

contractors or offerors, or a significant effect beyond the internal operating procedures of DoD. Therefore, publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2006–D003.

### 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 Parts 212, 225, and 252

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

■ Therefore, 48 CFR parts 212, 225, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 212, 225, and 252 continues to read as follows:

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

### PART 212—ACQUISITION OF COMMERCIAL ITEMS

#### 212.301 [Amended]

■ 2. Section 212.301 is amended in paragraph (f)(ii), in the second sentence, by removing “(see 225.670–3)” and adding in its place “(see 225.7603)”.

### PART 225—FOREIGN ACQUISITION

#### Subpart 225.6—[Removed]

■ 3. Subpart 225.6 is removed.

#### 225.1103 [Amended]

■ 4. Section 225.1103 is amended as follows:

■ a. By removing paragraph (2); and  
 ■ b. By redesignating paragraphs (3) and (4) as paragraphs (2) and (3) respectively.

■ 5. Subpart 225.76 is added to read as follows:

#### Subpart 225.76—Secondary Arab Boycott of Israel

Sec.  
 225.7601 Restriction.  
 225.7602 Procedures.  
 225.7603 Exceptions.  
 225.7604 Waivers.  
 225.7605 Solicitation provision.

#### Subpart 225.76—Secondary Arab Boycott of Israel

##### 225.7601 Restriction.

In accordance with 10 U.S.C. 2410i, do not enter into a contract with a

foreign entity unless it has certified that it does not comply with the secondary Arab boycott of Israel.

##### 225.7602 Procedures.

For contracts awarded to the Canadian Commercial Corporation (CCC), the CCC will submit a certification from its proposed subcontractor with the other required precontractual information (see 225.870).

##### 225.7603 Exceptions.

This restriction does not apply to—

(a) Purchases at or below the simplified acquisition threshold;

(b) Contracts for consumable supplies, provisions, or services for the support of United States forces or of allied forces in a foreign country; or

(c) Contracts pertaining to the use of any equipment, technology, data, or services for intelligence or classified purposes, or to the acquisition or lease thereof, in the interest of national security.

##### 225.7604 Waivers.

The Secretary of Defense may waive this restriction on the basis of national security interests. Forward waiver requests to the Director, Defense Procurement and Acquisition Policy, ATTN: OUSD(AT&L)DPAP(PAIC), 3060 Defense Pentagon, Washington, DC 20301–3060.

##### 225.7605 Solicitation provision.

Unless an exception applies or a waiver has been granted in accordance with 225.7604, use the provision at 252.225–7031, Secondary Arab Boycott of Israel, in all solicitations.

### PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

#### 252.225–7031 [Amended]

■ 6. Section 252.225–7031 is amended in the introductory text by removing “225.1103(2)” and adding in its place “225.7605”.

#### 252.225–7041 [Amended]

■ 7. Section 252.225–7041 is amended in the introductory text by removing “225.1103(3)” and adding in its place “225.1103(2)”.

#### 252.225–7042 [Amended]

■ 8. Section 252.225–7042 is amended in the introductory text by removing “225.1103(4)” and adding in its place “225.1103(3)”.

[FR Doc. E6–10850 Filed 7–10–06; 8:45 am]

BILLING CODE 5001–08–P

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Part 216

[DFARS Case 2003–D078]

### Defense Federal Acquisition Regulation Supplement; Types of Contracts

**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 update text on the selection and use of contract types. This rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

**EFFECTIVE DATE:** July 11, 2006.

**FOR FURTHER INFORMATION CONTACT:** Ms. Robin Schulze, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0326; facsimile (703) 602–0350. Please cite DFARS Case 2003–D078.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at <http://www.acq.osd.mil/dpap/dars/dfars/transformation/index.htm>.

This final rule is a result of the DFARS Transformation initiative. The DFARS changes—

- Streamline text on the use of economic price adjustment clauses;
- Increase, from 3 to 5 years, the standard maximum ordering period under basic ordering agreements;
- Delete obsolete text on the use of cost-plus-fixed-fee contracts for environmental restoration;

- Delete unnecessary text on design stability and use of incentive provisions; and

- Delete procedures for selecting contract type and for use of special economic price adjustment clauses, incentive contracts, and basic ordering agreements. Text on these subjects has been relocated to the DFARS companion resource, Procedures, Guidance, and Information (PGI), available at <http://www.acq.osd.mil/dpap/dars/pgi>.

