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Defense Federal Acquisition Regulation Supplement: Department of State Rescission of Determination Regarding Sudan (DFARS Case 2021-D027)

A Rule by the [Defense Acquisition Regulations System](#) on 09/29/2021

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Effective September 29, 2021.

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48 CFR 252

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129

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DOCUMENT STATISTICS

PUBLISHED DOCUMENT**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 implement the December 14, 2020, rescission by the Department of State of the designation of Sudan as a state sponsor of terrorism.

DATES:

Effective September 29, 2021.

FOR FURTHER INFORMATION CONTACT:

Ms. Kimberly Bass, telephone 703-372-6174.

SUPPLEMENTARY INFORMATION:**I. Background**

This final rule implements the rescission by the Department of State of the designation of Sudan as a state sponsor of terrorism and the Department of State Public Notice: 11281, Rescission of Determination Regarding Sudan, announcing the removal of Sudan from the U.S. list of state sponsors of terrorism, effective December 14, 2020. The Department of State's action was based on the Presidential Report of October 26, 2020, to Congress, indicating the Administration's intent to rescind the designation of Sudan as a state sponsor of terrorism, including the certification that Sudan has not provided any support for international terrorism during the previous six months and that Sudan has provided assurance that it will not support acts of international terrorism in the future.

The Department of State's rescission also satisfies the provisions of section 620A(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371 ([\(https://www.govinfo.gov/link/uscode/22/2371?type=usc&year=mostrecent&link-type=html\)](https://www.govinfo.gov/link/uscode/22/2371?type=usc&year=mostrecent&link-type=html))(c)), section 40(f) of the Arms Export Control Act (22 U.S.C. 2780 ([\(https://www.govinfo.gov/link/uscode/22/2780?type=usc&year=mostrecent&link-type=html\)](https://www.govinfo.gov/link/uscode/22/2780?type=usc&year=mostrecent&link-type=html))(f)), and, to the extent applicable, section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) and continued in effect by Executive Order (E.O.) 13222, as amended by E.O. 13637 (</executive-order/13637>) of March 8, 2013.

Consistent with the December 14, 2020, action, Sudan is removed from the list of countries that are state sponsors of terrorism.

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 ([\(https://www.govinfo.gov/link/uscode/41/1707?type=usc&year=mostrecent&link-type=html\)](https://www.govinfo.gov/link/uscode/41/1707?type=usc&year=mostrecent&link-type=html)), Publication of Proposed Regulations. Subsection (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 only removes Sudan from the list of countries that fall within the DFARS definition of “state sponsor of terrorism,” consistent with the December 14, 2020, rescission of the designation by the Secretary of State.

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

This rule amends the solicitation provision at DFARS 252.225-7050, Disclosure of Ownership or Control by the Government of a Country that is a State Sponsor of Terrorism, and the contract clause at DFARS 252.225-7051, Prohibition on Acquisition of Certain Foreign Commercial Satellite Services. The rule only removes Sudan from the list of countries in the DFARS definition of “state sponsor of terrorism,” consistent with the December 14, 2020, rescission of the designation by the Secretary of State. This rule does not change the applicability of the affected solicitation provision, which is included in solicitations and contracts that exceed \$150,000 for commercial items (other than commercial satellite services), including commercially available off-the-shelf items; and the affected contract clause, which is included in solicitations and contracts for the acquisition of commercial satellite services, including solicitations and contracts for commercial items.

IV. 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 (</executive-order/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.

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Page 53883

V. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801 (<https://www.govinfo.gov/link/uscode/5/801?type=usc&year=mostrecent&link-type=html>)-808) before an interim or final rule takes effect, DoD will submit a copy of the final rule with the form, Submission of Federal Rules under the Congressional Review Act, to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule under the Congressional Review Act cannot take effect until 60 days after it is published in the **Federal Register**. The Office of Information and Regulatory Affairs has determined that this rule is not a major rule as defined by 5 U.S.C. 804 (<https://www.govinfo.gov/link/uscode/5/804?type=usc&year=mostrecent&link-type=html>).

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 (<https://www.govinfo.gov/link/uscode/41/1707?type=usc&year=mostrecent&link-type=html>) does not require publication for public comment.

VII. Paperwork Reduction Act

This rule affects the information collection requirements in the provision at DFARS 252.225-7050 currently approved under OMB Control Number 0704-0187, entitled Information Collection in Support of the DoD Acquisition Process (Various Miscellaneous Requirements), in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The impact, however, is negligible, because this rule only changes the definition of “state sponsor of terrorism” to remove Sudan from the list of countries in the definition. Overall, the rule does not impose any additional compliance requirements on contractors or process procedures for the Government.

List of Subjects in 48 CFR Parts 225 (/select-citation/2021/09/29/48-CFR-225) and 252

- Government procurement

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Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 225 (/select-citation/2021/09/29/48-CFR-225) and 252 are amended as follows:

1. The authority citation for 48 CFR parts 225 (/select-citation/2021/09/29/48-CFR-225) and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 (<https://www.govinfo.gov/link/uscode/41/1303?type=usc&year=mostrecent&link-type=html>) and 48 CFR chapter 1.

PART 225—FOREIGN ACQUISITION

2. Amend section 225.772-1 by revising the definition of “State sponsor of terrorism” to read as follows:

225.772-1 Definitions.

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State sponsor of terrorism means a country determined by the Secretary of State, under section 1754(c)(1)(A)(i) of the Export Control Reform Act of 2018 (Title XVII, Subtitle B, of the National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232 (<https://www.govinfo.gov/link/plaw/115/public/232?link-type=html>)), to be a country the government of which has repeatedly provided support for acts of international terrorism. As of December 14, 2020, state sponsors of terrorism include Iran, North Korea, and Syria. (10 U.S.C. 2327 (<https://www.govinfo.gov/link/uscode/10/2327?type=usc&year=mostrecent&link-type=html>)))

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Amend section 252.225-7050 by—

- a. Revising the provision date;
- b. In paragraph (a)—
 - i. In the definition of “Significant interest” by redesignating paragraphs (i) through (v) as paragraphs (1) through (5), respectively; and
 - ii. In the definition of “State sponsor of terrorism” by removing “include:” and adding “include” in its place and removing “Sudan,”.

The revision reads as follows:

252.225-7050 Disclosure of Ownership or Control by the Government of a Country that is a State Sponsor of Terrorism.

★* ★* ★* ★* ★*

Disclosure of Ownership or Control by the Government of a Country that is a State Sponsor of Terrorism (SEP 2021)

★* ★* ★* ★* ★*

4. Amend section 252.225-7051 by—

- a. Revising the clause date;
- b. In paragraph (a)—
 - i. In the definition of “Covered foreign country” by redesignating paragraphs (i) through (iv) as paragraphs (1) through (4), respectively;
 - ii. In the definition of “Foreign entity” by redesignating paragraphs (i) and (ii) as (1) and (2), respectively; and in the newly redesignated paragraph (2) by removing “paragraph (i)” and adding “paragraph (1)” in its place;
 - iii. In the definition of “State sponsor of terrorism” by removing “include:” and adding “include” in its place and removing “Sudan,”; and
 - iv. In paragraph (b)(2)(ii)(B)(1), by adding “or” at the end of the sentence.

The revision reads as follows:

252.225-7051 Prohibition on Acquisition of Certain Foreign Commercial Satellite Services.
★* ★* ★* ★* ★*

Prohibition on Acquisition of Certain Foreign Commerical Satellite Services (SEP 021)
★* ★* ★* ★* ★*

[FR Doc. 2021-20940 (/a/2021-20940) Filed 9-28-21; 8:45 am]

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