

§ 0.201(d), this Report and Order is hereby ADOPTED.

IT IS FURTHER ORDERED that, pursuant to 5 U.S.C. § 554(d) and 47 C.F.R. § 1.103(a), this Report and Order shall take effect upon adoption.

List of Subjects in 47 CFR Part 61

Communication common carriers.

Federal Communications Commission.

John S. Morabito,

*Deputy Chief, Network Services Division,
Common Carrier Bureau.*

[FR Doc. 96-4632 Filed 2-28-96; 8:45 am]

BILLING CODE 6712-01-P

47 CFR Part 73

[MM Docket No. 95-85; RM-8518]

Radio Broadcasting Services; Copeland, KS

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to the final regulation document which was published Friday, January 26, 1996 (61 FR 02453).

EFFECTIVE DATE: February 29, 1996.

FOR FURTHER INFORMATION CONTACT: Barbara Chappelle, Publications Branch, (202) 418-0310.

SUPPLEMENTARY INFORMATION:

Need of Correction

As published, the final regulation document contains an error in the window period and closing date.

Correction of Publication

Accordingly, the publication on January 26, 1996 of the final regulations, which were subject of FR Doc. 96-1420 is Corrected as follows:

On page 02453, in the second column, in the **DATES** section, the window period closing date for filing applications should be April 4, 1996 in lieu of March 19, 1996.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96-4631 Filed 2-28-96; 8:45 am]

BILLING CODE 6712-01-P

47 CFR Part 73

[MM Docket No. 95-43; RM-8580]

Radio Broadcasting Services; Grand Junction, CO

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to the final regulation document which was published Friday, January 26, 1996 (61 FR 02453).

EFFECTIVE DATE: February 29, 1996.

FOR FURTHER INFORMATION CONTACT: Barbara Chappelle, Publications Branch, (202) 418-0310.

SUPPLEMENTARY INFORMATION:

Need of Correction

As published, the final regulation document contains an error in the window period and closing date.

Correction of Publication

Accordingly, the publication on January 26, 1996 of the final regulations, which were the subject of FR Doc. 96-1422 is corrected as follows:

On page 02453, in the third column, in the **DATES** section, the window period closing date for filing applications should be April 4, 1996 in lieu of March 19, 1996.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96-4630 Filed 2-28-96; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF DEFENSE

48 CFR Parts 202, 204, 209, 213, 215, 216, 217, 223, 225, 228, 232, 235, 236, 242, 246, 252, 253, and Appendix G to Chapter 2

[Defense Acquisition Circular (DAC) 91-10]

Defense Federal Acquisition Regulation Supplement; Miscellaneous Amendments

AGENCY: Department of Defense (DoD).

ACTION: Final rules.

SUMMARY: Defense Acquisition Circular (DAC) 91-10 amends the Defense Federal Acquisition Regulation Supplement (DFARS) to revise, finalize, or add language on undefinitized contract actions; warranties; institutions of higher education; should cost reviews; construction and architect-engineer contracts; sensitive conventional arms, ammunition, and explosives; international trade agreements; foreign offset agreements; tank and automotive forging items; progress payment rates; research and development contracting; contract administration; and foreign military sales.

EFFECTIVE DATE: February 29, 1996.

FOR FURTHER INFORMATION CONTACT:

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Defense Pentagon, Washington, DC
20301-3062. Telephone (703) 602-0131.
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SUPPLEMENTARY INFORMATION:

A. Background

This Defense Acquisition Circular (DAC) 91-10 includes 17 rules and miscellaneous editorial amendments. Three of the rules in the DAC (Items VII, X, and XVII) were published previously in the Federal Register (61 FR 130, January 3, 1996; 61 FR 3600, February 1, 1996; and February 26, 1996; respectively) and thus are not included as part of this rulemaking notice. These three rules are being published in the DAC to conform the loose-leaf edition of DFARS to the previously published revisions.

B. Regulatory Flexibility Act

DAC 91-10, Items IV, XII, XIII, XIV, XV, and XVI

The Regulatory Flexibility Act does not apply because these rules are not significant revisions within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* However, comments from small entities will be considered in accordance with Section 610 of the Act. Please cite the applicable DFARS case number in correspondence.

DAC 91-10, Items I, III, V, VIII, IX, and XI

DoD certifies that these rules will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act because:

Item I—The rule primarily (1) pertains to internal Government considerations regarding use of warranties; and (2) consolidates and standardizes existing regulatory requirements pertaining to undefinitized contract actions.

Item III—Contracts awarded to small entities normally are not subject to program or overhead should-cost reviews.

Item V—The rule merely provides a standard method of implementing security requirements which already exist under DoD 5100.76-M.

Item VIII—The rule retains the policy of acquiring tank and automotive forging items from domestic sources to the maximum extent practicable. The new exception only applies to forging items purchased as tank and automotive spare parts, when the end use of the spare parts is unknown.

Item IX—The rule merely clarifies the scope of offset administrative costs that

contractors may recover under foreign military sales contracts. Also, most companies involved in offset arrangements are not small businesses.

Item XI—The reduction in the customary progress payment rate only applies to large businesses. While the rule also precludes the use of flexible progress payments for contracts resulting from solicitations issued on or after November 30, 1993, this change is not expected to have a significant economic impact on a substantial number of small entities, because the customary progress payment rates for small and small disadvantaged businesses generally are more favorable than a flexible progress payment rate with its associated terms and conditions.

DAC 91-10, Items II and VI

The Regulatory Flexibility Act applies. A final regulatory analysis has been performed and is available by writing the Defense Acquisition Regulations Council, OUSD(A&T)DP(DAR), 3062 Defense Pentagon, Washington, DC 20301-3062

C. Paperwork Reduction Act

DAC 91-10, Items I, II, III, IV, VI, VIII, IX, XI, XII, XIII, XIV, XV, and XVI

The Paperwork Reduction Act does not apply because these rules do not impose any information collection requirements which require the approval of OMB under 44 U.S.C. 3501 *et seq.*

DAC 91-10, Item V

The Paperwork Reduction Act applies. OMB has approved the information collection requirement under OMB Control Number 0704-0385. Michele P. Peterson, *Executive Editor, Defense Acquisition Regulations Council.*

Defense Acquisition Circular (DAC) 91-10 amends the Defense Federal Acquisition Regulation Supplement (DFARS) 1991 edition. The amendments are summarized as follows:

Item I—Contract Award (DFARS Case 95-D702)

This final rule (1) amends DFARS Parts 216 and 217 to implement Section 1505 of Pub. L. 103-355 and to clarify guidance on undefinitized contract actions (UCAs); (2) amends the guidance on warranties at 246.770 to implement Section 2402 of Pub. L. 103-355; and (3) adds a new clause on definitization of UCAs at 252.217-7027. The new clause is similar to, and will be used instead of, the clause as FAR 52.216-25, Contract Definitization, which was designed for use in letter contracts only.

