

List of Subjects in 48 CFR Part 216

Government procurement.

Mary Overstreet,

Editor, Defense Acquisition Regulations System.

Therefore, the Defense Acquisition Regulations System confirms as final the interim rule published at 75 FR 40716 on July 13, 2010, with the following changes:

PART 216—TYPES OF CONTRACTS

- 1. The authority citation for 48 CFR part 216 continues to read as follows:

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

- 2. Revise section 216.504 to read as follows:

216.504 Indefinite-quantity contracts.

(c)(1)(ii)(D) Limitation on single-award contracts.

(i) The authority to make the determination authorized in FAR 16.504(c)(1)(ii)(D)(1) shall not be delegated below the level of the senior procurement executive.

(ii) The head of the agency must notify the congressional defense committees within 30 days after making any determination under FAR 16.504(c)(1)(ii)(D)(1). If the award concerns intelligence or intelligence-related activities of DoD, notification shall also be provided to the Select Committee on Intelligence of the Senate and Permanent Select Committee on Intelligence of the House of Representatives. (See sample notification at PGI 216.504(c)(1)(ii)(D)(iv).)

(iii) A copy of each determination made in accordance with FAR 16.504(c)(1)(ii)(D) and each congressional notice shall be submitted in accordance with PGI 216.504(c)(1)(ii)(D)(iii).

[FR Doc. 2011-29903 Filed 11-17-11; 8:45 am]

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DEPARTMENT OF DEFENSE**Defense Acquisition Regulations System****48 CFR Part 219 and Appendix I to Chapter 2**

RIN 0750-AH44

Defense Federal Acquisition Regulation Supplement; Extension of Department of Defense Mentor-Protégé Pilot Program (DFARS Case 2011-D050)

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 to extend the date for submittal of applications under the DoD Mentor-Protégé Pilot Program for new mentor-protégé agreements and the date mentors may incur costs and/or receive credit towards fulfilling their small business subcontracting goals through an approved mentor-protégé agreement. **DATES:** *Effective Date:* November 18, 2011.

FOR FURTHER INFORMATION CONTACT: Ms. Lee Renna, telephone 703-602-0764.

SUPPLEMENTARY INFORMATION:**I. Background**

This Defense Federal Acquisition Regulation Supplement (DFARS) case implements section 8016 of the National Defense Appropriations Act (NDAA) for Fiscal Year (FY) 2011 (Pub. L. 112-10). The NDAA for FY 2011 was signed into law on April 15, 2011. Section 8016 amends the DoD Mentor-Protégé Pilot Program (DoD MPP), section 831 of Public Law 110-510 (10 U.S.C. 2302, note), by changing the—

- Acceptance date for new DoD MPP agreements from September 30, 2010, to September 30, 2011; and
- Eligibility date DoD mentors may incur costs for the purposes of receiving cost reimbursement or credit toward attainment of subcontracting goals, from September 30, 2013, to September 30, 2014.

This final rule implements these changes in the corresponding DFARS regulations: 219.704(b) and (d); and I-103(a) and (b).

DoD is issuing a final rule because this rule does not have a significant effect beyond the internal operating procedures of DoD and does not have a significant cost or administrative impact on contractors or offerors. This final rule

merely extends the effective dates for an existing DoD program. These dates have already been extended by law.

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

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 and does not require publication for public comment.

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 219 and Appendix I to Chapter 2

Government procurement.

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Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 219 and 48 CFR chapter 2 appendix I are amended as follows:

- 1. The authority citation for 48 CFR part 219 and Appendix I continue to read as follows:

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

PART 219—SMALL BUSINESS PROGRAMS**219.7104 [Amended]**

- 2. Section 219.7104 is amended—
- (a) In paragraph (b), by removing the year “2013” and adding in its place “2014”; and

■ (b) In paragraph (d), by removing the year “2013” and adding in its place “2014”.

