

approved in accordance with 10 U.S.C. 2304(f).

The objective of this final rule is to ensure that a justification is executed and approved prior to including brand name or equal descriptions, or proprietary specifications or standards, in a solicitation that uses simplified procedures for certain commercial items or negotiated acquisition or sealed bidding procedures.

No public comments were received in response to the initial regulatory flexibility analysis.

The Federal Procurement Data System (FPDS) does not collect data on contracts awarded using brand name or equal descriptions or contracts that were competed and included proprietary specifications or standards. Currently, brand name or equal descriptions are procured through competitive procedures, but FPDS does not identify the subset of contracts that were awarded competitively using such descriptions.

FPDS can identify the number of offers received in response to a solicitation. This subset can help DoD better identify the number of competitive requirements that may have used such descriptions, specifications, or standards, but only received one offer for various reasons.

As a result, FPDS identifies that there were 127,536 contracts and orders competed and awarded in FY 2017 that only received one offer. Of the 127,536 new awards, 76,179(60%) of these actions were awarded to 9,823 unique small business entities. The proposed rule applies to all entities who do business with the Federal Government and is not expected to have a significant impact on these entities, regardless of business size.

This rule does not include any new reporting, recordkeeping, or other compliance requirements for small businesses.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known significant alternative approaches to the rule that would meet the proposed objectives.

**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 206, 211, and 213**

Government procurement.

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

Therefore, 48 CFR parts 206, 211, and 213 are amended as follows:

- 1. The authority citation for 48 CFR parts 206, 211, and 213 continues to read as follows:

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

**PART 206—COMPETITION REQUIREMENTS**

- 2. In section 206.302–1, paragraphs (c) and (S–70) are added to read as follows:

**206.302–1 Only one responsible source and no other supplies or services will satisfy agency requirements.**

\* \* \* \* \*

(c) *Application for brand-name descriptions.*

(2) Notwithstanding FAR 6.302–1(c)(2), in accordance with section 888(a) of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114–328), the justification and approval addressed in FAR 6.303 is required in order to use brand name or equal descriptions.

\* \* \* \* \*

(S–70) *Application for proprietary specifications or standards.* In accordance with section 888(a) of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114–328), the justification and approval addressed in FAR 6.303 is required in order to use proprietary specifications and standards.

\* \* \* \* \*

**PART 211—DESCRIBING AGENCY NEEDS**

- 3. Section 211.104 is added to read as follows:

**211.104 Use of brand name or equal purchase descriptions.**

A justification and approval is required to use brand name or equal purchase descriptions—

- (1) When using sealed bidding or negotiated acquisition procedures (see 206.302–1(c)(2) for justification requirements); or

- (2) When using the simplified procedures for certain commercial items at FAR 13.5 (see 213.501(a)(ii) for justification requirement).

- 4. Section 211.170 is added to read as follows:

**211.170 Use of proprietary specifications or standards.**

A justification and approval is required to use proprietary specifications and standards—

- (1) When using sealed bidding or negotiated acquisition procedures (see 206.302–1(S–70) for justification requirements); or,

- (2) When using the simplified procedures for certain commercial items at FAR 13.5 (see 213.501(a)(ii) for justification requirements).

**PART 213—SIMPLIFIED ACQUISITION PROCEDURES**

- 5. Section 213.501 is amended by—
  - a. Redesignating paragraph (a) as paragraph (a)(i); and
  - b. Adding new paragraph (a)(ii) to read as follows:

**213.501 Special documentation requirements.**

(a) \* \* \*

- (ii) In accordance with section 888(a) of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114–328), the justification and approval addressed in FAR 13.501(a) is required in order to use brand name or equal descriptions or proprietary specifications and standards.

[FR Doc. 2019–11305 Filed 5–30–19; 8:45 am]

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**DEPARTMENT OF DEFENSE**

**Defense Acquisition Regulations System**

**48 CFR Parts 211 and 252**

[Docket DARS–2019–0022]

RIN 0750–AK42

**Defense Federal Acquisition Regulation Supplement: Repeal of DFARS Provision Regarding Availability of Specifications and Standards Not Listed in the Acquisition Streamlining and Standardization Information System (DFARS Case 2019–D007)**

**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 no longer necessary.

**DATES:** Effective May 31, 2019.

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

**SUPPLEMENTARY INFORMATION:****I. Background**

DoD is amending the DFARS to remove DFARS clause 252.211-7001, Availability of Specifications, Standards, and Data Item Descriptions Not Listed in the Acquisition Streamlining and Standardization Information System (ASSIST), and Plans, Drawings, and Other Pertinent Documents, and the associated clause prescription at DFARS 211.204(c)(i). When solicitations identify requirements documents, FAR 11.201 requires the documents to be furnished with the solicitation or the solicitation to include specific instructions for obtaining or examining such documents.

DFARS provision 252.211-011 is included in solicitations that require the use of specifications, standards, and data item descriptions that are not listed in the ASSIST database. The provision provides offerors with the name and address of the activity from which the offeror can obtain a copy of the applicable documents, upon request. As implemented, the clause was intended for use in situations where the documents were not attached to the solicitation and an offeror could request a copy of the documents by mail.

DFARS provision 252.211-7002, Examination of Specifications, Standards, Plans, Drawings, Data Item Descriptions and Other Pertinent Documents, is also available for use in solicitations that require the use of specifications, standards, and data item descriptions not listed in the ASSIST database. The text of DFARS provision 252.211-7002 notifies offerors that the documents are unavailable for distribution (as an attachment to the solicitation) and includes a blank, to be completed by the contracting officer, to provide a physical address, email address, or name and phone number where the documents can be requested and/or obtained. It is no longer necessary to have two different provisions to communicate how or where an offeror can obtain or view documents associated with a solicitation. As such, DFARS provision 252.211-7001 is no longer necessary 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 these provisions. The DoD Task Force reviewed the requirements of DFARS provision 252.211-7001, Availability of Specifications, Standards, and Data Item Descriptions Not Listed in the Acquisition Streamlining and Standardization Information System (ASSIST), and Plans, Drawings, and Other Pertinent Documents, and determined that the DFARS coverage was unnecessary 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 only removes obsolete DFARS provision 252.211-7001, Availability of Specifications, Standards, and Data Item Descriptions Not Listed in the Acquisition Streamlining and Standardization Information System (ASSIST), and Plans, Drawings, and Other Pertinent Documents. 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. 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 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 is

merely removing an obsolete clause from the DFARS.

**IV. Executive Orders 12866 and 13563**

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.

**V. Executive Order 13771**

This rule is not subject to E.O. 13771, because this rule is not a significant regulatory action 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 Parts 211 and 252**

Government procurement.

**Jennifer Lee Hawes,**

*Regulatory Control Officer, Defense Acquisition Regulations System.*

Therefore, 48 CFR parts 211 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 211 and 252 continues to read as follows:

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

**PART 211—DESCRIBING AGENCY NEED**

■ 2. Revise section 211.204 to read as follows:

**211.204 Solicitation provisions and contract clauses.**

(c) When contract performance requires use of specifications, standards, and data item descriptions that are not listed in the Acquisition Streamlining and Standardization Information System database, use a provision, as appropriate, substantially the same as 252.211-7002, Availability for Examination of Specifications, Standards, Plans, Drawings, Data Item Descriptions, and Other Pertinent Documents.

**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES****252.211-7001 [Removed and Reserved]**

- 3. Remove and reserve section 252.211-7001.

[FR Doc. 2019-11310 Filed 5-30-19; 8:45 am]

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**DEPARTMENT OF DEFENSE****Defense Acquisition Regulations System****48 CFR Parts 215 and 233**

[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 May 31, 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. Provides direction to contracting officers at DFARS 215.406-2 to see DFARS Procedures, Guidance, and Information (PGI) 215.406-2 for additional information and guidance on Certificates of Current Cost or Pricing Data.
2. Provides direction to contracting officers at DFARS 233.171 to follow the procedures at DFARS PGI 233.171 for

reporting information on protests involving the same contract award or proposed award that have been filed at both the Government Accountability Office and the United States Court of Federal Claims.

**List of Subjects in 48 CFR Parts 215 and 233**

Government procurement.

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

Therefore, 48 CFR parts 215 and 233 are amended as follows:

- 1. The authority citations for 48 CFR parts 215 and 233 continue to read as follows:

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

**PART 215—CONTRACTING BY NEGOTIATIONS**

- 2. Section 215.406-2 is added to read as follows:

**215.406-2 Certificate of Current Cost or Pricing Data.**

See PGI 215.406-2 for additional information and guidance on Certificates of Current Cost or Pricing Data.

**PART 233—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

- 3. Section 233.171 is added to read as follows:

**233.171 Reporting requirement for protests of solicitations or awards.**

Follow the procedures at PGI 233.171 for reporting information on protests involving the same contract award or proposed award that have been filed at both the Government Accountability Office and the United States Court of Federal Claims.

[FR Doc. 2019-11418 Filed 5-30-19; 8:45 am]

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**DEPARTMENT OF DEFENSE****Defense Acquisition Regulations System****48 CFR Parts 247 and 252**

[Docket DARS-2019-0023]

RIN 0750-AK64

**Defense Federal Acquisition Regulation Supplement: Repeal of DFARS Clause "Ordering Limitation" (DFARS Case 2019-D026)**

**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 no longer necessary.

**DATES:** *Effective:* May 31, 2019.

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

**SUPPLEMENTARY INFORMATION:****I. Background**

DoD is amending the DFARS to remove DFARS clause 252.247-7012, Ordering Limitation, and the associated prescription at DFARS 247.271-3(g). This DFARS clause is included in solicitations and contract when an indefinite-delivery contract for the preparation of personal property for movement or storage, or for performance of intra-city or intra-area movement, is contemplated. The clause advises a contractor of the manner in which the Government will place orders for requisite supplies and services in consideration of the contractor's guaranteed maximum daily capacity.

Federal Acquisition Regulation (FAR) clause 52.216-19, Ordering Limitations, is also included in solicitations and contracts for indefinite-delivery contracts and identifies: The minimum and maximum order quantities or values; a limitation on ordering, within a specified number of days, a total amount or quantity that exceeds the maximum order quantities or values; and, the terms and conditions for placing, accepting, or refusing orders that exceed the maximum ordering limitations identified in the clause. Upon review of the DFARS and FAR clause and based on current transportation practices, DoD determined that the FAR clause adequately addresses the necessary terms and conditions on minimum and maximum ordering limitations for the preparation of personal property for