Item II—Institutions of Higher Education (DFARS Case 94-D310)

The interim rule published as Item IX of DAC91-9 is revised and finalized. The rule implements Section 558 of the Fiscal Year 1995 Defense Authorization Act (Pub. L. 103-337). Section 558 provides that no funds available to DoD may be provided by grant or contract to any institution of higher education that has a policy of denying, or which effectively prevents the Secretary of Defense from obtaining for military recruiting purposes, entry to campuses, access to students on campuses, or access to directory information pertaining to students. The final rule differs from the interim rule in that it makes clarifying revisions at 209.470-1 and 252.209-7005, and adds language at 209.470-1(c) to state that, when specific subordinate elements of an institution of higher education, rather than the institution as a whole, have a prohibited policy or practice, the prohibition on use of DoD funds applies only to those subordinate elements.

Item III—Overhead Should Cost Reviews (DFARS Case 92-D010)

This final rule revises DFARS 215.810 to specify when DoD activities should consider performing an overhead should cost review of a contractor business unit. This DFARS rule supplements the FAR rule published as Item VIII of Federal Acquisition Circular 90-37 on January 26, 1996. Both the FAR and the DFARS rules become effective on March 26, 1996.

Item IV—Cost-Plus-Fixed-Fee Contracts for Military Construction (DFARS Case 95-D024)

This final rule adds new sections at DFARS 216.306 and 232.703-70 and revises 236.271 to expand guidance on statutory restrictions pertaining to the use of cost-plus-fixed-fee contracts for military construction.

Item V—Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives (DFARS Case 95-D001)

This final rule adds a new subpart at DFARS 223.72 and a new contract clause at 252.223-7007 to provide guidance on physical security requirements for contracts involving sensitive conventional arms, ammunition, and explosives. Section 204.202 is amended to specify additional requirements for distribution of contracts containing the clause at 252.223-7007.

Item VI—Applicability of Trade Agreements (DFARS Case 95-D022)

This final rule amends DFARS 225.402 to provide that the value of an acquisition for purposes of determining the applicability of both the North American Free Trade Agreement Act and the Trade Agreements Act is the total value of all end products subject to the acts.

Item VII—Uruguay Round (1996 Agreement) (DFARS Case 95-D306)

This final rule was issued by Departmental Letter 95-019, effective January 1, 1996. The rule amends DFARS 225.402 and the clause at 252.225-7007 to implement the DoD-unique requirements of the renegotiated General Agreement on Tariffs and Trade (GATT) Government Procurement Agreement (1996 Code) (Uruguay Round), which became effective January 1, 1996. This agreement is implemented in statute by the Uruguay Round Agreement Act, Pub. L. 103-465, which amends the Trade Agreements Act of 1979.

Item VIII—Tank and Automotive Forging Items (DFARS Case 95-D003)

This final rule amends DFARS Subpart 225.71 to add an exception to the foreign source restrictions on the acquisition of forgings. The rule excludes forging purchases as tank and automotive spare parts from foreign source restrictions, except when it is known that the parts are for use in tanks only.

Item IX—Offset Implementation Costs (DFARS Case 95-D019)

This final rule amends DFARS 225.7303-2 to clarify that, under a foreign military sales contract, a contractor may recover costs incurred to implement its offset agreement with a foreign government or international organization, if the foreign military sale Letter of Offer and Acceptance is financed wholly with customer cash or repayable foreign military finance credits.

Item X—Alternatives to Miller Act Bonds (DFARS Case 95-D305)

This interim rule was issued by Departmental Letter 96-001, effective February 1, 1996. The rule revises the interim rule which was published as Item XXIII of DAC 91-9 to provide alternative payment protections for construction contracts between \$25,000 and \$100,000, pending implementation of Section 4104(b)(2) of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103-355) in the FAR. This interim rule amends the guidance at

DFARS 228.171 to require the contracting officer to specify two or more alternative payment protections when using the clause at 252.228-7007, and to give particular consideration to use of an irrevocable letter of credit as one of the specified alternatives. This rule also amends the clause at 252.228-7007 to exclude payment bonds from the payment protections under which the contracting officer may access funds.

Item XI—Reduction in Progress Payment Rates (DFARS Case 93-D305)

The interim rule published as Item XXVII of DAC 91-6 is revised and finalized. The rule implements Section 8155 of the Fiscal Year 1994 Defense Appropriations Act (Pub. L. 103-139). Section 8155 requires DoD to reduce the customary progress payment rate for large business concerns from 85 percent to 75 percent for contracts resulting from solicitations issued on or after November 11, 1993. The final rule differs from the interim rule in that it makes an editorial change in the table at 232.502-1-71, and amends the clause at 252.232-7004 to state that the 75 percent customary progress payment rate for large business concerns also applies to progress payments made under undefinitized contract actions.

Item XII—Streamlined Research and Development (R&D) Update (DFARS Case 95-D036)

This final rule amends DFARS Subpart 235.70 to update administrative information pertaining to the streamlined R&D contracting test program, and to revise the list of clauses in the streamlined R&D contracting format to conform to FAR and DFARS revisions which occurred since initiation of the test program.

Item XIII—Performance Evaluations for Construction and Architect-Engineer Contracts (DFARS Case 95-D034)

This final rule amends DFARS 236.201 and 236.604 to prescribe use of DD Forms 2626 and 2631 in lieu of Standard Forms 1420 and 1421, respectively. The forms are used to document contractor performance under construction and architect-engineer contracts. Copies of DD Forms 2626 and 2631 are added to Subpart 253.3.

Item XIV—Magnitude of Construction Projects (DFARS Case 95-D031)

This final rule adds a new section at DFARS 236.204 to provide additional price ranges for identifying the magnitude of construction projects in advance notices and solicitations.

Item XV—Flexible Contract Administration Services (DFARS Case 95-D030)

This final rule amends DFARS 242.203 to expand the conditions under which the Defense Contract Management Command may perform contract administration services on a military installation.

Item XVI—Military Assistance Program Address (MAPAD) Codes (DFARS Case 95-D032)

This final rule amends DFARS 253./213-70 to clarify instructions for inclusion of foreign military sale shipment information in Block 14 of DD Form 1155.

