eliminate the application of the enhanced authority to acquire products and services from Iraq.

**DATES:** Effective February 28, 2014.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy G. Williams, telephone 571–372–6106.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

DoD published an interim rule to implement sections 826 and 842 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 (Pub. L. 112–239).

Section 826 requires compliance with 10 U.S.C. 2533a (the Berry Amendment) in the case of any textile components supplied by DoD to the Afghan National Army or the Afghan National Police for purposes of production of uniforms. The law further states that no exception or exemptions under that section shall apply.

Section 842 modifies section 886 of the NDAA for FY 2008 (Pub. L. 110–181), which provided enhanced authority to acquire products and services from Iraq and Afghanistan in support of operations in Iraq or Afghanistan. Section 842 eliminates application of the enhanced authority to acquisition of products and services from Iraq.

One respondent submitted a public comment in response to the interim rule.

#### II. Discussion and Analysis

DoD reviewed the public comment in the development of the final rule. A discussion of the comment is provided below. No changes are made to the final based on this comment, however, one change is being made to correct the electronic Code of Federal Regulations.

##### A. Analysis of Public Comment

**Comment:** The respondent stated that under the interim rule, DFARS 225.7703–4(f) and (g) state that certain provisions and clauses prescribed in DFARS subpart 225.11 should not be used when certain provisions and clauses prescribed in 225.7703–4 are included. The respondent asserts that the prescriptions for the affected provisions and clauses in DFARS subpart 225.11 should contain these exceptions, but do not.

**Response:** Paragraphs (f) and (g) of DFARS 225.7703–4 were not added by the interim rule but were just redesignated from prior paragraphs (e) and (f). The prescriptions for the provisions and clauses addressed in 225.7703–4(f) and (g) do contain the appropriate exceptions, which are summarized below.

- 252.225–7000 is prescribed at 225.1101(1) for use only when the clause at 252.225–7001 is used.

- 252.225–7001 is prescribed at 225.1101(2). Paragraph (i)(C) of the prescription provides an exception if all line items will be acquired using a procedure specified in 225.7703–1(a). Use of the procedures at 225.7703–1(a) requires use of provisions and clauses 252.225–7023, 252.225–7024, or 252.225–7024.

- 252.225–7002 is prescribed at 225.1101(3) for use only when 252.225–7001, 252.225–7021, or 252.225–7036 are used. Since an exception is provided for the use of 252.225–7001 and 252.225–7036 when using the procedures at 225.7703–1(a), and 252.225–7021 is not included if 252.225–7026 is included, these exceptions also apply to the use of 252.225–7002.

- 252.225–7020 is prescribed at 225.1101(5) for use only when 252.225–7021 is used.

- 252.225–7021 is prescribed for use at 225.1101(6). Paragraph (iii)(B) of the prescription provides an exception if the clause at 252.225–7026 is included in the solicitation and contract.

- 252.225–7035 is prescribed at 225.1101(9) for use only when 252.225–7036 is used.

- 252.225–7036 is prescribed for use at 225.1101(10). Paragraph (iii)(C) of the prescription provides an exception if