



5001-06-P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 225 and 252

[Docket DARS-2017-0020]

RIN 0750-AJ47

**Defense Federal Acquisition Regulation Supplement: New
Qualifying Country-Latvia (DFARS Case 2017-D037)**

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 Latvia as a qualifying country.

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

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

SUPPLEMENTARY INFORMATION:

I. Background

DoD is amending the DFARS to add Latvia as a qualifying country. On April 10, 2017, the Secretary of Defense and the Minister of Defense of the Republic of Latvia signed a Reciprocal Defense Procurement Agreement. The Secretary of

Defense also signed, on that day, a determination and findings that it is inconsistent with the public interest to apply the restrictions of the Buy American Act to the acquisition of articles, materials, and supplies, produced or manufactured in the Republic of Latvia. 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. This agreement does not cover construction or construction material. Latvia is already a designated country under the World Trade Organization Government Procurement Agreement.

II. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule only updates the list of qualifying countries in the DFARS by adding the newly qualifying country of Latvia. The definition of "qualifying country" is updated in each of the following clauses; however, this revision does not impact the clause prescriptions for use, or applicability at or below the simplified acquisition threshold, or applicability to commercial items. The clauses are: DFARS 252.225-7001, Buy American and Balance of Payments Program; DFARS 252.225-7002, Qualifying Country Sources as Subcontractors; DFARS 252.225-7012,

Preference for Certain Domestic Commodities; DFARS 252.225-7017, Photovoltaic Devices; DFARS 252.225-7021, Trade Agreements; and DFARS 252.225-7036, Buy American—Trade Agreements—Balance of Payments Program.

III. 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 entitled "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 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 and does not have a significant cost or administrative impact on contractors or offerors. Latvia is added to the list of 26 other countries that have similar reciprocal defense procurement agreements with DoD. These requirements affect only the internal operating procedures of the Government.

IV. Executive Orders 12866 and 13563

Executive Order (E.O.) 12866, Regulatory Planning and Review, and E.O. 13563, Improving Regulation and Regulatory Review, 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.

V. Executive Order 13771

This rule is not subject to E.O. 13771, Reducing Regulation and Controlling Regulatory Costs, because this rule is not a significant regulatory action under E.O. 12866.

VI. 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.

VII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does apply, because the final rule affects the definition of "qualifying country" in each of the following clauses: DFARS 252.225-7001, Buy American and Balance of Payments Program; DFARS 252.225-7002, Qualifying Country Sources as Subcontractors; DFARS 252.225-7012, Preference for Certain Domestic Commodities; DFARS 252.225-7017, Photovoltaic Devices; DFARS 252.225-7021, Trade Agreements; and DFARS 252.225-7036, Buy American-Trade Agreements-Balance of Payments Program. The changes to these DFARS clauses do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Number 0704-0229, entitled "DFARS Part 225, Foreign Acquisition and related clauses," because the rule merely shifts the category under which items from Latvia must be listed.

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Jennifer L. Hawes,

Regulatory Control Officer

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 continues 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 of "Latvia".

225.872-1 [Amended]

3. Section 225.872-1 is amended in paragraph (a) by adding, in alphabetical order, the country of "Latvia".

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.225-7001 [Amended]

4. Section 252.225-7001 is amended by—

a. In the clause heading, removing the date "(DEC 2016)" and adding "(DEC 2017)" in its place;

b. In paragraph (a), the definition of "Qualifying country", adding, in alphabetical order, the country of "Latvia"; and

c. In Alternate I—

i. In the clause heading, removing the date "(DEC 2016)" and adding "(DEC 2017)" in its place; and

ii. In paragraph (a), the definition of "Qualifying country", adding, in alphabetical order, the country of "Latvia".

252.225-7002 [Amended]

5. Section 252.225-7002 is amended by—

- a. In the clause heading, removing the date "(DEC 2016)" and adding "(DEC 2017)" in its place; and
- b. In paragraph (a), the definition of "Qualifying country", adding, in alphabetical order, the country of "Latvia".

252.225-7012 [Amended]

- 6. Section 252.225-7012 is amended by—
 - a. In the clause heading, removing the date "(DEC 2016)" and adding "(DEC 2017)" in its place; and
 - b. In paragraph (a), the definition of "Qualifying country", adding in alphabetical order, the country of "Latvia".

252.225-7017 [Amended]

- 7. Section 252.225-7017 is amended by—
 - a. In the clause heading, removing the date "(DEC 2016)" and adding "(DEC 2017)" in its place; and
 - b. In paragraph (a), the definition of "Qualifying country", adding, in alphabetical order, the country of "Latvia".

252.225-7021 [Amended]

- 8. Section 252.225-7021 is amended by—
 - a. In the clause heading, removing the date "(DEC 2016)" and adding "(DEC 2017)" in its place;
 - b. In paragraph (a), the definition of "Qualifying country", adding, in alphabetical order, the country of "Latvia"; and
 - c. In Alternate II—

- i. In the clause heading, removing the date of "(DEC 2016)" and adding "(DEC 2017)" in its place; and
- ii. In paragraph (a), the definition of "Qualifying country", adding, in alphabetical order, the country of "Latvia".

252.225-7036 [Amended]

9. Section 252.225-7036 is amended by-

a. In the clause heading, removing the date "(DEC 2016)" and adding "(DEC 2017)" in its place;

b. In paragraph (a), the definition of "Qualifying country", adding in alphabetical order, the country of "Latvia";

c. In Alternate I-

i. In the clause heading, removing the date "(DEC 2016)" and adding "(DEC 2017)" in its place; and

ii. In paragraph (a), the definition of "Qualifying country", adding, in alphabetical order, the country of "Latvia";

d. In Alternate II-

i. In the clause heading, removing the date "(DEC 2016)" and adding "(DEC 2017)" in its place; and

ii. In paragraph (a), the definition of "Qualifying country", adding, in alphabetical order, the country of "Latvia";

e. In Alternate III-

i. In the clause heading, removing the date "(DEC 2016)" and adding "(DEC 2017)" in its place; and

ii. In paragraph (a), the definition of "Qualifying country", adding, in alphabetical order, the country of "Latvia";

f. In Alternate IV-

i. In the clause heading, removing the date "(DEC 2016)" and adding "(DEC 2017)" in its place; and

ii. In paragraph (a), the definition of "Qualifying country", adding, in alphabetical order, the country of "Latvia"; and

g. In Alternate V-

i. In the clause heading, removing the date "(DEC 2016)" and adding "(DEC 2017)" in its place; and

ii. In paragraph (a), the definition of "Qualifying country", adding, in alphabetical order, the country of "Latvia".

[FR Doc. 2017-27780 Filed: 12/27/2017 8:45 am; Publication Date: 12/28/2017]