Item XVII—Allowability of Costs (DFARS Case 95-D309)

This interim rule was issued by Departmental Letter 96-002, effective February 26, 1996. The rule adds language at DFARS 231.205-6 to implement Section 8122 of the Fiscal Year 1996 Defense Appropriations Act (Pub. L. 104-61). Section 8122 prohibits DoD from using fiscal year 1996 funds to reimburse a contractor for costs paid by the contractor to an employee for a bonus or other payment in excess of the normal salary paid to the employee, when such payment is part of restructuring costs associated with a business combination.

Item XVIII—Small Disadvantaged Business Utilization Program (Information Item)

On October 23, 1995, the Under Secretary of Defense for Acquisition and Technology suspended those sections of the DFARS which prescribe set-aside of acquisitions for small disadvantaged businesses. This suspension takes account of the Supreme Court's decision in *Adarand Constructors, Inc. v. Peña*, 63 U.S.L.W. 4523 (U.S. June 12, 1995), while an interagency Government-wide review of affirmative action programs is conducted. The suspended DFARS sections are 219.501(S-70), 219.502-2-70, 219.502-4, 219.504(b)(i), 219.506, 219.508(e), 219.508-70, and 252.219-7002. Although these sections, and references thereto, still appear in the DFARS text, use of these sections is suspended until further notice.

Item XIX—Editorial Revisions

(a) DFARS 202.101 and Appendix G are amended to update activity names and addresses.

(b) DFARS Part 213 is amended to update statutory references and to conform to revisions to FAR Part 13 published in Federal Acquisition Circular 90-29.

(c) DFARS 228.106-4, 228.106-4-70, 228.106-6, and 252.228-7006 are deleted. The guidance in these sections has been superseded by the guidance in FAR 28.106-4(b), 28.106-6(d), and 52.228-12, published in Federal Acquisition Circular 90-32.

(d) DFARS Part 253 is amended to update DD Forms 375, 375c, 428, 1659, 2222, 2222-2, and 2604. (This amendment is being made only in the loose-leaf edition of the DFARS.)

Interim Rules Adopted as Final With Changes

PARTS 209 AND 252—[AMENDED]

The interim rule published at 60 FR 13073 on March 10, 1995, and amended at 60 FR 61593 and 61600 on November 30, 1995, is adopted as final with a revision at section 209.470-1 and amendments at section 252.209-7005.

PARTS 232 AND 252—[AMENDED]

The interim rule published at 58 FR 62045 on November 24, 1993, and corrected at 58 FR 64363 on December 6, 1993, is adopted as final with amendments at section 252.232-7004.

List of Subjects in 48 CFR Parts 202, 204, 209, 213, 215, 216, 217, 223, 225, 228, 232, 235, 236, 242, 246, 252, 253, and Appendix G to Chapter 2

Government procurement.

Amendments to 48 CFR Chapter 2 (Defense Federal Acquisition Regulation Supplement)

48 CFR Chapter 2 (the Defense Federal Acquisition Regulation Supplement) is amended as set forth below.

1. The authority for 48 CFR Parts 202, 204, 209, 213, 215, 216, 217, 223, 225, 228, 232, 235, 236, 242, 246, 252, 253, and Appendix G to Chapter 2 continues to read as follows:

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

PART 202—DEFINITIONS OF WORDS AND TERMS

202.101 [Amended]

2. Section 202.101 is amended in the definition entitled "Contracting activity" under the heading "NAVY," by removing the two entries "Ships Parts Control Center" and "Navy Aviation Supply Office", by adding the entry "Naval Inventory Control Point" after the entry "Naval Facilities Engineering Command"; and by revising the entry "U.S. Marine Corps Research, Development, and Acquisition Command" to read "Marine Corps Systems Command".

PART 204—ADMINISTRATIVE MATTERS

3. Section 204.202 is amended by removing in paragraph (1)(iii) the word "and"; by removing in paragraph (1)(iv) the period and adding "; and"; and by adding a new paragraph (1)(v) to read as follows:

204.202 Agency distribution requirements.

(1) * * *

(v) One copy, or an extract of the pertinent information, to the cognizant Defense Investigative Service office listed in DoD 5100.76-M, Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives, when the clause at 252.223-7007, Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives, is included in the contract.

* * * * *

PART 209—CONTRACTOR QUALIFICATIONS

4. Section 209.470-1 is revised to read as follows:

209.470-1 Policy.

(a) Section 558 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337) provides that no funds available to DoD may be provided by grant or contract to any institution of higher education that has a policy of denying or that effectively prevents the Secretary of Defense from obtaining for military recruiting purposes—

(1) Entry to campuses or access to students on campuses; or

(2) Access to directory information pertaining to students.

(b) Institutions of higher education that are determined under 32 CFR part 216 to have the policy or practice in paragraph (a) of this subsection shall be listed as ineligible on the List of Parties Excluded from Federal Procurement Programs published by the General Services Administration (see FAR 9.404).

(c) In cases where a determination is made under 32 CFR part 216 that specific subordinate elements of an institution of higher education, rather than the institution as a whole, have the policy or practice in paragraph (a) of this subsection, 32 CFR part 216 provides that the prohibition on use of DoD funds applies only to those subordinate elements.

5. Part 213 heading is revised to read as follows:

PART 213—SIMPLIFIED ACQUISITION PROCEDURES**213.000 [Amended]**

6. Section 213.000 is amended by revising the words "small purchase" to read "simplified acquisition" and by revising the threshold "\$100,000" to read "\$200,000".

7. Section 213.101 is amended by revising the introductory text; by adding a comma in paragraph (1) between the word "operations" and the word "or"; and by revising paragraph (2). The revisions read as follows:

213.101 Definitions.

Contingency operation is defined in 10 U.S.C. 101(a)(13) as a military operation that—

* * * * *

(2) Results in the call or order to, or retention on, active duty of members of the uniformed services under section 688, 12301(a), 12302, 12304, 12305, or 12406 of Title 10, chapter 15 of Title 10, or any other provision of law during a war or during a national emergency declared by the President or Congress.

213.204 [Amended]

8. Section 213.204 is amended by revising in paragraph (b) the phrase "above the dollar threshold at FAR 13.000" to read "not using simplified acquisition procedures."

213.402 [Amended]

9. Section 213.402 is redesignated as 213.401.

213.403 [Amended]

10. Section 213.403 is redesignated as 213.402.

213.404 [Amended]

11. Section 213.404 is redesignated as 213.403. Newly designated Section 213.403 is amended by adding a period at the end of paragraph (c)(i)(B); and by revising in paragraph (c)(ii) the words "small purchases" to read "simplified acquisitions."

