

not impose with respect to such frequency bands or air interfaces materially greater obligations than those imposed on other services subject to this section. Any new obligations on manufacturers and Tier I carriers pursuant to paragraphs (c) through (i) of this section as a result of such standards shall become effective no less than one year after release of the order adopting such standards and any new obligations on other service providers shall become effective no less than 15 months after the release of such order, except that any new obligations on manufacturers and service providers subject to paragraph (e)(1)(ii) of this section shall become effective no less than two years after the release of such order.

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[FR Doc. 2010-22253 Filed 9-7-10; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 207

RIN 0750-AG61

Defense Federal Acquisition Regulation Supplement; Acquisition Strategies To Ensure Competition Throughout the Life Cycle of Major Defense Acquisition Programs (DFARS Case 2009-D014)

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

ACTION: Final rule.

SUMMARY: DoD is adopting as final, without change, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement the Weapon Systems Acquisition Reform Act of 2009, to improve the organization and procedures of DoD for the acquisition of major weapon systems.

DATES: *Effective Date:* September 8, 2010.

FOR FURTHER INFORMATION CONTACT: Ms. Meredith Murphy, 703-602-1302.

SUPPLEMENTARY INFORMATION:

A. Background

On May 22, 2009, the Weapon Systems Acquisition Reform Act (Pub. L. 111-23) was enacted to improve the organization and procedures of DoD for the acquisition of major weapon systems. This law establishes new oversight entities within DoD, as well as new and varied weapon system

acquisition and management reporting requirements.

Section 202 directs the Secretary of Defense (SECDEF) to ensure that the acquisition strategy for each major defense acquisition program (MDAP) includes: (1) Measures to ensure competition at both the prime contract and subcontract level of the MDAP throughout its life cycle as a means to improve contractor performance; and (2) adequate documentation of the rationale for selection of the subcontractor tier or tiers. It also outlines measures to ensure such competition. Furthermore, it requires the SECDEF: (1) To take specified actions to ensure fair and objective "make-buy" decisions by prime contractors on MDAPs; and (2) whenever a decision regarding the source of repair results in a plan to award a contract for performance of maintenance and sustainment of a major weapon system, to ensure that such contract is awarded on a competitive basis with full consideration of all sources.

An interim rule was published at 75 FR 8272 on February 24, 2010. No comments were received in response to the interim rule.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

DoD certifies that this 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 changes are to internal Government organization and operating procedures only. The rule imposes new oversight and reporting requirements internal only to DoD. As such, the rule imposes no changes on contractors doing business with DoD.

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 207

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule amending 48 CFR part 207 which was

published at 75 FR 8272 on February 24, 2010, is adopted as a final rule without change.

[FR Doc. 2010-22230 Filed 9-7-10; 8:45 am]

BILLING CODE 5001-08-P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 211 and 237

RIN 0750-AG72

Defense Federal Acquisition Regulation Supplement; Guidance on Personal Services (DFARS Case 2009-D028)

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 enable further implementation of section 831 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 to require DoD to develop guidance related to personal services contracts. **DATES:** *Effective Date:* September 8, 2010.

Comment Date: Comments on the interim rule should be submitted in writing to the address shown below on or before November 8, 2010, to be considered in the formation of the final rule.

ADDRESSES: Submit comments identified by DFARS Case 2009-D028, 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-D028 in the subject line of the message.

- *Fax:* 703-602-0350.

- *Mail:* Defense Acquisition Regulations System, Attn: 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.

To confirm receipt of your comment(s), please check <http://www.regulations.gov> approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

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**

Section 831 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110-417), Development of Guidance on Personal Services Contracts, required DoD to mitigate the risks associated with personal services by developing guidance enabling contracting officers to better distinguish between personal services and non-personal services. Recommendations by the Office of the DoD Inspector General have highlighted the need for additional clarity in this area.

