

**252.225–7033 [Amended]**

■ 12. Section 252.225–7033 is amended in the introductory text by removing “225.1101(8)” and adding in its place “225.1101(9)”.

**252.225–7035 [Amended]**

■ 13. Section 252.225–7035 is amended in the introductory text and in Alternate I by removing “225.1101(9)” and adding in its place “225.1101(10)”.

**252.225–7036 [Amended]**

■ 14. Section 252.225–7036 is amended in the introductory text and in Alternate I by removing “225.1101(10)” and adding in its place “225.1101(11)”.

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**DEPARTMENT OF DEFENSE****Defense Acquisition Regulations System****48 CFR Part 237**

RIN 0750–AG04

**Defense Federal Acquisition Regulation Supplement; Limitation on Service Contracts for Military Flight Simulators (DFARS Case 2008–D013)**

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

**ACTION:** Final rule.

**SUMMARY:** DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 883(b) of the National Defense Authorization Act for Fiscal Year 2008. Section 883(b) changed the conditions under which DoD may waive the prohibition on entering into a service contract to acquire a military flight simulator. **DATES:** *Effective Date:* September 15, 2008.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mark Gomersall, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone 703–602–0302; facsimile 703–602–7887. Please cite DFARS Case 2008–D013.

**SUPPLEMENTARY INFORMATION:****A. Background**

Section 832 of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109–364) established a prohibition on the award of a DoD service contract for the acquisition of a military flight simulator, unless the

Secretary of Defense determines that a waiver is necessary for national security purposes and provides an economic analysis to the congressional defense committees. This prohibition and the waiver authority are implemented at DFARS 237.102–71.

Section 883(b) of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110–181) amended the conditions for waiver in Section 832 of Public Law 109–364 by replacing “necessary for national security purposes” with “in the national interest”. This final rule amends DFARS 237.102–71 to reflect the change made by Section 883(b) of Public Law 110–181.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

**B. Regulatory Flexibility Act**

This rule will not have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of DoD. Therefore, publication for public comment under 41 U.S.C. 418b is not required. However, DoD will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2008–D013.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply, because the 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 Part 237**

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

■ Therefore, 48 CFR part 237 is amended as follows:

**PART 237—SERVICE CONTRACTING**

■ 1. The authority citation for 48 CFR part 237 continues to read as follows:

**Authority:** 41 U.S.C. 421 and 48 CFR Chapter 1.

■ 2. Section 237.102–71 is amended by revising paragraph (b) introductory text and paragraph (b)(1) to read as follows:

**237.102–71 Limitation on service contracts for military flight simulators.**

\* \* \* \* \*

(b) Under Section 832 of Public Law 109–364, as amended by Section 883(b)

of Public Law 110–181, DoD is prohibited from entering into a service contract to acquire a military flight simulator. However, the Secretary of Defense may waive this prohibition with respect to a contract, if the Secretary—

(1) Determines that a waiver is in the national interest; and

\* \* \* \* \*

[FR Doc. E8–21374 Filed 9–12–08; 8:45 am]

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**DEPARTMENT OF DEFENSE****Defense Acquisition Regulations System****48 CFR Part 237**

RIN 0750–AF64

**Defense Federal Acquisition Regulation Supplement; Security-Guard Functions (DFARS Case 2006–D050)**

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

**ACTION:** Interim rule with request for comments.

**SUMMARY:** DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 343 of the National Defense Authorization Act for Fiscal Year 2008. Section 343 extends, through September 30, 2012, the period during which contractor performance of security-guard functions at military installations or facilities is authorized to fulfill additional requirements resulting from the terrorist attacks on the United States on September 11, 2001.

**DATES:** *Effective date:* September 15, 2008.

*Comment date:* Comments on the interim rule should be submitted to the address shown below on or before November 14, 2008, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2006–D050, using any of the following methods:

• *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

• *E-mail:* [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2006–D050 in the subject line of the message.

• *Fax:* 703–602–7887.

