

check is the authority responsible for deeming the individual unsuitable, not MSC.

The modification of this DFARS clause supports a recommendation from the DoD Regulatory Reform Task Force. On February 24, 2017, the President signed Executive Order (E.O.) 13777, "Enforcing the Regulatory Reform Agenda," which established a Federal policy "to alleviate unnecessary regulatory burdens" on the American people. In accordance with E.O. 13777, DoD established a Regulatory Reform Task Force to review and validate DoD regulations, including the DFARS. A public notice of the establishment of the DFARS Subgroup to the DoD Regulatory Reform Task Force, for the purpose of reviewing DFARS provisions and clauses, was published in the **Federal Register** at 82 FR 35741 on August 1, 2017, and requested public input. No public comments were received on this provision. Subsequently, the DoD Task Force reviewed the requirements of DFARS clause 252.247-7027 and determined that the clause text needed to be modified.

II. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule does not add any new provisions or clauses. The rule only revises DFARS clause 252.247-7027, Riding Gang Member Requirements, to state that the Government agency conducting the background check is the authority responsible for deeming the individual unsuitable, in lieu of the Military Sealift Command force protection personnel. This clause is already prescribed for use in commercial item acquisitions, and for use below the SAT.

III. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the Federal Acquisition Regulation (FAR) is the Office of Federal Procurement Policy statute (codified at title 41 of the United States Code). Specifically, 41 U.S.C. 1707(a)(1) requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on

contractors or offerors. This final rule is not required to be published for public comment, because DoD is not issuing a new regulation; rather, this rule simply updates the name of a Government agency to reflect current Government procedures.

IV. Executive Orders 12866 and 13563

E.O. 12866, Regulatory Planning and Review; and E.O. 13563, Improving Regulation and Regulatory Review, direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Office of Management and Budget, Office of Information and Regulatory Affairs (OIRA), has determined that this is not a significant regulatory action as defined under section 3(f) of E.O. 12866 and, therefore, was not subject to review under section 6(b). This rule is not a major rule as defined at 5 U.S.C. 804(2).

V. Executive Order 13771

This rule is not an Executive Order (E.O.) 13771, Reducing Regulation and Controlling Regulatory Costs, regulatory action, because the rule is not significant under E.O. 12866.

VI. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see section III. of this preamble), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 252

Government procurement.

Amy G. Williams,

Deputy, 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 part 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

252.247-7027 [Amended]

- 2. Amend section 252.247-7027 by—
- a. Removing the clause date "(OCT 2011)" and adding "(MAY 2018)" in its place; and
- b. In paragraph (c)(2)(i)(B), removing "Military Sealift Command Force Protection personnel" and adding "the Government agency conducting the background checks" in its place.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 222, 237, and 252

[Docket DARS-2018-0032]

RIN 0750-AJ54

Defense Federal Acquisition Regulation Supplement: Repeal of DFARS Clause "Right of First Refusal of Employment—Closure of Military Installations" (DFARS Case 2018-D002)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove a clause that is duplicative of an existing Federal Acquisition Regulation (FAR) clause that requires a contractor to give Government personnel the right of first refusal for employment openings in certain situations.

DATES: Effective May 30, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Carrie Moore, telephone 571-372-6093.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is amending the DFARS to remove DFARS clause 252.222-7001, Right of First Refusal of Employment-Closure of Military Installations, the associated clause prescription at DFARS 222.7102, the policy guidance at DFARS 222.7101, and a cross-reference at DFARS 237.7401 to subpart 222.71. In the event of a closure of a military installation, the DoD 4165.66-M, Base Redevelopment and Realignment Manual, advises that Government employees at closing installations have the right of first refusal for certain jobs with contractors hired to prepare the installation for closure or to maintain it after closure. Generally, these jobs are in areas of environmental restoration, utilities modification, roads and grounds work, security, and fire protection.

The DFARS clause and associated guidance restates the information from DoD 4165.66-M. The clause also advises that Government personnel seeking preference in such situations must provide evidence of their eligibility to the contractor. The DFARS clause prescription requires the clause be included in all solicitations and contracts arising from the closure of the military installation where the contract will be performed.

FAR clause 52.207-3, Right of First Refusal of Employment, is required in solicitations and contracts that will result in a conversion of work currently being performed by the Government to work being performed under contract. Like the DFARS clause, the FAR clause advises contractors that Government personnel who have been or will be adversely affected by award of the contract have the right of first refusal for jobs created under the contract for which they are qualified. The FAR clause also requires the Government to provide the contractor with a list of Government personnel who have been or will be adversely affected by the contract award and requires the contractor to report to the Government the names of any listed individuals who are hired after contract performance begins.

The DFARS clause is no longer necessary, because the FAR clause applies to the situations in which the DFARS clause is prescribed for use and covers the information contained in the DFARS clause. As such, this DFARS clause is now redundant and can be removed.

The removal of this DFARS text supports a recommendation from the DoD Regulatory Reform Task Force. On February 24, 2017, the President signed

Executive Order (E.O.) 13777, “Enforcing the Regulatory Reform Agenda,” which established a Federal policy “to alleviate unnecessary regulatory burdens” on the American people. In accordance with E.O. 13777, DoD established a Regulatory Reform Task Force to review and validate DoD regulations, including the DFARS. A public notice of the establishment of the DFARS Subgroup to the DoD Regulatory Reform Task Force, for the purpose of reviewing DFARS provisions and clauses, was published in the **Federal Register** at 82 FR 35741 on August 1, 2017, and requested public input. No public comments were received on this provision. Subsequently, the DoD Task Force reviewed the requirements of DFARS clause 252.222-7001, Right of First Refusal of Employment-Closure of Military Installations, determined that the DFARS coverage was redundant, and recommended removal.

II. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Items, Including Commercially Available Off-the-Shelf (COTS) Items

This rule only removes obsolete DFARS provision 252.222-7001, Right of First Refusal of Employment-Closure of Military Installations. Therefore, the rule does not impose any new requirements on contracts at or below the SAT and for commercial items, including COTS items.

III. Executive Orders 12866 and 13563

E.O. 12866, Regulatory Planning and Review; and E.O. 13563, Improving Regulation and Regulatory Review, direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Office of Management and Budget, Office of Information and Regulatory Affairs (OIRA), has determined that this is not a significant regulatory action as defined under section 3(f) of E.O. 12866 and, therefore, was not subject to review under section 6(b). This rule is not a major rule as defined at 5 U.S.C. 804(2).

IV. Executive Order 13771

This final rule is not an E.O. 13771, Reducing Regulation and Controlling Regulatory Costs, regulatory action,

because this rule is not significant under E.O. 12866.

V. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the FAR is the Office of Federal Procurement Policy statute (codified at title 41 of the United States Code). Specifically, 41 U.S.C. 1707(a)(1) requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because DoD is not issuing a new regulation; rather, this rule merely removes an obsolete clause from the DFARS.

VI. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see section V. of this preamble), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 222, 237, and 252

Government procurement.

Amy G. Williams,
Deputy, Defense Acquisition Regulations System.

Therefore, parts 222, 237, and 252 are amended as follows:

- 1. The authority citation for parts 222, 237, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 222—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Subpart 222.71 [Removed and Reserved]

- 2. Remove and reserve subpart 222.71, consisting of sections 222.7101 and 222.7102.

PART 237—SERVICE CONTRACTING

237.7401 [Amended]

- 3. Amend section 237.7401 by removing paragraph (d).

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.222–7001 [Removed and Reserved]

- 4. Remove and reserve section 252.222–7001.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 204 and 252

[Docket DARS–2017–0015]

RIN 0750–AJ54

Defense Federal Acquisition Regulation Supplement: Repeal of DFARS Provision “Alternate A, System for Award Management” (DFARS Case 2017–D044)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove a provision that is duplicative of an existing Federal Acquisition Regulation (FAR) provision that requires a vendor to enter Commercial and Government Entity (CAGE) code information into a Governmentwide database prior to award of any contract or agreement.

DATES: Effective May 30, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Carrie Moore, telephone 571–372–6093.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is amending the DFARS to remove the DFARS provision 252.204–7004, Alternate A, System for Award

Management (SAM), and the associated provision prescription at DFARS 204.1105. The DFARS provision provided definitions that are to be substituted for the definitions in paragraph (a) of the FAR provision 52.204–7, System for Award Management. The FAR provision is prescribed for use in most solicitations. The purpose of the FAR provision is to inform offerors of the requirement to be registered in SAM in order to be eligible for an award. The DFARS provision was created for use in DoD solicitations, to ensure, in part, that offerors responding to DoD solicitations understood that they needed to enter a CAGE code in SAM in order to be considered registered in the system. However, the DFARS provision is no longer necessary, because the definition of “Registered in the System for Award Management (SAM) database” in paragraph (a) of the FAR provision has been updated to include a CAGE code as part of the information required from an offeror in order to be considered registered in SAM. As such, this DFARS alternate provision is redundant and can be removed.

The removal of this DFARS text supports a recommendation from the DoD Regulatory Reform Task Force. On February 24, 2017, the President signed Executive Order (E.O.) 13777, “Enforcing the Regulatory Reform Agenda,” which established a Federal policy “to alleviate unnecessary regulatory burdens” on the American people. In accordance with E.O. 13777, DoD established a Regulatory Reform Task Force to review and validate DoD regulations, including the DFARS. A public notice of the establishment of the DFARS Subgroup to the DoD Regulatory Reform Task Force, for the purpose of reviewing DFARS provisions and clauses, was published in the **Federal Register** at 82 FR 35741 on August 1, 2017, and requested public input. No public comments were received on this provision. Subsequently, the DoD Task Force reviewed the requirements of DFARS provision 252.204–7004, Alternate A, System for Award Management, and determined that the DFARS coverage was redundant and recommended removal.

II. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule merely removes obsolete DFARS provision 252.204–7004, Alternate A, System for Award Management. Therefore, the rule does not impose any new requirements on

contracts at or below the simplified acquisition threshold and for commercial items, including commercially available off-the-shelf items.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Executive Order 13771

This rule is not an E.O. 13771, Reducing and Controlling Regulatory Costs, regulatory action, because this rule is not significant under E.O. 12866.

V. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the Federal Acquisition Regulation (FAR) is the Office of Federal Procurement Policy statute (codified at title 41 of the United States Code). Specifically, 41 U.S.C. 1707(a)(1) requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because DoD is not issuing a new regulation; rather, this rule merely removes an obsolete requirement from the DFARS.

VI. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see section III. of this preamble), the analytical requirements of the Regulatory Flexibility Act (5