

■ 4. Section 204.7003 is amended by revising paragraph (a)(1) to read as follows:

204.7003 Basic PII number.

(a) * * *

(1) *Positions 1 through 6.* The first six positions identify the department/agency and office issuing the instrument. Use the DoD Activity Address Code (DoDAAC) assigned to the issuing office. DoDAACs can be found at <https://www.daas.dla.mil/daashome/>.

* * * * *

■ 5. Section 204.7004 is amended in paragraph (d)(2)(i) by revising the second sentence to read as follows:

204.7004 Supplementary PII numbers.

* * * * *

(d) * * *

(2) * * *

(i) * * * The first and second positions contain the call/order code assigned to the ordering office in accordance with 204.7005. * * *

* * * * *

■ 6. Section 204.7005 is added to read as follows:

204.7005 Assignment of order codes.

(a) The Defense Logistics Agency, Acquisition Policy Branch (J-3311), Fort Belvoir, VA 22060-6221, is the executive agent for maintenance of code assignments for use in the first two positions of an order number when an activity places an order against another activity's contract or agreement (see 204.7004(d)(2)). The executive agent distributes blocks of two-character order codes to department/agency monitors for further assignment.

(b) Contracting activities submit requests for assignment of or changes in two-character order codes to their respective monitors in accordance with department/agency procedures. Order code monitors—

(1) Approve requests for additions, deletions, or changes; and

(2) Provide notification of additions, deletions, or changes to—

(i) The executive agent; and
(ii) The executive editor, Defense Acquisition Regulations, OUSD(AT&L)DPAP(DAR), 3062 Defense Pentagon, Washington, DC 20301-3062.

(c) Order code monitors are—

Army: Army Contracting Agency, Attn: SFCA-IT, 5109 Leesburg Pike, Suite 302, Falls Church, VA 22041-3201

Navy and Marine Corps: Office of the Assistant Secretary of the Navy (RD&A), 1000 Navy Pentagon, Room BF992, Washington, DC 20350-1000

Air Force: SAF/AQCX, 1060 Air Force Pentagon, Washington, DC 20330-1060

Defense Logistics Agency: Defense Logistics Agency, Acquisition Policy Branch (J-

3311), John J. Kingman Road, Fort Belvoir, VA 22060-6221

Other Defense Agencies: Army Contracting Agency, Attn: SFCA-IT 5109 Leesburg Pike, Suite 302, Falls Church, VA 22041-3201

(d) Order code assignments can be found at <http://www.acq.osd.mil/dp/dars/dfars.html>.

Appendix G to Chapter 2 [Removed and Reserved]

■ 7. Appendix G to chapter 2 is removed and reserved.

[FR Doc. 03-28439 Filed 11-13-03; 8:45 am]

BILLING CODE 5001-08-P

DEPARTMENT OF DEFENSE

48 CFR Parts 204, 212, 213, and 252

[DFARS Case 2003-D040]

Defense Federal Acquisition Regulation Supplement; Central Contractor Registration

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove policy on Central Contractor Registration (CCR) that duplicates policy added to the Federal Acquisition Regulation (FAR) on October 1, 2003. This rule also addresses requirements for use of Commercial and Government Entity (CAGE) codes to accommodate DoD payment systems.

DATES: *Effective date:* November 14, 2003.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before January 13, 2004, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments directly on the World Wide Web at <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. As an alternative, respondents may e-mail comments to: dfars@osd.mil. Please cite DFARS Case 2003-D040 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Angelena Moy, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062; facsimile (703) 602-0350. Please cite DFARS Case 2003-D040.

At the end of the comment period, interested parties may view public

comments on the World Wide Web at <http://emissary.acq.osd.mil/dar/dfars.nsf>.

FOR FURTHER INFORMATION CONTACT: Ms. Angelena Moy, (703) 602-1302.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule supplements the final FAR rule published at 68 FR 56669 on October 1, 2003 (FAC 2001-16; Item I). The FAR rule contained requirements for contractors to register in the CCR database prior to award of any contract or agreement. Similar policy had been in the DFARS since March 31, 1998 (63 FR 15316). Since the DFARS policy has been superseded by the FAR policy, this interim rule removes most DFARS policy pertaining to CCR. However, there is still a need to address requirements for CAGE code information to accommodate DoD payment systems. Therefore, this interim rule retains DoD requirements for inclusion of CAGE codes on contracts and in the CCR database.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this 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 the rule adds no new requirements for DoD contractors. The rule removes DFARS text that has become obsolete as a result of policy that has been added to the FAR, and retains existing DoD requirements for use of CAGE codes. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003-D040.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense

that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. This interim rule removes DFARS text that has become obsolete as a result of policy on Central Contractor Registration that was added to the FAR on October 1, 2003. In addition, this rule addresses DoD requirements for inclusion of CAGE codes on contracts and in the CCR database. The FAR does not address CAGE code requirements, and DoD payment offices cannot match to CCR without CAGE code information. Comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Part 204, 212, 213, and 252

Government procurement.

