



(Billing Code 5001-06-P)

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 252

[Docket No. DARS-2011-0082-0002]

RIN 0750-AH48

**Defense Federal Acquisition Regulation Supplement: New
Designated Country-Armenia (DFARS Case 2011-D057)**

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to add Armenia as a World Trade Organization Government Procurement Agreement (WTO GPA) country and a designated country, due to the accession of Armenia to membership in the World Trade Organization Government Procurement Agreement.

DATES: Effective Date: [Insert date of publication in the FEDERAL REGISTER.]

FOR FURTHER INFORMATION CONTACT: Ms. Amy G. Williams, Defense Acquisition Regulations System, OUSD(AT&L)DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301-3060. Telephone 703-602-0328; facsimile 703-602-0350.

SUPPLEMENTARY INFORMATION:

I. Background

On September 15, 2011, Armenia became a party to the World Trade Organization Government Procurement Agreement (WTO GPA). The Trade Agreements Act (19 U.S.C. 2501 et seq.) provides the authority for the President to waive the Buy American Act and other discriminatory provisions for eligible products from countries that have signed an international trade agreement with the United States (such as the WTO GPA). The President has delegated this waiver authority to the U.S. Trade Representative (see FAR 25.402).

On September 22, 2011, because Armenia became a party to the WTO GPA and because the U.S. Trade Representative has determined that Armenia will provide appropriate reciprocal competitive Government procurement opportunities to United States products and services and suppliers of such products and services, the U.S. Trade Representative published a notice in the Federal Register (76 FR 58856) waiving the Buy American Act and other discriminatory provisions for eligible products from Armenia.

II. Discussion and analysis.

FAR 25.003 defines WTO GPA countries by listing the parties to the WTO GPA, and defines "designated country" as a WTO GPA country, a Free Trade Agreement country, a least designated country, or a Caribbean Basin country.

Because Armenia is now a WTO GPA country and therefore also a designated country, as determined by the U.S. Trade Representative, this final rule adds Armenia to the lists of WTO GPA countries within the definition of "designated country" at DFARS 252.225-7021, Trade Agreements, and 252.225-7045, Balance of Payments Program—Construction Material Under Trade Agreements. Conforming changes were also made to the clause date at 252.225-7001(b)(12)(i).

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 a significant regulatory action and, therefore, was 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 an initial regulatory flexibility analysis is only

required for proposed or interim rules that require publication for public comment (5 U.S.C. 603) and a final regulatory flexibility analysis is only required for final rules that were previously published for public comment, and for which an initial regulatory flexibility analysis was prepared (5 U.S.C. 604).

Publication of this final rule for public comment is not required by statute (41 U.S.C. 1707) because it recognizes actions taken by the United States Trade Representative that do not have a significant effect on contractors or offerors or a significant effect beyond the internal operating procedures of the Government. Therefore, publication for public comment under 41 U.S.C. 1707 is not required.

V. Paperwork Reduction Act

The Paperwork Reduction Act does apply because the final rule affects the certification and information collection requirement in the provisions at DFARS 252.225-7020, Trade Agreements Certificate, currently approved under OMB clearance 0704-0229, DFARS Part 225, Foreign Acquisition, and associated clauses. DFARS provision 252.225-7020 relies on the definition of "designated country" in DFARS 252.225-7021, which now includes Armenia. The impact, however, is negligible. Comments regarding the burden estimates or any other aspect of this collection of information, including suggestions for

reducing the burden, in response to approved OMB clearance 0704-0229, should be sent, not later than **[Insert date 60 days after date of publication in the FEDERAL REGISTER]** to Ms. Jasmeet Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503, with a copy to the Defense Acquisition Regulations System, Attn: Ms. Amy Williams, OUSD (AT&L) DPAP (DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301-3060.:

Requesters may obtain a copy of the supporting statement for the burden approved under OMB clearance 0704-0229 from the point of contact identified in this notice. Please cite OMB Control Number 0704-0229, in all correspondence.

List of Subjects in 48 CFR Part 252

Government procurement.

Ynette R. Shelkin

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 is revised to read as follows:

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

252.212-7001 [Amended]

2. In section 252.212-7001, remove the clause date "(DEC 2011)" and add "(JANUARY 2012)" in its place and in paragraph (b) (13) (i) remove the clause date "(OCT 2011)" and add "(JANUARY 2012)" in its place.

3. In section 252.225-7021, remove the clause date "(OCT 2011)" and add "(JAN 2012)" in its place and in paragraph (a), in the definition for "Designated country", revise paragraph (i) to read as follows:

252.225-7021 Trade agreements.

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(a) * * *

Designated country * * *

(i) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Armenia, Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan (known in the World Trade Organization as "the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu" (Chinese Taipei)), or the United Kingdom);

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4. In section 252.225-7045, remove the clause date "(JUN 2011)" and add "(JAN 2012)" in its place and in paragraph (a), in the definition for "Designated country", revise paragraph (1) to read as follows:

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

* * * * *

(a) * * *

Designated country * * *

(1) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Armenia, Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan (known in the World Trade Organization as "the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu" (Chinese Taipei)), or the United Kingdom);

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