Community Health Center, IHS/ABQ Alamo Health Center and Kenaitze Indian Tribe) filed on May 15, 2018, Bristol Bay Area Health Corporation filed on April 2, 2018, and Council of Athabascan Tribal Government filed on April 9, 2018 *are dismissed as moot.*

87. *It is further ordered* that, pursuant to 5 U.S.C. 801(a)(1)(A), the Commission *shall send* a copy of the Report and Order to Congress and to the Government Accountability Office pursuant to the Congressional Review Act.

88. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of the Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

List of Subjects in 47 CFR Part 54

Communications common carriers, Health facilities, internet, Telecommunications.

Final Rule

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

PART 54—UNIVERSAL SERVICE

■ 1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302 unless otherwise noted.

■ 2. Amend § 54.675 by revising paragraph (a) to read as follows:

§ 54.675 Cap.

(a) *Amount of the annual cap.* The aggregate annual cap on federal universal service support for health care providers shall be $571 million per funding year, of which up to $150 million per funding year will be available to support upfront payments and multi-year commitments under the Healthcare Connect Fund.

(1) *Inflation increase.* In funding year 2018 and the subsequent funding years, the $571 million cap on federal universal support in the Rural Health Care Program shall be automatically increased annually to take into account increases in the rate of inflation as calculated in paragraph (a)(2) of this section.

(2) *Increase calculation.* To measure increases in the rate of inflation for the purposes of this paragraph (a), the Commission shall use the Gross Domestic Product Chain-type Price Index (GDP–CPI). To compute the annual increase as required by this paragraph (a), the percentage increase in the GDP–CPI from the previous year will be used. For instance, the annual increase in the GDP–CPI from 2017 to 2018 would be used for the 2018 funding year. The increase shall be rounded to the nearest 0.1 percent by rounding 0.05 percent and above to the next higher 0.1 percent and otherwise rounding to the next lower 0.1 percent. This percentage increase shall be added to the amount of the annual funding cap from the previous funding year. If the yearly average GDP–CPI decreases or stays the same, the annual funding cap shall remain the same as the previous year.

(3) *Public notice.* When the calculation of the yearly average GDP–CPI is determined, the Wireline Competition Bureau shall publish a public notice in the **Federal Register** within 60 days announcing any increase of the annual funding cap based on the rate of inflation.

(4) *Amount of unused funds.* All funds collected that are unused shall be carried forward into subsequent funding years for use in the Rural Health Care Program in accordance with the public interest and notwithstanding the annual cap. The Administrator shall report to the Commission, on a quarterly basis, funding that is unused from prior years of the Rural Health Care Program.

(5) *Application of unused funds.* On an annual basis, in the second quarter of each calendar year, all funds that are collected and that are unused from prior years shall be available for use in the next full funding year of the Rural Health Care Program in accordance with the public interest and notwithstanding the annual cap as described in this paragraph (a).

* * * * *

[FR Doc. 2018–14073 Filed 6–28–18; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 215, 217, and 243

[Docket DARS–2016–0026]

RIN 0750–AI99

Defense Federal Acquisition Regulation Supplement: Undefinitized Contract Action Definitization (DFARS Case 2015–D024)

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 provide a more transparent means of documenting the impact of costs incurred during the undefinitized period of an undefinitized contract action on allowable profit.

DATES: Effective June 29, 2018.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gomersall, telephone 571–372–6176.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the **Federal Register** at 81 FR 73007 on October 21, 2016, to amend the DFARS to provide a more transparent means of documenting the impact of costs incurred during the undefinitized period of an undefinitized contract action (UCA), and to recognize when contractors demonstrate efficient management and internal cost control systems through the submittal of a timely, auditable proposal in furtherance of definitization of a UCA. In some cases, DoD contracting personnel have not documented their consideration of the reduced risk to the contractor of costs incurred during the undefinitized period of a UCA. While such costs generally present very little risk to the contractor, the contracting officer should consider the reasons for any delays in definitization in making their determination of the appropriate assigned value for contract type risk.

II. Discussion and Analysis

Two respondents submitted public comments in response to the proposed rule. DoD reviewed the public comments in the development of this final rule. An analysis of the comments is provided as follows:

A. Summary of Significant Changes

The following changes were made to the language published in the proposed rule:

1. The term ''auditable proposal'' in 215.404–71–2 is revised as ''qualifying proposal as defined in 217.7401(c)'' for consistency with 10 U.S.C. 2326.