Michele P. Peterson,
Executive Editor, Defense Acquisition Regulations Council.

■ Therefore, 48 CFR parts 204, 212, 213, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR Parts 204, 212, 213, and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 204—ADMINISTRATIVE MATTERS

■ 2. Section 204.203 is revised to read as follows:

§ 204.203 Taxpayer identification information.

(b) The procedure at FAR 4.203(b) does not apply to contracts that include the clause at FAR 52.204-7, Central Contractor Registration. The payment office obtains the taxpayer identification number and the type of organization from the Central Contractor Registration database.

§ 204.603 [Removed]

■ 3. Section 204.603 is removed.

■ 4. Section 204.904 is amended by revising paragraph (2) introductory text and paragraph (2)(ii) to read as follows:

§ 204.904 Reporting payment information to the IRS.

* * * * *

(2) Unless an exception in paragraph (1) of this section applies, provide as the last page of the copy of the contract sent to the payment office—

* * * * *

(ii) The contractor's Taxpayer Identification Number and type of organization, if the contract does not include the clause at FAR 52.204-7, Central Contractor Registration.

§ 204.905 [Removed]

■ 5. Section 204.905 is removed.

■ 6. Subpart 204.11 is added to read as follows:

Subpart 204.11—Central Contractor Registration

Sec.

204.1103 Procedures.

204.1104 Solicitation provision and contract clauses.

§ 204.1103 Procedures.

(e) On contractual documents transmitted to the payment office, also provide the Commercial and Government Entity code in accordance with agency procedures.

§ 204.1104 Solicitation provision and contract clauses.

When using the clause at FAR 52.204-7, Central Contractor Registration, use the clause with 252.204-7004, Alternate A.

■ 7. Section 204.7202-1 is amended by revising paragraph (b)(1) to read as follows:

§ 204.7202-1 Cage codes.

* * * * *

(b)(1) If a prospective contractor located in the United States must register in the Central Contractor Registration (CCR) database (*see* FAR Subpart 4.11) and does not have a CAGE code, DLIS will assign a CAGE code when the prospective contractor submits its request for registration in the CCR database. Foreign registrants must obtain a North Atlantic Treaty Organization CAGE (NCAGE) code in order to register in the CCR database. NCAGE codes may be obtained from the Codification Bureau in the foreign registrant's country. Additional information on obtaining NCAGE codes is available at http://www.dlis.dla.mil/Forms/Form_AC135.asp.

* * * * *

■ 8. Section 204.7207 is amended by revising paragraph (a) to read as follows:

§ 204.7207 Solicitation provision.

* * * * *

(a) The solicitation does not include the clause at FAR 52.204-7, Central Contractor Registration; and

* * * * *

Subpart 204.73—[Removed]

■ 9. Subpart 204.73 is removed.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

§ 212.301 [Amended]

■ 10. Section 212.301 is amended as follows:

■ a. By removing paragraphs (b)(2) and (f)(iv); and

■ b. By redesignating paragraphs (f)(v) and (vi) as paragraphs (f)(iv) and (v) respectively.

PART 213—SIMPLIFIED ACQUISITION PROCEDURES 213.106-3 [Removed]

■ 11. Section 213.106-3 is removed.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 12. Section 252.204-7004 is revised to read as follows:

§ 252.204-7004 Alternate A.

Alternate A (Nov 2003)

As prescribed in 204.1104, substitute the following paragraph (a) for paragraph (a) of the clause at FAR 52.204-7:

(a) *Definitions.* As used in this clause—
“Central Contractor Registration (CCR) database” means the primary Government repository for contractor information required for the conduct of business with the Government.

“Commercial and Government Entity (CAGE) code” means—

(1) A code assigned by the Defense Logistics Information Service (DLIS) to identify a commercial or Government entity; or

(2) A code assigned by a member of the North Atlantic Treaty Organization that DLIS records and maintains in the CAGE master file. This type of code is known as an “NCAGE code.”

“Data Universal Numbering System (DUNS) number” means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

“Data Universal Numbering System +4 (DUNS+4) number” means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (*see* Subpart 32.11 of the Federal Acquisition Regulation) for the same parent concern.

“Registered in the CCR database” means that—

(1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database;

(2) The Contractor's CAGE code is in the CCR database; and

(3) The Government has validated all mandatory data fields and has marked the records "Active."

[FR Doc. 03-28441 Filed 11-13-03; 8:45 am]

BILLING CODE 5001-08-P

DEPARTMENT OF DEFENSE

48 CFR Parts 208, 210, 219, and 252

[DFARS Case 2002-D003]

Defense Federal Acquisition Regulation Supplement; Competition Requirements for Purchases From a Required Source

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 811 of the National Defense Authorization Act for Fiscal Year 2002 and section 819 of the National Defense Authorization Act for Fiscal Year 2003. Sections 811 and 819 address requirements for conducting market research before purchasing a product listed in the Federal Prison Industries (FPI) catalog, and for use of competitive procedures if an FPI product is found to be noncomparable to products available from the private sector. Section 819 also addresses limitations on an inmate worker's access to information and on use of FPI as a subcontractor.

