Audit Report

OFFICE OF THE INSPECTOR GENERAL

RESTRICTIVE CONTRACT CLAUSES ON ANTIFRICTION BEARINGS

Report No. 95-305 September 15, 1995

Department of Defense

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Acronyms

DCMC	Defense Contract Management Command
DFARS	Defense Federal Acquisition Regulation Supplement
DLA	Defense Logistics Agency

INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-2884

Report No. 95-305 September 15, 1995

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE (ACQUISITION AND TECHNOLOGY)
ASSISTANT SECRETARY OF THE NAVY (FINANCIAL MANAGEMENT AND COMPTROLLER)
ASSISTANT SECRETARY OF THE AIR FORCE (FINANCIAL MANAGEMENT AND COMPTROLLER)
DIRECTOR, DEFENSE LOGISTICS AGENCY
AUDITOR GENERAL, DEPARTMENT OF THE ARMY

SUBJECT: Audit of Restrictive Contract Clauses on Antifriction Bearings (Project No. 5LA-5023)

We are providing this report for your information and use. The audit was performed in response to a congressional request regarding the understanding, implementation, and enforcement of the antifriction bearings Defense Federal Acquisition Regulation Supplement (DFARS) restrictive contract clauses. It was also performed in response to an alleged violation of the DFARS.

Introduction

In 1988, the Secretary of Defense responded to concerns about the erosion of the United States ball bearing industry and its impact on national security by imposing restrictions on the procurement of antifriction bearings. The antifriction bearings are precision components consisting of rolling elements, such as balls and rollers, sandwiched between inner and outer rings and included under Federal Supply Class 3110. DFARS restrictive clause 252.208-7006, effective August 4, 1988, required all DoD procurements of antifriction bearings and antifriction bearing components, either as end items or as components of end items, to be domestically manufactured. In addition, the DFARS required the contractor to certify in writing, upon delivery, that the bearings, bearing components, or end items were domestically manufactured. Effective December 31, 1991, the contractor certification requirement was changed to require the contractor to retain records of compliance with the restrictive clause requirements. Subsequently, provisions in the Department of Defense Appropriations Act, 1992, and the National Defense Authorization Act for Fiscal Year 1993 restricted the use of DoD funds appropriated and authorized for FYs 1992 through 1995 to the procurement of domestically manufactured antifriction bearings.

The proposed section 805 of the FY 1996 Defense Authorization Bill will extend the domestic source restriction through October 1, 2000. It will also eliminate the April 1995 exception to the domestic source restriction for antifriction bearing contracts below the simplified acquisition threshold. However, the June 22, 1995, DoD appeal of the FY 1996 Defense

Authorization Bill stated that section 805, if implemented, would reduce competition, restrict the ability to acquire commercial items, and increase prices. Section 805 could also impede DoD initiatives to procure supplies using commercial practices; and undermine the United States commitments to standardize defense equipment with our allies. Further, the appeal stated that the procurement restrictions are unnecessary because DoD already has the legal authority to restrict procurements to domestic sources when required to maintain the domestic industrial base for mobilization purposes (United States Code, title 10, section 2304[c][3]). Additionally, procurement restrictions would undermine efforts to streamline the Defense acquisition process. Enclosure 2 details the DoD opposition to section 805.

Audit Results

DoD contract procurement officials included the DFARS restrictive clauses in 43 of 54 contracts. However, of the 11 noncompliance contracts, 8 were valued under $25,000. Some Defense Contract Management Command (DCMC) contract administration officials did not enforce contractor compliance with the restrictive clause requirements and Defense contractors did not always provide domestically manufactured antifriction bearings. Regarding the alleged violation of the DFARS, the Navy purchased bearings from one foreign manufacturer on contract N00024-91-C-2308 because it incorporated an interim rule of the DFARS restrictive clause, which allowed the purchase. No statute or provision of law required the final rule of the DFARS restrictive clause, which prohibited purchasing bearings from foreign manufacturers, to be used in the contract at that time. We are not making recommendations because the restriction may not be extended. Additionally, the Defense Logistics Agency (DLA) is procuring nearly all antifriction bearings for DoD, and has strengthened management controls to ensure compliance, should the restriction remain in effect.

Audit Objectives

The objectives were to determine whether contracting officers properly included and enforced the antifriction bearings restrictive contract clauses in the DFARS in all applicable solicitations and contracts and whether Defense contractors complied with those clauses. We also evaluated a Navy decision permitting Tampa Shipyards, Incorporated, to procure foreign manufactured antifriction bearings from the FAG Bearings Corporation. Additionally, we evaluated the effectiveness of management controls as they applied to the audit objectives.

Scope and Methodology

Scope and Methodology. We performed the audit at selected procurement offices, contract administration offices, and contractor locations. We reviewed contract files and supporting documentation related to the acquisition of antifriction bearings, covering FY 1989 through April 1995, and interviewed

contract procurement and administration officials and Defense contractor officials. We judgmentally selected 54 Military Department and DLA contracts awarded in FYs 1993 and 1994, valued at $146 million, to determine whether contract procurement officials properly included the restrictive clauses in all applicable solicitations and contracts for antifriction bearings and antifriction bearing components, either as end items or components of end items.