• *Mail:* Defense Acquisition Regulations System, Attn: Mr. Michael Benavides, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062.

• *Hand Delivery/Courier*: Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202-3402.

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

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Benavides, 703-602-1302.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

DoD published an interim rule at 72 FR 51192 on September 6, 2007, to implement Section 333 of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109-364). Section 333 extended, through September 30, 2009, the period during which contractor performance of security-guard functions at military installations or facilities is authorized to fulfill additional requirements resulting from the terrorist attacks on the United States on September 11, 2001, provided the total number of personnel employed to perform such functions does not exceed specified limits. DoD received no comments on the interim rule published on September 6, 2007.

Section 343 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181) further extended the period during which contractor performance of security-guard functions at military installations or facilities is authorized, and established corresponding personnel limitations. This second interim rule amends DFARS 237.102-70 to reflect the provisions of Section 343 of Public Law 110-181.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

**B. Regulatory Flexibility Act**

DoD does not expect this rule to 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.* Although the rule may provide opportunities for small business concerns to receive contracts for the performance of security-guard functions at military installations or facilities, the economic impact is not expected to be substantial. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such

comments should be submitted separately and should cite DFARS Case 2006-D050.

**C. Paperwork Reduction Act**

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

**D. Determination To Issue an Interim Rule**

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. This interim rule implements Section 343 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181). Section 343 extends, through September 30, 2012, the period during which contractor performance of security-guard functions at military installations or facilities is authorized to fulfill additional requirements resulting from the terrorist attacks on the United States on September 11, 2001. Section 343 also places limitations on the total number of personnel that may be employed annually under this authority. Comments received in response to this interim rule will be considered in the formation of the final rule.

**List of Subjects in 48 CFR Part 237**

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

■ Therefore, 48 CFR part 237 is amended as follows:

**PART 237—SERVICE CONTRACTING**

■ 1. The authority citation for 48 CFR Part 237 continues to read as follows:

**Authority:** 41 U.S.C. 421 and 48 CFR Chapter 1.

■ 2. Section 237.102-70 is amended by revising paragraph (d)(1) introductory text and paragraphs (d)(1)(iii) and (iv) to read as follows:

**237.102-70 Prohibition on contracting for firefighting or security-guard functions.**

\* \* \* \* \*

(d)(1) Under Section 332 of Public Law 107-314, as amended by Section 333 of Public Law 109-364 and Section 343 of Public Law 110-181, this prohibition does not apply to any contract that is entered into for any increased performance of security-guard functions at a military installation or facility undertaken in response to the

terrorist attacks on the United States on September 11, 2001, if—

\* \* \* \* \*

(iii) Contract performance will not extend beyond September 30, 2012; and

(iv) The total number of personnel employed to perform security-guard functions under all contracts entered into pursuant to this authority does not exceed the following limitations:

(A) For fiscal year 2007, the total number of such personnel employed under such contracts on October 1, 2006.

(B) For fiscal year 2008, the number equal to 90 percent of the total number of such personnel employed under such contracts on October 1, 2006.

(C) For fiscal year 2009, the number equal to 80 percent of the total number of such personnel employed under such contracts on October 1, 2006.

(D) For fiscal year 2010, the number equal to 70 percent of the total number of such personnel employed under such contracts on October 1, 2006.

(E) For fiscal year 2011, the number equal to 60 percent of the total number of such personnel employed under such contracts on October 1, 2006.

(F) For fiscal year 2012, the number equal to 50 percent of the total number of such personnel employed under such contracts on October 1, 2006.

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 216**

[Docket No. 080302357-8834-02]

RIN 0648-AT79

**Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to the Explosive Removal of Offshore Structures in the Gulf of Mexico**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule, correction.

**SUMMARY:** This document contains a correction to the final rule governing the taking of marine mammals incidental to the explosive removal of offshore structures in the Gulf of Mexico that was published in the **Federal Register** on Thursday June 19, 2008.