EFFECTIVE DATE: December 15, 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Michele Peterson, Defense Acquisition Regulations Council, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0311; facsimile (703) 602-0350. Please cite DFARS Case 2002-D003.

SUPPLEMENTARY INFORMATION:

A. Background

Section 811 of the National Defense Authorization Act for Fiscal Year 2002 (Pub. L. 107-107) added 10 U.S.C. 2410n, providing that (1) before purchasing a product listed in the FPI catalog, DoD must conduct market research to determine whether the FPI product is comparable in price, quality, and time of delivery to products available from the private sector; (2) if the FPI product is not comparable in price, quality, and time of delivery, DoD must use competitive procedures to acquire the product; and (3) in conducting such a competition, DoD must consider a timely offer from FPI for award in accordance with the

specifications and evaluation factors in the solicitation.

DoD published an interim rule at 67 FR 20687 on April 26, 2002, to implement section 811 of Public Law 107-107. On December 2, 2002, section 819 of the National Defense Authorization Act for Fiscal Year 2003 (Pub. L. 107-314) amended 10 U.S.C. 2410n to (1) clarify requirements for conducting market research before purchasing a product listed in the FPI catalog; (2) specify requirements for use of competitive procedures or for making a purchase under a multiple award contract if an FPI product is found to be noncomparable to products available from the private sector; (3) specify that a contracting officer's determination, regarding the comparability of an FPI product to products available from the private sector, is not subject to the arbitration provisions of 18 U.S.C. 4124(b); (4) specify that a DoD contractor may not be required to use FPI as a subcontractor; and (5) prohibit the award of a contract to FPI that would allow an inmate worker access to classified or sensitive information.

DoD published a proposed rule at 68 FR 26265 on May 15, 2003, to further implement the requirements of section 811 of Public Law 107-107, to implement section 819 of Public Law 107-314, and to address public comments received in response to the interim rule published on April 26, 2002. A discussion of the comments received in response to the proposed rule published on May 15, 2003, is provided below. DoD has adopted the proposed rule as a final rule without change.

1. *Comment:* FPI is not a small business concern and should not be permitted to participate in small business set-asides.

DoD Response: Concur that FPI is not a small business concern. The small business set-aside procedures in the rule apply only when an FPI product is found to be noncomparable to private sector products. In these situations, competitive procedures *must* be used and FPI *must* be given an opportunity to compete. Because the definition of competitive procedures in 10 U.S.C. 2410n includes procurements conducted in furtherance of the Small Business Act, the DFARS rule permits restriction of the competition to FPI and small business concerns.

2. *Comment:* The rule should prohibit a Federal contractor from being required to specify FPI products in the designs, specifications, or standards it develops for DoD.

DoD Response: Concur. Section 208.670 of the rule prohibits such an action.

3. *Comment:* The rule should clarify that DoD contracts, particularly architect-engineer contracts, should specify that FPI goods must be used to supply DoD unless excepted by 208.602. For example, DoD would not be permitted by law to procure office furniture as part of a consolidated or prime contract for the construction or renovation of a building if such a contracting method is used to preclude the necessity for a comparability determination or competitive procedures under sections 811 and 819.

DoD Response: Concur that consolidation of requirements merely to avoid a comparability determination or competitive procedures would be improper, as would any other action taken to circumvent statutory or regulatory requirements. However, consolidation where appropriate appears to be consistent with 10 U.S.C. 2410(e), which addresses the issue of subcontracting and specifically prohibits DoD from requiring a contractor to use FPI as a subcontractor or supplier. The provisions of 10 U.S.C. 2410(e) are reflected in the rule at 208.670.

4. *Comment:* A paragraph should be added to 208.670 to state that nothing in that section prohibits FPI from voluntarily entering into a subcontract with, or from being accepted as a subcontractor by, any prime contractor doing business with a DoD component.

DoD Response: Nothing in the rule precludes FPI from acting as a subcontractor. Specific mention of this subject in the rule is unnecessary.

5. *Comment:* The rule should clarify that use of multiple award schedule contracts is a legitimate competitive procedure.

DoD Response: This point is clear from the definition of "competitive procedures" at 208.601-70, which permits use of the procedures in FAR 6.102, to include the use of multiple award schedule contracts.

6. *Comment:* The first sentence of 208.602(a)(i) should make it clear that it is mandatory for contracting officers to conduct market research before purchasing a product listed in the FPI Schedule.

DoD Response: The first sentence of 208.602(a)(i) is an imperative statement and is clearly mandatory.

7. *Comment:* The way the rule is written, if FPI's product is found to be noncomparable in price, quality, and delivery time, FPI is given a second chance to meet these criteria through the competition phase. The rule should