

## II. Discussion and Analysis

The proposed rule amends DFARS 232.104 to state that DoD has made the determination that the use of customary contract financing (see FAR 32.113), other than loan guarantees and advance payments, is in DoD's best interest, and further justification of its use is unnecessary on fixed-price contracts that meet the dollar thresholds established in FAR 32.104(d), with a period of performance in excess of a year, and in solicitations expected to result in such contracts.

## 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 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.

## IV. 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.* However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to state that DoD has made the determination that the use of customary contract financing (see FAR 32.113), other than loan guarantees and advance payments, is in DoD's best interest, and further justification of its use is unnecessary on fixed-price contracts that meet the dollar thresholds established in FAR 32.104(d), with a period of performance in excess of a year, and in solicitations expected to result in such contracts.

The objective of the proposed rule is to clarify that the use of certain customary contract financing does not require further justification, as it has been determined to be in DoD's best interest, and the use of the specified contract financing is an incentive for

commercial companies to do business with DoD.

This rule will apply to DoD contractors, including small entities, where a fixed-price contract with a period of performance in excess of one year and meeting the thresholds in FAR 32.104(d) is contemplated.

There is no change to reporting or recordkeeping as a result of this rule. This rule changes processes that are internal to the Government and does not have any impact on small entities for reporting or recordkeeping.

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 requirements.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2015–D026), in correspondence.

## 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 Part 232

Government procurement.

Jennifer L. Hawes,

*Editor, Defense Acquisition Regulations System.*

Therefore, 48 CFR part 232 is proposed to be amended as follows:

### PART 232—CONTRACT FINANCING

- 1. The authority citation for part 232 continues to read as follows:

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

- 2. Add section 232.104 to subpart 232.1 to read as follows:

#### 232.104 Providing contract financing.

For fixed-price contracts with a period of performance in excess of a year that meet the dollar thresholds established in FAR 32.104(d), and for solicitations expected to result in such contracts, in lieu of the requirement at FAR 32.104(d)(1)(ii) for the contractor to demonstrate actual financial need or the unavailability of private financing, DoD has determined that—

(1) The use of customary contract financing (see FAR 32.113), other than loan guarantees and advance payments, is in DoD's best interest; and

(2) Further justification of its use in individual acquisitions is unnecessary.

[FR Doc. 2016–15246 Filed 6–29–16; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Part 252

[Docket DARS–2016–0020]

RIN 0750–AI96

#### Defense Federal Acquisition Regulation Supplement: Administrative Cost To Issue and Administer a Contract (DFARS Case 2016–D020)

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

**ACTION:** Proposed rule.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to revise the estimated administrative cost to award and administer a contract, for the purpose of evaluating bids for multiple awards.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before August 29, 2016, to be considered in the formation of a final rule.

**ADDRESSES:** Submit comments identified by DFARS Case 2016–D020, using any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by entering “DFARS Case 2016–D020” under the heading “Enter keyword or ID” and selecting “Search.” Select the link “Submit a Comment” that corresponds with “DFARS Case 2016–D020.” Follow the instructions provided at the “Submit a Comment” screen. Please include your name, company name (if any), and “DFARS Case 2016–D020” on your attached document.

- *Email:* [osd.dfars@mail.mil](mailto:osd.dfars@mail.mil). Include DFARS Case 2016–D020 in the subject line of the message.

- *Fax:* 571–372–6094.

- *Mail:* Defense Acquisition Regulations System, Attn: Mr. Christopher Stiller, OUSD (AT&L) DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check [www.regulations.gov](http://www.regulations.gov), approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

**FOR FURTHER INFORMATION CONTACT:** Mr. Christopher Stiller, telephone 571–372–6176.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

DoD is proposing to revise the DFARS to implement a policy that addresses the Government's cost to award and administer a contract, for the purpose of evaluating bids for multiple awards. The provision at DFARS 252.247–7008, Evaluation of Bids—Basic, and its Alternate I, reflects that \$500 is the administrative cost to the Government for issuing and administering contracts. Based on increase in the Consumer Price Index since 1990, an upward adjustment of \$500 in the provision to \$1,000 would be a realistic reflection of the actual cost to the Government to issue and administer a contract. This increase conforms to an equivalent adjustment proposed under FAR Case 2016–003 published in the **Federal Register** on May 12, 2016 (81 FR 29514).

**II. Discussion and Analysis**

Amendments to DFARS provision 252.247–7008, Evaluation of Bids—Basic, and its Alternate I, are proposed by this rule. A monetary adjustment is proposed to increase, from \$500 to \$1,000, the administrative cost to the Government for issuing and administering each contract to be awarded under a solicitation for the purpose of evaluating bids for multiple awards.

**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 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.

**IV. Regulatory Flexibility Act**

DoD does not expect this proposed 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.* However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

The clause at DFARS 252.247–7008, Evaluation of Bids, reflects that \$500 is the administrative cost to the Government for issuing and administering contracts. The rule is necessary to reestablish a more realistic estimate of the cost to award and administer a contract, for the purpose of evaluating bids for multiple awards. The estimated administrative cost to award and administer a contract has not changed since 1990.

The objective of this rule is to revise DFARS 252.247–7008, Evaluation of Bids, to include an inflation adjustment based on increase in the Consumer Price Index since 1990. See <http://data.bls.gov/cgi-bin/cpicalc.pl>. The adjustment will change the estimated cost to award and administer a contract from \$500 to \$1,000.

According to the Federal Procurement Data System, in fiscal year 2015, the Federal Government made approximately 2,019 definitive contract awards to small businesses using sealed bidding procedures and 103 indefinite delivery contract awards to small businesses using sealed bidding procedures, 12 of which were multiple awards. Thus, DoD does not expect this rule to have an economic impact on a substantial number of small entities. Additionally, the rule does not place any new requirements on small entities.

The rule does not duplicate, overlap, or conflict with any other Federal rules. There are no significant alternatives to the rule which accomplish the stated objectives.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2016–D020), in correspondence.

**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 Part 252**

Government procurement.

**Jennifer L. Hawes,**  
*Editor, Defense Acquisition Regulations System.*

Therefore, 48 CFR part 252 is proposed to be amended as follows:

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

■ 1. The authority citation for part 252 continues to read as follows:

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

**252.247–7009 [Amended]**

- 2. Amend section 252.247–7008 by—
- a. Removing the provision date “(APR 2014)” and adding “(DATE)” in its place;
- b. In paragraph (b)(1), removing “\$500” and adding “\$1,000” in its place; and
- c. In Alternate I:
  - i. Removing the clause date “(APR 2014)” and adding “(DATE)” in its place; and
  - ii. In paragraph (b)(1), removing “\$500” and adding “\$1,000” in its place.

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**DEPARTMENT OF TRANSPORTATION**

**Pipeline and Hazardous Materials Safety Administration**

**49 CFR Parts 171, 172, 173, 176, 178, and 180**

[Docket No. PHMSA–2015–0102 (HM–219A)]

**RIN 2137–AF09**

**Hazardous Materials: Miscellaneous Petitions for Rulemaking (RRR)**

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** In response to petitions for rulemaking submitted by the regulated community, PHMSA proposes to amend the Hazardous Materials Regulations (HMR; 49 CFR parts 171 through 180) to update, clarify, or provide relief from miscellaneous regulatory requirements. Specifically, PHMSA is proposing amendments that include, but are not