

List of Subjects in 48 CFR Parts 209 and 252

Government procurement.

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

■ Therefore, 48 CFR parts 209 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 209 and 252 continues to read as follows:

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

PART 209—CONTRACTOR QUALIFICATIONS**209.103 and 209.103–70 [Removed]**

■ 2. Sections 209.103 and 209.103–70 are removed.

■ 3. Section 209.106 is revised to read as follows:

209.106 Preaward surveys.

When requesting a preaward survey, follow the procedures at PGI 209.106.

209.106–1 and 209.106–2 [Removed]

■ 4. Sections 209.106–1 and 209.106–2 are removed.

■ 5. Section 209.202 is revised to read as follows:

209.202 Policy.

(a)(1) Except for aviation critical safety items, obtain approval in accordance with PGI 209.202(a)(1) when establishing qualification requirements. See 209.270 for approval of qualification requirements for aviation critical safety items.

Subpart 209.3 [Removed]

■ 6. Subpart 209.3 is removed.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**252.209–7000 [Removed and Reserved]**

■ 7. Section 252.209–7000 is removed and reserved.

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DEPARTMENT OF DEFENSE**48 CFR Part 212**

[DFARS Case 2003–D074]

Defense Federal Acquisition Regulation Supplement; Acquisition of Commercial Items

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to the acquisition of commercial items. This rule is a result of an initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

EFFECTIVE DATE: November 10, 2004.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Schulze, Defense Acquisition Regulations Council, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0326; facsimile (703) 602–0350. Please cite DFARS Case 2003–D074.

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

- Delete unnecessary text pertaining to structuring of contracts at DFARS 212.303; and
- Update a FAR reference at DFARS 212.503(c)(ii).

DoD published a proposed rule at 69 FR 31939 on June 8, 2004. DoD received no comments on the proposed rule. Therefore, DoD has adopted the proposed rule as a final rule without change.

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 certifies that this final rule will not 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 deletes unnecessary text and updates reference information,

but makes no significant change to contracting policy.

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 212

Government procurement.

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

■ Therefore, 48 CFR Part 212 is amended as follows:

■ 1. The authority citation for 48 CFR Part 212 continues to read as follows:

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

PART 212—ACQUISITION OF COMMERCIAL ITEMS**212.303 [Removed]**

■ 2. Section 212.303 is removed.

212.503 [Amended]

■ 3. Section 212.503 is amended in paragraph (c)(ii) by revising the parenthetical to read “(see FAR 15.403–1(b)(3))”.

[FR Doc. 04–24866 Filed 11–9–04; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE**48 CFR Part 214**

[DFARS Case 2003–D076]

Defense Federal Acquisition Regulation Supplement; Sealed Bidding

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to sealed bidding. This rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

EFFECTIVE DATE: November 10, 2004.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Schulze, Defense Acquisition Regulations Council, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0326; facsimile (703) 602–0350. Please cite DFARS Case 2003–D076.

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 final rule is a result of the DFARS Transformation initiative. The DFARS changes include—

- Deletion of unnecessary text at DFARS 214.201–1, 214.407–3(h), and 214.5.
- Redesignation of DFARS 214.202–5(d) as 214.202–5(c) for consistency with the corresponding FAR text.
- Addition of the Defense Contract Management Agency General Counsel to the list of agency officials authorized to permit correction of mistakes in bid before award.

DoD published a proposed rule at 69 FR 8152 on February 23, 2004. DoD received no comments on the proposed rule. Therefore, DoD has adopted the proposed rule as a final rule without change.

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 certifies that this final rule will not 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 deletes unnecessary text and updates administrative information, but makes no significant change to contracting policy.

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 214

Government procurement.

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

■ Therefore, 48 CFR part 214 is amended as follows:

■ 1. The authority citation for 48 CFR part 214 continues to read as follows:

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

PART 214—SEALED BIDDING

214.201–1 [Removed]

■ 2. Section 214.201–1 is removed.

214.202–5 [Amended]

■ 3. Section 214.202–5 is amended by redesignating paragraph (d) as paragraph (c).

■ 4. Section 214.407–3 is amended as follows:

- a. By adding paragraph (e)(ix); and
- b. By removing paragraph (h). The added text reads as follows:

214.407–3 Other mistakes disclosed before award.

(e) * * *

(ix) Defense Contract Management Agency: General Counsel, DCMA.

Subpart 214.5—[Removed]

■ 5. Subpart 214.5 is removed.

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DEPARTMENT OF DEFENSE

48 CFR Part 228

[DFARS Case 2003–D037]

Defense Federal Acquisition Regulation Supplement; Insurance

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to insurance requirements. This rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

EFFECTIVE DATE: November 10, 2004.

FOR FURTHER INFORMATION CONTACT: Mr. Thaddeus Godlewski, Defense Acquisition Regulations Council, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–2022; facsimile (703) 602–0350. Please cite DFARS Case 2003–D037.

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 final rule is a result of the DFARS Transformation initiative. The rule deletes DFARS text in the areas addressed below. This text has been relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI), available at <http://www.acq.osd.mil/dpap/dars/pgi>.

- **DFARS 228.304, Risk-pooling arrangements.** In the early 1950's, DoD teamed with the insurance industry to develop a program that would minimize the cost of workers' compensation and contractor liability charged to Government contracts. The objective was to provide an optional insurance plan to be used if it provided a better deal than what could be purchased on the open market. The team's solution was the National Defense Projects Rating Plan (NDPRP). The NDPRP defined premiums via a formula based upon average workers' compensation rates throughout the country and adjusted for experience pooled from Defense contractors. This produced premiums without loadings, *e.g.*, commissions, and eliminated the burden of negotiating premiums every year with insurance carriers. Today, there is little cost difference between the NDPRP and the states' workers' compensation program, because the states have adopted the same premium algorithm as the NDPRP and many contractors have adopted self-insurance. The text at DFARS 228.304 may be beneficial in the event of a prolonged surge in Defense contract activity, and should be retained as guidance. Accordingly, DoD has removed this text from the DFARS and relocated it to the new DFARS companion resource, PGI.
- **DFARS 228.305, Overseas workers' compensation and war-hazard insurance.** The Defense Base Act (42