213.502-2 [Amended]

12. Section 213.502-2 is redesignated as Section 213.505-1. Newly designated Section 213.505-1 is amended by revising the heading to read "Optional Form (OF) 347, Order for Supplies or Services, and Optional Form 348, Order for Supplies or Services Schedule-Continuation."; by removing in the introductory text the hyphen between the words "Services" and "Schedule"; by adding a hyphen between the words "Schedule" and "Continuation", by revising in paragraph (b)(i) the words "small purchase" to read "simplified acquisition"; and by revising the

sentence in paragraph (b)(i)(F)(3) to read "A purchase order for acquisitions using simplified acquisition procedures."

13. Section 213.505-3 is amended by revising paragraph (b)(1) introductory text to read as follows:

213.505-3 Standard Form 44, Purchase Order-Invoice-Voucher.

(b)(1) The micro-purchase limitation applies to all purchasers except that purchases up to the simplified acquisition threshold may be made for—

* * * * *

14. Section 213.507 is amended by revising the heading; and by revising paragraph (a)(i) to read as follows:

213.507 Provisions and clauses.

(a) * * *

(i) Unilateral purchase orders—

(A) FAR 52.252-2, Clauses

Incorporated by Reference (required only if other clauses are incorporated by reference);

(B) FAR 52.203-3, Gratuities;

(C) FAR 52.211-16, Variation in Quantity;

(D) FAR 52.222-3, Convict Labor (unless the order will be subject to the Walsh-Healey Public Contracts Act (see FAR subpart 22.6));

(E) FAR 52.222-26, Equal Opportunity (unless exempt under FAR 22.807);

(F) FAR 52.225-3, Buy American Act-Supplies;

(G) FAR 52.232,-1, Payments;

(H) FAR 52.232-25, Prompt Payment;

(I) FAR 52.232-28, Electronic Funds Transfer Payment Methods;

(J) FAR 52.233-1, Disputes;

(K) FAR 52.246-1, Contractor Inspection Requirements (except when an alternate level of quality assurance is necessary (see FAR 46.203 and 46.204)); and

(L) FAR 52.246-16, Responsibility for Supplies.

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PART 215—CONTRACTING BY NEGOTIATION

15. Section 215.810 is revised to read as follows:

215.810 Should-cost review.

16. Section 215.810-2 is added to read as follows:

215.810-2 Program should-cost review.

(b) DoD contracting activities should consider performing a program should-cost review before award of a definitive major systems contract exceeding \$100 million.

17. Section 215.810-3 is added to read as follows:

215.810-3 Overhead should-cost review.

(a) Contact the DCMC/DLA Overhead Center, Fort Belvoir, VA 22060-6221, at (703) 767-3387, for questions on overhead should-cost analysis.

(b)(i) The Defense Contract Management Command/Defense Logistics Agency (DCMC/DLA), or the military department responsible for performing contract administration functions (e.g., Navy SUPSHIP), should consider, based on risk assessment, performing an overhead should-cost review of a contractor business unit (as defined in FAR 31.001) when all of the following conditions exist:

- (A) Projected annual sales to DoD exceed \$1 billion.
- (B) Projected DoD versus total business exceeds 30 percent;
- (C) Level of sole-source DoD contracts is high;
- (D) Significant volume of proposal activity is anticipated;
- (E) Production or development of a major weapon system or program is anticipated; and

(F) Contractor cost control/reduction initiatives appear inadequate.

(ii) The head of the contracting activity may request an overhead should-cost review for a business unit which does not meet the criteria in paragraph (b)(i) of this subsection.

(iii) Overhead should-cost reviews are labor intensive. These reviews generally involve participation by the contracting, contract administration, and contract audit elements. The extent of availability of military department, contract administration, and contract audit resources to support DCMC/DLA-led teams should be considered when determining whether a review will be conducted. Overhead should-cost reviews generally shall not be conducted at a contractor business segment more frequently than every three years.

PART 216—TYPES OF CONTRACTS

18. Section 216.306 is added to read as follows:

216.306 Cost-plus-fixed-fee contracts.

(c) *Limitations.*

(i) Annual military construction appropriations acts restrict the use of cost-plus-fixed-fee contracts that—

- (A) Are funded by a military construction appropriations act;
- (B) Are estimated to exceed \$25,000; and
- (C) Will be performed within the United States, except Alaska.

(ii) The Secretaries of the military departments are authorized to approve contracts described in paragraph (c)(i) of

this section that are for environmental work only, provided the environmental work is not classified as construction, as defined by 10 U.S.C 2801.

(iii) The Secretary of Defense or designee must specifically approve contracts described in paragraph (c)(i) of this section that are not environmental work only.

19. Section 216.603-4 is revised to read as follows:

216.603-4 Contract clauses.

(b)(2) See 217.7406(a) for additional guidance regarding use of the clause at FAR 52.216-24, Limitation of Government Liability.

(3) Use the clause at 252.217-7027, Contract Definitization, in accordance with its prescription at 217.7406(b), instead of the clause at FAR 52.216-25, Contract Definitization.

20. Section 216.703 is amended by revising paragraph (c) to read as follows:

216.703 Basic ordering agreements

(c) *Limitations.* The period during which orders may be placed against a basis ordering agreement may not exceed three years. The contracting officer, with the approval of the chief of the contracting office, may grant extensions for up to two years. No single extension shall exceed one year. See subpart 217.74 for additional limitations on the use of undefinitized orders under basic ordering agreements.

* * * * *

PART 217—SPECIAL CONTRACTING METHODS

21. Section 217.202 is amended by adding paragraph (3) to read as follows:

217.202 Use of options.

* * * * *

(3) See subpart 217.74 for limitations on the use of undefinitized options.

22. Section 217.7402 is amended by revising in the introductory text the term "UCA's" to read "UCAs" and by revising paragraph (b) to read as follows:

217.7402 Exceptions.

* * * * *

(a) * * *

(b) Purchases at or below the simplified acquisition threshold;

* * * * *

217.7404-3 [Amended]

23. Section 217.7404-3 is amended by revising in the introductory text of paragraph (a) the word "earliest" to read "earlier."

24. Section 217.7406 is revised to read as follows:

217.7406 Contract clauses.

(a) Use the clause at FAR 52.216-24, Limitation of Government Liability, in all UCAs, solicitations associated with UCAs, basic ordering agreements, indefinite delivery contracts, and any other type of contract providing for the use of UCAs.

(b) Use the clause at 252.217-7027, Contract Definitization, in all UCAs, solicitations associated with UCAs, basic ordering agreements, indefinite delivery contracts, and any other type of contract providing for the use of UCAs. Insert the applicable information in paragraphs (a), (b), and (d) of the clause. If, at the time of entering into the UCA, the contracting officer knows that the definitive contract action will meet the criteria of FAR 15.804-1 for not requiring submission of cost or pricing data, the words "and cost or pricing data" may be deleted from paragraph (a) of the clause.

