

Dated: October 29, 1997.

Bruce A. Lehman,

*Assistant Secretary of Commerce and
Commissioner of Patents and Trademarks.*
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DEPARTMENT OF DEFENSE

48 CFR Parts 225 and 252

[DFARS Case 97-D028]

Defense Federal Acquisition Regulation Supplement; Commercial Ball or Roller Bearings—Components of Noncommercial Items

AGENCY: Department of Defense (DOD).
ACTION: Proposed rule with request for
comments.

SUMMARY: The Director of Defense
Procurement is proposing to amend the
Defense Federal Acquisition Regulation
Supplement (DFARS) to remove
domestic source restrictions on
commercial ball or roller bearings that
are components of noncommercial end
items.

DATES: Comment date: Comments on the
proposed rule should be submitted in
writing to the address shown below on
or before January 5, 1998, to be
considered in the formulation of the
final rule.

ADDRESSES: Interested parties should
submit written comments to: Defense
Acquisition Regulations Council, Attn:
Ms. Amy Williams, PDUSD
(A&T)DP(DAR). IMD 3D139, 3062
Defense Pentagon, Washington, DC
20301-3062. Telefax number (703) 602-
0350.

E-mail comments submitted over the
Internet should be addressed to:
dfars@acq.osd.mil.

Please cite DFARS Case 97-D028 in
all correspondence related to this issue.
E-mail comments should cite DFARS
Case 97-D028 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms.
Amy Williams, (703) 602-0131.

SUPPLEMENTARY INFORMATION:

A. Background

This rule proposes amendments to
DFARS 225.7019-2 and the associated
clause at 252.225-7016, Restriction on
Acquisition of Ball and Roller Bearings,
to remove domestic source restrictions
on commercial ball or roller bearings
that are components of noncommercial
end items. This is consistent with the
existing language at DFARS
212.504(a)(xviii), which provides that
10 U.S.C. 2534, Miscellaneous
Limitations on the Procurement of

Goods Other Than United States Goods,
is not applicable to subcontracts at any
tier for the acquisition of commercial
items or commercial components. The
language at 212.504(a)(xviii) was added
to the DFARS as part of the
implementation of Section 8003 of the
Federal Acquisition Streamlining Act of
1994 (41 U.S.C. 430), which provides
that the Federal Acquisition Regulation
shall include a list of provisions of law
that are inapplicable to contracts for
commercial items.

B. Regulatory Flexibility Act

The proposed rule may 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.* An
initial regulatory flexibility analysis has
been prepared and is summarized as
follows: The objective of this rule is to
be consistent with the existing
regulations relating to the acquisition of
commercial items and commercial
components. The rule will apply to all
offerors and contractors offering
noncommercial end items that contain
commercial ball or roller bearings as
components, and all suppliers of such
commercial bearings, but will have no
effect if another exception to 10 U.S.C.
2534 already applies. There is no data
available to estimate the number of
small entities involved, because DD
Form 350 data does not provide
information regarding components.
However, the rule will not affect
acquisitions using simplified
acquisition procedures, as an exception
covering such acquisitions already
exists. Furthermore, the restriction has
already been waived for bearings from
qualifying countries. The proposed rule
will remove the requirement for offerors
and contractors to track the origin of
commercial ball or roller bearings used
as components in noncommercial end
items. The proposed rule may increase
competition from manufacturers of
foreign, nonqualifying country
commercial ball or roller bearings in
affected acquisitions.

Comments are invited from small
businesses and other interested parties.
Comments from small entities
concerning the affected DFARS subparts
also will be considered in accordance
with 5 U.S.C. 610. Such comments
should be submitted separately and
should cite DFARS Case 97-D028 in
correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does
not apply because the proposed 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.*

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 proposed to be 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 225.7019-2 is amended by
revising paragraph (a)(2) to read as
follows:

225.7019-2 Exceptions.

(a) * * *

(2) Purchases of commercial items
(end items or components)
incorporating ball or roller bearings or
purchases of ball or roller bearings that
are commercial components of
noncommercial items.

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 252.225-7016 is amended
by revising the clause date and
paragraphs (c)(1)(i) and (f) to read as
follows:

252.225-7016 Restriction on acquisition of ball and roller bearings.

* * * * *

RESTRICTION ON ACQUISITION OF BALL AND ROLLER BEARINGS (XXX 19XX)

* * * * *

(c)(1) * * *

(i) The end items or components
containing ball or roller bearings are
commercial items or the bearings are
commercial components of noncommercial
items; or

* * * * *

(f) The Contractor agrees to insert this
clause, including this paragraph (f), in every
subcontract and purchase order issued in
performance of this contract, unless items
acquired in the subcontract or purchase order
are—

(1) Commercial items; or

(2) Items that do not contain ball or roller
bearings.

(End of clause)

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