2. The instructions for completing blocks 24a and 24b have been revised for clarity.

3. The language at 215.404–71–3(d)(2)(ii) is revised for clarity.

B. Analysis of Public Comments

1. Weighted Guidelines Revision

Comment: One respondent did not see the need to change the current weighted guidelines form and structure to address unique requirements associated with establishing profit objectives for undefinitized contract actions, and therefore recommended no change to the current weighted guidelines application. The respondent asserted that the Government should comply with guidance provided by USD/AT&L, and the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017, which stipulates that allowable profit should reflect the cost risk at the time that a contractor submits a qualifying proposal. The respondent stated that contractors should not be penalized for positive and efficient performance because they agreed to start work before final agreement on price, particularly when Government action or inaction is the cause of the delay. The respondent therefore asserted that profit should be based upon the risk at the time of the proposal and not at the time of negotiation.

Response: The stated purpose of this rule is to provide a more transparent means of documenting the impact of costs incurred during the undefinitized period of a UCA, and to recognize when contractors demonstrate efficient management and internal cost control systems through the submittal of a timely, auditable proposal in furtherance of definitization of a UCA. Therefore, the weighted guidelines form is revised to provide a means of clearly demonstrating that the contracting officer has appropriately considered and documented the risk to the contractor during the undefinitized period, as well as the contractor's due diligence in submitting a timely, auditable proposal. DFARS case 2017–D022 has been opened to implement section 811, Modified Restrictions on Undefinitized Contractual Actions, of the NDAA for FY 2017.

2. Costs Incurred Prior to Definitization

Comment: One respondent stated that the requirements of DFARS 215.404–71–3(d)(2), which direct contracting officers to assess the extent to which costs have been incurred prior to definitization of the UCA, are inconsistent with the tenets of the NDAA for FY 2017 and should also be deleted.

Response: The requirements of DFARS 215.404–71–3(d)(2) are consistent with the requirements of section 811 of the NDAA for FY 2017, which are being implemented under DFARS case 2017–D022.

3. Management/Cost Control Weighted Guidelines Factor Adjustment

Comment: One respondent expressed concern that the 1 percent adjustment to the management/cost control factor is tied to the contractor's timely submission of an auditable proposal. The respondent stated that in many cases, industry submits timely, auditable proposals only to have the Government, usually after lengthy delay, deem them insufficient and request an updated proposal. This becomes an endless loop of auditing, requests for updated information (including actuals), more auditing, more requests for updated information, etc.

Response: The adjustment to the management/cost control factor in the weighted guidelines is established to allow contracting officers to recognize when contractors demonstrate efficient management and internal cost control systems through the submittal of a timely, auditable proposal in furtherance of definitization of a UCA. It is incumbent on contractors to provide timely, auditable proposals in order to demonstrate their efficient management and internal cost control systems.

4. Timely UCA Definitization

Comment: Both respondents expressed concern that the rule does not address the need for the Government to definitize UCAs in a timely manner.

Response: To provide for enhanced management and oversight of UCAs, departments and agencies prepare and maintain semiannual Consolidated UCA Management Plans and UCA Management Reports to ensure contracting officers are actively and efficiently pursuing definitization of UCAs. Likewise, contractors are expected to submit timely, auditable proposals, including adequate supporting data in order to avoid unnecessary delays.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Items, Including Commercially Available Off-the-shelf (COTS) Items

This rule amends the DFARS to provide a more transparent means of documenting the impact of costs incurred during the undefinitized period of an undefinitized contract action on allowable profit. The revisions do not add any new burdens or impact applicability of clauses and provisions at or below the simplified acquisition threshold, or to commercial items.

IV. 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.

V. Executive Order 13771

This rule is not an E.O. 13771, Reducing and Controlling Regulatory Costs, regulatory action, because this rule is not significant under E.O. 12866.

