

DEPARTMENT OF DEFENSE**Defense Acquisition Regulations System****48 CFR Part 211**

[Docket No. DARS–2015–0041]

RIN 0750–AI65

Defense Federal Acquisition Regulation Supplement: Item Unique Identification Prescription Correction (DFARS Case 2014–D021)

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 correct the prescription for a clause.

DATES: Effective August 26, 2015.

FOR FURTHER INFORMATION CONTACT: Mr. Dustin Pitsch, telephone 571–372–6090.

SUPPLEMENTARY INFORMATION:**I. Background**

This final rule corrects the clause prescription at DFARS 211.274–6(a)(1) to reflect a change that was addressed and previously published for public comment in the **Federal Register** for proposed rule 2011–D055, Item Unique Identifier Update, on June 15, 2012 (77 FR 35921). The proposed rule presented edits to the prescription for the clause 252.211–7003, Item Unique Identification and Valuation. One of the changes was inadvertently omitted from the final rule, which was published in the **Federal Register** on December 16, 2013 (78 FR 76067). Due to baseline changes that occurred (in DFARS rule 2012–D001) between the time when the proposed rule was published and the final rule was published, the revision from the proposed rule to the clause prescription was not reflected in the publication of the final rule. One of the public comments received in response to the proposed rule was related to the clause prescription. The comment, which recommended inclusion of clarifying text related to “real property,” was addressed in the final rule, had no impact on the clause prescription in the final rule, and is inconsequential to the correction being made in this rule.

The correction to the prescription at DFARS 211.274–6(a)(1) for clause 252.211–7003, Item Unique Identification and Valuation, clarifies that the clause is used in solicitations and contracts that include the furnishing of “supplies, and for services

involving the furnishing of supplies, unless the exceptions at 211.274–2(b) apply.” The current clause prescription does not directly address the exceptions for use of the clause and instead states that the clause applies to items “that require item identification or valuation, or both, in accordance with 211.274–2 and 211.274–3.” This final rule corrects the clause prescription to reflect the changes anticipated by the 2011–D055 proposed rule.

II. 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.

III. Regulatory Flexibility Act

Initial and final regulatory flexibility analyses were previously prepared consistent with the Regulatory Flexibility Act 5 U.S.C. 601, *et seq.*, under the DFARS Case 2011–D055 proposed and final rules, respectively.

IV. 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 211

Government procurement.

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

Therefore, 48 CFR part 211 is amended as follows:

PART 211—DESCRIBING AGENCY NEEDS

■ 1. The authority citation for 48 CFR part 211 continues to read as follows:

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

■ 2. Amend section 211.274–6 by revising paragraph (a)(1) to read as follows:

211.274–6 Contract clauses.

(a)(1) Use the clause at 252.211–7003, Item Unique Identification and Valuation, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, for supplies, and for services involving the furnishing of supplies, unless the conditions in 211.274–2(b) apply.

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[FR Doc. 2015–20876 Filed 8–25–15; 8:45 am]

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DEPARTMENT OF DEFENSE**Defense Acquisition Regulations System****48 CFR Part 217**

[Docket No. DARS–2015–0039]

RIN 0750–AI63

Defense Federal Acquisition Regulation Supplement: Contracts or Delivery Orders Issued by a Non-DoD Agency (DFARS Case 2015–D014)

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 remove duplicative text relating to contracts or delivery orders issued by a non-DoD Agency and relocate remaining text to conform to the Federal Acquisition Regulation (FAR).

DATES: Effective August 26, 2015.

FOR FURTHER INFORMATION CONTACT: Ms. Tresa Sullivan, 571–372–6089.

SUPPLEMENTARY INFORMATION:**I. Background**

DoD is amending the DFARS to move the coverage at DFARS subpart 217.78, Contracts or Delivery Orders Issued by a Non-DoD Agency, to DFARS subpart 217.7, Interagency Acquisitions: Acquisitions by Nondefense Agencies on Behalf of the Department of Defense. This change will align the DFARS with the same coverage in the FAR. In addition, some duplicative text and definitions for “non-DoD agency” and “non-DoD agency that is an element of the intelligence community” were removed from the DFARS coverage,

since the subject matter is now addressed in FAR subpart 17.7.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the Federal Acquisition Regulation is 41 U.S.C. 1707, Publication of Proposed Regulations. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it deletes duplicative text and relocates text within the DFARS. These DFARS updates are administrative in nature and therefore do not have a significant cost or administrative impact on contractors or offerors.

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

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501-1, and 41 U.S.C. 1707 does not require publication for public comment.

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 217

Government procurement.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 217 is amended as follows:

PART 217—SPECIAL CONTRACTING METHODS

■ 1. The authority citation for 48 CFR part 217 continues to read as follows:

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

■ 2. Add subpart 217.7 to read as follows:

Subpart 217.7—Interagency Acquisitions: Acquisitions by Nondefense Agencies on Behalf of the Department of Defense

Sec.

217.700 Scope of subpart.

217.701 Definitions.

217.770 Procedures.

Subpart 217.7—Interagency Acquisitions: Acquisitions by Nondefense Agencies on Behalf of the Department of Defense

217.700 Scope of subpart.

This subpart—

(a) Implements section 854 of the National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108-375), section 801 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181), and section 806 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111-84); and

(b) Prescribes policy for the acquisition of supplies and services through the use of contracts or orders issued by non-DoD agencies.

217.701 Definitions.

As used in this subpart—

Assisted acquisition means the type of interagency contracting through which acquisition officials of a non-DoD agency award a contract or a task or delivery order for the acquisition of supplies or services on behalf of DoD.

Direct acquisition means the type of interagency contracting through which DoD orders a supply or service from a Governmentwide acquisition contract maintained by a non-DoD agency.

Governmentwide acquisition contract means a task or delivery order contract that—

(1) Is entered into by a non-defense agency; and

(2) May be used as the contract under which property or services are procured

for one or more other departments or agencies of the Federal Government.

217.770 Procedures.

Departments and agencies shall establish and maintain procedures for reviewing and approving orders placed for supplies and services under non-DoD contracts, whether through direct acquisition or assisted acquisition, when the amount of the order exceeds the simplified acquisition threshold. These procedures shall include—

(a) Evaluating whether using a non-DoD contract for the acquisition is in the best interest of DoD. Factors to be considered include—

(1) Satisfying customer requirements;

(2) Schedule;

(3) Cost effectiveness (taking into account discounts and fees). In order to ensure awareness of the total cost of fees associated with use of a non-DoD contract, follow the procedures at PGI 217.703(1)(iii); and

(4) Contract administration (including oversight);

(b) Determining that the tasks to be accomplished or supplies to be provided are within the scope of the contract to be used;

(c) Reviewing funding to ensure that it is used in accordance with appropriation limitations; and

(d) Collecting and reporting data on the use of assisted acquisition for analysis. Follow the reporting requirements in subpart 204.6.

Subpart 217.78 [Removed and Reserved]

■ 3. Remove and reserve subpart 217.78, consisting of sections 217.7800, 217.7801, and 217.7802.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 225 and 236

[Docket No. DARS-2015-0019]

RIN 0750-AI52

Defense Federal Acquisition Regulation Supplement: Use of Military Construction Funds (DFARS Case 2015-D006)

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

ACTION: Final rule.

SUMMARY: DoD has adopted as final, without change, an interim rule