DFARS parts 211 and 237 are being amended to (1) require that statements of work or performance work statements clearly distinguish between Government employees and contractor employees and (2) ensure that procedures are adopted to prevent contracts from being awarded or administered as unauthorized personal services contracts. These Government procedures include an internal requirement that a program manager, or equivalent, certification that the service contract requirement does not include an unauthorized personal services arrangement be included in the contract file.

DoD reviewed guidance in use throughout the Department, including several checklists currently used. This interim rule adopts best practices and implements a requirement for the program manager, or equivalent, to complete and submit a certification to the contracting officer with a services contract requirement. A new DFARS section 211.106, Purchase descriptions for service contracts, is added to require that purchase descriptions for service contracts clearly distinguish between Government employees and contractor employees. In addition, a new section 237.503, Agency-head responsibilities, is added to require DoD agencies to adopt procedures that (1) ensure service contract requirements are vetted and approved in a manner that will prevent them from being awarded or administered as unauthorized personal services contracts, and (2) require a program manager, or equivalent, certification to be completed and provided to the contracting officer as part of the service contract procurement request, for inclusion in the contract

file, that the service contract requirement does not include an unauthorized personal services arrangement, either in the way the work statement is written or in the manner in which the resulting contract will be managed and overseen. The certification requirement is designed to ensure that the prohibitions against personal services contracting in law (e.g., 10 U.S.C. 129b, 5 U.S.C. 3109, or 10 U.S.C. 1091) are not violated.

This is a significant regulatory action, and therefore, was 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.

C. Regulatory Flexibility Act

DoD does not expect this interim rule to 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 section 831 affects only internal government operations and procedures. The interim rule does not impose any additional requirements on small businesses. Therefore, an initial regulatory flexibility analysis has not been performed. 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-D028) in correspondence.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

E. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish an interim rule without prior opportunity for public comment pursuant to U.S.C. 418b and FAR 1.501-3(b). This action is necessary because the statute became effective upon enactment on October 14, 2008, and it is imperative that DoD program managers and contracting officers be provided with the means to distinguish between personal and non-personal services. However, 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 Parts 211 and 237

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 211 and 237 are amended as follows:

■ 1. The authority citation for 48 CFR parts 211 and 237 continues to read as follows:

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

PART 211—DESCRIBING AGENCY NEEDS

■ 2. Section 211.106 is added to read as follows:

211.106 Purchase descriptions for service contracts.

Agencies shall require that purchase descriptions for service contracts and resulting requirements documents, such as statements of work or performance work statements, include language to provide a clear distinction between Government employees and contractor employees. Service contracts shall require contractor employees to identify themselves as contractor personnel by introducing themselves or being introduced as contractor personnel and by displaying distinguishing badges or other visible identification for meetings with Government personnel. In addition, contracts shall require contractor personnel to appropriately identify themselves as contractor employees in telephone conversations and in formal and informal written correspondence.

PART 237—SERVICE CONTRACTING

■ 3. Subpart 237.5 is added to read as follows:

Subpart 237.5—Management Oversight of Service Contracts**237.503 Agency-head responsibilities.**

(c) The agency head or designee shall employ procedures to ensure that requirements for service contracts are vetted and approved as a safeguard to prevent contracts from being awarded or administered in a manner that constitutes an unauthorized personal services contract. Contracting officers shall follow the procedures at PGI 237.503, include substantially similar certifications in conjunction with service contract requirements, and place the certification in the contract file. The

program manager or other official responsible for the requirement, at a level specified by the agency, should execute the certification.

[FR Doc. 2010-22226 Filed 9-7-10; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 217

[DFARS Case 2008-D023]

Defense Federal Acquisition Regulation Supplement; Additional Requirements Applicable to Multiyear Contracts

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

ACTION: Final rule.

