

the proceeding, if the system and affiliated company were a small system and small company respectively as of the effective date of this rule and as of the period during which the disputed rates were in effect. This rule shall not affect the validity of a final rate decision made by a franchising authority before June 5, 1995.

(10) In any proceeding before the Commission involving a cable programming services tier complaint in which a final decision had not been issued as of June 5, 1995, a small system owned by a small cable company may elect the form of rate regulation set forth in this section to justify rates charged prior to the adoption of this rule and to establish new rates. For purposes of this paragraph, a decision shall not be deemed final until the operator has exhausted or is time-barred from pursuing any avenue of appeal, review, or reconsideration.

§ 76.953 [Amended]

5. Section 76.953 is amended by removing paragraph (a) and redesignating paragraphs (b) and (c) as paragraphs (a) and (b) respectively.

[FR Doc. 95-16515 Filed 7-11-95; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

48 CFR Part 253

[DFARS Case 95-D711]

Defense Federal Acquisition Regulation Supplement; Contract Data Reporting

AGENCY: Department of Defense (DoD).
ACTION: Final rule.

SUMMARY: This final rule is issued pursuant to the Federal Acquisition Streamlining Act of 1994, dated October 7, 1994, ("the Act"). The Director of Defense Procurement is amending the Defense Federal Acquisition Regulation Supplement concerning use of DD Form 350, Individual Contracting Action Report, and DD Form 1057, Monthly Contracting Summary of Actions \$25,000 or Less, as a result of interim FAR rules effective as of July 3, 1995 (Simplified Acquisition, FACNET and Electronic Contracting FAR rules under FAR Cases 94-770 and 91-104).

DATES: Effective date: July 6, 1995.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa D. Rider, DFARS FASTA Implementation Secretariat, at (703) 614-1634. Please cite DFARS Case 95-D711.

SUPPLEMENTARY INFORMATION:

A. Background

The Federal Acquisition Streamlining Act of 1994, Pub. L. 103-355, ("the Act") provides authorities that streamline the acquisition process and minimize burdensome Government-unique requirements. Major changes that can be expected in the acquisition process as a result of the Act's implementation include changes in the areas of Commercial Item Acquisition, Simplified Acquisition Procedures, the Truth in Negotiations Act, and introduction of the Federal Acquisition Computer Network (FACNET).

DFARS Case 95-D711 makes minimal changes to the contract data reporting system. This will allow the various service and defense agency automated data reporting systems to be modified as quickly as possible.

Except for contracting actions pertaining to contingencies as specified in FAR 13.101, all contracting actions exceeding \$25,000 shall continue to be reported on the DD Form 350. The Act requires detailed reporting of contracting actions exceeding \$25,000 (including actions using simplified acquisition procedures, i.e. purchase orders and orders/calls under a blanket purchase agreement (BPA)) until October 1, 1999. All contingency contracting actions, as specified in FAR 13.101, will continue to be reported on the DD Form 1057.

The term "small purchase procedures" has been superseded under the Act. Therefore, in drafting regulatory revisions under FAR Case 94-770, the Simplified Acquisition team included wholesale elimination of this term in the FAR and DFARS coverage they prepared. The contract reporting changes required to complete implementation of this concept include renaming Code 9 in Block B13 of the DD Form 350 to read "Purchase/Modification Using Simplified Acquisition Procedures." A future DFARS rule will include changes to completely eradicate the term "small purchase" from both the DD Form 350 and the DD Form 1057. Until that rule is published, a memorandum from the Director of Defense Procurement will direct that the term "small purchase procedures" on the two forms be interpreted to mean "simplified acquisition procedures."

Orders, calls, and modifications awarded after the effective date of this final rule pertaining to any blanket purchase agreement will be reported as code 9 (simplified acquisition procedure) in Block B13 of the DD Form 350 instead of code 4 (order under a

BOA). Purchase orders or modifications issued after the effective date of this final rule will also be reported as code 9. If code 9 is used in Block B13, then Block C8, Solicitation Procedures, should be blank. Orders under basic ordering agreements will continue to be reported as code 4.

The category of small business-small purchase set-aside is no longer valid. Actions under the simplified acquisition threshold reserved for small businesses will be reported as small business set-asides. However, the OSD data base will continue to accept DD Form 350 and DD Form 1057 data reported as small business-small purchase actions until the end of FY95, but this data will be converted to be included with small business set-aside data.

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of Public Law 98-577 and publication for public comment is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected DFARS subpart will be considered in accordance with Section 610 of the Act.

C. The Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the final rule does not impose any additional reporting or record keeping requirements that require Office of Management and Budget approval under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Part 253

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

Therefore, 48 CFR Part 253 is amended as follows:

1. The authority citation for 48 CFR Part 253 is revised to read as follows:

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

PART 253—FORMS

2. Section 253.204-70 is amended by revising paragraphs (b)(13)(iv), (b)(13)(ix), (c)(4)(viii), and (d)(5)(iv)(A)(2); by removing paragraph (d)(5)(iv)(A)(7); and by adding paragraph (c)(4)(iii)(A)(6) to read as follows:

253.204-70 DD Form 350, Individual Contracting Action Report.

* * * * *
(b) * * *
(13) * * *

(iv) *Code 4—Order Under a BOA.* Enter code 4 when the contracting action is an order or definitization of an order (not a modification of an order). Examples include orders under a basic ordering agreement, priced exhibit, or production list entered into by a DoD component (see code 3 for actions which are not orders or modifications of orders). Enter code 9 if the action is an order under a blanket purchase agreement.