We reviewed 11 of the 54 Military Department and DLA contracts, valued at $123 million, at 6 Defense Contract Management Area Operations or Defense Plant Representative Offices and 4 Defense contractor locations to determine whether contract administration officials enforced the restrictive clauses. We also reviewed restrictive clause compliance enforcement in three major weapon systems contracts that contained the restrictive clause. Additionally, we examined the contracts for domestic manufacturing sources of antifriction bearings.

We reviewed the regulatory restrictions, including Federal Acquisition Regulations restricting the procurement of antifriction bearings (DFARS restrictive clause 252.208-7006, August 1988 and April 1989, DFARS restrictive clause 252.225-7025, December 1991, and DFARS restrictive clause 252.225-7016, April 1993, May 1994, and April 1995). Further, we reviewed provisions restricting procurement of antifriction bearings in the Department of Defense Appropriations Act, 1992, section 8127, and the National Defense Authorization Act for Fiscal Year 1993, subtitle C, section 832.

Tampa Shipyards, Incorporated. We reviewed Navy correspondence and the Tampa Shipyards, Incorporated, contract with the Naval Sea Systems Command (contract N00024-91-C-2308). In addition, we interviewed the contracting officer, consulted with the Office of the Deputy Director, Defense Procurement (Foreign Contracting), and contacted domestic manufacturers of antifriction bearings. Additionally, we reviewed DFARS subpart 208.7901, August 4, 1988.

Use of Technical Assistance. We consulted with legal officials in the Offices of the General Counsel from the Inspector General, DoD; Naval Sea Systems Command; and the General Accounting Office concerning application of the restrictive clauses.

Audit Period, Standards, and Locations. This compliance audit was performed from February through May 1995. We conducted this audit in accordance with auditing standards issued by the Comptroller General of the United States, as implemented by the Inspector General, DoD. We included tests of management controls considered necessary. Enclosure 6 lists the organizations visited or contacted.

Use of Computer-Processed Data. We used DD Form 350, "Individual Contract Action Report," a DoD computer-processed data base of contract actions over $25,000, to determine the contract procurement offices to visit and to make our initial selection of contracts for review. For contracts valued under $25,000, we relied in part on computer-processed contract award lists

from the Military Departments and DLA data bases. We did not perform a formal reliability assessment of the computer-processed data because the data were used primarily to select contracts to be included in our review. The reliability of the data would not affect the audit results. We did not use statistical sampling procedures to perform this audit.

Management Control Program

DoD Directive 5010.38, "Internal Management Control Program," April 14, 1987, requires DoD organizations to implement a comprehensive system of management controls that provides reasonable assurance that programs are operating as intended and to evaluate the adequacy of the controls.

Scope of Review of the Management Control Program. We reviewed the effectiveness of management controls established over the DoD procurement and administration functions. Specifically, we reviewed the DoD management controls over ensuring compliance with the restrictive clause requirements. We did not assess the adequacy of the Military Departments and the DLA managements' self-evaluation of those controls because the audited area was not part of an assessable unit.

Adequacy of Management Controls. The DLA had specific management control objectives and techniques to ensure the restrictive clauses were properly included in all applicable solicitations and contracts. Also, during the audit, DCMC updated procedures to include controls for enforcement of restrictive contract clauses. The management controls we reviewed at the Military Departments were adequate in concept, but compliance with those controls was poor. The issue is largely moot because in the future the Military Departments will rarely be procuring antifriction bearings. A copy of the final report will be provided to the senior official in charge of management controls within DCMC.

Prior Audits and Other Reviews

In the past 5 years, two reports on the effectiveness of the implementation of the restrictive contract clauses on antifriction bearings have been issued. The reports are summarized in Enclosure 1.

Audit Background

Buy American Restriction. In 1986, the joint logistics commanders performed a study, "Joint Logistics Commanders Bearing Study," which stated that the American antifriction bearing industry is critical to national security. The study also stated that the capability to domestically manufacture those bearings would disappear as a result of intense foreign competition. In an effort to remedy the problem, the Secretary of Defense imposed "Buy American" restrictions on Defense procurements for antifriction bearings. The DFARS

identifies those restrictions as clauses that must be included in all solicitations and contracts for antifriction bearings.

DFARS Restriction on Antifriction Bearings. Since its inception, the DFARS restriction on antifriction bearings has changed. The most recent change, effective April 1995, implements section 814 of the FY 1995 Defense Authorization Act. It revises the existing foreign source restrictions for antifriction bearings by uniformly permitting acquisition of Canadian items, and by expanding and standardizing the waiver criteria. The DFARS was further amended to implement section 4102 (i) of the Federal Acquisition Streamlining Act of 1994, which exempts acquisitions below the simplified acquisition threshold, set at $50,000, from foreign source restrictions. The simplified procedures can be used for acquisitions up to $50,000 until the Federal Acquisition Computer Network is implemented, at which time the simplified procedures can be used for 5 years for acquisitions up to the $100,000 level. The proposed section 805 of the FY 1996 Defense Authorization Bill will extend the DFARS restriction to October 1, 2000, and will rescind the April 1995 exemption for acquisitions below the simplified acquisition threshold from foreign source restrictions. Enclosure 2 details the history of the DFARS restriction clause on antifriction bearings.

