

must be made in advance and approved by the Captain of Port before transits will be authorized. Approvals will be granted on a case by case basis. The Captain of the Port may be contacted via U.S. Coast Guard Sector Detroit on channel 16, VHF-FM. The Coast Guard will give notice to the public via Local Notice to Mariners and VHF radio broadcasts that the regulation is in effect.

This document is issued under authority of 33 CFR 165.941 and 5 U.S.C. 552(a). If the Captain of the Port determines that any of these safety zones need not be enforced for the full duration stated in this document, he or she may suspend such enforcement and notify the public of the suspension via a Broadcast Notice to Mariners.

Dated: June 12, 2015.

**Raymond Negron,**

*Commander, U.S. Coast Guard, Acting Captain of the Port Detroit.*

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Parts 201, 213, 217, 225, and 252

#### 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 June 26, 2015.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy G. Williams, Defense Acquisition Regulations System, OUSD(AT&L)DPAP(DARS), Room 3B941, 3060 Defense Pentagon, Washington, DC 20301-3060. Telephone 571-372-6106; facsimile 571-372-6094.

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

1. Directs contracting officers to additional DFARS Procedures, Guidance, and Information (PGI) by adding references at—

- DFARS 201.301(b) to PGI 201.301(b);

- DFARS 201.304(4) to PGI 201.304(4);
  - DFARS 201.304(5) to PGI 201.304(5); and
  - DFARS 252.103 to PGI 252.103.
2. Corrects a cross reference in DFARS 213.500-70.
3. Removes a reference to DoDI 4000.19, Support Agreements, at DFARS 217.500, since the instruction (see paragraph 2.b.(1)) no longer applies to interagency assisted acquisitions.
4. Updates an address at DFARS 225.870-4(a) for the Canadian Commercial Corporation.
5. Removes an obsolete cross reference to PGI at DFARS 225.7002-2(b)(4).
6. Corrects two hyperlinks in DFARS clause 252.213-7000, Notice to Prospective Suppliers on Use of Past Performance Information Retrieval System—Statistical Reporting in Past Performance Evaluations.

#### List of Subjects in 48 CFR Parts 201, 213, 217, 225, and 252

Government procurement.

**Amy G. Williams,**

*Editor, Defense Acquisition Regulations System.*

Therefore, 48 CFR parts 201, 213, 217, 225, and 252 are amended as follows:

- 1. The authority citation for 48 CFR parts 201, 213, 217, 225, and 252 continues to read as follows:

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

#### PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM

- 2. Revise section 201.301(b) to read as follows:

##### 201.301 Policy.

\* \* \* \* \*

(b) When **Federal Register** publication is required for any policy, procedure, clause, or form, the department or agency requesting Under Secretary of Defense (Acquisition, Technology, and Logistics) (USD(AT&L)) approval for use of the policy, procedure, clause, or form (see 201.304(1)) must include an analysis of the public comments in the request for approval. Information on determining when a clause requires publication in the **Federal Register** and approval in accordance with 201.304(1) is provided at PGI 201.301(b).

- 3. Revise section 201.304, paragraphs (4) and (5), to read as follows:

##### 201.304 Agency control and compliance procedures.

\* \* \* \* \*

(4) Each department and agency must develop and, upon approval by

OUSD(AT&L)DPAP, implement, maintain, and comply with a plan for controlling the use of clauses other than those prescribed by FAR or DFARS. Additional information on department and agency clause control plan requirements is available at PGI 201.304(4).

(5) Departments and agencies must submit requests for the Secretary of Defense, USD(AT&L), and OUSD(AT&L)DPAP approvals required by this section through the Director of the DAR Council. Procedures for requesting approval of department and agency clauses are provided at PGI 201.304(5).

\* \* \* \* \*

#### PART 213—SIMPLIFIED ACQUISITION PROCEDURES

##### 213.500-70 [Amended]

- 4. Amend section 213.500-70 by removing “PGI”.

#### PART 217—SPECIAL CONTRACTING METHODS

##### 217.500 [Amended]

- 5. Amend section 217.500 by removing “FAR Subpart 17.5, this subpart, and DoDI 4000.19 apply” and adding “FAR subpart 17.5 and this subpart apply” in its place.

#### PART 225—FOREIGN ACQUISITION

##### 225.870-4 [Amended]

- 6. Amend section 225.870-4 by removing “11th Floor, 50 O’Connor Street, Ottawa, Ontario, Canada, K1A-0S6” and adding “350 Albert Street, Suite 700, Ottawa, ON K1R 1A4” in its place.

##### 225.7002-2 [Amended]

- 7. Amend section 225.7002-2 by removing paragraph (b)(4).

#### PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

- 8. Add section 252.103 to subpart 252.1 to read as follows:

##### 252.102 Identification of provisions and clauses.

For guidance on numbering department or agency provisions and clauses, see PGI 252.103.