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(ix) *Code 9—Purchase/Modification Using Simplified Acquisition Procedures.* Enter code 9 if the contracting action, including actions in a designated industry group under the Small Business Competitiveness Demonstration Program (FAR 19.10), is an award or a modification of an award pursuant to FAR part 13.

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- (c) * * *
- (4) * * *
- (iii) * * *
- (A) * * *

(6) Simplified acquisition procedures were used and competition was obtained.

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(viii) *Block C8, Solicitation Procedures.*

(A) Leave Block C8 blank if—
(1) The original contract resulted from a solicitation issued before April 1, 1985 (i.e., before the effective date of the Competition in Contracting Act); or

(2) The action is pursuant to simplified acquisition procedures (Block B13 is coded 9).

(B) If the action is an order/modification under a Federal Supply Schedule (Block B13 is coded 6), use code B for single award schedules and code F for multiple award schedules.

(C) Otherwise, enter one of the 12 codes—

(1) *Code A—Full and Open Competition—Sealed Bid.* Enter code A if the action resulted from an award pursuant to FAR 6.102(a).

(2) *Code B—Full and Open Competition—Competitive Proposal.* Enter code B if the action resulted from an award pursuant to FAR 6.102(b).

(3) *Code C—Full and Open Competition—Combination.* Enter code C if the action resulted from an award using a combination of competitive procedures (e.g., two-step sealed bidding) pursuant to FAR 6.102(c).

(4) *Code D—Architect-Engineer.* Enter code D if the action resulted from selection of sources for architect-engineer contracts pursuant to FAR 6.102(d)(1).

(5) *Code E—Basic Research.* Enter code E if the action resulted from

competitive selection of basic research proposals pursuant to FAR 6.102(d)(2).

(6) *Code F—Multiple Award Schedule.* Enter code F if the action is an award of a multiple award schedule pursuant to FAR 6.102(d)(3) or an order against such a schedule.

(7) *Code G—Alternate Source—Reduced Cost.* Enter code G if the action resulted from use of procedures to reduce overall cost pursuant to FAR 6.202(a)(1).

(8) *Code H—Alternate Source—Mobilization.* Enter code H if the action resulted from use of procedures for having a facility available for national defense or industrial mobilization pursuant to FAR 6.202(a)(2).

(9) *Code J—Alternate Source—Eng/R&D Capability.* Enter code J if the action resulted from use of procedures for establishing or maintaining an essential engineering, research, or development capability pursuant to FAR 6.202(a)(3).

(10) *Code K—Set Aside.* Enter code K if the action resulted from any—

(i) Set-aside for small business concerns (see FAR 6.203) including small business innovative research (SBIR) actions and awards to public or private organizations for the handicapped participating in a set-aside for small business concerns (see FAR 19.501(h)).

(ii) Set-aside for small disadvantaged business concerns (see 206.203).

(iii) Total or partial set-asides (including portions of broad agency announcements (BAAs) for historically black colleges and universities or minority institutions (see 206.203 and 235.016)).

(iv) Competition among section 8(a) firms under FAR 19.805 (report noncompetitive 8(a) awards as code N).

(11) *Code M—Otherwise Authorized by Statute.* Enter code M if using contracting procedures that are expressly authorized by statute and not addressed in FAR 6.302-5 (see FAR 6.001(b)). Do not use code M for statutes addressed in FAR 6.302-5 (instead use code N in this Block and code 5A in Block C9).

(12) *Code N—Other Than Full and Open Competition.* Enter code N if the action resulted from use of other than full and open competition pursuant to FAR 6.3. This includes awards to qualified nonprofit agencies employing people who are blind or severely disabled (see FAR subpart 8.7) or noncompetitive awards to the Small Business Administration under Section 8(a) of the Small Business Act (see FAR 6.302-5(b)).

* * * * *

- (d) * * *
- (5) * * *
- (iv) * * *
- (A) * * *

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(2) *Code B—Total SB Set-Aside.* Enter code B if the action was a total set-aside for small business (FAR 19.502-2), including actions reserved exclusively for small business concerns pursuant to FAR 13.105, or if the action resulted from the Small Business Innovative Research Program

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3. Section 253.204-71 is amended by revising paragraph (e)(2)(i)(A)(3) to read as follows:

253.204-71 DD form 1057, Monthly Contracting Summary of Actions \$25,000 or Less.

* * * * *

- (e) * * *
- (2) * * *
- (i) * * *
- (A) * * *

(3) Actions (including modifications) at or below the micropurchase threshold at FAR 13.101;

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[FR Doc. 95-17048 Filed 7-11-95; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 630

[I.D. 062095D]

Atlantic Swordfish Fishery; Drift Gillnet Closure

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure of the Atlantic swordfish drift gillnet fishery.

SUMMARY: NMFS closes the drift gillnet fishery for swordfish in the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea. NMFS has determined that the second semi-annual quota for swordfish that may be harvested by drift gillnet will be reached on or before July 14, 1995. This closure is necessary to prevent exceeding the quota of swordfish caught by drift gillnet vessels.

EFFECTIVE DATE: 2330 hours, local time, July 14, 1995, through 2400 hours, local time, December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Ronald G. Rinaldo, 301-713- 2347.