Transfer of Antifriction Bearing Management to DLA. The DLA manages about 91 percent of the Defense antifriction bearings. Enclosure 3 details the percentage of the Federal Supply Class 3110 for antifriction bearings that each of the Military Departments and DLA manage. The Defense Management Report Decision 926, "Consolidation of Inventory Control Points," November 9, 1989, recommended that the Military Departments transfer all consumable items they managed to the DLA. In July 1990, the consumable item transfer program was established to transfer management for consumable items, including Federal Supply Class 3110, from the Military Departments to DLA. The transition is scheduled for completion in FY 1998.

Discussion

The DoD contracting officers did not always include the antifriction bearings restrictive clause in contracts, as required by DFARS. Further, when the clause was included in the contracts, DCMC contract administration officials did not enforce the requirement and in at least one instance Defense contractors did not provide domestically manufactured antifriction bearings. Regarding the allegation, the Navy did not comply with the DFARS on its contract with Tampa Shipyards, Incorporated.

Inclusion of Restrictive Clauses in Contracts. Of the 54 Military Department and DLA contracts we reviewed, 11 contracts did not include the proper restrictive clauses as required. While compliance varied by Military Department, higher dollar value contracts had greater compliance than lower dollar value contracts. Specifically, only 3 of 32 contracts, valued at $25,000 or more, awarded for antifriction bearings and antifriction bearing components, either as end items or as components of end items, did not contain the restrictive clauses. In contrast, 8 of the 22 contracts for antifriction bearings, valued

under $25,000, did not contain the restrictive clauses. Only DLA fully complied with DFARS by including the restrictive clauses in 18 of 18 applicable solicitations and contracts. Enclosure 4 details the results of the 54 Military Department and DLA contracts we reviewed for inclusion of restrictive clauses in contracts for antifriction bearings and antifriction bearing components.

As a result of the Federal Acquisition Streamlining Act of 1994, effective April 1995, and the Federal Acquisition Computer Network, contracts subject to the DFARS restriction on antifriction bearings would be greatly reduced. Specifically, of the 497 contracts, valued at $25,000 or more, awarded in FYs 1993 and 1994 for antifriction bearings, about 63 percent or 313 contracts would not have been subject to the antifriction bearings DFARS restriction.

Contracts Valued at $25,000 or More. Of the 11 high dollar value contracts in the Navy, 3 did not include the proper restrictive clauses because controls were not established to ensure that the restrictive clauses were included in applicable solicitations and contracts. Two contracts, valued at $27,000 and $71,000, were for antifriction bearings; and one contract, valued at $10 million, was for F-18 aircraft horizon indicator systems containing antifriction bearings. The restrictive clauses were erroneously omitted without detection. As a result of our review, the Naval Aviation Supply Office modified two contracts to include the restrictive clauses. The other contract had completed deliveries. Further, the Aviation Supply Office immediately notified its contract procurement officials to incorporate the restrictive clauses in all solicitations and contracts. The remaining 29 of 32 high dollar value contracts awarded by the Army, the Air Force, and DLA were in compliance.

With the April 1995 increase in the simplified acquisition threshold exempting acquisitions up to $50,000, and a further increase to acquisitions up to $100,000 from foreign source restrictions, two of the three Aviation Supply Office contracts would not have been subject to the DFARS restriction on antifriction bearings. Further, current congressional action to rescind the exemption to the domestic source restriction for antifriction bearing contracts below the simplified acquisition threshold would have a marginal effect because the Navy manages only about 4 percent of the Federal Supply Class 3110 for antifriction bearings (see Enclosure 3). Additionally, the antifriction bearing Federal Supply Class management is in transition from the Military Departments to DLA through FY 1998 and DLA has effective management controls to ensure the restrictive clauses are properly included in all applicable solicitations and contracts.

Contracts Valued Under $25,000. Of the 22 Military Department and DLA contracts we reviewed, valued under $25,000, 8 did not include the restrictive clauses. That occurred because some Military Department contracting officials were not aware that the restrictive clause requirements applied to purchases valued under $25,000. Additionally, management controls were not established to ensure that the restrictive clauses were included in the contracts. However, the April 1995 increase in the simplified acquisition threshold exempting acquisitions up to $50,000 from foreign source restrictions would have exempted those contracts from the DFARS restriction on

antifriction bearings. As stated above, the antifriction bearing Federal Supply Class management is in transition from the Military Departments to DLA.

Enforcement of Compliance with the Restrictive Clause Requirements. The DCMC contract administration officials did not enforce DFARS certification requirements for three major weapon systems prime contracts. Additionally, DCMC did not use established administration and in-plant quality evaluation procedures in enforcing 11 Military Department and DLA contracts we reviewed.

Contract Certification. Prime contracts for three major weapon systems reviewed contained the DFARS restrictive clause. However, only two prime contractors inserted the restrictive clause in applicable subcontracts and only one obtained certification as required. Specifically, the DFARS required contractor certification of domestically manufactured antifriction bearings. No certification was obtained, for example, for the prime contract for the family of medium tactical vehicles. Also, in a contract for a Reverse Osmosis Water Purification Unit, a trailer mounted water filtering system used to purify water, valued at $21.3 million, the prime contractor did not insert the restrictive clause requirements in the lower tier subcontracts. As a result, foreign antifriction bearings were used to assemble a component part, purse air compressors. DCMC contract administration officials did not enforce the restrictive clause requirements.

