



5001-06-P

**DEPARTMENT OF DEFENSE**

**Defense Acquisition Regulations System**

[Docket Number DARS-2020-0005; OMB Control Number 0704-0229]

**Information Collection Requirement; Defense Federal Acquisition Regulation Supplement (DFARS); Foreign Acquisition**

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

**ACTION:** Notice and request for comments regarding a proposed revision of an approved information collection requirement.

**SUMMARY:** In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, DoD invites comments on: whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection for use through May 31, 2020. DoD proposes that OMB extend its approval for use for three additional years beyond

the current expiration date.

**DATES:** Consideration will be given to all comments received by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments, identified by OMB Control Number 0704-0229, using any of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>.

Follow the instructions for submitting comments.

*Email:* [osd.dfars@mail.mil](mailto:osd.dfars@mail.mil). Include OMB Control Number 0704-0229 in the subject line of the message.

*Fax:* 571-372-6094.

*Mail:* Defense Acquisition Regulations System, Attn: Ms. Kimberly Bass, OUSD(A&S)DPC(DARS), 3060 Defense Pentagon, Room 3B941, Washington, DC 20301-3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Ms. Kimberly Bass, telephone 571-372-6174.

**SUPPLEMENTARY INFORMATION:**

*Title, Associated Form, and OMB Number:* Defense Federal Acquisition Regulation Supplement (DFARS) Defense Federal Acquisition Regulation Supplement Part 225, Foreign Acquisition, and Related Clauses at 252.225; DD Form 2139; OMB Control Number

0704-0229.

*Affected Public:* Businesses or other for-profit and not-for-profit institutions.

*Number of Respondents:* 39,221

*Responses per Respondent:* 10, approximately

*Annual Responses:* 382,876

*Average Burden Per Response:* .28 hours, approximately

*Annual Burden Hours:* 106,730 (106,995 reporting hours and recordkeeping hours).

*Reporting Frequency:* On occasion.

*Needs and Uses:* DoD needs this information to ensure compliance with restrictions on the acquisition of foreign products imposed by statute or policy to protect the industrial base; to ensure compliance with U.S. trade agreements and memoranda of understanding that promote reciprocal trade with the U.S. allies; and to prepare reports for submission to the Department of Commerce on the Balance of Payments Program. This information collection includes requirements related to foreign acquisition in DFARS Part 225, Foreign Acquisition, and the related clauses at DFARS 252.225 as follows:

DFARS 252.225-7000, Buy American-Balance of Payments Program Certificate, as prescribed in 225.1101(1) and (1)(i), requires the offeror to identify in its proposal supplies that do not meet the definition of domestic end product, separately listing

qualifying country and other foreign end products. The Buy American statute does not apply to acquisitions of commercial information technology.

DFARS 252.225-7003, Report of Intended Performance Outside the United States and Canada—Submission with Offer, and 252.225-7004, Report of Intended Performance Outside the United States and Canada—Submission after Award, as prescribed in DFARS 225.7204(a) and (b) respectively, require offerors and contractors to submit a Report of Contract Performance Outside the United States for subcontracts to be performed outside the United States. The reporting threshold is \$750,000 for contracts that exceed \$15 million. The contractor may submit the report on DD Form 2139, Report of Contract Performance Outside the United States, or a computer-generated report that contains all information required by DD Form 2139.

DFARS 252.225-7005, Identification of Expenditures in the United States, as prescribed in DFARS 225.1103(1), requires contractors incorporated or located in the United States to identify, on each request for payment under contracts for supplies to be used, or for construction or services to be performed, outside the United States, that part of the requested payment representing estimated expenditures in the United States.

DFARS 252.225-7010, Commercial Derivative Military Article—

Specialty Metals Compliance Certificate, as prescribed at DFARS 225.7003-5(b), requires the offeror to certify that it will take certain actions with regard to specialty metals if the offeror chooses to use the alternative compliance approach when providing commercial derivative military articles to the Government.

DFARS 252.225-7013, Duty-Free Entry, prescribed at DFARS 225.1101(4), requires the contractor or an authorized agent to provide information on shipping documents and customs forms regarding those items that are eligible for duty-free entry.

DFARS 252.225-7018, Photovoltaic Devices—Certificate, as prescribed at DFARS 225.7017-4(b), requires offerors to certify that no photovoltaic devices with an estimated value exceeding the micro-purchase threshold will be utilized in performance of the contract or to specify the country of origin.

DFARS 252.225-7020, Trade Agreements Certificate, as prescribed in 225.1101(5) and (5)(i), only requires listing of nondesignated country end products. This provision is used in solicitations for all acquisitions subject to the World Trade Organization Government Procurement Agreement.

DFARS 252.225-7021, Alternate II, Trade Agreements, as prescribed in DFARS 225.1101(6) and (6)(ii), in order to comply with a condition of the waiver authority provided by the United States Trade Representative to the Secretary of Defense,

requires contractors from a South Caucasus/Central or South Asian state to inform the government of its participation in the acquisition and also advise their governments that they generally will not have such opportunities in the future unless their governments provide reciprocal procurement opportunities to U.S. products and services and suppliers of such products and services.

DFARS 252.225-7023, Preference for Products or Services from Afghanistan, as prescribed in DFARS 225.7703-4(a), requires offerors to identify products or services that are not products or services from Afghanistan.

DFARS 252.225-7025, Restriction on Acquisition of Forgings, as prescribed in DFARS 225.7102-4, also requires contractor retention of records showing compliance with the restrictions until 3 years after final payment. The contractor agrees to make the records available to the contracting officer upon request. The contractor may request a waiver in accordance with DFARS 225.7102-3.

DFARS 252.225-7032, Waiver of United Kingdom Levies—Evaluation of Offers, and 252.225-7033, Waiver of United Kingdom Levies, as prescribed in DFARS 225.1101(7) and (8) respectively, require United Kingdom offerors and prime contractors, and offerors and prime contractors with subcontracts of a dollar value exceeding \$1 million with United Kingdom firms, to provide certain

information necessary for DoD to obtain a waiver of United Kingdom levies.

DFARS 252.225-7035, Buy American-Free Trade Agreements-Balance of Payments Program Certificate, as prescribed in 252.1101(9) and (9)(i), requires separate listing of qualifying country (except Canada), FTA country, or other foreign end products. Alternate I, as prescribed in 252.1101(9) and (9)(ii), requires listing of Canadian end products, rather than FTA country end products, in solicitations between \$25,000 and the FTA threshold. The Buy American statute no longer applies to acquisitions of commercial information technology.

DFARS 252.225-7046, Exports of Approved Community Members in Response to the Solicitation, as prescribed at DFARS 252.7902-5(a), requires a representation whether exports or transfers of qualifying defense articles were made in preparing the response to the solicitation. If yes, the offeror represents that such exports or transfers complied with the requirements of the provision.

**Jennifer Lee Hawes,**

*Regulatory Control Officer,*

*Defense Acquisition Regulations System.*

[FR Doc. 2020-03889 Filed: 2/26/2020 8:45 am; Publication Date: 2/27/2020]