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

25. A new Subpart 223.72 is added to read as follows:

Subpart 223.72—Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives

Sec.	
223.7200	Definition.
223.7201	Policy.
223.7202	Preaward responsibilities.
223.7203	Contract clause.

Subpart 223.72—Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives

223.7200 Definition.

"Arms, ammunition, and explosives (AA&E)," as used in this subpart, means those items within the scope (chapter 1, paragraph B) of DoD 5100.76-M, Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives.

223.7201 Policy.

(a) The requirements of DoD 5100.76-M, Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives, shall be applied to contracts when—

- (1) AA&E will be provided to the contractor or subcontractor as Government-furnished property; or
- (2) The principal development, production, manufacture, or purchase of AA&E is for DoD use.

(b) The requirements of DoD 5100.76-M need not be applied to contracts when—

(1) The AA&E to be acquired under the contract is a commercial item within the meaning of FAR 2.101; or

(2) The contract will be performed in a Government-owned contractor-operated ammunition production facility. However, if subcontracts issued under such a contract will meet the criteria of paragraph (a) of this section, the requirements of DoD 5100.76-M shall apply.

223.7202 Preaward responsibilities.

When an acquisition involves AA&E, technical or requirements personnel shall specify in the purchase request—

- (a) That AA&E is involved; and
- (b) Which physical security requirements of DoD 5100.76-M apply.

223.7203 Contract clause.

Under the clause at 252.223-7007, Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives, in all solicitations and contracts to which DoD 5100.76-M applies, in accordance with the policy at 223.7201. Complete paragraph (b) of the clause based on information provided by cognizant technical or requirements personnel.

PART 225—FOREIGN ACQUISITION

26. Section 225.402 is amended by revising paragraph (a) to read as follows:

225.402 Policy.

(a) To estimate the value of the acquisition, use the total estimated value of end products subject to trade agreement acts (see 225.403-70).

(1) See 225.105 for evaluation of eligible products and U.S. made end products.

* * * * *

27. Section 225.7102 is amended by revising the introductory text to read as follows:

225.7102 Policy.

DoD requirements for the following, including acquisitions for items containing the following, shall be acquired from domestic sources (as described in the clause at 252.225-7025) to the maximum extent practicable—

* * * * *

28. Section 225.7103 is amended by revising paragraph (e)(1); redesignating paragraph (e)(2) as (e)(3); and adding paragraph (e)(2) to read as follows:

225.7103 Exceptions.

* * * * *

(e) * * *

(1) Used for commercial vehicles or noncombat support military vehicles;

(2) Purchased as tank and automotive spare parts (except when it is known that the spare parts are for use in tanks only); or

* * * * *

29. Section 225.7303-2 is amended by revising paragraph (a)(3) to read as follows:

225.7303-2 Cost of doing business with a foreign government or an international organization.

(a) * * *

(3) Offset implementation costs.

(i) A U.S. defense contractor may recover costs incurred to implement its offset agreement with a foreign government or international organization if the foreign military sale Letter of Offer and Acceptance is financed wholly with customer cash or repayable foreign military finance credits.

(ii) The U.S. Government assumes no obligation to satisfy or administer the offset requirement or to bear any of the associated costs.

* * * * *

PART 228—BONDS AND INSURANCE

228.106-4, 228.106-4-70, and 228.106-6 [Removed]

30. Sections 228.106-4, 228.106-4-70, and 228.106-6 are removed.

PART 232—CONTRACT FINANCING

31. Section 232.703-70 is added to read as follows:

232.703-70 Military construction appropriations act restriction.

Annual military construction appropriations acts restrict the use of funds appropriated by the acts for

payments under cost-plus-fixed-fee contracts (see 216.306(c)).

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

32. Section 235.7003 is amended by adding a new paragraph (c)(6) to read as follows:

235.7003 Reporting requirements.

* * * * *

(c) * * *

(6) Number of actions removed from the test due to inability to comply with RDSS/C procedures, with a brief description of the reasons(s) for the inability to comply.

* * * * *

33. Section 235.7004-3(d) is amended by revising "Alternate III" to read "Alternate II."

34. Section 235.7006, *Exhibit—Research and Development Streamlined Contracting Format*, Part I—The Schedule, Section H, Special Contract Requirements, is amended by revising the designation "(H.4)*" to read "(H.4)" and by adding (H.6)* to read as follows:

235.7006— The research and development streamlined contracting format.

Exhibit—Research and Development Streamlined Contracting format
Part I—The Schedule

Section H * * * *

(H.4) * * * Defense Technical Information Center, Attn: Registration Section (DTIC-BCS), 8725 John J. Kingman Road, Suite 0944, Fort Belvoir, VA 22060-6218, (703) 767-8273, or 1-800-CAL-DITC (225-3842), menu selection 2.

* * * * *

*(H.6) (Insert nonstandard clause approved in accordance with 235.7006(c), if applicable.)

* * * * *

35. Section 235.7006, *Exhibit—Research and Development Streamlined Contracting Format*, Part II—Contract Clauses, and Part IV, Representations and Instructions, are revised to read as follows:

PART II—CONTRACT CLAUSES

Section I, Contract Clauses

(I.1)	52.252-2	Clauses Incorporated by Reference.
(I.2)	52.202-1	Definitions.
(I.3)	Reserved.	
(I.4)	52.203-3	Gratuities.
(I.5)	52.203-5	Covenant Against Contingent Fees.
(I.6)	52.203-7	Anti-Kickback Procedures.
(I.7)	52.203-10	Price or Fee Adjustment for Illegal or Improper Activity. (Except educational institutions.)
(I.8)	52.209-6	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment.
(I.9)	Reserved.	
(I.10)	Reserved.	