DCMC Contract Administration and In-Plant Quality Evaluation Procedures. Some DCMC contract administration officials did not enforce the antifriction bearings restrictive clause requirements for 11 Military Department and DLA contracts we reviewed. That occurred, in part, because DCMC did not have adequate written procedures to enforce in-plant compliance with the DFARS restrictive clauses. DCMC provided guidance for administering foreign source restrictions in DLA Manual 8105.1, "Defense Contract Management Command Contract Administration Manual," October 1, 1990. The guidance was revised as a result of the Inspector General, DoD, Report No. 92-067, "Quick-Reaction Report on the Review of the Restrictive Contract Clause on Antifriction Bearings," April 3, 1992. However, DLA Manual 8105.1 was not updated to include contract administration procedures for DFARS restrictive clause 252.225-7016, "Restriction on Antifriction Bearings," April 30, 1993. Additionally, in a July 22, 1992, letter, quality assurance personnel were instructed to focus on foreign source restrictions on antifriction bearings using guidance in DLA Manual 8200.5, "In-Plant Quality Evaluation," paragraph 2-106, "Prime Contractor Controls Over Purchased Materials and Subcontractors," September 8, 1992. Also, DLA Manual 8200.5 was not updated to include in-plant quality evaluations procedures for DFARS restrictive clause 252.225-7016. However, effective April 1, 1995, the DLA Manuals were replaced with the draft DLA Directive 5000.4, "Contract Management." During the audit, the draft DLA Directive 5000.4 was updated to include procedures for the DFARS restrictive clause 252.225-7016.

Tampa Shipyards, Incorporated, Use of Foreign Manufactured Antifriction Bearings. In a January 17, 1995, letter, Congresswoman Nancy L. Johnson reported to the Deputy Inspector General, DoD, a possible violation of the

DFARS provisions on antifriction bearings in Navy contract N00024-91-C-2308 for the T-AGOS 23, a twin hull ship. She reported that the Navy permitted Tampa Shipyards, Incorporated, to procure foreign manufactured antifriction bearings from the FAG Bearings Corporation, at a time when a prior DFARS clause that contained an exemption for the FAG Bearings Corporation had been withdrawn. She asserted that the Navy erroneously concluded that there was no statutory requirement to implement the newer DFARS clause.

FAG Bearings Corporation Exemption. The FAG Bearings Corporation manufactured the needed antifriction bearings in Germany and was exempted from the DFARS restrictions on sources for antifriction bearings. DFARS restrictive clause 252.208-7006, was issued as an interim and a final rule. The interim rule, issued August 4, 1988, permitted the procurement of foreign manufactured antifriction bearings from "other authorized manufacturers" and referred to DFARS subpart 208.7901, dated August 4, 1988, for a list of other authorized manufacturers. The FAG Bearings Corporation was the only other authorized manufacturer listed. The final rule, issued April 12, 1989, removed the exemption for "other authorized manufacturers" and dropped the specific exemption for FAG Bearings Corporation.

Terms of Contract. Under the terms of contract N00024-91-C-2308, Tampa Shipyards, Incorporated, was permitted to procure antifriction bearings from the FAG Bearings Corporation. The Navy solicitation and subsequent contract did not incorporate the final rule of the DFARS restrictive clause. Specifically, the contract incorporated the interim DFARS restrictive clause 252.208-7006, dated August 1988, which permitted the procurement of foreign manufactured antifriction bearings from the FAG Bearings Corporation. Although the solicitation for the contract was issued on September 1, 1989, the Navy did not incorporate the April 12, 1989, final rule of the DFARS restrictive clause 252.208-7006, effective July 1, 1989, which removed the FAG Bearings Corporation exemption. The final rule was not published in the DFARS until October 1, 1989, 30 days after the solicitation for the contract N00024-91-C-2308 was issued.

Statutory Requirement. Although the contract incorporated the interim and not the final DFARS clause, no statute or provision of law required the newer DFARS clause to be used. Subsequent provisions in the Department of Defense Appropriation Act, 1992, and the National Defense Authorization Act for Fiscal Year 1993 placed restrictions on the use of DoD funds appropriated and authorized for FYs 1992 through 1995 for the procurements of antifriction bearings. Navy contract N00024-91-C-2308 used funds appropriated in FY 1990. The cited public law restrictions did not apply.

Enclosure 5 provides additional information related to the Navy contract N00024-91-C-2308 and the Tampa Shipyards, Incorporated, procurement of antifriction bearings from the FAG Bearings Corporation.

Conclusion

Although the Military Departments did not consistently include the DFARS restrictive clauses on antifriction bearings in applicable solicitations and contracts, the effect of the inconsistent application has been mitigated by the following events:

- the April 1995 exemption of foreign source restrictions on acquisitions below $50,000, with a future increase to $100,000;

- the antifriction bearing Federal Supply Class management transition from the Military Departments to DLA through FY 1998; and

- the potential October 1, 1995, expiration of the DFARS restriction.

As stated previously, noncompliance was more prevalent in the small dollar contracts; but with the April 1995 change in the simplified acquisition threshold and the waiver from foreign source restriction, the noncompliance issue will be greatly reduced. For the contracts we reviewed, the April 1995 exemption of foreign source restrictions on acquisitions below $50,000 would have reduced the noncompliance rate from 11 contracts to only 2 Navy contracts. The future increase to $100,000 would have further reduced the noncompliance rate to only one Navy contract. Ongoing congressional action to rescind the exemption to the domestic source restriction for antifriction bearing contracts below the simplified acquisition threshold would have a marginal effect because the Navy manages only about 4 percent of the Federal Supply Class 3110 for antifriction bearings (see Enclosure 3). Additionally, the antifriction bearing Federal Supply Class management is in transition from the Military Departments to DLA through FY 1998 and DLA has effective management controls to ensure the restrictive clauses are properly included in all applicable solicitations and contracts.