##### 252.213-7000 [Amended]

- 9. Amend section 252.213-7000 by—
  - a. Removing the clause date “(MAY 2015)” and adding “(JUN 2015)” in its place;
  - b. In paragraph (d)—
  - i. Removing “[https://www.ppirs.gov/ppirsfiles/pdf/PPIRS-SR\\_UserMan.pdf](https://www.ppirs.gov/ppirsfiles/pdf/PPIRS-SR_UserMan.pdf)”

and adding "[https://www.ppirs.gov/pdf/PPIRS-SR\\_UserMan.pdf](https://www.ppirs.gov/pdf/PPIRS-SR_UserMan.pdf)" in its place; and

■ ii. Removing "<http://www.ppirs.gov/ppirsfiles/reference.htm>" and adding "[https://www.ppirs.gov/pdf/PPIRS-SR\\_DataEvaluationCriteria.pdf](https://www.ppirs.gov/pdf/PPIRS-SR_DataEvaluationCriteria.pdf)" in its place.

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Parts 216 and 252

RIN 0750-A104

#### Defense Federal Acquisition Regulation Supplement: Allowability of Legal Costs for Whistleblower Proceedings (DFARS Case 2013-D022)

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

**ACTION:** Final rule.

**SUMMARY:** DoD has adopted as final, without change, an interim rule that amended the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2013 that addresses the allowability of legal costs incurred by a contractor related to whistleblower proceedings.

**DATES:** Effective June 26, 2015.

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

#### SUPPLEMENTARY INFORMATION:

##### I. Background

DoD published an interim rule in the *Federal Register* on September 30, 2013 (78 FR 59859). This interim rule revised DFARS subparts 216.3 and added a new clause at 252.216-7009 to implement paragraphs (g) and (i) of section 827 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239).

##### II. Discussion and Analysis

No public comments were received in response to the interim rule. The interim rule is converted to a final rule without change.

##### 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 a significant regulatory action and, therefore, was 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. Regulatory Flexibility Act

DoD does not expect this final 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 most contracts awarded to small entities are awarded on a competitive fixed-price basis, and do not require application of the cost principles contained in this rule. However, a final regulatory flexibility analysis has been performed and is summarized as follows:

The reason for the action is to implement section 827(g) of the National Defense Authorization Act for Fiscal Year (FY) 2013 (Pub. L. 113-239). Section 827(g) expands the cost principle at 10 U.S.C. 2324(k) to apply the cost principle on allowability of costs related to legal and other proceedings to costs incurred by contractors in proceedings commenced by a contractor employee submitting a complaint under 10 U.S.C. 2409 (whistleblowing), and include as specifically unallowable, legal costs of a proceeding that results in an order to take corrective action under 10 U.S.C. 2409.

The objective of the rule is to enhance whistleblower protections for contractor employees. The legal basis for the rule is 10 U.S.C. 2324(k).

There were no public comments in response to the initial regulatory flexibility analysis.

Most contracts awarded on a fixed-price competitive basis do not require application of the cost principles. Most contracts valued at or below the simplified acquisition threshold are awarded on a fixed-price competitive basis. Requiring submission of certified cost or pricing data for acquisitions that do not exceed the simplified acquisition threshold is prohibited (FAR 15.403-4(a)(2)). According to Federal Procurement Data System data for FY 2012, there were 48,115 new DoD contract awards over the simplified acquisition threshold in FY 2012. Of those contracts, only 6,760 awards were

to small businesses on other than a competitive fixed-price basis. Estimating 3 awards per small business, that could involve about 2,600 small businesses. However, this rule would only affect a contractor if a contractor employee commenced a proceeding by submitting a complaint under 10 U.S.C. 2409, and if that proceeding resulted in any of the circumstances listed at FAR 31.205-47(b). DoD does not have data on the percentage of contracts that involve submission of a whistleblower complaint and result in any of the circumstances listed at FAR 31.205-47(b).

There are no projected reporting, recordkeeping, and other compliance requirements of the rule.

DoD was unable to identify any alternatives to the rule that would reduce the impact on small entities and still meet the requirements of the statute.

##### V. 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 216 and 252

Government procurement.

■ Accordingly, the interim rule amending 48 CFR parts 216 and 252, which was published at 78 FR 59859 on September 30, 2013, is adopted as a final rule without change.

Amy G. Williams,

Editor, Defense Acquisition Regulations System.

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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 48 CFR Parts 1801, 1802, 1805, 1807, 1812, 1813, 1823, 1833, 1836, 1847, 1850 and 1852

RIN 2700-AE19

#### NASA FAR Supplement Regulatory Review No. 3

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Final rule.

**SUMMARY:** NASA adopts a final rule amending the NASA FAR Supplement with the goal of eliminating unnecessary regulation, streamlining burdensome