(I.11)	Reserved.	
(I.12)	52.215-26	Integrity of Unit Prices.
(I.13)	52.215-33	Order of Precedence.
(I.14)	52.216-7	Allowable Cost and Payment. (Modified in accordance with 16.307 as applicable.)
(I.15)	Reserved.	
(I.16)	Reserved.	
(I.17)	Reserved.	
(I.18)	Reserved.	
(I.19)	52.222-3	Convict Labor.
(I.20)	52.222-26	Equal Opportunity.
(I.21)	52.222-35	Affirmative Action for Special Disabled and Vietnam Era Veterans.
(I.22)	52.222-36	Affirmative Action for Handicapped Workers.
(I.23)	52.222-37	Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era.
(I.24)	52.223-6	Drug-Free Workplace.
(I.25)	52.225-11	Restrictions on Certain Foreign Purchases.
(I.26)	52.227-1	Authorization and Consent—Alternate I.
(I.27)	52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement.
(I.28)	52.228-7	Insurance—Liability to Third Persons.
(I.29)	52.232-9	Limitation on Withholding of Payments.
(I.30)	52.232-23	Assignment of Claims.
(I.31)	52.232-25	Prompt Payment.
(I.32)	52.232-28	Electronic Funds Transfer Payment Methods.
(I.33)	52.233-1	Disputes.
(I.34)	52.233-3	Protest After Award—Alternate I.
(I.35)	52.242-1	Notice of Intent to Disallow Costs.
(I.36)	52.242-13	Bankruptcy.
(I.37)	52.244-2	Subcontracts (Cost-Reimbursement and Letter Contracts) Alternate I.
(I.38)	52.244-5	Competition in Subcontracting.
(I.39)	52.247-1	Commercial Bill of Lading Notations.
(I.40)	52.249-14	Excusable Delays.
(I.41)	52.253-1	Computer-Generated Forms.
*(I.42)	52.203-9	Requirement for Certificate of Procurement Integrity-Modification.
*(I.43)	52.203-12	Limitation on Payments to Influence Certain Federal Transactions.
*(I.44)	52.204-2	Security Requirements.
*(I.45)	52.204-2	Security Requirements-Alternate I. (For educational institutions.)
*(I.46)	52.215-22	Price Reduction for Defective Cost or Pricing Data.
*(I.47)	52.215-23	Price Reduction for Defective Cost or Pricing Data Modifications.
*(I.48)	52.215-24	Subcontractor Cost or Pricing Data.
*(I.49)	52.215-25	Subcontractor Cost or Pricing Data-Modifications.
*(I.50)	52.215-27	Termination of Defined Benefit Pension Plans. (Except educational institutions.)
*(I.51)	52.215-31	Waiver of Facilities Capital Cost of Money. (Except educational institutions.)
*(I.52)	52.215-39	Reversion or Adjustment of Plans for Postretirement Benefits Other than Pension (PRB).
*(I.53)	52.216-8	Fixed Fee.
*(I.54)	52.216-10	Incentive Fee.
*(I.55)	52.216-11	Cost Contract—No Fee.
*(I.56)	52.216-11	Cost Contract—No Fee-Alternate I.
*(I.57)	52.216-12	Cost-Sharing Contract—No Fee.
*(I.58)	52.216-12	Cost-Sharing Contract—No Fee-Alternate I.
*(I.59)	52.216-15	Predetermined Indirect Cost Rates.
*(I.59A)	252.216-7002	Alternate. (For educational institutions only.)
*(I.60)	52.219-6	Notice of Total Small Business Set-Aside.
*(I.61)	52.219-6	Notice of Total Small Business Set-Aside—Alternate I.
(I.63)	Reserved.	
*(I.64)	52.219-14	Limitations on Subcontracting.
*(I.65)	52.219-16	Liquidated Damages—Small Business Subcontracting Plan.
(I.66)	Reserved.	
*(I.67)	52.222-1	Notice to the Government of Labor Disputes.
*(I.68)	52.222-2	Payment for Overtime Premiums.
*(I.69)	52.222-28	Equal Opportunity Preaward Clearance of Subcontracts.
*(I.70)	52.223-2	Clean Air and Water.
*(I.71)	52.223-3	Hazardous Material Identification and Material Safety Data.
*(I.72)	52.223-7	Notice of Radioactive Materials (21 Days).
*(I.73)	52.226-1	Utilization of Indian Organizations and Indiane-Owned Economic Enterprises.
*(I.74)	52.227-10	Filing of Patent Applications—Classified Subject Matter.
*(I.75)	52.227-11	Patent Rights—Retention by the Contractor (Short Form).
*(I.76)	52.227-12	Patent Rights—Retention by the Contractor (Long Form).
*(I.77)	52.227-13	Patent Rights—Acquisition by the Government.
*(I.78)	52.228-7	Insurance—Liability to Third Persons—Alternate I.
*(I.79)	52.228-7	Insurance—Liability to Third Persons—Alternate II.
*(I.80)	52.229-8	Taxes—Foreign Cost-Reimbursement Contracts.
*(I.81)	52.229-10	State of New Mexico Gross Receipts and Compensating Tax.
*(I.82)	52.230-2	Cost Accounting Standards. (Except if exempted.)
*(I.83)	52.230-3	Disclosure and Consistency of Cost Accounting Practices. (Except if exempted.)
*(I.84)	52.230-5	Administration of Cost Accounting Standards. (Except educational institutions.)
*(I.85)	52.232-17	Interest.
*(I.86)	52.232-20	Limitation of Cost.