The effectiveness of any recommendations that could be made to improve compliance with the DFARS restrictive clause requirements is limited because the restriction will potentially expire on October 1, 1995. If Congress extends the DFARS restriction to October 1, 2000, the transition of the Federal Supply Class management from the Military Departments to DLA will mitigate the usefulness of additional recommendations. Our judgmental sample indicates that compliance with the restrictive clause has improved since issuance of Inspector General, DoD, Report No. 91-038, "Restrictive Contract Clauses on Antifriction Bearings," January 30, 1991 (see Enclosure 1). Further, the revised DCMC procedures contained in draft DLA Directive 5000.4 should provide the necessary controls for contract administration enforcement.

Management Comments

We provided a draft of this report to you on June 30, 1995. Because the report contains no recommendations, comments were not required, and none were received. Therefore, we are publishing this memorandum report in final form.

We appreciate the courtesies extended to the audit staff. If you have questions on this report, please contact Mr. Robert J. Ryan, Jr., Audit Program Director, at (703) 604-9418 (DSN 664-9418) or Mr. Garry Hopper, Audit Project Manager, at (703) 604-9451 (DSN 664-9451). See Enclosure 7 for the report distribution. The audit team members are listed inside the back cover.

David K. Steensma

David K. Steensma
Deputy Assistant Inspector General
for Auditing

Enclosures

Prior Audits and Other Reviews

Inspector General, DoD, Report No. 92-067, "Quick-Reaction Report on the Review of the Restrictive Contract Clause on Antifriction Bearings," April 3, 1992, reported that compliance had improved since FY 1989; however, in FYs 1990 and 1991 DoD contracting officers still did not always include the antifriction bearings restrictive clause in contracts, as required by the DFARS. Further, when the restrictive clause was included in contracts, DCMC contract administration officials did not ensure contractors complied with the restrictive clause requirements. Many DoD organizations had not corrected the problem or improved compliance since the Inspector General, DoD, 1991 report. The report recommended, and management agreed, that the buying commands of the Army and Navy immediately establish specific procedures, objectives, and controls to verify that all contracts requiring antifriction bearings include the required restrictive clause. Also, it was recommended that the Defense Contract Management Districts use contract administration procedures established in the DLA manual to verify contractor compliance with the restrictive clause. DLA concurred with the recommendations and issued guidance and established procedures to administer the restrictive clause and review subcontracts to determine whether administrative remedies were appropriate for subcontractor use of foreign antifriction bearings.

Inspector General, DoD, Report No. 91-038, "Restrictive Contract Clauses on Antifriction Bearings," January 30, 1991, reported that the "Buy American" restrictive clause was not included in 68 percent of the contracts awarded in FYs 1988 and 1989 requiring antifriction bearings. Further, when the restrictive clause was included in the contracts, contractors rarely certified that bearings were domestically manufactured. The report recommended that the Services and DLA issue guidance to their respective contracting offices to implement the restrictive clause requirements and to establish procedures to monitor the implementation of those restrictive clauses. DLA was also directed to issue guidance to the Defense Contract Management Districts requiring administrative contracting officers to obtain the certificates for domestic manufacture of antifriction bearings. Additionally, the report recommended that DLA direct the administrative contracting officers, for subject contracts, to obtain certifications for domestic manufacture from contractors. Comments from the Services and DLA were responsive and met the intent of the recommendations.

History of DFARS Restriction Clause on Antifriction Bearings

In 1986, the joint logistics commanders performed a study titled, "Joint Logistics Commanders Bearing Study," which stated that the American antifriction bearing industry is critical to national security. Accordingly, the Secretary of Defense imposed "Buy American" restrictions on Defense procurements for antifriction bearings. Also, in 1988, the Secretary of Defense responded to concerns about the erosion of the United States ball bearings industry and the impact on national security by imposing restrictions through the DFARS on the procurement of antifriction bearings. In April 1989, the interim rule of the DFARS restrictive clause was revised and adopted as a final rule. Effective July 11, 1989, the restriction on antifriction bearings was incorporated into DFARS subpart 208.79, "Antifriction Bearings," which required that DFARS restrictive clause 252.208-7006, "Required Sources for Antifriction Bearings," be included in all applicable contracts awarded through September 1991 with an additional 2-year extension possible if conditions warranted.

In efforts to comply with congressional and DoD desires to streamline and simplify the DFARS, DoD combined all foreign source restriction clauses into DFARS subpart 225.71, "Other Restrictions on Foreign Purchases." Effective December 31, 1991, DFARS restrictive clause 252.208-7006 was changed to DFARS restrictive clause 252.225-7025, "Foreign Source Restrictions." The terms of the clause remained essentially the same, except the contractor certification requirement was changed to require the contractor to retain records of compliance with the restrictive clause requirements.

