

of a clean-fuel vehicle aftermarket conversion.

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DEPARTMENT OF DEFENSE

48 CFR Parts 225 and 252

Defense Federal Acquisition Regulation Supplement; Uruguay Round (1996 Agreement)

AGENCY: Department of Defense (DoD). ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has amended the Defense Federal Acquisition Regulation Supplement (DFARS) to implement the DoD-unique requirements of the renegotiated General Agreement on Tariffs and Trade (GATT) Government Procurement Agreement (1996 Code) (Uruguay Round), which becomes effective January 1, 1996. This agreement is implemented in statute by the Uruguay Round Agreement Act, Pub. L. 103-465, which amends the Trade Agreements Act of 1979.

DATES: Effective date: January 1, 1996. FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602-0131.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends DFARS 225.402 and 252.225-7007, permitting purchase of nondesignated country end products, if sufficient U.S. made, qualifying country, or eligible products are not available. This implements Section 343 of Pub. L. 103-465, which amends Section 302(a) of the Trade Agreements Act of 1979 (19 U.S.C. 2512(a)).

A proposed rule was published in the Federal Register on October 13, 1995 (60 FR 53319). No comments were received in response to the proposed rule.

B. Regulatory Flexibility Act

The Department of Defense 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 it permits purchase of nondesignated country end products without a waiver only if sufficient U.S. made, qualifying country, or eligible products are not available.

C. Paperwork Reduction Act

The final rule does not impose any reporting or recordkeeping requirements which require OMB approval under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Michele P. Peterson, Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 225 and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 225 and 252 continues to read as follows:

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

PART 225—FOREIGN ACQUISITION

2. Section 225.402 is amended by revising paragraph (c) to read as follows:

225.402 Policy.

(a) * * *

(c)(i) Except as provided in paragraphs (c) (ii) and (iii) of this section, do not purchase nondesignated country end products subject to the Trade Agreements Act unless they are NAFTA, Caribbean Basin, or qualifying country end products (see 225.872-1).

(ii) The prohibition in paragraph (c)(i) of this section does not apply when the contracting officer determines that offers of U.S. made, qualifying country, or eligible products from responsive, responsible offerors are either—

- (A) Not received; or
(B) Insufficient to fill the Government's requirements. In these cases, accept all responsive, responsible offers of U.S. made, qualifying country, and eligible products before accepting any other offers.

(iii) National interest waivers under Section 302(b)(2) of the Trade Agreements Act are approved on a case-by-case basis. Except as delegated in paragraphs (c)(iii) (A) and (B) of this section, a request for a national interest waiver shall include supporting rationale and be submitted under department/agency procedures to the Director of Defense Procurement.

(A) The head of the contracting activity may approve a national interest waiver for a purchase by an overseas purchasing activity of products critical to the support of U.S. forces stationed abroad. The waiver must be supported by a written statement from the requiring activity stating that the requirement is critical for the support of U.S. forces stationed abroad.

(B) The Commander, Defense Fuel Supply Center, may approve national interest waivers for purchases of fuel for use by U.S. forces overseas.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 252.225-7007 is amended by revising the clause date to read "(JAN 1996)" and by revising paragraph (c)(1) to read as follows:

252.225-7007 Trade Agreements.

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Trade Agreements (Jan 1996)

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(c) * * *

(1) Offerors may not supply a nondesignated country end product unless—

(i) It is a qualifying country end product, a Caribbean Basin country end product, or a NAFTA country end product;

(ii) The Contracting Officer has determined that offers of U.S. made end products or qualifying, designated, NAFTA, or Caribbean Basin country end products from responsive, responsible offerors are either not received or are insufficient to fill the Government's requirements; or

(iii) A national interest waiver has been granted under Section 302 of the Trade Agreements Act of 1979 (see FAR 25.402(c)).

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