* (I.87)	52.232-22	Limitation of Funds.
* (I.88)	52.232-23	Assignment of Claims—Alternate I.
* (I.89)	52.233-1	Disputes—Alternate I.
* (I.90)	52.237-2	Protection of Government Buildings, Equipment and Vegetation.
* (I.91)	52.242-10	F.O.B. Origin-Government Bills of Lading or Prepaid Postage.
* (I.92)	52.242-11	F.O.B. Origin-Government Bills of Lading or Indicia Mail.
* (I.93)	52.242-12	Report of Shipment (REPSHIP).
* (I.94)	52.243-2	Changes—Cost-Reimbursement-Alternate V.
* (I.95)	52.243-6	Change Order Accounting.
* (I.96)	52.243-7	Notification of Changes (30 Calendar Days).
* (I.97)	52.245-5	Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts).
* (I.98)	52.245-5	Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts-Alternate I. (For educational institutions and nonprofit organizations.)
* (I.99)	52.245-19	Government Property Furnished "As Is".
* (I.100)	52.246-23	Limitation of Liability.
* (I.101)	52.246-24	Limitation of Liability-High Value Items.
* (I.102)	52.246-24	Limitation of Liability-High Value Items-Alternate I.
* (I.103)	52.246-25	Limitation of Liability-Services.
* (I.104)	52.247-63	Preference for U.S.-Flag Air Carriers.
* (I.105)	52.247-66	Returnable Cylinder.
* (I.106)	52.249-5	Termination for Convenience of the Government (Educational and Other Nonprofit Institutions).
* (I.107)	52.249-6	Termination (Cost-Reimbursement).
* (I.108)	52.251-1	Government Supply Sources.
* (I.109)	252.201-7000	Contracting Officer's Representative.
* (I.110)	252.203-7001	Special Prohibition on Employment.
* (I.111)	Reserved.	
* (I.112)	Reserved.	
* (I.113)	52.204-7003	Control of Government Personnel Work Product.
* (I.114)	252.209-7000	Acquisition from Subcontractors Subject to On-Site Inspection under the Intermediate-Range Nuclear Forces (INF) Treaty.
* (I.115)	252.225-7012	Preference for Certain Domestic Commodities.
* (I.116)	252.225-7031	Secondary Arab Boycott of Israel.
* (I.117)	Reserved.	
* (I.118)	Reserved.	
* (I.119)	Reserved.	
* (I.120)	252.227-7030	Technical Data-Withholding of Payment.
* (I.121)	252.227-7037	Validation of Restrictive Markings on Technical Data.
* (I.122)	252.231-7000	Supplemental Cost Principles.
* (I.123)	252.232-7006	Reduction or Suspension of Contract Payments Upon Finding of Fraud.
* (I.124)	252.242-7000	Postaward Conference.
* (I.125)	Reserved.	
* (I.126)	252.247-7023	Transportation of Supplies by Sea.
* (I.127)	252.203-7000	Statutory Prohibition on Compensation to Former Department of Defense Employees.
* (I.128)	252.203-7002	Display of DoD Hotline Poster.
* (I.129)	252.204-7000	Disclosure of Information.
* (I.130)	252.204-7002	Payment for Subline Items Not Separately Priced.
* (I.131)	252.205-7000	Provision of Information to Cooperative Agreement Holders.
* (I.132)	252.215-7000	Pricing Adjustments.
* (I.133)	252.215-7002	Cost Estimating System Requirements.
* (I.134)	252.219-7001	Notice of Partial Small Business Set-Aside with Preferential Consideration for Small Disadvantaged Business Concerns.
* (I.135)	252.219-7002	Notice of Small Disadvantaged Business Set-Aside.
* (I.136)	252.219-7003	Small Business and Small Disadvantaged Business Subcontracting Plan (DoD Contracts).
* (I.137)	252.219-7004	Small Business and Small Disadvantaged Business Subcontracting Plan (Test Program).
* (I.138)	252.219-7005	Incentive for Subcontracting with Small Businesses, Small Disadvantaged Businesses, Historically Black Colleges and Universities and Minority Institutions. (. . . To be negotiated _____ %.)
* (I.139)	252.219-7005	Incentive for Subcontracting with Small Businesses, Small Disadvantaged Businesses, Historically Black Colleges and Universities and Minority Institutions-Alternate I. (. . . To be negotiated _____ %.)
* (I.140)	252.219-7006	Notice of Evaluation Preference for Small Disadvantaged Business Concerns.
* (I.141)	252.223-7001	Hazard Warning Labels.
* (I.142)	252.223-7002	Safety Precautions for Ammunitions and Explosives.
* (I.143)	252.223-7003	Change in Place of Performance-Ammunition and Explosives.
* (I.144)	252.223-7004	Drug-Free Work Force.
* (I.145)	252.225-7014	Preference for Domestic Specialty Metals.
* (I.146)	252.225-7016	Restriction on Acquisition of Antifriction Bearings.
* (I.147)	252.225-7025	Foreign Source Restrictions.
* (I.148)	252.225-7026	Reporting of Contract Outside the United States.
* (I.149)	252.225-7032	Waiver of United Kingdom Levies.
* (I.150)	252.226-7000	Notice of Historically Black College or University and Minority Institution Set-Aside.
* (I.151)	252.227-7026	Deferred Delivery of Technical Data or Computer Software.
* (I.152)	252.227-7027	Deferred Ordering of Technical Data or Computer Software.
(I.153)	Reserved.	
* (I.154)	252.227-7034	Patent—Subcontracts.

* (I.155)	252.227-7036	Certification of Technical Data Conformity.
* (I.156)	252.227-7039	Patents—Reporting of Subject Inventions.
(I.157)		Reserved.
* (I.158)	252.232-7000	Advance Payment Pool. (For educational institutions and nonprofit organizations.)
* (I.159)	252.233-7000	Certification of Claims and Requests for Adjustment or Relief.
* (I.160)	252.235-7002	Animal Welfare.
* (I.161)	252.242-7002	Submission of Commercial Freight Bills for Audit.
* (I.162)	252.242-7003	Application for U.S. Government Shipping Documentation/Instructions.
* (I.163)	252.242-7004	Material Management and Accounting System.
* (I.164)	252.245-7001	Reports of Government Property.
* (I.165)	252.247-7024	Notification of Transportation of Supplies by Sea.
* (I.166)	252.249-7001	Notification of Substantial Impact on Employment.
* (I.167)	252.251-7000	Ordering From Government Supply Sources.
* (I.168)	252.223-7006	Prohibition on Disposal of Toxic and Hazardous Materials.
* (I.169)	252.249-7002	Notification of Program Termination or Reduction.
(I.170)	52.204-4	Printing/Copying Double-Sided on Recycled Paper.
* (I.171)	52.208-8	Helium Requirement Forecast and Required Sources for Helium.
(I.172)	52.215-2	Audit and Records—Negotiation.
* (I.173)	52.215-2	Audit and Records—Negotiation, Alternate II.
(I.174)	52.215-40	Notification of Ownership Changes.
* (I.175)	52.215-42	Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data—Modifications.
* (I.176)	52.215-42	Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data—Modifications, Alternate II.
* (I.177)	52.215-42	Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data—Modifications, Alternate III.
(I.178)	52.219-8	Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns.
* (I.179)	52.219-9	Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan.
* (I.180)	52.242-3	Penalties for Unallowable Costs.
(I.181)	52.242-4	Certification of Indirect Costs.
(I.182)	52.244-6	Subcontracts for Commercial Items and Commercial Components.
* (I.183)	52.247-67	Submission of Commercial Transportation Bills to the General Services Administration for Audit.
(I.184)	52.223-14	Toxic Chemical Release Reporting.
(I.185)	252.235-7010	Acknowledgement of Support and Disclaimer.
(I.186)	252.235-7011	Final Scientific or Technical Report.
* (I.187)	252.227-7013	Rights in Technical Data—Noncommercial Items.
* (I.188)	252.227-7013	Rights in Technical Data—Noncommercial Items, Alternate I.
* (I.189)	252.227-7014	Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation.
* (I.190)	252.227-7014	Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation, Alternate I.
* (I.191)	252.227-7015	Technical Data—Commercial Items.
* (I.192)	252.227-7016	Rights in Bid or Proposal Information.
* (I.193)	252.227-7018	Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research Program.
* (I.194)	252.227-7018	Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research Program, Alternate I.
* (I.195)	252.227-7019	Validation of Asserted Restrictions—Computer Software.
* (I.196)	252.227-7025	Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends.
* (I.197)	252.209-7005	Military Recruiting on Campus (For educational institutions only.)

