

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: April 16, 2007.

**David I. Maurstad,**

*Federal Insurance Administrator of the National Flood Insurance Program, Federal Emergency Management Agency, Department of Homeland Security.*

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## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 48 CFR Chapter 44

[Docket ID FEMA-2006-0033]

RIN 1660-AA46

#### Federal Emergency Management Agency (FEMA) Acquisition Regulation System; Removal of Chapter 44

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Direct final rule; confirmation of effective date.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) published a direct final rule that notified the public of its intent to remove the FEMA Acquisition Regulation in its entirety. FEMA did not receive any comments on the rule. Therefore, the rule will go into effect as scheduled.

**DATES:** The effective date of the direct final rule published March 2, 2007 (72 FR 9445) is confirmed as May 1, 2007.

**FOR FURTHER INFORMATION CONTACT:** Joyce M. Ard, Federal Emergency Management Agency, 500 C Street, SW., Patriot Plaza Room 201, Washington DC, 20472, (phone) 202-646-3213, (facsimile) 202-646-2928, or (e-mail) [joyce.ard@dhs.gov](mailto:joyce.ard@dhs.gov).

**SUPPLEMENTARY INFORMATION:** On March 2, 2007, FEMA published a direct final rule at 72 FR 9445 that notified the public of FEMA's intent to remove the FEMA Acquisition Regulation (FEMAAR) at 48 CFR Chapter 44 in its entirety. The specific language and subsequent clauses are removed as a result of the transfer of FEMA to the Department of Homeland Security (DHS) on March 1, 2003. The Homeland Security Acquisition Regulation (HSAR) created a department-wide acquisition regulation for DHS in 48 CFR Chapter 30, and included FEMA in the list of entities for which the chapter applied, thereby superseding and making 48 CFR Chapter 44 duplicative and

unnecessary. FEMA has not received an adverse comment, or notice of intent to submit an adverse comment, on this rule. Therefore, the rule will go into effect as scheduled.

Dated: April 19, 2007.

**R. David Paulison,**

*Administrator, Federal Emergency Management Agency, Department of Homeland Security.*

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Part 203

RIN 0750-AF60

#### Defense Federal Acquisition Regulation Supplement; Acquisition Integrity (DFARS Case 2006-D044)

**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 address requirements for the separation of Government functions for oversight, source selection, contract negotiation, and contract award. The rule contains best practice policies for use by the military departments and defense agencies.

**EFFECTIVE DATE:** April 26, 2007.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gary Delaney, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-8384; facsimile (703) 602-0350. Please cite DFARS Case 2006-D044.

**SUPPLEMENTARY INFORMATION:**

#### A. Background

This final rule adds a new section at DFARS 203.170 to address requirements for the separation of Government functions for oversight, source selection, contract negotiation, and contract award. The rule contains best practice policies to ensure the separation of such functions.

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 2006-D044.

#### 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 203

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

■ Therefore, 48 CFR part 203 is amended as follows:

#### PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

■ 1. The authority citation for 48 CFR part 203 continues to read as follows:

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

■ 2. Section 203.170 is added to read as follows:

#### 203.170 Business practices.

To ensure the separation of functions for oversight, source selection, contract negotiation, and contract award, departments and agencies shall adhere to the following best practice policies:

(a) Senior leaders shall not perform multiple roles in source selection for a major weapon system or major service acquisition.

(b) Vacant acquisition positions shall be filled on an "acting" basis from below until a permanent appointment is made. To provide promising professionals an opportunity to gain experience by temporarily filling higher positions, these oversight duties shall not be accrued at the top.

(c) Acquisition process reviews of the military departments shall be conducted to assess and improve acquisition and management processes, roles, and structures. The scope of the reviews should include—

- (1) Distribution of acquisition roles and responsibilities among personnel;
- (2) Processes for reporting concerns about unusual or inappropriate actions; and
- (3) Application of DoD Instruction 5000.2, Operation of the Defense

Acquisition System, and the disciplines in the Defense Acquisition Guidebook.

(d) Source selection processes shall be—

(1) Reviewed and approved by cognizant organizations responsible for oversight;

(2) Documented by the head of the contracting activity or at the agency level; and

(3) Periodically reviewed by outside officials independent of that office or agency.

(e) Legal review of documentation of major acquisition system source selection shall be conducted prior to contract award, including the supporting documentation of the source selection evaluation board, source selection advisory council, and source selection authority.

(f) Procurement management reviews shall determine whether clearance threshold authorities are clear and that independent review is provided for acquisitions exceeding the simplified acquisition threshold.

[FR Doc. E7-7911 Filed 4-25-07; 8:45 am]

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Parts 206 and 225

RIN 0750-AF62

#### Defense Federal Acquisition Regulation Supplement; Deletion of Obsolete Acquisition Procedures (DFARS Case 2006-D046)

**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 remove text relating to obsolete requirements for maintenance of paper-based solicitation mailing lists and for furnishing of documents to certain entities.

**EFFECTIVE DATE:** April 26, 2007.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0328; facsimile (703) 602-0350. Please cite DFARS Case 2006-D046.

**SUPPLEMENTARY INFORMATION:**

#### A. Background

This final rule amends DFARS text as follows:

○ 206.303-1—Removes text designating the Director of Defense Procurement and Acquisition Policy as the agency point of contact for submission of certain justification and approval documents to the U.S. Trade Representative. This text is no longer applicable, as the underlying Federal Acquisition Regulation (FAR) requirement for submission of these documents to the U.S. Trade Representative was removed by the interim rule that was published at 69 FR 77870 on December 28, 2004, and finalized at 71 FR 219 on January 3, 2006.

○ 225.870-2 and 225.872-3—Removes text addressing requirements for inclusion of Canadian firms and qualifying country sources on solicitation mailing lists, and for sending solicitations to the Canadian Commercial Corporation as well as Canadian firms appearing on the lists. This text is no longer applicable, as solicitation mailing lists have been replaced by electronic tools such as the Central Contractor Registration database and the Federal Business Opportunities Web site. The FAR was amended to remove references to solicitation mailing lists in the final rule published at 68 FR 43855 on July 24, 2003.

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 subparts in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2006-D046.

#### 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 206 and 225

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

■ Therefore, 48 CFR parts 206 and 225 are amended as follows:

■ 1. The authority citation for 48 CFR parts 206 and 225 continues to read as follows:

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

#### PART 206—COMPETITION REQUIREMENTS

##### 206.303 and 206.303-1 [Removed]

■ 2. Sections 206.303 and 206.303-1 are removed.

#### PART 225—FOREIGN ACQUISITION

##### 225.870-2 [Amended]

■ 3. Section 225.870-2 is amended as follows:

■ a. By removing paragraphs (a) through (c); and

■ b. By redesignating paragraphs (d) and (e) as paragraphs (a) and (b) respectively.

##### 225.872-3 [Amended]

■ 4. Section 225.872-3 is amended as follows:

■ a. By removing paragraph (a); and

■ b. By redesignating paragraphs (b) through (g) as paragraphs (a) through (f) respectively.

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Parts 215, 231, and 252

RIN 0750-AF67

#### Defense Federal Acquisition Regulation Supplement; Excessive Pass-Through Charges (DFARS Case 2006-D057)

**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 852 of the National Defense Authorization Act for Fiscal Year 2007. Section 852