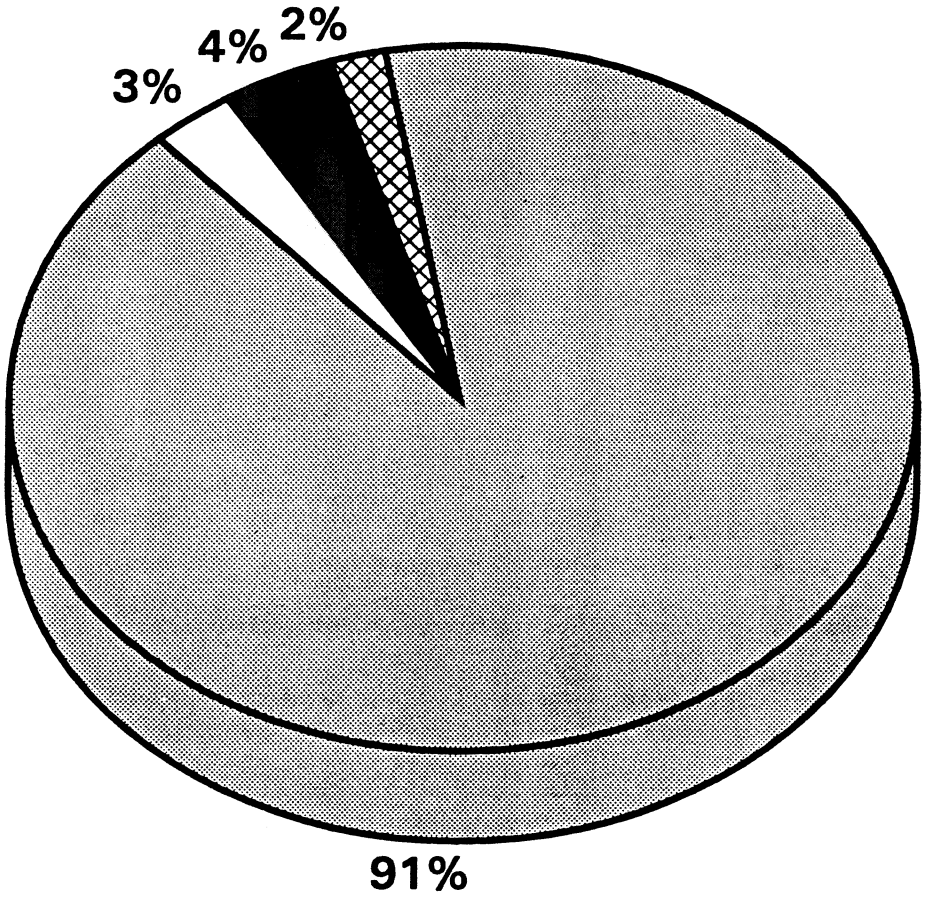
Based on concerns of the House Committee on Armed Services (Panel on Future Uses of Defense Manufacturing and Technology Resources), Congress enacted legislation for FY 1992 requiring domestic procurement of antifriction bearings in accordance with the existing DFARS restrictive clause. The DFARS restriction became part of the Department of Defense Appropriation Act, 1992, and was extended until December 31, 1992. An interim rule to the DFARS, effective April 30, 1993, added DFARS subpart 225.7019, "Restriction on Antifriction Bearings." DFARS restrictive clause 252.225-7016, "Restriction on Acquisition of Antifriction Bearings," was also added implementing a restriction provision based on the National Defense Authorization Act for Fiscal Year 1993, section 832, "Procurement Limitation on Ball Bearings and Roller Bearings," which restricted antifriction bearings acquisitions through FY 1995. The interim rule moved the DFARS restriction on antifriction bearings from DFARS subpart 225.71 to DFARS subpart 225.70, "Authorization Acts, Appropriations Acts, and Other Statutory

Restrictions on Foreign Purchases." The interim rule became a final rule on May 27, 1994, with no revisions.

Section 4102 (i) of the Federal Acquisition Streamlining Act of 1994, exempts acquisitions below the simplified acquisition threshold, set at $50,000 with a future increase to $100,000, from foreign source restrictions. Additionally, effective April 1995, the DFARS was further amended to implement section 814 of the FY 1995 Defense Authorization Act revising the existing foreign source restrictions for antifriction bearings by uniformly permitting acquisition of Canadian items, and by expanding and standardizing the waiver criteria.

The proposed section 805 of the FY 1996 Defense Authorization Bill will extend the DFARS restriction through October 1, 2000. It will also eliminate the April 1995 exception to the domestic source restriction for antifriction bearing contracts below the simplified acquisition threshold. However, the June 22, 1995, DoD appeal of the FY 1996 Defense Authorization Bill, submitted to the Senate Armed Services Committee, expressed opposition to the adoption of section 805. The DoD appeal stated that section 805, if implemented, would serve to reduce competition, restrict the ability to acquire commercial items, and increase prices. Section 805 could also impede DoD initiatives to procure supplies using commercial practices (commercial contracts do not contain domestic source restrictions); and undermine the United States commitments to standardize defense equipment with our allies. DoD urges exclusion of the provision, stating that the procurement restrictions are unnecessary because DoD already has the legal authority to restrict procurements to domestic sources when required to maintain the domestic industrial base for mobilization purposes (United States Code, title 10, section 2304[c][3]). Additionally, eliminating the April 1995 exception to the domestic source restriction for antifriction bearing contracts below the simplified acquisition threshold would undermine efforts to streamline the Defense acquisition process.

