

acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at <http://www.acq.osd.mil/dp/dars/transf.htm>.

This proposed rule is a result of the DFARS Transformation initiative. The proposed rule removes DFARS Appendix D, Component Breakout. Appendix D contains DoD procedures for breakout of components of end items for future acquisitions. This text will be relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI), available at <http://www.acq.osd.mil/dpap/dars/pgi>. A policy statement on component breakout is added at DFARS 207.105(b)(2)(ii)(70).

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 text in DFARS Appendix D, Component Breakout, relates primarily to DoD responsibilities for review of items for component breakout. 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 subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003–D071.

## C. Paperwork Reduction Act

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

## List of Subjects in 48 CFR Part 207

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

Therefore, DoD proposes to amend 48 CFR Part 207 and Appendix D to Chapter 2 as follows:

1. The authority citation for 48 CFR Part 207 and Appendix D to subchapter I continues to read as follows:

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

## PART 207—ACQUISITION PLANNING

2. Section 207.105 is amended by adding paragraph (b)(2)(ii)(70) to read as follows:

### 207.105 Contents of written acquisition plans.

\* \* \* \* \*

(b) \* \* \*

(2)(ii)(70) *Component breakout.* It is DoD policy to break out components of weapons systems or other major end items under certain circumstances. Follow the procedures at PGI 207.105(b)(2)(ii)(70) for component breakout.

\* \* \* \* \*

### Appendix D to Chapter 2 [Removed and Reserved]

3. Appendix D to Chapter 2 is removed and reserved.

[FR Doc. 05–5627 Filed 3–22–05; 8:45 am]

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## DEPARTMENT OF DEFENSE

### 48 CFR Part 215

[DFARS Case 2003–D077]

### Defense Federal Acquisition Regulation Supplement; Contracting by Negotiation

**AGENCY:** Department of Defense (DoD).

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to contracting by negotiation. This proposed rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before May 23, 2005, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2003–D077, using any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Defense Acquisition Regulations Web site:* <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. Follow the instructions for submitting comments.

- *E-mail:* [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2003–D077 in the subject line of the message.

- *Fax:* (703) 602–0350.

- *Mail:* Defense Acquisition Regulations Council, Attn: Ms. Michele Peterson, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

- *Hand Delivery/Courier:* Defense Acquisition Regulations Council, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

All comments received will be posted to <http://emissary.acq.osd.mil/dar/dfars.nsf>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Michele Peterson, (703) 602–0311.

### SUPPLEMENTARY INFORMATION:

#### A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at <http://www.acq.osd.mil/dpap/dfars/transf.htm>.

This proposed rule is a result of the DFARS Transformation initiative. The proposed changes—

- Delete unnecessary text at DFARS 215.000, 215.204–1, 215.304(c)(ii), and 215.305(b).

- Delete text at DFARS 215.204–2 regarding line item identification requirements for contracts containing both fixed-price and cost-reimbursement line items. This text was proposed for addition to DFARS subpart 204.71, in the proposed rule published at 69 FR 35564 on June 25, 2004, under DFARS Case 2003–D009.

- Delete text at DFARS 215.303 and 215.304 containing procedures for

preparation of source selection plans and examples of source selection evaluation factors. This text will be relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI), available at <http://www.acq.osd.mil/dpap/dars/pgi>.

- Update references to the clauses at FAR 52.219–8 and 52.219–9, to reflect the current clause titles.

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 makes no significant change to DoD contracting policy. 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–D077.

## 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.*

## List of Subjects in 48 CFR Part 215

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

Therefore, DoD proposes to amend 48 CFR part 215 as follows:

1. The authority citation for 48 CFR part 215 continues to read as follows:

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

## PART 215—CONTRACTING BY NEGOTIATION

### 215.000 [Removed]

2. Section 215.000 is removed.

### Subpart 215.2—[Removed]

3. Subpart 215.2 is removed.
4. Sections 215.303 through 215.305 are revised to read as follows:

### 215.303 Responsibilities.

- (b)(2) For high-dollar value and other acquisitions, as prescribed by agency

procedures, the source selection authority shall approve a source selection plan before the solicitation is issued. Follow the procedures at PGI 215.303(b)(2) for preparation of the source selection plan.

### 215.304 Evaluation factors and significant subfactors.

- (c)(i) In acquisitions that require use of the clause at FAR 52.219–9, Small Business Subcontracting Plan, other than those based on the lowest price technically acceptable source selection process (see FAR 15.101–2), the extent of participation of small businesses and historically black colleges or universities and minority institutions in performance of the contract shall be addressed in source selection. The contracting officer shall evaluate the extent to which offerors identify and commit to small business and historically black college or university and minority institution performance of the contract, whether as a joint venture, teaming arrangement, or subcontractor.

- (A) See PGI 215.304(c)(i)(A) for examples of evaluation factors.

- (B) Proposals addressing the extent of small business and historically black college or university and minority institution performance may be separate from subcontracting plans submitted pursuant to the clause at FAR 52.219–9 and should be structured to allow for consideration of offers from small businesses.

- (C) When an evaluation assesses the extent that small businesses and historically black colleges or universities and minority institutions are specifically identified in proposals, the small businesses and historically black colleges or universities and minority institutions considered in the evaluation shall be listed in any subcontracting plan submitted pursuant to FAR 52.219–9 to facilitate compliance with 252.219–7003(g).

### 215.305 Proposal evaluation.

- (a)(2) *Past performance evaluation.* When a past performance evaluation is required by FAR 15.304, and the solicitation includes the clause at FAR 52.219–8, Utilization of Small Business Concerns, the evaluation factors shall include the past performance of offerors in complying with requirements of that clause. When a past performance evaluation is required by FAR 15.304, and the solicitation includes the clause at FAR 52.219–9, Small Business Subcontracting Plan, the evaluation factors shall include the past

performance of offerors in complying with requirements of that clause.

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## DEPARTMENT OF DEFENSE

### 48 CFR Parts 225 and 252

[DFARS Case 2003–D008]

### Defense Federal Acquisition Regulation Supplement; Foreign Acquisition

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to the acquisition of supplies and services from foreign sources. This proposed rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before May 23, 2005, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2003–D008, using any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Defense Acquisition Regulations Web Site:* <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. Follow the instructions for submitting comments.

- *E-mail:* [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2003–D008 in the subject line of the message.

- *Fax:* (703) 602–0350.

- *Mail:* Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

- *Hand Delivery/Courier:* Defense Acquisition Regulations Council, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

All comments received will be posted to <http://emissary.acq.osd.mil/dar/dfars.nsf>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, (703) 602–0328.

### SUPPLEMENTARY INFORMATION:

#### A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the