

senior procurement executive has the authority to make the determination authorized in FAR 16.504(c)(1)(ii)(D)(1).

(i) In accordance with section 816 of the National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115–232), when making the determination at FAR 16.504(c)(1)(ii)(D)(1)(i), the senior procurement executive shall determine that the task or delivery orders expected under the contract are so integrally related that only a single source can “efficiently perform the work,” instead of “reasonably perform the work” as required by the FAR.

(2) The congressional notification requirement at FAR 16.504(c)(1)(ii)(D)(2) does not apply to DoD.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 225 and 252

[Docket DARS–2019–0001]

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 provide needed editorial changes.

DATES: Effective April 1, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer L. Hawes, Defense Acquisition Regulations System, OUSD(A&S)DPC(DARS), Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 571–372–6115; facsimile 571–372–6094.

SUPPLEMENTARY INFORMATION: This final rule amends the DFARS as follows:

1. Corrects titles to four clauses at 225.7703–4 to remove the word “Act”.
2. Corrects DFARS clause 252.204–7007, Alternate A, Annual Representations and Certifications, to remove the representation at paragraph (d)(1)(iii) for DFARS 252.222–7007, Representation Regarding Combating Trafficking in Persons. DFARS final rule 2018–D003 (83 FR 24887) on May 30, 2018, removed representation 252.222–7007 from the DFARS; however, the cross-reference in DFARS 252.204–7007

to the representation was inadvertently omitted.

3. Corrects DFARS provision 252.225–7035, Buy American—Free Trade Agreements—Balance of Payments Program Certificate, Alternate V, in paragraph (a), by revising the reference to the “Buy American Act” by removing the word “Act”.

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Jennifer Lee Hawes,
Regulatory Control Officer, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 225 and 252 are amended as follows:

■ 1. The authority citations for parts 225 and 252 continue to read as follows:

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

PART 225—FOREIGN ACQUISITION

225.7703–4 [Amended]

■ 2. Amend section 225.7703–4 by removing, in paragraphs (f)(1), (f)(2), (f)(4), and (f)(5), “Buy American Act” and adding “Buy American” in each place.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.204–7007 [Amended]

■ 3. Amend section 252.204–7007 by-

- a. Removing the clause date “(DEC 2018)” and adding “(APR 2019)” in its place;
- b. Removing paragraph (d)(1)(iii); and
- c. Redesignating paragraphs (d)(1)(iv) through (ix) as (d)(1)(iii) through (viii).

252.225–7035 [Amended]

■ 4. Amend section 252.225–7035, Alternate V, by-

- a. Removing the clause date “(NOV 2014)” and adding “(APR 2019)” in its place; and
- b. In paragraph (a) removing “Buy American Act” and adding “Buy American” in its place.

[FR Doc. 2019–06254 Filed 3–29–19; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 244

[Docket DARS–2019–0006]

RIN 0750–AK24

Defense Federal Acquisition Regulation Supplement: Consent To Subcontract (DFARS Case 2018–D065)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2019 to require, for DoD contracts with contractors that have approved purchasing systems, that a contracting officer have written approval from the program manager prior to withholding a consent to subcontract.

DATES: Effective April 1, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly Bass, telephone 571–372–6174.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is issuing a final rule to amend the DFARS to implement section 824 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019, which amends section 893 of the NDAA for FY 2011 (Pub. L. 111–383) regarding consent to subcontract requirements. Specifically, section 893 requires contracting officers to have written approval from the program manager prior to withholding consent to subcontract for DoD contracts with contractors that have approved purchasing systems, as defined in Federal Acquisition Regulation (FAR) 44.101.

II. Discussion and Analysis

This rule proposes to add a new paragraph (a) at DFARS 244.201–1 to include the new requirement for contracting officers to obtain written approval from the program manager prior to withholding a consent to subcontract for DoD contracts with contractors that have an approved purchasing system. Conforming changes are made to the existing text at 244.201–1, by renumbering the existing text as paragraph (S–70).

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

This rule does not create any new provisions or clauses or impact any existing provisions or clauses. The rule only impacts the internal operating procedures of the agency. As such, the rule does not impose any new requirements on contracts at or below the simplified acquisition threshold or for commercial items, including commercially available off-the-shelf items.

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

The statute that applies to the publication of the FAR is 41 U.S.C. 1707 entitled "Publication of Proposed Regulations." Paragraph (a)(1) of the statute 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 this rule merely establishes internal Government procedures for contracting officers to obtain written approval from the program manager prior to withholding a consent to subcontract on a contract with a contractor with an approved purchasing system.

V. Executive Order 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, or reducing costs, or 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.

VI. Executive Order 13771

This rule is not an E.O. 13771 regulatory action, because this rule is not significant under E.O. 12866.

VII. 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 IV. of this preamble), the analytical requirement 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.

VIII. 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 244

Government procurement.

Jennifer Lee Hawes,
Regulatory Control Officer, Defense Acquisition Regulations System.

Therefore, 48 CFR part 244 is amended as follows:

PART 244—SUBCONTRACTING POLICIES AND PROCEDURES

■ 1. The authority citation for part 244 continues to read as follows:

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

■ 2. Amend section 244.201–1 by—

■ a. Designating the existing text as paragraph (S–70); and

■ b. Adding a paragraph (a) to start the section.

The addition reads as follows:

244.201–1 Consent requirements.

(a) In accordance with section 824 of the National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115–232), notwithstanding the requirements in FAR 44.201–1(a), the contracting officer shall not withhold consent to subcontract without the written approval of the program manager, or comparable requiring activity official exercising program management responsibilities, if the contractor has an approved purchasing system, as defined in FAR 44.101.

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[FR Doc. 2019–06250 Filed 3–29–19; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 252

[Docket DARS–2019–0012]

RIN 0750–AK06

Defense Federal Acquisition Regulation Supplement: Modification of DFARS Clause "Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns" (DFARS Case 2018–D051)

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 add supplemental contact information for departments identified in an existing DFARS clause.

DATES: Effective April 1, 2019.

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

SUPPLEMENTARY INFORMATION:

I. Background

DoD is amending the DFARS to add department phone numbers and websites to the DFARS clause, 252.226–7001, Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns. Included in solicitations and contracts that are for supplies and services exceeding \$500,000 in value, this clause: encourages contractors to give Indian organizations, Indian-owned economic enterprises, and Native Hawaiian small business concerns the maximum practicable opportunity to participate in subcontracts; addresses status representations for these organizations, enterprises, and concerns; provides the name and address of the departments that that address representation matters for these organizations, enterprises, and concerns; and provides the terms and conditions under which incentive payments may be requested under the contract. In an effort to streamline the procurement process and make information more accessible to the contractor, this modification adds phone numbers and websites for both of the departments listed in the clause.

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