VI. Regulatory Flexibility Act

This 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.*

The objective of the rule is to gain visibility into the contracting officer's rationale for the contract type risk values entered on the DD Form 1547, Record of Weighted Guidelines Application. The rule requires contracting officers to document in the price negotiation memorandum their rationale for assigning a specific contract type risk value. In addition, Item 24 on the DD Form 1547 is separated into Item 24a, Contract Type Risk (based on contractor incurred costs under a UCA) and Item 24b, Contract Type Risk (based on Government projected costs).

This rule will not have a significant economic impact on a substantial number of small entities. This rule only

changes processes that are internal to the Government by providing a more transparent means of documenting the impact of costs incurred during the undefinitized period of a UCA when calculating negotiation profit objectives. This rule does not revise the current regulatory requirements at DFARS 215.404–71–3(d)(2), which direct contracting officers to assess the extent to which costs have been incurred prior to definitization of the contract action. However, to recognize when contractors demonstrate efficient management and cost control through the submittal of a timely, auditable proposal in furtherance of definitization of a UCA, and the proposal demonstrates effective cost control from the time of award to the present, the contracting officer may add 1 percentage point to the value determined for management/cost control up to the maximum of 7 percent.

There is no change to reporting or recordkeeping as a result of this rule. 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 considers the approach described in the proposed rule to be the most practical and beneficial for both Government and industry.

VII. 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 Parts 215, 217, and 243

Government procurement.

Amy G. Williams,

Deputy, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 215, 217, and 243 are amended as follows:

■ 1. The authority citation for 48 CFR parts 215, 217, and 243 continues to read as follows:

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

PART 215—CONTRACTING BY NEGOTIATION

■ 2. Amend section 215.404–71–2 by adding paragraph (e)(2)(iii) to read as follows:

215.404–71–2 Performance risk.

* * * * *

(e) * * *

(2) * * *

(iii) If the contractor demonstrates efficient management and cost control through the submittal of a timely, qualifying proposal (as defined in 217.7401(c)) in furtherance of definitization of an undefinitized contract action, and the proposal demonstrates effective cost control from the time of award to the present, the contracting officer may add 1 percentage point to the value determined for management/cost control up to the maximum of 7 percent.

* * * * *

■ 3. Amend section 215.404–71–3 by revising paragraphs (b) introductory text, (b)(1) through (3), and (d)(2) to read as follows:

215.404–71–3 Contract type risk and working capital adjustment.

* * * * *

(b) *Determination.* The following extract from the DD 1547 is annotated to explain the process.

Item	Contractor risk factors	Assigned value	Base	Profit objective
24a	Contract Type Risk (based on incurred costs at the time of qualifying proposal submission).	(1)	(2)(i)	(3)
24b	Contract Type Risk (based on Government estimated cost to complete)	(1)	(2)(ii)	(3)
24c	Totals	.....	(3)	(3)

Item	Contractor risk factors	Costs financed	Length factor	Interest rate	Profit objective
25	Working Capital (4)	(5)	(6)	(7)	(8)

(1) Select a value from the list of contract types in paragraph (c) of this section using the evaluation criteria in paragraph (d) of this section. See paragraph (d)(2) of this section.

(2)(i) Insert the amount of costs incurred as of the date the contractor submits a qualifying proposal, such as under an undefinitized contract action, (excluding facilities capital cost of money) into the Block 24a column titled Base.

(ii) Insert the amount of Government estimated cost to complete (excluding facilities capital cost of money) into the Block 24b column titled Base.

(3) Multiply (1) by (2)(i) and (2)(ii), respectively for Blocks 24a and 24b. Add Blocks 24a and 24b and insert the totals in Block 24c.

* * * * *

(d) * * *

(2) *Mandatory.* (i) The contracting officer shall assess the extent to which costs have been incurred prior to definitization of the contract action (also see 217.7404–6(a) and 243.204–70–6). When costs have been incurred prior to definitization, generally regard the contract type risk to be in the low end of the designated range. If a substantial portion of the costs have been incurred prior to definitization, the contracting officer may assign a value as low as 0 percent, regardless of contract type.

(ii) Contracting officers shall document in the price negotiation memorandum the reason for assigning a specific contract type risk value, to include the extent to which any reduced cost risk during the undefinitized period of performance was considered, in determining the negotiation objective.