DoD published a proposed rule at 70 FR 54694 on September 16, 2005. DoD received no comments on the proposed rule. Therefore, DoD has adopted the proposed rule as a final rule without change.

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 certifies that this final rule will not 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.*, because the rule updates and streamlines DFARS text, but makes no significant change to DoD contracting policy.

## 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 216

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

■ Therefore, 48 CFR part 216 is amended as follows:

## PART 216—TYPES OF CONTRACTS

■ 1. The authority citation for 48 CFR part 216 continues to read as follows:

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

### 216.104 [Removed]

■ 2. Section 216.104 is removed.

■ 3. Section 216.104–70 is revised to read as follows:

### § 216.104–70 Research and development.

Follow the procedures at PGI 216.104–70 for selecting the appropriate research and development contract type.

■ 4. Section 216.203–4 is revised to read as follows:

### § 216.203–4 Contract clauses.

(1) Generally, use the clauses at FAR 52.216–2, Economic Price Adjustment—Standard Supplies, FAR 52.216–3, Economic Price Adjustment—Semistandard Supplies, and FAR 52.216–4, Economic Price Adjustment—Labor and Material, only when—

(i) The total contract price exceeds the simplified acquisition threshold; and

(ii) Delivery or performance will not be completed within 6 months after contract award.

(2) Follow the procedures at PGI 216.203–4 when using an economic price adjustment clause based on cost indexes of labor or material.

■ 5. Section 216.306 is amended by revising paragraph (c)(ii) to read as follows:

### 216.306 Cost-plus-fixed-fee contracts.

(c) \* \* \*

(ii) The prohibition in paragraph (c)(i) of this section does not apply to contracts specifically approved in writing, setting forth the reasons therefor, in accordance with the following:

(A) The Secretaries of the military departments are authorized to approve such contracts that are for environmental work only, provided the environmental work is not classified as construction, as defined by 10 U.S.C. 2801.

(B) The Secretary of Defense or designee must approve such contracts that are not for environmental work only or are for environmental work classified as construction.

■ 6. Sections 216.402–2 through 216.403–2 are revised to read as follows:

### 216.402–2 Technical performance incentives.

See PGI 216.402–2 for guidance on establishing performance incentives.

### 216.403 Fixed-price incentive contracts.

### 216.403–2 Fixed-price incentive (successive targets) contracts.

See PGI 216.403–2 for guidance on the use of fixed-price incentive (successive targets) contracts.

### 216.404 [Removed]

■ 7. Section 216.404 is removed.

■ 8. Section 216.405–1 is revised to read as follows:

### 216.405–1 Cost-plus-incentive-fee contracts.

See PGI 216.405–1 for guidance on the use of cost-plus-incentive-fee contracts.

■ 9. Section 216.405–2 is revised to read as follows:

### 216.405–2 Cost-plus-award-fee contracts.

(b) *Application.* The cost-plus-award-fee (CPAF) contract may include provisional award fee payments. A provisional award fee payment is a payment made within an evaluation period prior to a final evaluation for that period. The contracting officer may include provisional award fee payments in a CPAF contract on a case-by-case basis, provided those payments—

(i) Are made no more frequently than monthly;

(ii) Are limited to no more than—

(A) For the initial award fee evaluation period, 50 percent of the award fee available for that period; and

(B) For subsequent award fee evaluation periods, 80 percent of the evaluation score for the prior evaluation period times the award fee available for the current period, e.g., if the contractor received 90 percent of the award fee available for the prior evaluation period, provisional payments for the current period shall not exceed 72 percent (90 percent x 80 percent) of the award fee available for the current period;

(iii) Are superseded by an interim or final award fee evaluation for the applicable evaluation period. If provisional payments have exceeded the payment determined by the evaluation score for the applicable period, the contracting officer shall collect the debt in accordance with FAR 32.606; and

(iv) May be discontinued, or reduced in such amounts deemed appropriate by the contracting officer, when the contracting officer determines that the contractor will not achieve a level of performance commensurate with the provisional payment. The contracting officer shall notify the contractor in writing of any discontinuance or reduction in provisional award fee payments.

