

of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

#### List of Subjects in 48 CFR Parts 203 and 252

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulation Council.*

Therefore, 48 CFR Parts 203 and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 203 and 252 continue to read as follows:

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

#### PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

2. Section 203.570 is revised to read as follows:

**203.570 Prohibition on persons convicted of frauds or other defense-contract-related felonies.**

##### 203.570-2 Policy.

(a) A contractor or subcontractor shall not knowingly allow a person, convicted after September 29, 1988, of fraud or any other felony arising out of a contract with the DoD, to serve—

(1) In a management or supervisory capacity on any DoD contract or first-tier subcontract;

(2) On its board of directors;

(3) As a consultant, agent, or representative; or

(4) In any capacity with the authority to influence, advise, or control the decisions of any DoD contractor or subcontractor with regard to any DoD contract or first-tier subcontract.

(b) DoD has sole responsibility for determining the period of the prohibition described in paragraph (a) of this subsection. The prohibition period—

(1) Shall not be less than 5 years from the date of conviction unless the agency head or a designee grants a waiver in the interest of national security; and

(2) May be more than 5 years from the date of conviction if the agency head or a designee makes a written determination of the need for the longer period. The agency shall provide a copy of the determination to the Bureau of Justice Assistance, U.S. Department of Justice, 810 Seventh Street, NW, Washington, DC 20531.

4. Section 203.570-5 is revised to read as follows:

##### 203.570-5 Contract clause.

Use the clause at 252.203-7001, Prohibition on Persons Convicted of Fraud or Other Defense-Contract-

Related Felonies, in all solicitations and contracts exceeding the simplified acquisition threshold, except solicitations and contracts for commercial items.

#### PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Section 252.203-7001 is amended by revising the section heading, clause title and date, and paragraphs (b) and (c); in paragraphs (a)(1)(i) and (ii) by removing the comma and adding in its place a semicolon; in paragraph (d) introductory text by removing the word “further”; in paragraph (f) introductory text by removing the word “prohibitions” and adding in its place the word “prohibition”; in paragraph (f)(3) by removing the comma; and in paragraph (h) by adding, before the word “Benefits”, the word “Federal”. The revised text reads as follows:

**252.203-7001 Prohibition on persons convicted of fraud or other defense-contract-related felonies.**

\* \* \* \* \*

PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER DEFENSE-CONTRACT-RELATED FELONIES (MARCH 1999)

\* \* \* \* \*

(b) Any individual who is convicted after September 29, 1988, of fraud or any other felony arising out of a contract with the DoD is prohibited from serving—

(1) In a management or supervisory capacity on any DoD contract or first-tier subcontract;

(2) On the board of directors of any DoD contractor or first-tier subcontractor;

(3) As a consultant, agent, or representative for any DoD contractor or first-tier subcontractor; or

(4) In any other capacity with the authority to influence, advise, or control the decisions of any DoD contractor or subcontractor with regard to any DoD contract or first-tier subcontract.

(c) Unless waived, the prohibition in paragraph (b) of this clause applies for not less than 5 years from the date of conviction.

\* \* \* \* \*

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#### DEPARTMENT OF DEFENSE

##### 48 CFR Parts 211 and 252

[DFARS Case 97-D014]

#### Defense Federal Acquisition Regulation Supplement; Single Process Initiative

**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 facilitate the use of management and manufacturing processes that DoD has accepted under the Single Process Initiative (SPI). SPI provides for industry submission and DoD review of alternatives to military and Federal specifications and standards.

**EFFECTIVE DATE:** March 25, 1999.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rick Laysen, 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-D014.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

This rule amends DFARS 211.273-2, 211.273-3, and 252.211-7005 to finalize the interim rule that was published in the **Federal Register** on August 20, 1997 (62 FR 44223), with a request for comments. Four sources submitted comments on the interim rule. All comments were considered in the development of the final rule.

The final rule differs from the interim rule in that it clarifies that an SPI management council includes contractor representation in addition to DoD representation; provides that, before offers are due, offerors may obtain verification that an SPI process is acceptable for a particular procurement; provides an Internet site where accepted SPI processes are listed; and clarifies documentation requirements for offerors proposing to the use SPI processes.

##### 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 industry participation in the DoD Single Process Initiative is voluntary. Approximately 310 contractors are involved in the initiative. It is estimated that 10 percent of those contractors are small businesses.

##### C. Paperwork Reduction Act

The Office of Management and Budget has approved the information collection requirements associated with this rule under OMB Control Number 0704-0398, for use through January 31, 2001.

**List of Subjects in 48 CFR Parts 211 and 252**

Government procurement.