SUMMARY: DoD is adopting as final, with minor editorial corrections, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement the National Defense Authorization Act for Fiscal Year 2008, section 811, entitled "Requirements Applicable to Multiyear Contracts for the Procurement of Major Systems of the Department of Defense." **DATES:** *Effective Date:* September 8, 2010.

FOR FURTHER INFORMATION CONTACT: Ms. Meredith Murphy, Defense Acquisition Regulations System, OUSD (AT&L), DPAP/DARS, 3060 Defense Pentagon, Room 3B855, Washington, DC 20301-3060. Telephone 703-602-1302; facsimile 703-602-0350. Please cite DFARS Case 2008-D023.

SUPPLEMENTARY INFORMATION:

A. Background

DoD published an interim rule at 75 FR 9114 on March 1, 2010, to implement section 811 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181), enacted January 28, 2008. The period for public comment closed on April 30, 2010. The interim rule revised DFARS 217.170 and 217.172 to add six new requirements to which the Secretary of Defense must certify in writing when requesting congressional authorization to enter into a multiyear contract for a major defense acquisition program. Among these requirements is the need to certify to certain cost-savings determinations.

DoD received no comments on the interim rule. Therefore, DoD is finalizing the interim rule with minor editorial corrections only.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

DoD certifies that this 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 additional requirements apply solely to internal Government operating procedures. The rule implements section 811 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181), which only imposes new responsibilities on the Secretary of Defense when requesting congressional authorization to enter into a multiyear contract for a major defense acquisition program. Therefore, the rule will have no significant cost or administrative impact on contractors or offerors.

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 217

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

■ Therefore, the interim rule published at 75 FR 9114 on March 1, 2010, is adopted as final with the following changes:

■ 1. The authority citation for 48 CFR part 217 continues to read as follows:

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

PART 217—SPECIAL CONTRACTING METHODS

■ 2. Section 217.170 is amended by revising paragraph (b) to read as follows:

217.170 General.

* * * * *

(b) Any requests for increased funding or reprogramming for procurement of a major system under a multiyear contract authorized under this section shall be accompanied by an explanation of how the request for increased funding affects the determinations made by the Secretary of Defense under 217.172(f)(2) (10 U.S.C. 2306b(i)(1)).

* * * * *

■ 3. Section 217.172 is amended by revising paragraphs (d)(2) and (f)(2) introductory text to read as follows:

217.172 Multiyear contracts for supplies.

* * * * *

(d) * * *

(2) In addition, for contracts equal to or greater than \$500 million, the head of the contracting activity must determine that the conditions required by paragraphs (f)(2)(i) through (vii) of this section will be met by such contract, in accordance with the Secretary's certification and determination required by paragraph (f)(2) of this section (10 U.S.C. 2306b(a)(1)(7)).

* * * * *

(f) * * *

(2) The Secretary of Defense certifies to Congress in writing, by no later than March 1 of the year in which the Secretary requests legislative authority to enter into such contracts, that each of the conditions in paragraphs (f)(2)(i) through (vii) of this section is satisfied (10 U.S.C. 2306b(i)(1)(A)–(G)).

* * * * *

[FR Doc. 2010-22232 Filed 9-7-10; 8:45 am]

BILLING CODE 5001-08-P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 217

Defense Federal Acquisition Regulation Supplement; Payment of Costs Prior to Definitization—Definition of Contract Action (DFARS Case 2009-D035)

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

ACTION: Final rule.

SUMMARY: DoD is adopting as final, without change, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement the National Defense Authorization Act for Fiscal Year 2010 to amend the definition of "contract action" to include task orders and delivery orders.

DATES: *Effective Date:* September 8, 2010.

FOR FURTHER INFORMATION CONTACT: Ms. Meredith Murphy, Defense Acquisition Regulations System, OUSD (AT&L) DPAP/DARS, 3060 Defense Pentagon, Room 3B855, Washington, DC 20301-3060. Telephone 703-602-1302; facsimile 703-602-0350. Please cite DFARS Case 2009-D035.