MANAGEMENT OF ANTIFRICTION BEARINGS



ARMY NAVY AIR FORCE DLA

Source: Based on 39,899 national stock numbers managed by the Military Departments and the Defense Logistics Agency, as of January 1995.

Contracts Reviewed for Inclusion of Antifriction Bearings Restrictive Contract Clauses

Contract Number	Value (000s)	In Compliance Yes	In Compliance No
Army Aviation and Troop Command			
DAAJ09-94-C-0143	$270	X	
DAAJ09-93-C-0534	186	X	
DAAJ09-93-C-0617	103	X	
DAAK01-93-G-0001	24	X	
DAAJ09-93-P-0048	23		X
DAAK01-93-P-0428	22		X
N00383-93-G-B330	2		X
DAAJ09-93-P-0795	1		X
Subtotal	**$631**	**4**	**4**
Army Tank-Automotive Command			
DAAE07-93-C-0089	$248	X	
DAAE07-93-C-0079	195	X	
DAAE07-93-C-0084	144	X	
DAAE07-94-C-0094	21	X	
DAAE07-93-P-1535	19	X	
DAAE07-94-P-0742	15	X	
Subtotal	**$642**	**6**	

Contracts Reviewed for Inclusion of Antifriction Bearings Restrictive Contract Clauses

Contract Number	Value (000s)	In Compliance Yes	In Compliance No
Naval Aviation Supply Office			
NOO383-92-G-K311	$120,000	X	
NOO383-92-G-K201	9,994		X
NOO383-93-D-011M	5,651	X	
NOO383-94-C-N021	1,077	X	
NOO383-94-C-N105	406	X	
NOO383-93-C-039K	122	X	
NOO383-94-C-N043	82	X	
NOO383-93-C-K269	71		X
NOO383-93-C-001M	47	X	
NOO383-94-C-M263	37	X	
NOO383-92-C-N096	27		X
NOO383-94-P-B148	14	X	
NOO383-94-P-N161	11	X	
NOO383-93-P-R446	9		X
NOO383-93-P-S777	5		X
Subtotal	**$137,553**	**10**	**5**
San Antonio Air Logistics Center			
F41608-91-G-0047	$2,208	X	
F41608-93-C-1070	599	X	
F41608-94-D-1590	482	X	
F41608-92-D-2011	23	X	
F41608-91-G-0047	18	X	
F41608-93-M-3925	13		X
F41608-94-M-1939	7		X
Subtotal	**$3,350**	**5**	**2**

Contract Number	Value (000s)	In Compliance Yes	In Compliance No
Defense Industrial Supply Center			
DLA500-92-D-0072	$1,915	X	
DLA500-92-D-0073	949	X	
DLA500-93-C-0488	194	X	
DLA500-92-D-0074	157	X	
SPO500-94-D-0083	132	X	
DLA500-92-D-0077	101	X	
SPO500-94-C-0704	86	X	
SPO500-94-C-1081	75	X	
DLA500-93-C-0060	73	X	
DLA500-93-C-0266	71	X	
DLA500-93-C-0264	58	X	
DLA500-93-C-0377	39	X	
DLA500-93-M-J248	25	X	
DLA500-93-M-DV02	25	X	
DLA500-93-M-BX56	25	X	
SPO500-94-M-KE42	23	X	
DLA500-93-D-0033	2	X	
SPO500-94-M-VB90	1	X	
Subtotal	**$3,951**	**18**	
Total	**$146,127**	**43**	**11**

Navy Contract N00024-91-C-2308 and the Tampa Shipyards, Incorporated, Procurement of Antifriction Bearings from FAG Bearings Corporation

Navy contract N00024-91-C-2308 is a $63 million contract to procure the T-AGOS 23, a twin hull ship that is to be used for ocean surveillance. The Navy issued the contract solicitation on September 1, 1989, and awarded the contract on March 28, 1991, to Tampa Shipyards, Incorporated. In November 1993, Tampa Shipyards, Incorporated, stopped contract work and declared bankruptcy. On April 20, 1995, the contract was assigned to Halter Marine, Incorporated, to complete contract work.

Under contract N00024-91-C-2308, Tampa Shipyards, Incorporated, requested and received permission from the Navy to procure foreign manufactured antifriction bearings from the FAG Bearings Corporation. In a June 5, 1992, letter, to the Navy, Tampa Shipyards, Incorporated, stated that the April 1989 DFARS restrictive clause 252.208-7006 removed the designation "other authorized manufacturers" that permitted the use of FAG Bearings Corporation antifriction bearings. Personnel from Tampa Shipyards, Incorporated, stated that unless the Government directs otherwise, they will purchase from the FAG Bearings Corporation as provided in the invoked interim August 1988 DFARS restrictive clause 252.208-7006 and contract. In a June 16, 1992, letter, to Tampa Shipyards, Incorporated, the Navy stated that the interim August 1988 DFARS restrictive clause 252.208-7006 could be used. The Navy added that there was no statutory requirement to implement the April 1989 DFARS restrictive clause 252.208-7006.

On October 12, 1992, Tampa Shipyards, Incorporated, issued a purchase order for eight FAG Bearings Corporation antifriction bearings, valued at $99,800. We identified one domestic manufacturer of the needed antifriction bearings. The domestic source stated that they would have been able to provide the antifriction bearings within the time frames needed at a cost range of $112,000 to $124,000 for all eight bearings.