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

Therefore, 48 CFR Parts 211 and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 211 and 252 continues to read as follows:

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

**PART 211—DESCRIBING AGENCY NEEDS**

2. Section 211.273-2 is amended by revising paragraph (b) to read as follows:

**211.273-2 Policy.**

\* \* \* \* \*

(b) DoD acceptance of an SPI process follows the decision of a Management Council, which includes representatives of the contractor, the Defense Contract Management Command, the Defense Contract Audit Agency, and the military departments.

\* \* \* \* \*

3. Section 211.273-3 is revised to read as follows:

**211.273-3 Procedures.**

(a) Solicitations for previously developed items shall encourage offerors to identify SPI processes for use in lieu of military or Federal specifications and standards cited in the solicitation. Use of the clause at 252.211-7005 satisfies this requirement.

(b) Contracting officers shall ensure that—

(1) Concurrence of the requiring activity is obtained for any proposed substitutions prior to contract award;

(2) Any necessary additional information regarding the SPI process identified in the proposal is obtained from the cognizant administrative contracting officer; and

(3) In competitive procurements, prospective offerors are provided the opportunity to obtain verification that an SPI process is an acceptable replacement for a military or Federal specification or standard for the particular procurement prior to the date specified for receipt of offers.

(c) Any determination that an SPI process is not acceptable for a specific procurement shall be made prior to contract award at the head of the contracting activity or program executive officer level. This authority may not be delegated.

**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

4. Section 252.211-7005 is revised to read as follows:

**252.211-7005 Substitutions for military or Federal specifications and standards**

As prescribed in 211.273-4, use the following clause:

SUBSTITUTIONS FOR MILITARY OR FEDERAL SPECIFICATIONS AND STANDARDS (MAR 1999)

(a) *Definition.* "SPI process," as used in this clause, means a management or manufacturing process that has been accepted previously by the Department of Defense under the Single Process Initiative (SPI) for use in lieu of a specific military or Federal specification or standard at specific facilities. Under SPI, these processes are reviewed and accepted by a Management Council, which includes representatives of the Contractor, the Defense Contract Management Command, the Defense Contract Audit Agency, and the military departments.

(b) Offerors are encouraged to propose SPI processes in lieu of military or Federal specifications and standards cited in the solicitation. A listing of SPI processes accepted at specific facilities is available via the Internet in PDF format at <http://www.dcmc.hq.dla.mil/spi/dbreport/modified.pdf> and in Excel format at <http://www.dcmc.hq.dla.mil/spi/dbreport/modified.xls>.

(c) An offeror proposing to use an SPI process in lieu of military or Federal specifications or standards cited in the solicitation shall—

(1) Identify the specific military or Federal specification or standard for which the SPI process has been accepted;

(2) Identify each facility at which the offeror proposes to use the specific SPI process in lieu of military or Federal specifications or standards cited in the solicitation;

(3) Identify the contract line items, subline items, components, or elements affected by the SPI process; and

(4) If the proposed SPI process has been accepted at the facility at which it is proposed for use, but is not yet listed at the Internet site specified in paragraph (b) of this clause, submit documentation of Department of Defense acceptance of the SPI process.

(d) Absent a determination that an SPI process is not acceptable for this procurement, the Contract shall use the following SPI processes in lieu of military or Federal specifications or standards:

(Offeror insert information for each SPI process)

SPI Process: \_\_\_\_\_

Facility: \_\_\_\_\_

Military or Federal Specification or Standard: \_\_\_\_\_

Affected Contract Line Item Number, Subline Item Number, Component, or Element: \_\_\_\_\_

(e) If a prospective offeror wishes to obtain, prior to the time specified for receipt of

offers, verification that an SPI process is an acceptable replacement for military or Federal specifications or standards required by the solicitation, the prospective offeror—

(1) May submit the information required by paragraph (d) of this clause to the Contracting Officer prior to submission of an offer; but

(2) Must submit the information to the Contracting Officer at least 10 working days prior to the date specified for receipt of offers.

(End of clause)

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**DEPARTMENT OF DEFENSE****48 CFR Part 217**

[DFARS Case 98-D311]

**Defense Federal Acquisition Regulation Supplement; Purchases Through Other Agencies**

**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 814 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999. Section 814 requires DoD to revise the regulations pertaining to interagency acquisitions under the Economy Act to cover orders under task or delivery order contracts.

**EFFECTIVE DATE:** March 25, 1999.

**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 98-D311.

**SUPPLEMENTARY INFORMATION:****A. Background**

This final rule adds a new section at DFARS 217.500 to implement Section 814 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Pub. L. 105-261). Section 814 requires DoD to revise the regulations pertaining to the Economy Act, issued pursuant to Section 844 of the National Defense Authorization Act for Fiscal Year 1994 (Pub. L. 103-160), to cover orders under task or delivery order contracts.

**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