

(S-71) In accordance with section 823 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92), the head of the procuring activity is the approval authority for a proposed sole-source 8(a) contract exceeding \$100 million. This authority may only be delegated to an officer or employee who—

(1) If a member of the armed forces, is serving in a rank above brigadier general or rear admiral (lower half); or

(2) If a civilian, is serving in a position with a grade under the General Schedule (or any other schedule for civilian officers or employees) that is comparable to or higher than the grade of major general or rear admiral.

#### **PART 219—SMALL BUSINESS PROGRAMS**

■ 5. Amend section 219.808-1 by adding paragraph (a) to read as follows:

##### **219.808-1 Sole source.**

\* \* \* \* \*

(a) In lieu of the threshold at FAR 19.808-1(a), the SBA may not accept for negotiation a DoD sole-source 8(a) contract exceeding \$100 million unless DoD has completed a justification in accordance with FAR 6.303 and 206.303-1(b).

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#### **DEPARTMENT OF DEFENSE**

##### **Defense Acquisition Regulations System**

##### **48 CFR Part 208**

[Docket DARS-2020-0001]

##### **Defense Federal Acquisition Regulation Supplement: Technical Amendments**

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

**ACTION:** Final rule.

**SUMMARY:** DoD is making needed technical amendments to update the Defense Federal Acquisition Regulation Supplement (DFARS).

**DATES:** Effective June 5, 2020.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jennifer L. Hawes, Defense Acquisition Regulations System, OUSD(A&S)DPC(DARS), Room 3B941, 20360 Defense Pentagon, Washington, DC 20301-3060. Telephone 571-372-6115; facsimile 571-372-6094.

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

Section 208.002 heading is corrected to align with the Federal Acquisition Regulation naming convention for this section and to add new paragraphs (a)(1) introductory text and (a)(1)(i) to provide a notice to contracting officers to see DFARS Procedures, Guidance, and Information 208.002(a)(1)(i) to obtain information on available items in DoD's property inventories. In paragraph (a)(1)(v), two references to "Subpart" are changed to "subpart".

##### **List of Subjects in 48 CFR Part 208**

Government procurement.

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

Therefore, 48 CFR part 208 is amended as follows:

##### **PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES**

■ 1. The authority citation for 48 CFR part 208 continues to read as follows:

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

■ 2. Revise section 208.002 to read as follows:

##### **208.002 Priorities for use of mandatory Government sources.**

(a)(1) *Supplies.* (i) See the guidance at PGI 208.002(a)(1)(i) to obtain information on available items in DoD's property inventories.

(v) See subpart 208.70, Coordinated Acquisition, and subpart 208.74, Enterprise Software Agreements.

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#### **DEPARTMENT OF DEFENSE**

##### **Defense Acquisition Regulations System**

##### **48 CFR Parts 210, 212, 215, and 234**

[Docket DARS-2019-0050]

**RIN 0750-AK65**

##### **Defense Federal Acquisition Regulation Supplement: Market Research and Consideration of Value for the Determination of Price (DFARS Case 2019-D027)**

**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 implement several sections

of the National Defense Authorization Act for Fiscal Year 2017 to address how contracting officers may require the offeror to submit relevant information to support market research for price analysis, and allow an offeror to submit information relating to the value of a commercial item to aid in the determination of the reasonableness of the price of such item.

**DATES:** Effective June 5, 2020.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, telephone 571-372-6106.

##### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

DoD published a proposed rule in the *Federal Register* at 84 FR 50812 on September 26, 2019, to implement sections 871 and 872 of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114-328). Section 871 modifies 10 U.S.C. 2377, Preference for acquisition of commercial items, to state that, to the extent necessary to support market research for determination of the reasonableness of the price of commercial items, the contracting officer shall use the information submitted under 10 U.S.C. 2379(d) in the case of major weapon systems acquired as commercial items; and in the case of other items, the contracting officer may require the offeror to submit relevant information. Section 872 modifies 10 U.S.C. 2379, Requirement for determination by Secretary of Defense and notification to Congress before procurement of major weapon systems as commercial items, to allow an offeror to submit information or analysis relating to the value of a commercial item. One respondent submitted public comments in response to the proposed rule.

##### **II. Discussion and Analysis**

DoD reviewed the public comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

##### *A. Summary of Significant Changes*

The final rule removes the discussion of value analysis at DFARS 234.7002(d)(5) and the associated definition of "value analysis" at DFARS 234.7001 from the proposed rule.

##### *B. Analysis of Public Comments*

*Comment:* The respondent supports the proposed rule, with a few exceptions. The respondent stated that in the proposed definition of "value analysis" at DFARS 234.7001, "cost"