Organizations Visited or Contacted

Office of the Secretary of Defense

Office of the Under Secretary of Defense for Acquisition and Technology, Washington, DC
- Office of the Deputy Assistant Secretary of Defense, Industrial Affairs, Washington, DC
- Office of the Deputy Director, Defense Procurement (Foreign Contracting), Washington, DC

Department of the Army

U.S. Army Contracting Support Agency, Falls Church, VA
Army Materiel Command, Alexandria, VA
- Aviation and Troop Command, St. Louis, MO
- Tank-automotive Armaments Command, Warren, MI

Office of the Auditor General, Department of the Army, Washington, DC

Department of the Navy

Office of the Assistant Secretary of the Navy (Research, Development and Acquisition), Washington, DC
Naval Sea Systems Command, Washington, DC
- Office of the Inspector General, Arlington, VA
- Office of the Supervisor of Shipbuilding, Groton, CT
- Office of the Supervisor of Shipbuilding, Jacksonville, FL
- Office of the Supervisor of Shipbuilding, San Diego, CA

Naval Supply Systems Command, Mechanicsburg, PA
- Naval Aviation Supply Office, Philadelphia, PA

Department of the Air Force

Office of the Assistant Secretary of the Air Force (Acquisition), Washington, DC
Office of the Assistant Secretary of the Air Force (Financial Management and Comptroller), Washington, DC
San Antonio Air Logistics Center, Kelly Air Force Base, San Antonio, TX
Air Force Legal Information Services Agency, Legal Information Services, Maxwell Air Force Base, Montgomery, AL

Other Defense Organizations

Defense Logistics Agency, Alexandria, VA
- Defense Contract Management Command, Alexandria, VA
  - Defense Contract Management District Northeast, Boston, MA
  - Defense Contract Management Area Operation, Cincinnati, OH
  - Defense Contract Management Area Operation, Detroit, MI
  - Defense Contract Management Area Operation, Hartford, CT
  - Defense Contract Management Area Operation, Indianapolis, IN
  - Defense Contract Management Area Operation, Milwaukee, WI
  - Defense Contract Management Area Operation, Norfolk, VA
  - Defense Contract Management Area Operation, Phoenix, AZ
  - Defense Contract Management Area Operation, Stratford, CT
  - Defense Contract Management Area Operation, Van Nuys, CA
  - Defense Plant Representative Office, Sikorsky Aircraft, Stratford, CT
  - Defense Plant Representative Office, Stewart and Stevenson Services, Inc., Sealy, TX
- Defense Industrial Supply Center, Philadelphia, PA

Washington Headquarters Services, Washington, DC

Non-Defense Federal Organization

Department of Commerce, Washington, DC

Non-Government Organizations

Allied Signal, Inc., Phoenix, AZ
Barden Corporation, Danbury, CT
Dixie Bearings, Inc., Tampa, FL
FAG Bearings Corporation, Milford, CT
FAG Bearings Corporation, Tampa, FL
Keco Industries Inc., Florence, KY
National Steel and Shipbuilding, San Diego, CA
Rockwell International Corporation, San Diego, CA
Sikorsky Aircraft, Stratford, CT
Stewart and Stevenson Services, Inc., Sealy, TX
The Torrington Co., Cerritos, CA
Antifriction Bearings Association of America, Washington, DC

Report Distribution

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Director, Defense Procurement
Assistant to the Secretary of Defense (Public Affairs)

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Auditor General, Department of the Army
Commander, U.S. Army Materiel Command
  Commander, U.S. Army Aviation and Troop Command
  Commander, U.S. Army Tank-automotive Armaments Command

Department of the Navy

Assistant Secretary of the Navy (Financial Management and Comptroller)
Assistant Secretary of the Navy (Research, Development and Acquisition)
Auditor General, Department of the Navy
Commander, Naval Sea Systems Command
Commander, Naval Supply Systems Command
  Commander, Naval Aviation Supply Office

Department of the Air Force

Assistant Secretary of the Air Force (Financial Management and Comptroller)
Auditor General, Department of the Air Force
Commander, San Antonio Air Logistics Center, Air Force Materiel Command

Other Defense Organizations

Director, Defense Contract Audit Agency
Director, Defense Logistics Agency
Commander, Defense Contract Management Command
Director, National Security Agency
Inspector General, National Security Agency

Non-Defense Federal Organizations and Individuals

Office of Management and Budget
National Security and International Affairs Division, General Accounting Office
Technical Information Center
Defense and National Aeronautics and Space Administration Management Issues
Military Operations and Capabilities Issues
Department of Commerce
Chairman and ranking minority member of each of the following congressional committees and subcommittees:

Senate Committee on Appropriations
Senate Subcommittee on Defense, Committee on Appropriations
Senate Committee on Armed Services
Senate Committee on Governmental Affairs
House Committee on Appropriations
House Subcommittee on National Security, Committee on Appropriations
House Committee on Government Reform and Oversight
House Subcommittee on National Security, International Affairs, and Criminal Justice, Committee on Government Reform and Oversight
House Committee on National Security

Congresswoman Nancy L. Johnson, U.S. House of Representatives

AUDIT TEAM MEMBERS

This report was prepared by the Logistics Support Directorate, Office of the Assistant Inspector General for Auditing, DoD.

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