

prior to affording the public an opportunity to comment. This interim rule implements Section 827 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110–181). Section 827 requires DoD to use competitive procedures in the acquisition of items for which FPI has a significant share of the DoD market. 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 208

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR part 208 is amended as follows:

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

■ 1. The authority citation for 48 CFR part 208 continues to read as follows:

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

■ 2. Subpart 208.6 is added to read as follows:

Subpart 208.6—Acquisition From Federal Prison Industries, Inc.

208.602–70 Acquisition of items for which FPI has a significant market share.

(a) *Scope.* This subsection implements Section 827 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110–181).

(b) *Definition.* *Item for which FPI has a significant market share*, as used in this subsection, means an item for which FPI's share of the DoD market for the federal supply class including that item is greater than 5 percent, as determined by DoD in consultation with the Office of Federal Procurement Policy. A list of the federal supply classes of items for which FPI has a significant market share is maintained at http://www.acq.osd.mil/dpap/cpic/cp/specific_policy_areas.html#federal_prison.

(c) *Policy.*

(1) When acquiring an item for which FPI has a significant market share—

(i) Acquire the item using—

(A) Competitive procedures (e.g., the procedures in FAR 6.102, the set-aside procedures in FAR Subpart 19.5, or competition conducted in accordance with FAR Part 13); or

(B) The fair opportunity procedures in FAR 16.505, if placing an order under a multiple award delivery-order contract; and

(ii) Include FPI in the solicitation process, consider a timely offer from

FPI, and make an award in accordance with the policy at FAR 8.602(a)(4)(ii) through (v).

(2) When acquiring an item for which FPI does not have a significant market share, acquire the item in accordance with the policy at FAR 8.602.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 208, 236, 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 update a subpart heading, a cross-reference, and a form title.

DATES: *Effective Date:* August 12, 2008.

FOR FURTHER INFORMATION CONTACT: Ms. Michele Peterson, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone 703–602–0311; facsimile 703–602–7887.

SUPPLEMENTARY INFORMATION:

This final rule amends DFARS text as follows:

○ *Subpart 208.7.* Updates the subpart heading for consistency with the heading of the corresponding Federal Acquisition Regulation subpart.

○ *236.570.* Updates a cross-reference.

○ *252.235–7003.* Updates Alternate I to reflect the current title of DD Form 1494.

List of Subjects in 48 CFR Parts 208, 236, and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 208, 236, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 208, 236, and 252 continues to read as follows:

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

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

■ 2. The heading of Subpart 208.7 is revised to read as follows:

Subpart 208.7—Acquisition From Nonprofit Agencies Employing People Who Are Blind or Severely Disabled

PART 236—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

236.570 [Amended]

■ 3. Section 236.570 is amended in paragraph (b)(5) by removing “236.213–70” and adding in its place “236.213”.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.235–7003 [Amended]

■ 4. Section 252.235–7003 is amended in Alternate I as follows:

■ a. By revising the Alternate I date to read “(AUG 2008)”; and

■ b. In the introductory text and in paragraph (c) by removing “Application for Frequency Authorization” and adding in its place “Application for Equipment Frequency Allocation”.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 209, 217, and 246

RIN 0750–AF86

Defense Federal Acquisition Regulation Supplement; Ship Critical Safety Items (DFARS Case 2007–D016)

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

ACTION: Final rule.

SUMMARY: DoD has adopted as final, without change, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 130 of the National Defense Authorization Act for Fiscal Year 2007. Section 130 requires DoD to establish a quality control policy for the procurement, modification, repair, and overhaul of ship critical safety items.

DATES: *Effective Date:* August 12, 2008.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Benavides, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062

Defense Pentagon, Washington, DC 20301-3062. Telephone 703-602-1302; facsimile 703-602-7887. Please cite DFARS Case 2007-D016.

SUPPLEMENTARY INFORMATION:

A. Background

DoD published an interim rule at 73 FR 1826 on January 10, 2008, to implement Section 130 of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109-364). Section 130 requires DoD to prescribe in regulations a quality control policy for the procurement of ship critical safety items and the modification, repair, and overhaul of those items. The interim rule amended DFARS 209.270-1 through 209.270-4 and related text to address quality control of ship critical safety items.

DoD received one comment on the interim rule. The respondent stated that DoD contracting personnel have misinterpreted the term "certificate of conformance," as used in DFARS 246.504 with regard to limitation on its use, to mean a manufacturer's certificate that its products conform to quality requirements. This misinterpretation has led buying office quality representatives to take a position that products presented for inspection at source, or "origin," are not acceptable if presented with a corresponding manufacturer's certificate of conformance (to its quality requirements). The intent of the DFARS term is to refer to approval given under the clause at FAR 52.246-15, Certificate of Conformance, which enables a DoD quality assurance specialist to allow a contractor to ship items without inspection under certain circumstances. Therefore, the respondent recommended that DFARS 246.504 be clarified by adding a reference to the clause at FAR 52.246-15.

DoD does not believe the clarification is necessary. The text at DFARS 246.504 must be read in conjunction with the corresponding text at FAR 46.504, which specifies the appropriate conditions for use of a certificate of conformance and includes a reference to the prescription for the clause at FAR 52.246-15. Therefore, DoD has adopted the interim 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 primarily relates to internal DoD responsibilities for ensuring quality control of ship critical safety items. In addition, the Navy already has implemented stringent quality control programs with regard to ship critical safety items.

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 209, 217, and 246

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR parts 209, 217, and 246, which was published at 73 FR 1826 on January 10, 2008, is adopted as a final rule without change.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 225

RIN 0750-AF89

Defense Federal Acquisition Regulation Supplement; Trade Agreements—New Thresholds (DFARS Case 2007-D023)

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

ACTION: Final rule.

SUMMARY: DoD has adopted as final, without change, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to incorporate increased dollar thresholds for application of the World Trade Organization Government Procurement Agreement and the Free Trade Agreements, as determined by the United States Trade Representative.

DATES: *Effective Date:* August 12, 2008.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062

Defense Pentagon, Washington, DC 20301-3062. Telephone 703-602-0328; facsimile 703-602-7887. Please cite DFARS Case 2007-D023.

SUPPLEMENTARY INFORMATION:

A. Background

DoD published an interim DFARS rule at 73 FR 4115 on January 24, 2008, to reflect increased dollar thresholds for application of the trade agreements. Every two years, the trade agreement thresholds are escalated according to a pre-determined formula set forth in the agreements.

DoD received no comments on the interim rule. Therefore, DoD has adopted the interim 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 trade agreement threshold changes are designed to keep pace with inflation and thus maintain the status quo.

C. Paperwork Reduction Act

This rule affects the certification and information collection requirements in the provisions at DFARS 252.225-7020 and 252.225-7035, currently approved under Office of Management and Budget Control Number 0704-0229. The impact, however, is negligible. The dollar threshold changes are in line with inflation and maintain the status quo.

List of Subjects in 48 CFR Part 225

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule amending 48 CFR part 225, which was published at 73 FR 4115 on January 24, 2008, is adopted as a final rule without change.

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