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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 225 and 252

RIN 0750-AH82

Defense Federal Acquisition Regulation Supplement: New

Qualifying Country—Poland (DFARS Case 2012-D049)

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 Poland as a qualifying country.

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

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

SUPPLEMENTARY INFORMATION:

I. Background

DoD is amending the DFARS to add the Republic of Poland as a qualifying country. On August 27, 2011, the U.S. Secretary of Defense signed a new reciprocal defense procurement agreement with the Polish Minister of National Defense. This agreement

was placed into force on July 19, 2012. The agreement removes discriminatory barriers to procurements of supplies and services produced by industrial enterprises of the other country to the extent mutually beneficial and consistent with national laws, regulations, policies, and international obligations. The agreement does not cover construction or construction material. Poland is already a designated country under the World Trade Organization Government Procurement Agreement.

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 does not constitute a significant DFARS revision within the meaning of FAR 1.501-1, does not have a significant effect beyond the internal operating procedures of DoD, and will not

have a significant cost or administrative impact on contractors or offerors. Poland is added to the list of 22 other countries that have similar reciprocal defense procurement agreements with 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

This rule affects the certification and information collection requirements in the provisions at DFARS 252.225-7000 and 252.225-7035, currently approved under OMB Control Number 0704-0229, titled DFARS Part 225, Foreign Acquisition, and Associated Clauses, in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The impact, however, is negligible, because it merely shifts the category under which items from Poland must be listed.

List of Subjects in 48 CFR Parts 225 and 252

Government procurement

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Editor, Defense Acquisition Regulations System.

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

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

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

PART 225—FOREIGN ACQUISITION

225.003 [Amended]

2. Section 225.003 is amended in paragraph (10), the definition of "qualifying country" by adding in alphabetical

order the country "Poland".

225.872-1 [Amended]

3. Section 225.872-1 paragraph (a) is amended by adding, in alphabetical order, the country of "Poland" to the list of qualifying countries.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.212-7001 [Amended]

4. Section 252.212-7001 is amended as follows:

a. In the clause heading, by removing the clause date "(NOV 2012)" and adding "(DEC 2012)" in its place;

b. In paragraph (b)(6)(i), by removing the clause date "(JUN 2012)" and adding "(DEC 2012)" in its place;

c. In paragraph (b)(9) by revising the clause date to read "(DEC 2012);

d. In paragraph (b)(12), by removing the clause date "(NOV 2012)" and adding "(DEC 2012)" in its place;

e. In paragraph (b)(13)(i), by removing the clause date "(NOV 2012)" and adding "(DEC 2012)" in its place;

f. In paragraph (b)(16)(i), by removing the clause date "(NOV 2012)" and adding "(DEC 2012)" in its place;

252.225-7001 [Amended]

5. Section 252.225-7001 is amended as follows:

a. In the clause heading, by removing the clause date "(JUN 2012)" and adding "(DEC 2012)" in its place;

b. In paragraph (a), the definition of "qualifying country", by adding, in alphabetical order, the country of "Poland" to the list of qualifying countries.

252.225-7002 [Amended]

6. Section 252.225-7002 is amended as follows:

a. In the clause heading, by removing the clause date "(JUN 2012)" and adding "(DEC 2012)" in its place;

b. In paragraph (a), the definition of "qualifying country", by adding in alphabetical order the country of "Poland" to the list of qualifying countries.

252.225-7012 [Amended]

7. Section 252.225-7012 is amended as follows:

a. In the clause heading, by removing the clause date "(JUN 2012)" and adding "(DEC 2012)" in its place;

b. In paragraph (a), the definition of "qualifying country", by adding in alphabetical order the country of "Poland" to the list of qualifying countries.

252.225-7017 [Amended]

8. Section 252.225-7017 is amended as follows:

a. In the clause heading, by removing the clause date "(NOV 2012)" and adding "(DEC 2012)" in its place;

b. In paragraph (a), the definition of "qualifying country", by adding in alphabetical order the country of "Poland" to the list of qualifying countries.

252.225-7021 [Amended]

9. Section 252.225-7021 is amended as follows:

a. In the clause heading, by removing the clause date "(NOV 2012)" and adding "(DEC 2012)" in its place;

b. In paragraph (a), the definition of "qualifying country", by adding in alphabetical order the country of "Poland" to the list of qualifying countries.

252.225-7036 [Amended]

10. Section 252.225-7036 is amended as follows:

a. In the clause heading, by removing the clause date "(NOV 2012)" and adding "(DEC 2012)" in its place;

b. In paragraph (a), the definition of "qualifying country", by adding in alphabetical order the country of "Poland" to the list of qualifying countries.

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