APPENDIX I—POLICY AND PROCEDURES FOR THE DOD PILOT MENTOR-PROTÉGÉ PROGRAM

■ 3. Section I–103 is amended—

■ (a) In paragraph (a) by removing the year “2010” and adding in its place “2011”; and

■ (b) In paragraph (b) introductory text by removing the year “2013” and adding in its place “2014”.

[FR Doc. 2011–29897 Filed 11–17–11; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 232

RIN 0750–AH19

Defense Federal Acquisition Regulation Supplement: Accelerate Small Business Payments (DFARS Case 2011–D008)

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

ACTION: Final rule.

SUMMARY: DoD is adopting as final, without change, an interim rule amending the Defense Federal Acquisition Regulation Supplement to accelerate payments to all small business concerns.

DATES: *Effective Date:* November 18, 2011.

FOR FURTHER INFORMATION CONTACT: Ms. Lee Renna, telephone 703–602–0764.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published an interim rule in the *Federal Register* at 76 FR 23505 on April 27, 2011, amending the Defense Federal Acquisition Regulation Supplement (DFARS) to provide accelerated payments for all small business concerns. The rule removes the term “disadvantaged” from the language at DFARS 232.903 and DFARS 232.906(a)(ii), thereby extending the accelerated payment policy uniformly to all small business concerns.

In combination with the change to the regulations, DoD immediately began a phased implementation to update the entitlement and payment systems so that they could accommodate accelerated payments. During the initial phase, the Defense Finance and

Accounting Service modified DoD’s largest system, the Mechanization of Contract Administration Services (MOCAS) system. MOCAS processes approximately 57 percent of the dollars paid through DFAS. The upgrades to MOCAS were completed on June 1, 2011. Over the course of the next year, subsequent legacy entitlement and payment system upgrades are scheduled for completion and deployment.

Two respondents submitted public comments. DoD reviewed the comments in the development of the final rule. A discussion of the comments is provided as follows.

II. Discussion and Analysis of the Public Comments

Comment: The first respondent commented that the rule would ensure their company had adequate cash flow to promptly pay its vendors.

Response: This positive endorsement of the rule is noted.

Comment: The second respondent stated that the wording of the rule is ambiguous. Rather than stating it is DoD policy to pay small business concerns “* * * as soon as possible * * *”, the respondent recommended that the rule should specify the number of days for processing payments to small business.

Response: The authority for DoD’s payment policy is the Office of Management and Budget’s (OMB’s) Prompt Payment Regulations at part 1315 of title 5 of the Code of Federal Regulations. The phrase “* * * as quickly as possible * * *” was taken verbatim from those regulations.

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 a significant regulatory action and, therefore, was 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

A final regulatory flexibility analysis (FRFA) has been prepared consistent with the Regulatory Flexibility Act, 5

U.S.C. 601, *et seq.*, and is summarized as follows:

This final rule adopts as final, without change, the interim rule that revised DFARS 232.903 and 232.906(a)(ii) to allow accelerated payment processes for all small business concerns. The objective of the rule is to pay small businesses as quickly as possible.

There were no significant issues raised by the public in response to the initial regulatory flexibility analysis.

There were no comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the rule.

Analysis of the Federal Procurement Data System indicates that approximately 60,000 small businesses had active contracts in Fiscal Year 2010. It is reasonable to assume a similar number of small businesses will be positively affected by the use of accelerated payment procedures.

This final rule imposes no new reporting or recordkeeping requirements on the small business community.

DoD expects this rule to have a significant positive economic impact on all small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because it extends accelerated payments to all small business concerns. There were no significant alternatives identified that would meet the objectives of the rule.

V. Paperwork Reduction Act

This final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Burden Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 232

Government procurement.

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Editor, Defense Acquisition Regulations System.

Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule amending 48 CFR part 232, which was published at 76 FR 23505 on April 27, 2011, is adopted as a final rule without change.

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