

DEPARTMENT OF DEFENSE**48 CFR Part 206**

[DFARS Case 97-D324]

Defense Federal Acquisition Regulation Supplement; Competition Exception for International Agreements

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 841(b) of the National Defense Authorization Act for Fiscal Year 1998. Section 841(b) repeals the requirement for the competition advocate to approve documentation prepared by the head of the contracting activity, for use of other than competitive procedures, when the terms of an international agreement have the effect of requiring such procedures.

EFFECTIVE DATE: December 9, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Rider, Defense Acquisition Regulations Council, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0131; telefax (703) 602-0350. Please cite DFARS Case 97-D324.

SUPPLEMENTARY INFORMATION:**A. Background**

This final rule revises DFARS 206.302-4 to implement Section 841(b) of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105-85). Section 841(b) amends 10 U.S.C. 2304(f)(2)(E) to repeal the requirement for the competition advocate to approve documentation supporting the use of other than competitive procedures for an acquisition, when the use of such procedures is based upon the terms of an international agreement.

B. Regulatory Flexibility Act

The final rule does not constitute a significant revision within the meaning of FAR 1.501 and Pub. L. 98-577 and publication of public comment is not required. However, comments from small entities concerning the affected DFARS subpart will be considered in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 97-D324.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the final 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 206

Government procurement.

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

Therefore, 48 CFR Part 206 is amended as follows:

1. The authority citation for 48 CFR Part 206 continues to read as follows:

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

PART 206—COMPETITION REQUIREMENTS

2. Section 206.302-4 is revised to read as follows:

206.302-4 International agreement.

(c) *Limitations.* Pursuant to 10 U.S.C. 2304(f)(2)(E), the justifications and approvals described in FAR 6.303 and 6.304 are not required if the head of the contracting activity prepares a document that describes the terms of an agreement or treaty or the written directions, such as a Letter of Offer and Acceptance, that have the effect of requiring the use of other than competitive procedures for the acquisition.

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DEPARTMENT OF DEFENSE**48 CFR Part 217**

[DFARS Case 97-D319]

Defense Federal Acquisition Regulation Supplement; Waiver Authority to Support Humanitarian or Peacekeeping Operations

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 803 of the National Defense Authorization Act for Fiscal Year 1998. Section 803 permits the head of an agency to waive certain limitations on the use of undefinitized contract actions, if the waiver is necessary to support a humanitarian or peacekeeping operation.

EFFECTIVE DATE: December 9, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Rider, Defense Acquisition Regulations Council,

PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0131; telefax (703) 602-0350. Please cite DFARS Case 97-D319.

SUPPLEMENTARY INFORMATION:**A. Background**

This final rule amends DFARS 217.7404-5 to implement Section 803 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105-85). Section 803 amends the limitations at 10 U.S.C. 2326(b)(4) pertaining to the use of undefinitized contract actions. Editorial changes are made at 217.7404-3.

B. Regulatory Flexibility Act

The final rule does not constitute a significant revision within the meaning of FAR 1.501 and Pub. L. 98-577 and publication for public comment is not required. However, comments from small entities concerning the affected DFARS subpart will be considered in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 97-D319.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the final 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 217

Government procurement.

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

Therefore, 48 CFR Part 217 is amended as follows:

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

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

PART 217—SPECIAL CONTRACTING METHODS

2. Section 217.7404-3 is amended by revising paragraph (a) introductory text and paragraph (a)(1) to read as follows:

217.7404-3 Definitization schedule.

(a) UCAs shall contain definitization schedules that provide for definitization by the earlier of—

(1) The date that is 180 days after issuance of the action (this date may be extended but may not exceed the date that is 180 days after the contractor submits a qualifying proposal); or

* * * * *

3. Section 217.7404-5 is amended by revising paragraph (b) to read as follows:

217.7404-5 Exceptions.

* * * * *

(b) The head of an agency may waive the limitations in 217.7404-2, 217.7404-3, and 217.7404-4 for UCAs if the head of the agency determines that the waiver is necessary to support—

(1) A contingency operation as defined in 10 U.S.C. 101(a)(13); or

(2) A humanitarian or peacekeeping operation as defined in 10 U.S.C. 2302(7).

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DEPARTMENT OF DEFENSE

48 CFR Parts 223 and 252

[DFARS Case 98-D301]

Defense Federal Acquisition Regulation Supplement; Hazardous Waste Disposal

AGENCY: Department of Defense (DoD.)

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove guidance pertaining to contracts for the offsite treatment or disposal of hazardous waste from defense facilities. The statute upon which this guidance was based applies only to contracts entered into during fiscal years 1992 through 1996.

EFFECTIVE DATE: December 9, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Pelkey, Defense Acquisition Regulations Council, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0131; telefax (703) 602-0350. Please cite DFARS Case 98-D301.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule removes DFARS Subpart 223.70 and the clause at DFARS 252.223-7005, which implemented 10 U.S.C. 2708, Contracts for handling hazardous waste from defense facilities. 10 U.S.C. 2708 applies only to contracts entered into during fiscal years 1992 through 1996.

B. Regulatory Flexibility Act

The final rule does not constitute a significant revision within the meaning of FAR 1.501 and Pub. L. 98-577 and publication for public comment is not required. However, comments from small entities concerning the affected DFARS subpart will be considered in

accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 98-D301.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the final 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 Parts 223 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 223 and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 223 and 252 continues to read as follows:

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

PART 223—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

Subpart 223.70—[Removed and Reserved]

2. Subpart 223.70 is removed and reserved.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.223-7005 [Removed and Reserved]

3. Section 252.223-7005 is removed and reserved.

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DEPARTMENT OF DEFENSE

48 CFR Part 237

[DFARS Case 97-D328]

Defense Federal Acquisition Regulation Supplement; Service Contracts that Cross Fiscal Years

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove obsolete guidance pertaining to service contracts that cross fiscal years. Section 801 of the National Defense Authorization Act for Fiscal Year 1998 expanded the statutory authority to enter into such contracts.

Federal Acquisition Circular 97-09, dated October 30, 1998, incorporated current guidance on this subject into the Federal Acquisition Regulation.

EFFECTIVE DATE: December 9, 1998.

FOR FURTHER INFORMATION CONTACT:

Mr. Michael Pelkey, Defense Acquisition Regulations Council, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0131; telefax (703) 602-0350. Please cite DFARS Case 97-D328.

SUPPLEMENTARY INFORMATION:

A. Background

Section 801 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105-85) amended 10 U.S.C. 2410a to expand the authority pertaining to service contracts that cross fiscal years. Item VIII of Federal Acquisition Circular 97-09 (63 FR 58600, October 30, 1998) amended the Federal Acquisition Regulation to implement Section 801. This final rule revises DFARS 237.106 to remove obsolete guidance pertaining to service contracts that cross fiscal years.

B. Regulatory Flexibility Act

The final rule does not constitute a significant revision within the meaning of FAR 1.501 and Pub. L. 98-577 and publication for public comment is not required. However, comments from small entities concerning the affected DFARS subpart will be considered in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 97-D328.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the final 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 237

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 237 is amended as follows:

1. The authority citation for 48 CFR Part 237 continues to read as follows:

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

PART 237—SERVICE CONTRACTING

2. Section 237.106 is revised to read as follows: