Entities, and Significant Alternatives Considered. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

155. The Commission believes that the steps described below to facilitate participation in 833 Auction will result in both operational and administrative cost savings for small entities and other auction participants. For example, assigning toll free numbers through competitive bidding will benefit smaller entities rather than the prior first-come first-served basis which favored larger, more sophisticated entities that had invested in obtaining enhanced connectivity to the Toll Free Database. Moreover, the Commission also elected to allow potential subscribers, many of which are smaller entities, the choice between participating directly in the auction or indirectly through a RespOrg. In addition, the Commission created an alternative payment mechanism that will be available for both upfront and final payments, in which applicants can submit payments via ACH instead of wire transfer if the payments are below a $300 threshold. The Commission believes such measures will benefit small entities, who may be interested in only acquiring one or perhaps a few toll free numbers.

156. The procedures adopted in the *833 Auction Procedures Public Notice* to facilitate participation in the 833 Auction will result in both operational and administrative cost savings for small entities and other auction participants. In light of the numerous resources that will be available from the Commission and Somos at no cost, the processes and procedures adopted in the *833 Auction Procedures Public Notice* should result in minimal economic impact on small entities. For example, prior to the auction, small entities and other auction participants may seek clarification of or guidance on complying with application procedures, reporting requirements, and the bidding system. Small entities as well as other auction participants will be able to avail themselves of (1) a web-based, interactive online tutorial to familiarize themselves with auction procedures, filing requirements, bidding procedures, and other matters related to the 833 Auction and (2) a telephone hotline to assist with issues such as access to or navigation within the auction application system. The Commission and Somos also make copies of Commission decisions available to the public without charge, providing a low-cost mechanism for small businesses to conduct research prior to and throughout the auction. In addition, Somos will post public notices on its website, making this information easily accessible and without charge to benefit all 833 Auction applicants, including small businesses. These steps are made available to facilitate participation in the 833 Auction by all eligible bidders and may result in significant cost savings for small business entities who utilize these alternatives. Moreover, the adoption of bidding procedures in advance of the auctions is designed to ensure that the 833 Auction will be administered predictably and fairly for all participants, including small businesses.

157. The Commission will send a copy of the *833 Auction Procedures Public Notice,* including the Supplemental FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *833 Auction Procedures Public Notice* (or summary thereof) will also be published in the **Federal Register**.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2019–20526 Filed 9–25–19; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 208, 212, 213, 215, 216, 217, 234, and 237

[Docket DARS–2018–0055]

RIN 0750–AJ74

Defense Federal Acquisition Regulation Supplement: Restrictions on Use of Lowest Price Technically Acceptable Source Selection Process (DFARS Case 2018–D010)

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 implement sections of the National Defense Authorization Acts for Fiscal Years 2017 and 2018 that establish limitations and prohibitions on the use of the lowest price technically acceptable source selection process.

DATES: Effective October 1, 2019.

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

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the **Federal Register** at 83 FR 62550 on December 4, 2018, to implement the limitations and prohibitions on use of the lowest price technically acceptable (LPTA) source selection process provided in sections 813, 814, and 892 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Pub. L. 114–328) and sections 822, 832, 882, and 1002 of the NDAA for FY 2018 (Pub. L. 115–91). Sixteen respondents submitted public comments in response to the proposed rule.

II. Discussion and Analysis

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

A. Significant Changes as a Result of Public Comments

No changes from the proposed rule are made in the final rule as a result of the public comments received.

B. Analysis of Public Comments

1. Support for the Rule

Comment: Several respondents express support for the rule.

Response: DoD acknowledges support for the rule.

2. General Comments

Comment: A respondent expresses concern that the rule will be interpreted as a complete prohibition on the use of the LPTA source selection process. The respondent recommends revising the rule to clarify that use of the process is acceptable and expand on the circumstances in which it is or is not appropriate for use in acquisitions.

Response: It is not the intent of the rule to prohibit the use of the LPTA source selection process. The LPTA source selection process is a valuable part of the best value continuum and an acceptable and appropriate source selection approach for many acquisitions. Instead, the intent of the

rule is to implement the statutory language, which aims to identify meaningful circumstances that must exist for an acquisition to use the LPTA source selection process and certain types of requirements that will regularly benefit from the use of tradeoff source selection procedures. If a requirement satisfies the limitations for use of the LPTA source selection process, then the process may be used as a source selection approach. Supplemental information to contracting officers on when and from whom to seek additional guidance on whether a requirement satisfies the limitations at 215.101–2–70(a)(1) will be published in the DFARS Procedures, Guidance, and Information (PGI) in conjunction with this final rule.

Comment: One respondent expresses concern about how the agencies using fully automated systems to award contracts are going to implement this rule.

Response: Each Department or agency is required to implement the requirements of this final rule in its acquisition business processes and procedures.

Comment: One respondent expresses support for additional training and guidance that will assist acquisition personnel in making best value decisions.

Response: Training is readily available to DoD personnel on a variety of acquisition topics, including best value decisions. Upon publication of the final rule, the DFARS PGI will be updated to provide contracting officers with information on when and from whom to seek additional guidance when acquiring supplies and services that are impacted by this rule.

3. Expansion of the Applicability of the Rule

Comment: Some respondents recommend applying greater restrictions on the types of acquisitions that can use the LPTA source selection process. For example, a respondent suggests revising this rule to only authorize the use of the LPTA source selection process when acquiring goods that are predominantly expendable in nature, non-technical, or have a short shelf life or life expectancy. Another respondent suggests limiting the use of the LPTA source selection process to only commercial and commercial-off-the-shelf items valued at or below the simplified acquisition threshold, while expressly prohibiting its use for all other requirements.

Response: To ensure that DoD is not denied the benefit of cost and technical tradeoffs in the source selection process, the rule identifies meaningful circumstances that must exist for an individual requirement to use the LPTA source selection process. Each requirement has a unique set of circumstances that should be considered when developing a source selection approach. The LPTA source selection process is a valuable part of the best value continuum and can be used to facilitate an effective and competitive acquisition approach, depending on the circumstances of the acquisition. Limiting the use of the LPTA source selection process to only goods, commercial items under a specific dollar threshold, or other broadly defined groupings does not fully consider the circumstances of an individual requirement and could result in additional and unnecessary time and cost burdens for both Government and industry.

4. Limitation Criteria at 215.101–2–70(a)(1)

a. Application of Criteria

Comment: Some respondents recommend revising the rule to clarify whether each limitation listed at 215.101–2–70(a)(1) applies to supplies, services, or both supplies and services. In particular, a respondent suggests that the rule text be clarified to ensure that the limitations at 215.101–2–70(a)(i) through (iv) are applied to both supplies and services. The respondent also suggests restructuring the rule text by dividing the limitations into two paragraphs: One paragraph that identifies the limitations that apply to the acquisition of supplies, and one that identifies the limitations that apply to the acquisition of services. In contrast, another respondent expresses support for retaining the existing structure of the rule.

Response: The statutory language being implemented by the rule does not categorize the limitations into those that apply to supplies or services. As a result, the list of limitations at 215.101–2–70(a)(1)(i) through (viii) is written to apply to any acquisition that utilizes the LPTA source selection process. In consideration of these limitations, the contracting officer must document the contract file with a description of the circumstances that justify the use of the LPTA source selection process.

One exception is the limitation at 215.101–2–70(a)(1)(vi), which implements paragraph (a)(3) of section 822 of the NDAA for FY 2018 that states the limitation is ''with respect to a contract for the procurement of goods;'' as such, this rule specifically identifies that goods must meet this limitation.

b. Additional Criteria

Comment: Some respondents suggest that additional criteria be added to the list of limitations in order to satisfy Congressional intent. Specifically, one respondent suggests that ''non-complex'' be added to the additional criteria for goods at 215.101–2–70(a)(1)(vi). The respondent also suggests adding another factor to the list that expressly limits the use of LPTA source selection procedures to procurements where the risk of unsuccessful performance is minimal.

Response: The intent of this rule is to implement the statutory language, which does not include ''non-complex'' as a criteria to meet when purchasing goods, or a limitation on acceptable performance risk, when using the LPTA source selection process. Comprehensively, the consideration of each limitation at 215.101–2–70(a)(1) provides an effective evaluation of a requirement's suitability to use of the LPTA source selection process and reflects the intent of the statutory language; therefore, no additional limitation criteria are included in this final rule.

c. Clarification of Terms

Comment: Some respondents indicate that the terms used in the rule are unclear. Specifically, one respondent suggests modifying paragraph 215.101–2–70(a)(1)(ii) to expressly state that ''value'' includes both qualitative and quantitative value to be realized by DoD. Another respondent advises that it is unclear what ''full life-cycle costs'' means when acquiring services.

Response: Supplemental guidance will be published in DFARS PGI in conjunction with this final rule to assist contracting officers in documenting the contract file with a determination that the lowest price reflects full life-cycle costs. The term ''value'' includes monetary and non-monetary benefits, as applicable to the requirement. The term also considers whether DoD is willing to pay more than a minimum price in return for non-monetary benefits (*e.g.,* greater functionality, higher performance, or lower performance risk). The rule does not place any limitations on the meaning of the term.

d. Documentation of Justification

Comment: A respondent expresses concern that this rule requires a written justification when using the LPTA source selection process. As acquisition planning already requires the contracting officer to document the acquisition process and the rationale behind the decision to use one process

or method over another, the respondent views the documentation required by this rule to be unnecessary. In contrast, another respondent suggests that this rule expand the documentation requirement to include a description and analysis of the all the requirements at 215.101–2–70(a)(1) in order to justify the use of the LPTA source selection process and require the justification to be posted with the solicitation.

Response: This rule implements statutory language that requires a contracting officer document the contract file with the circumstances justifying the use of the LPTA source selection process. The rule does not specify a format or method to be used to meet this statutory requirement. The appropriate format of the justification and the method of incorporation into the contract file is left to the discretion of each Department or agency. When developing a source selection approach, acquisition personnel consider the unique circumstances of a requirement and determine the method that will result in the best value to DoD. Publicizing the justification with the solicitation is not required by statute and could result in increased cost and time burden to both Government and industry.

5. List of Services and Supplies at 215.101–2–70(a)(2)

Comment: A respondent suggests that the rule specify how a contracting officer determines that a procurement is predominately for a specific category of service.

Response: For solicitation and reporting purposes, contracting officers assign each acquisition a product or service code that best represents the predominant dollar amount of supplies or services being procured on an award. This code will determine whether the acquisition is subject to the limitations at 215.101–2–70(a)(2).

Comment: A respondent recommends that the list include services directly related to national security, in order to implement the intent of Congress.

Response: The intent of this rule is to implement the requisite statutory language, which does not include ''services directly related to national security'' in the list of service categories that must avoid using the LPTA source selection process, to the maximum extent practicable; as such, the rule text does not include such services in 215.101–2–70(a)(2)(i).

Comment: A respondent suggests that the list of services at 215.101–2–70(a)(2)(i) expressly include advisory and assistance services, as the term ''knowledge-based professional services'' may be misinterpreted to not include advisory and assistance services.

Response: The intent of this rule is to implement the requisite statutory language, which does not explicitly include advisory and assistance services; therefore, the rule text does not identify advisory and assistance services in 215.101–2–70(a)(2)(1).

Comment: Section 880(c) of the NDAA for FY 2019 restricts civilian agencies from using the LPTA source selection process for procurements that are predominately for the same services listed at 215.101–2–70(a)(2)(i), and also includes ''health care services and records'' and ''telecommunication devices and services'' to the list. To harmonize the requirements between the FAR and the DFARS or comply with statute, a couple of respondents suggest the rule incorporate the two additional categories from section 880(c) into the restrictions at 215–101–2–70(a)(2).

Response: The intent of this rule is to implement the statutes at sections 813, 814, and 892 of the NDAA for FY 2017, and sections 822, 832, 882, and 1002 of the NDAA for FY 2018. Section 880 of the NDAA for FY 2019 is being implemented via FAR case 2018–016, Lowest Price Technically Acceptable Source Selection Process, and does not apply to DoD.

6. Suggestion for Technical Edit

Comment: One respondent suggests that the two sentences regarding audit services at 215.101–2–70(b)(3) be reversed to state the prohibition upfront and follow with how award decisions shall be made for such services.

Response: The primary intent of the text, as arranged, is to address the action a contracting officer shall take when awarding an auditing contract; therefore, no change is made to the final rule.

C. Other Changes

An editorial change was made to the rule to update the reference at 213.106–1(a)(2)(ii) from 215.101–70 to 215.101–2–70.

III. 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 create any new DFARS clauses or amend any existing DFARS clauses.

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 final rule is not subject to E.O. 13771, because this rule is not a significant regulatory action under E.O. 12866.

VI. Regulatory Flexibility Act

This rule primarily affects the internal Government procedures, including requirements determination and acquisition strategy decisions, and contract file documentation requirements. However, a final regulatory flexibility analysis (FRFA) has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement sections of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Pub. L. 114–328) and the NDAA for FY 2018 (Pub. L. 115–91). These sections establish a preference for the use of the tradeoff source selection process for certain safety items and auditing services; prohibit the use of reverse auctions or the lowest price technically acceptable (LPTA) source selection process for specific supplies and services; and specify criteria for the use of the LPTA source selection process.

No public comments were received in response to the initial regulatory flexibility analysis.

DoD does not have information on the total number of solicitations issued on an annual basis that specified the use of the LPTA source selection process, or the number or description of small entities that are impacted by certain solicitations. However, the Federal Procurement Data System (FPDS) provides the following information for fiscal year 2016:

DoD competitive contracts using FAR part 15 procedures. DoD awarded 18,361 new contracts and orders using competitive negotiated procedures, of

which 47% were awarded to 5,221 unique small business entities. It is important to note that FPDS does not collect data on the source selection process used for a solicitation. Therefore, this data includes competitive solicitations using LPTA or tradeoff source selection processes, which will be subject to future considerations and restrictions provided by section 813 of the NDAA for FY 2017 and section 822 of the NDAA for FY 2018.

Personal protective equipment. DoD competitively awarded 9,130 new contracts and orders potentially for combat-related personal protective equipment items that could be impacted by restrictions in section 814 of the NDAA for FY 2017. Of those new contracts and orders, 89% were awarded to 668 unique small business entities.

Aviation critical safety items. As discussed during the rulemaking process for DFARS clause 252.209–7010 published in the **Federal Register** at 76 FR 14641 on March 17, 2011, the identification of aviation critical safety items occurs entirely outside of the procurement process and is not captured in FPDS. Therefore, it is not possible for DoD to assess the impact of section 814 of the NDAA for FY 2017, as amended by 822 of the NDAA for FY 2018 on small business entities.

Audit-related services. DoD competitively awarded 46 new contracts and orders for audit services that could be impacted by section 1002 of the NDAA for FY 2018. Of those new contracts and orders, 61% were awarded to 17 unique small business entities.

Major defense acquisition programs (MDAPs). The impact to small businesses resulting from implementation of sections 832 and 882 of the NDAA for FY 2018 cannot be assessed, since FPDS does not collect data for MDAPs or specific acquisition phases (*i.e.,* engineering and manufacturing development (EMD)). Subject matter experts within DoD know of no instances where the LPTA source selection process has been used for procurement of EMD of an MDAP.

This rule does not include any new reporting, recordkeeping, or other compliance requirements.

This rule implements the statutory requirements, as written. There are no known alternative approaches to the rule that would meet the stated objectives of the applicable statutes.

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 208, 212, 213, 215, 216, 217, 234, and 237

Government procurement.

Jennifer Lee Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 208, 212, 213, 215, 216, 217, 234, and 237 are amended as follows:

■ 1. The authority citation for 48 CFR parts 208, 212, 213, 215, 216, 217, 234, and 237 continues to read as follows:

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

PART 208—REQUIRED SOURCES OF SUPPLIES OR SERVICES

■ 2. Amend section 208.405 by redesignating the text as paragraph (1) and adding paragraphs (2) and (3) to read as follows:

208.405 Ordering procedures for Federal Supply Schedules.

* * * * *

(2) See 215.101–2–70 for the limitations and prohibitions on the use of the lowest price technically acceptable source selection process, which are applicable to orders placed under Federal Supply Schedules.

(3) See 217.7801 for the prohibition on the use of reverse auctions for personal protective equipment and aviation critical safety items.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

■ 3. Add section 212.203 to subpart 212.2 to read as follows:

212.203 Procedures for solicitation, evaluation, and award.

(1) See 215.101–2–70 for the limitations and prohibitions on the use of the lowest price technically acceptable source selection process, which are applicable to the acquisition of commercial items.

(2) See 217.7801 for the prohibition on the use of reverse auctions for personal protective equipment and aviation critical safety items.

PART 213—SIMPLIFIED ACQUISITION PROCEDURES

■ 4. Revise section 213.106–1 to read as follows:

213.106–1 Soliciting competition.

(a) *Considerations.*

(2)(i) Include an evaluation factor regarding supply chain risk (see subpart 239.73) when acquiring information technology, whether as a service or as a supply, that is a covered system, is a part of a covered system, or is in support of a covered system, as defined in 239.7301.

(ii) See 215.101–2–70 for limitations and prohibitions on the use of the lowest price technically acceptable source selection process, which are applicable to simplified acquisitions.

(iii) See 217.7801 for the prohibition on the use of reverse auctions for personal protective equipment and aviation critical safety items.

PART 215—CONTRACTING BY NEGOTIATION

■ 5. Add section 215.101–2 heading to read as follows:

215.101–2 Lowest price technically acceptable source selection process.

■ 6. Add section 215.101–2–70 to read as follows:

215.101–2–70 Limitations and prohibitions.

The following limitations and prohibitions apply when considering the use of the lowest price technically acceptable source selection procedures.

(a) *Limitations.*

(1) In accordance with section 813 of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114–328) as amended by section 822 of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115–91) (see 10 U.S.C. 2305 note), the lowest price technically acceptable source selection process shall only be used when—

(i) Minimum requirements can be described clearly and comprehensively and expressed in terms of performance objectives, measures, and standards that will be used to determine the acceptability of offers;

(ii) No, or minimal, value will be realized from a proposal that exceeds the minimum technical or performance requirements;

(iii) The proposed technical approaches will require no, or minimal, subjective judgment by the source selection authority as to the desirability of one offeror's proposal versus a competing proposal;

(iv) The source selection authority has a high degree of confidence that reviewing the technical proposals of all offerors would not result in the identification of characteristics that could provide value or benefit;

(v) No, or minimal, additional innovation or future technological

advantage will be realized by using a different source selection process;

(vi) Goods to be procured are predominantly expendable in nature, are nontechnical, or have a short life expectancy or short shelf life (See PGI 215.101–2–70(a)(1)(vi) for assistance with evaluating whether a requirement satisfies this limitation);

(vii) The contract file contains a determination that the lowest price reflects full life-cycle costs (as defined at FAR 7.101) of the product(s) or service(s) being acquired (see PGI 215.101–2–70(a)(1)(vii) for information on obtaining this determination); and

(viii) The contracting officer documents the contract file describing the circumstances justifying the use of the lowest price technically acceptable source selection process.

(2) In accordance with section 813 of the National Defense Authorization Act for Fiscal Year 2017, as amended by section 822 of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115–91) (see 10 U.S.C. 2305 note), contracting officers shall avoid, to the maximum extent practicable, using the lowest price technically acceptable source selection process in the case of a procurement that is predominately for the acquisition of—

(i) Information technology services, cybersecurity services, systems engineering and technical assistance services, advanced electronic testing, or other knowledge-based professional services;

(ii) Items designated by the requiring activity as personal protective equipment (except see paragraph (b)(1) of this section); or

(iii) Services designated by the requiring activity as knowledge-based training or logistics services in contingency operations or other operations outside the United States, including in Afghanistan or Iraq.

(b) *Prohibitions.*

(1) In accordance with section 814 of the National Defense Authorization Act for Fiscal Year 2017 as amended by section 882 of the National Defense Authorization Act for Fiscal Year 2018 (see 10 U.S.C. 2302 note), contracting officers shall not use the lowest price technically acceptable source selection process to procure items designated by the requiring activity as personal protective equipment or an aviation critical safety item, when the requiring activity advises the contracting officer that the level of quality or failure of the equipment or item could result in combat casualties. See 252.209–7010 for the definition and identification of critical safety items.

(2) In accordance with section 832 of the National Defense Authorization Act for Fiscal Year 2018 (see 10 U.S.C. 2442 note), contracting officers shall not use the lowest price technically acceptable source selection process to acquire engineering and manufacturing development for a major defense acquisition program for which budgetary authority is requested beginning in fiscal year 2019.

(3) Contracting officers shall make award decisions based on best value factors and criteria, as determined by the resource sponsor (in accordance with agency procedures), for an auditing contract. The use of the lowest price technically acceptable source selection process is prohibited (10 U.S.C. 254b).

PART 216—TYPES OF CONTRACTS

■ 7. Amend section 216.505 by—

■ a. Removing paragraphs (1) and (2);

■ b. Adding paragraph (a);

■ c. Adding a paragraph (b) heading: and

■ d. Adding paragraph (b)(1).

The additions read as follows:

216.505 Ordering.

(a) *General.*

(6) Orders placed under indefinite-delivery contracts may be issued on DD Form 1155, Order for Supplies or Services.

(S–70) Departments and agencies shall comply with the review, approval, and reporting requirements established in accordance with subpart 217.7 when placing orders under non-DoD contracts in amounts exceeding the simplified acquisition threshold.

(b) *Orders under multiple-award contracts.*

(1) *Fair opportunity.*

(A) See 215.101–2–70 for the limitations and prohibitions on the use of the lowest price technically acceptable source selection process, which are applicable to orders placed against multiple award indefinite delivery contracts.

(B) See 217.7801 for the prohibition on the use of reverse auctions for personal protective equipment and aviation critical safety items.

* * * * *

PART 217—SPECIAL CONTRACTING METHODS

■ 8. Add new subpart 217.78 to read as follows:

217.78—REVERSE AUCTIONS

Sec.

217.7801 Prohibition.

217.78—REVERSE AUCTIONS

217.7801 Prohibition.

In accordance with section 814 of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114–328) as amended by section 882 of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115–91) (see 10 U.S.C. 2302 note), contracting officers shall not use reverse auctions when procuring items designated by the requiring activity as personal protective equipment or an aviation critical safety item, when the requiring activity advises the contracting officer that the level of quality or failure of the equipment or item could result in combat casualties. See 252.209–7010 for the definition and identification of critical safety items.

PART 234—MAJOR SYSTEM ACQUISITION

■ 9. Add section 234.005–2 to read as follows:

234.005–2 Mission-oriented solicitation.

See 215.101–2–70(b)(2) for the prohibition on the use of the lowest price technically acceptable source selection process for engineering and manufacturing development of a major defense acquisition program for which budgetary authority is requested beginning in fiscal year 2019.

PART 237—SERVICE CONTRACTING

■ 10. Amend section 237.270 by–

■ a. Redesignating paragraph (a)(2) as paragraph (a)(3); and

■ b. Adding new paragraph (a)(2) to read as follows:

237.270 Acquisition of audit services.

(a) * * *

(2) See 215.101–2–70(b)(3) for the prohibition on the use of the lowest price technically acceptable source selection process when acquiring audit services.

* * * * *

[FR Doc. 2019–20557 Filed 9–25–19; 8:45 am]

BILLING CODE 5001–06–P