

PART 205—PUBLICIZING CONTRACT ACTIONS

■ 2. Section 205.205 is added to read as follows:

205.205 Special situations.

205.205–70 Notification of bundling of DoD contracts.

(a) When a proposed acquisition is funded entirely using DoD funds and potentially involves bundling, the contracting officer shall, at least 30 days prior to the release of a solicitation or 30 days prior to placing an order without a solicitation, publish in FedBizOpps.gov (or any successor site) a notification of the intent to bundle the requirement. In addition, if the agency has determined that measurably substantial benefits are expected to be derived as a result of bundling, the notification shall include a brief description of those benefits (*see* FAR 7.107).

(b) This requirement is in addition to the notification requirements at FAR 10.001(c)(2)(i) and (ii).

PART 210—MARKET RESEARCH

■ 3. Paragraph (c)(2) is added to section 210.001 to read as follows:

210.001 Policy.

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(c)(2) In addition to the notification requirements at FAR 10.001(c)(2)(i) and (ii), see 205.205–70 for the bundling notification publication requirement.

[FR Doc. 2010–16898 Filed 7–12–10; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 216

Defense Federal Acquisition Regulation Supplement; Notification Requirements for Awards of Single-Source Task or Delivery Orders (DFARS Case 2009–D036)

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

ACTION: Interim rule with request for comments.

SUMMARY: DoD is issuing an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 814 of the National Defense Authorization Act for Fiscal Year 2010.

DATES: *Effective date:* July 13, 2010.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before September 13, 2010, to be considered in the formation of the final rule.

ADDRESSES: Submit comments identified by DFARS Case 2009–D036, using any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *E-mail:* dfars@osd.mil. Include DFARS Case 2009–D036 in the subject line of the message.
- *Fax:* 703–602–0350.
- *Mail:* Defense Acquisition Regulations System, Attn: Ms. Meredith Murphy, OUSD (AT&L) DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Meredith Murphy, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 703–602–1302; facsimile 703–602–0350.

SUPPLEMENTARY INFORMATION:

A. Background

This DFARS rule implements section 814 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111–84), enacted October 28, 2009. Section 814 is entitled “Amendment to Notification Requirements for Awards of Single-Source Task or Delivery Orders.” 10 U.S.C. 2304a(d)(3)(A) prohibits the award of a sole-source task or delivery order that is estimated to exceed \$100 million (including all options) unless the head of the agency determines in writing that—

(1) The task or delivery orders expected under the contract are so integrally related that only a single source can reasonably perform the work;

(2) The contract provides only for firm-fixed-price task orders or delivery orders for products for which unit prices are established in the contract or services for which prices are established in the contract for the specific tasks to be performed;

(3) Only one source is qualified and capable of performing the work at a reasonable price to the government; or

(4) Because of exceptional circumstances, it is necessary in the public interest to award the contract to a single source.

Section 814 requires agency heads to notify the congressional defense

committees within 30 days after making any determination for the reasons in (1) through (4) previously cited. In addition, if the task or delivery order concerns intelligence activities of the Department of Defense, the agency head also is required to provide notification within 30 days of the determination to the Permanent Select Committee on Intelligence of the House of Representatives if the order relates to tactical intelligence and intelligence-related activities, and to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives if the order relates to intelligence and intelligence-related activities other than those activities previously mentioned.

Given the need for consistency of content and format in the information provided to the Congress and the necessity for meeting the 30-day deadline for reporting the determinations to the Congress, agency heads are being asked to provide the determinations, not directly to the congressional committees, but to the Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics) Defense Procurement and Acquisition Policy, Contract Policy and International Contracting. This will also enable a single office to oversee and manage the DoD picture for single-source task and delivery orders. The new reporting requirement is located at DFARS 216.504(c)(1)(ii)(D)(2).

This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 604.

B. Regulatory Flexibility Act

DoD does not expect that this interim rule will 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 does not impose any additional requirements on small businesses and is concerned with internal Government operating procedures. Section 814 of the FY 2010 NDAA builds upon the existing requirements for justification of sole-source awards of task or delivery order contracts that are estimated to exceed \$100 million (including all options). The dollar threshold and the circumstances justifying a sole-source award are not changed by section 814. The new statute, however, requires agency heads to notify the congressional defense committees within 30 days after

making any determination regarding the making of sole-source awards. This is a change to internal operating procedures of the Government with no impact on contractors or offerors. Therefore, an initial regulatory flexibility analysis has not been performed. However, DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2009–D036) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the interim rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C., *et seq.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD) that urgent and compelling circumstances exist to promulgate this interim rule without prior opportunity for public comments pursuant to 41 U.S.C. 418b and FAR 1.501–3(b). This interim rule implements section 814 of the National Defense Authorization Act for FY 2010, which prohibits the award of a sole-source task or delivery order that is estimated to exceed \$100 million (including all options) unless the head of the agency determines that one of four exceptions applies, and notifies appropriate congressional defense committees (and intelligence activities, if the order concerns intelligence activities) within 30 days of the determination. An interim rule is necessary because the statute became effective upon enactment on October 28, 2009, and it is imperative that DoD contracting officers be aware of additional congressional notification requirements as soon as possible in order to enable them to comply with the law. DoD will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Part 216

Government procurement.

Ynette R. Shelkin,

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.

■ 2. Section 216.504 is revised to read as follows:

216.504 Indefinite-quantity contracts.

(c)(1)(ii)(D) *Limitation on single-award contracts.*

* * * * *

(2) The head of the agency must notify the congressional defense committees within 30 days after any determination under this section and provide a copy of the determination and notification to the Deputy Director, Defense Procurement and Acquisition Policy (Contract Policy and International Contracting), OUSD (AT&L) DPAP/CPIC, 3060 Defense Pentagon, Washington, DC 20301–3060. If the award concerns intelligence or intelligence-related activities of DoD, notification shall also be provided to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives. (See sample notification at PGI 216.504(c)(1)(ii)(D)(2).)

[FR Doc. 2010–16901 Filed 7–12–10; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 252

Defense Federal Acquisition Regulation Supplement; Technical Amendment

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

ACTION: Final rule.

SUMMARY: DoD is making a technical amendment to the Defense Federal Acquisition Regulation Supplement (DFARS) to correct the date of DFARS clause 252.222–7006.

DATES: *Effective Date:* July 13, 2010.

FOR FURTHER INFORMATION CONTACT: Ms. Ynette R. Shelkin, Defense Acquisition Regulations System, OUSD (AT&L) DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 703–602–8384; facsimile 703–602–0350.

SUPPLEMENTARY INFORMATION: This final rule amends the revision date of DFARS clause 252.222–7006. DoD published an interim rule at 75 FR 27946 on May 19, 2010, for DFARS Case 2010–D004, Restrictions on the Use of Mandatory Arbitration Agreements, in which it failed to cite a date for DFARS clause 252.222–7006. The date for the clause should have been May 19, 2010, the date the interim rule was published.

List of Subjects in 48 CFR Part 252

Government Procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

■ Therefore 48 CFR part 252 is amended as follows:

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 48 CFR part 252 continues to read as follows:

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

■ 2. Section 252.222–7006 is amended by revising the clause date as follows:

252.222–7006 Restrictions on the Use of Mandatory Arbitration Agreements

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RESTRICTIONS ON THE USE OF MANDATORY ARBITRATION AGREEMENTS (MAY 2010)

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[FR Doc. 2010–16908 Filed 7–12–10; 8:45 am]

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