### (c) *Limitations.*

(i) The CPAF contract shall not be used—

(A) To avoid—

(1) Establishing cost-plus-fixed-fee contracts when the criteria for cost-plus-fixed-fee contracts apply; or

(2) Developing objective targets so a cost-plus-incentive-fee contract can be used; or

(B) For either engineering development or operational system development acquisitions that have specifications suitable for simultaneous research and development and production, except a CPAF contract may be used for individual engineering development or operational system development acquisitions ancillary to the development of a major weapon system or equipment, where—

(1) It is more advantageous; and

(2) The purpose of the acquisition is clearly to determine or solve specific problems associated with the major weapon system or equipment.

(ii) Do not apply the weighted guidelines method to CPAF contracts for either the base (fixed) fee or the award fee.

(iii) The base fee shall not exceed 3 percent of the estimated cost of the contract exclusive of the fee.

(S-70) See PGI 216.405-2 for guidance on the use of CPAF contracts.

■ 10. Section 216.470 is revised to read as follows:

**216.470 Other applications of award fees.**

See PGI 216.470 for guidance on other applications of award fees.

■ 11. Section 216.703 is revised to read as follows:

**216.703 Basic ordering agreements.**

(c) *Limitations.* The period during which orders may be placed against a basic ordering agreement may not exceed 5 years.

(d) *Orders.* Follow the procedures at PGI 216.703(d) for issuing orders under basic ordering agreements.

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Part 219

[DFARS Case 2006-D010]

#### Defense Federal Acquisition Regulation Supplement; Extension of Contract Goal for Small Disadvantaged Businesses and Certain Institutions of Higher Learning

**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 842 of the National Defense Authorization Act for Fiscal Year 2006. Section 842 extends, through fiscal year 2009, DoD's goal to award five percent of contract and subcontract dollars to small disadvantaged businesses, historically black colleges and universities, and minority institutions.

**DATES:** *Effective Date:* July 11, 2006.

**FOR FURTHER INFORMATION CONTACT:** Ms. Deborah Tronic, Defense Acquisition

Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0289; facsimile (703) 602-0350. Please cite DFARS Case 2006-D010.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

10 U.S.C. 2323 establishes a goal for DoD to award five percent of contract and subcontract dollars to small disadvantaged businesses, historically black colleges and universities, and minority institutions. Section 842 of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109-163) extended the period for applicability of the goal through fiscal year 2009. This final rule amends DFARS 219.800 to reflect the extension.

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 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 2006-D010.

##### 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 219

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

■ Therefore, 48 CFR part 219 is amended as follows:

#### PART 219—SMALL BUSINESS PROGRAMS

■ 1. The authority citation for 48 CFR part 219 continues to read as follows:

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

#### 219.000 [Amended]

■ 2. Section 219.000 is amended in the introductory text by removing "2006" and adding in its place "2009".

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Parts 225 and 252

#### Defense Federal Acquisition Regulation Supplement; Technical Amendments

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

**ACTION:** Final rule.

**SUMMARY:** DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement (DFARS) to add a reference to guidance documents, update an Internet address, and add paragraph designations in a contract clause.

**DATES:** *Effective Date:* July 11, 2006.

**FOR FURTHER INFORMATION CONTACT:** Ms. Michele Peterson, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0311; facsimile (703) 602-0350.

**SUPPLEMENTARY INFORMATION:** This final rule amends DFARS text as follows:

- *Section 225.7002-1.* Adds a reference to guidance found in the DFARS companion resource, Procedures, Guidance, and Information (PGI).

- *Section 225.7401.* Updates an Internet address.

- *Section 252.212-7001.* Adds paragraph designations to the DFARS clauses listed within this contract clause. No substantive change is made to the content of the clause.

#### List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

**Michele P. Peterson,**

*Editor, 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. 421 and 48 CFR Chapter 1.