* * * * *

PART 217—SPECIAL CONTRACTING METHODS

217.7404–6 [Amended]

■ 4. Amend section 217.7404–6 by—

■ a. In paragraph (b), removing ''The contractor's reduced cost risk for costs incurred'' and adding in its place ''Any reduced cost risk to the contractor for costs expected to be incurred'' in its place; and

■ b. In paragraph (c), removing ''contract file'' and adding ''price negotiation memorandum'' in its place.

PART 243—CONTRACT MODIFICATIONS

243.204–70–6 [Amended]

■ 5. Amend section 243.204–70–6 by—
■ a. In paragraph (b), removing ''The contractor's reduced cost risk for costs incurred'' and adding ''Any reduced cost risk to the contractor for costs expected to be incurred'' in its place; and
■ b. In paragraph (c), removing ''contract action'' and adding ''unpriced change order'' in its place and removing ''contract file'' and adding ''price negotiation memorandum'' in its place.

[FR Doc. 2018–14042 Filed 6–28–18; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 216, 247, and 252

[Docket DARS–2018–0031]

RIN 0750–AJ91

Defense Federal Acquisition Regulation Supplement: Repeal of DFARS Clause ''Requirements'' (DFARS Case 2018–D030)

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 a clause that is duplicative of an existing Federal Acquisition Regulation (FAR) clause.

DATES: Effective June 29, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Carrie Moore, telephone 571–372–6093.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is amending the DFARS to remove the DFARS clause 252.216–7010, Requirements, the Alternate clause, the associated clause prescription at DFARS 216.506, and a cross-reference to the clause at DFARS 247.271–3(p).

The DFARS clause is included in contracts for preparation of personal property for movement or storage, or for intra-city or intra-area movement; advises contractors that a requirements contract has been issued and how quantities work under the contract; that the delivery of items or performance of work is subject to the issuance of orders; and, that the Government shall order all requirements covered by the contract from the contractor, unless certain circumstances apply.

FAR clause, 52.216–21, Requirements, advises contractors of the same information in the DFARS clause, and also provides a date after which the contractor is not required to make any deliveries under the contract. The DFARS clause is no longer necessary, because the FAR clause applies to the situations in which the DFARS clause is prescribed for use and covers the information contained in the DFARS clause. As such, this DFARS clause is now redundant and can be removed.

The removal of this DFARS clause supports a recommendation from the DoD Regulatory Reform Task Force. On February 24, 2017, the President signed Executive Order (E.O.) 13777, ''Enforcing the Regulatory Reform Agenda,'' which established a Federal policy ''to alleviate unnecessary regulatory burdens'' on the American people. In accordance with E.O. 13777, DoD established a Regulatory Reform Task Force to review and validate DoD regulations, including the DFARS. A public notification of the establishment of the DFARS Subgroup to the DoD Regulatory Reform Task Force, for the purpose of reviewing DFARS provisions and clauses, was published in the **Federal Register** at 82 FR 35741 on August 1, 2017, and requested public input. No public comments were received on this provision. Subsequently, the DoD Task Force reviewed the requirements of DFARS clause 252.216–7010, Requirements, and determined that the DFARS coverage was redundant and recommended removal.

II. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule does not add any new solicitation provisions or contract clauses. This rule only removes obsolete DFARS provision 252.216–7010, Requirements. Therefore, the rule does not impose any new requirements on contracts at or below the simplified acquisition threshold and for commercial items, including commercially available off-the-shelf items.

III. Executive Orders 12866 and 13563

Executive Order (E.O.) 12866, Regulatory Planning and Review; and E.O. 13563, Improving Regulation and Regulatory Review, 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. The Office of Management and Budget, Office of Information and Regulatory Affairs (OIRA), has determined that this is not a significant regulatory action as defined under section 3(f) of E.O. 12866 and, therefore, was not subject to review under section 6(b). This rule is not a major rule as defined at 5 U.S.C. 804(2).

IV. Executive Order 13771

This rule is not an E.O. 13771, Reducing Regulation and Controlling Regulatory Costs, regulatory action, because this rule is not significant under E.O. 12866.

V. 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 (FAR) is the Office of Federal Procurement Policy statute (codified at title 41 of the United States Code). Specifically, 41 U.S.C 1707(a)(1) requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and 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 DoD is not issuing a new regulation; rather, this rule merely removes an obsolete clause from the DFARS.

VI. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see section V. of this preamble), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that