

“239.7305(a), (b), or (c)” in its place; and

■ b. In paragraph (c)(2)(ii) and (iii) removing “paragraph (a)” and adding “paragraph (a) of this section” in both places.

■ 15. Amend section 239.7305 by—
■ a. Revising the introductory text; and
■ b. Revising paragraph (d)(2)(i).

The revisions read as follows:

239.7305 Exclusion and limitation on disclosure.

Subject to 239.7304, the individuals authorized in 239.7303 may, in the course of procuring information technology, whether as a service or as a supply, that is a covered system, is a part of a covered system, or is in support of a covered system—

* * * * *

(d) * * *

(2) * * *

(i) Notify appropriate parties of action taken under paragraphs (a) through (d) of this section and the basis for such action only to the extent necessary to effectuate the action;

* * * * *

■ 16. Revise section 239.7306 to read as follows:

239.7306 Solicitation provision and contract clause.

(a) Insert the provision at 252.239–7017, Notice of Supply Chain Risk, in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items, for information technology, whether acquired as a service or as a supply, that is a covered system, is a part of a covered system, or is in support of a covered system, as defined at 239.7301.

(b) Insert the clause at 252.239–7018, Supply Chain Risk, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, for information technology, whether acquired as a service or as a supply, that is a covered system, is a part of a covered system, or is in support of a covered system, as defined at 239.7301.

PART 244—SUBCONTRACTING POLICIES AND PROCEDURES

■ 17. Revise section 244.201–1 to read as follows:

244.201–1 Consent requirements.

In solicitations and contracts for information technology, whether acquired as a service or as a supply, that is a covered system or covered item of supply as those terms are defined at 239.7301, consider the need for a consent to subcontract requirement

regarding supply chain risk (see subpart 239.73). For additional guidance see PGI 244.201–1.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.239–7018 [Amended]

■ 18. Amend section 252.239–7018 by—

■ a. Removing the clause date “(NOV 2013)” and adding “(OCT 2015)” in its place;

■ b. Amending paragraph (b) by removing “shall maintain controls” and adding “shall mitigate supply chain risk” in its place, and removing the phrase “to minimize supply chain risk” before the period; and

■ c. Removing paragraph (e).

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 252

RIN 0750–AI67

Defense Federal Acquisition Regulation Supplement: Removal of Cuba From the List of State Sponsors of Terrorism (DFARS 2015–D032)

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 remove Cuba from the definition of “state sponsor of terrorism” in two DFARS clauses. This rule implements the Department of Defense’s Department of State Public Notice: 9162, Rescission of Determination Regarding Cuba.

DATES: Effective October 30, 2015.

FOR FURTHER INFORMATION CONTACT: Ms. Kyoung Lee, telephone 571–372–6093.

SUPPLEMENTARY INFORMATION:

I. Background

This final rule amends DFARS clause 252.225–7049, Prohibition on Acquisition of Commercial Satellite Services from Certain Foreign Entities—Representations, and clause 252.225–7050, Disclosure of Ownership or Control by the Government of a Country that is a State Sponsor of Terrorism, by removing Cuba from the definition of “state sponsor of terrorism” in these

clauses. This rule implements the Department of State Public Notice: 9162, Rescission of Determination Regarding Cuba, announcing removal of Cuba from the U.S. list of state sponsors of terrorism, effective May 29, 2015. This action was based upon the Presidential Report of April 14, 2015, to Congress, indicating the Administration’s intent to rescind the designation of Cuba as a state sponsor of terrorism, including the certification that Cuba has not provided any support for international terrorism during the previous six months, and that Cuba has provided assurance that it will not support acts of international terrorism in the future.

II. Publication of This Final Rule for Public Comment is Not Required by Statute

The statute that applies to the publication of the Federal Acquisition Regulation (FAR) is 41 U.S.C. 1707, Publication of Proposed Regulations. 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 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 is only implementing the Department of State Public Notice: 9162, Rescission of Determination Regarding Cuba, announced on June 4, 2015, and, as such, the rule does not have a significant cost or administrative impact on contractors or offerors.

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

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 252

Government procurement.

Jennifer L. Hawes,

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 continues to read as follows:

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

252.225-7049 [Amended]

■ 2. Amend section 252.225-7049 by—

■ a. Removing the clause date “(DEC 2014)” and adding “(OCT 2015)” in its place; and

■ b. In the paragraph (a), in the definition of “State sponsor of terrorism” removing “Cuba,”.

252.225-7050 [Amended]

■ 3. Amend section 252.225-7050 by—

■ a. Removing the clause date “(DEC 2014)” and adding “(OCT 2015)” in its place; and

■ b. In the paragraph (a), in the definition of “State sponsor of terrorism” removing “Cuba,”.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 252

[Docket DARS-2015-0049]

RIN 0750-AI71

Defense Federal Acquisition Regulation Supplement: New Designated Countries—Montenegro and New Zealand (DFARS Case 2015-D033)

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 Montenegro and New Zealand as newly designated countries under the World Trade Organization Government Procurement Agreement.

DATES: Effective October 30, 2015.

FOR FURTHER INFORMATION CONTACT: Ms. Tresa Sullivan, telephone 571-372-6089.

SUPPLEMENTARY INFORMATION:

I. Background

On July 15, 2015, Montenegro became a party to the World Trade Organization Government Procurement Agreement (WTO GPA). New Zealand became party to the WTO GPA on August 12, 2015. 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 Federal Acquisition Regulation (FAR) 25.402).

Effective July 15, 2015, because Montenegro became a party to the WTO GPA and because the U.S. Trade Representative has determined that Montenegro will provide appropriate reciprocal competitive Government procurement opportunities to United States products and services, the U.S. Trade Representative published a notice on July 10, 2015, in the **Federal Register** (80 FR 39829) waiving the Buy American Act and other discriminatory provisions for eligible products from Montenegro.

Effective August 12, 2015, New Zealand became party to the WTO GPA, and because the U.S. Trade

Representative has determined that New Zealand will provide appropriate reciprocal competitive Government procurement opportunities to United States products and services, the U.S. Trade Representative published a notice on August 12, 2015, in the **Federal Register** (80 FR 48386) waiving the Buy American Act and other discriminatory provisions for eligible products from New Zealand.

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 developed country, or a Caribbean Basin country. Montenegro and New Zealand are now WTO GPA countries and are designated countries, as determined by the U.S. Trade Representative; therefore, this rule adds Montenegro and New Zealand to the list of WTO GPA countries within the definition of “designated country” at DFARS 252.225-7017, Photovoltaic Devices; 252.225-7021, Trade Agreements—Basic, and 252.225-7021 Trade Agreements—Alternate II; and 252.225-7045, Balance of Payments Program—Construction Material Under Trade Agreements—Basic, and 252.225-7045, Balance of Payments Program—Construction Material Under Trade Agreements—Alternates I, II, and III.

II. Publication of this Final Rule for Public Comment is Not Required by Statute

The statute that applies to the publication of the FAR is 41 U.S.C. 1707, Publication of Proposed Regulations. 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 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 is informative only. Under the rule, Montenegro and New Zealand are now WTO GPA countries and will provide appropriate reciprocal competitive procurement opportunities to United States products and services and suppliers of such products and services. As such, the rule is not expected to have a significant cost or administrative impact on contractors or offerors.