* * * * *

PART IV—REPRESENTATIONS AND INSTRUCTIONS

Section K. Representations, Certifications and Other Statements of Offerors or Quoters

The following solicitation provisions require representations, certifications or the submission of other information by offerors. They are mandatory, and are included by reference. Full text copies of these provisions are available from the Contracting Officer and must be completed and certified before contract award.

(K.1)	52.203-4	Contingent Fee Representation and Agreement.
(K.2)	52.203-8	Requirement for Certificate of Procurement Integrity-Alternate I.
(K.3)	52.203-11	Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions.
(K.4)	52.204-3	Taxpayer Identification.
(K.5)	52.209-5	Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters.
(K.6)	52.215-6	Type of Business Organization.
(K.7)	52.215-11	Authorized Negotiators.
(K.8)	52.215-20	Place of Performance.
(K.9)	52.215-30	Facilities Capital Cost of Money (Except educational institutions.)
(K.10)		Reserved..
(K.11)		Reserved..
(K.12)		Reserved..
(K.13)	52.222-21	Certification of Nonsegregated Facilities.
(K.14)	52.222-22	Previous Contracts and Compliance Reports.
(K.15)	52.222-25	Affirmative Action Compliance.

(K.16)	52.223-1	Clean Air and Water Certification.
(K.17)	52.223-5	Certification Regarding a Drug-Free Workplace.
(K.18)	52.227-6	Royalty Information.
(K.19)	52.230-1	Cost Accounting Standards Notices and Certification.
(K.20)	Reserved..	
(K.21)	252.209-7002	Disclosure of Ownership or Control by a Foreign Government.
(K.22)	252.219-7000	Small Disadvantaged Business Concern Representation (DOD Contracts).
(K.23)	Reserved..	
(K.24)	Reserved..	
(K.25)	252.226-7001	Historically Black College or University and Minority Institution Certification.
(K.26)	Reserved..	
(K.27)	252.247-7022	Representation of Extent of Transportation by Sea.
(K.28)	52.204-5	Women-Owned Business.
(K.29)	252.209-7	Organizational Conflicts of Interest Certificate—Marketing Consultants.
(K.30)	252.219-1	Small Business Program Representation.
(K.31)	252.223-13	Certification of Toxic Chemical Release Reporting.
(K.32)	252.209-7001	Disclosure of Ownership or Control by the Government of a Terrorist Country.
(K.33)	252.209-7003	Disclosure of Commercial Transactions with the Government of a Terrorist Country.
(K.34)	252.209-7004	Reporting of Commercial Transactions with the Government of a Terrorist Country.
(K.35)	252.227-7017	Identification and Assertion of Use, Release, or Disclosure Restrictions.
(K.36)	252.227-7028	Technical Data or Computer Software Previously Delivered to the Government.

Section L. Instructions, Conditions, and Notices to Offerors or Quoters

(L.1)	52.252-1	Solicitation Provisions Incorporated by Reference.
(L.2)	Reserved..	
(L.3)	52.210-2	Availability of Specifications and Standards Listed in the DoD Index of Specifications and Standards (DODISS) and Descriptions Listed in DoD 5010.12-L (Deviation).
(L.4)	52.215-5	Solicitation Definitions.
(L.5)	52.215-7	Unnecessarily Elaborate Proposals or Quotations.
(L.6)	52.215-8	Amendments to Solicitations.
(L.7)	52.215-9	Submission of Offers.
(L.8)	52.215-10	Late Submissions, Modifications, and Withdrawals of Proposals.
(L.9)	52.215-12	Restriction on Disclosure and Use of Data.
(L.10)	52.215-13	Preparation of Offers.
(L.11)	52.215-14	Explanation to Prospective Offerors.
(L.12)	52.215-15	Failure to Submit Offer.
(L.13)	52.215-16	Contract Award.
(L.14)	Reserved..	
(L.15)	52.216-1	Type of Contract (See 235.7006(d)(B.1)).
(L.16)	52.222-24	Preaward On-Site Equal Opportunity Compliance Review.
(L.17)	52.228-6	Insurance-Immunity from Tort Liability.
(L.18)	52.233-2	Service of Protest (See 235.7006(d)(A.1)(xvii)).
(L.19)	52.237-1	Site Visit.
(L.20)	52.252-5	Authorized Deviations in Provisions.
(L.21)	252.204-7001	Commercial and Government Entity (CAGE) Code Reporting.
(L.22)	Reserved..	
(L.23)	52.215-16	Contract Award—Alternate II.
*(L.24)	52.215-41	Requirements for Cost or Pricing Data or Information Other than Cost or Pricing Data.
*(L.25)	52.215-41	Requirements for Cost or Pricing Data or Information Other than Cost or Pricing Data, Alternate I.
*(L.26)	52.215-41	Requirements for Cost or Pricing Data or Information Other than Cost or Pricing Data, Alternate II.
*(L.27)	52.215-41	Requirements for Cost or Pricing Data or Information Other than Cost or Pricing Data, Alternate III.
*(L.28)	52.215-41	Requirements for Cost or Pricing Data or Information Other than Cost or Pricing Data, Alternate IV.

(L.29 through L.100) Reserved.

(L.101) Government-Furnished Property.

No material, labor, or facilities will be furnished by the Government unless provided for in the solicitation.

(L.102) Proposal Preparation and Submission Instructions.

(i) *Page limitation, format.*

(A) A proposal shall be prepared in separate volumes with the page limit and number of copies specified below. The table of contents and tabs are exempt from the page limits. No cross-referencing between volumes for essential information is permitted except where specifically set forth herein. The following volumes of material will be submitted:

Title	Copies	Maximum page limits
Cost	As specified in solicitation summary.	*50
Technical	As specified in solicitation summary.	100

*The 50-page cost proposal is a goal not a limit. The Contractor may use additional pages if necessary to comply with public law.

(B) Any technical proposal pages submitted which exceed the page limitations set forth above will not be read or evaluated. Proposal pages failing to meet paragraph D format will not be read or evaluated.

(C) No program cost data or cross-reference to the cost proposal will be included in any other volume.

(D) Format of the above proposal volumes shall be as follows:

(1) Proposals will be prepared on 8½×11 inch paper except for foldouts used for charts, tables, or diagrams, which may not exceed 11×17 inches. Foldouts will not be used for text. Pages will have a one inch margin.

(2) A page is defined as one face of a sheet of paper containing information. Two pages may be printed on one sheet.

(3) Type size will be no smaller than 10 point character height (vertical size) and no more than an average 12 characters per inch. Use of type-setting techniques to reduce type size below 10 points or to increase characters beyond 12 per inch is not permitted. Such techniques are construed as a deliberate attempt to circumvent the intent of page limitations set forth above.

(4) Proposal must lie flat when open, elaborate binding is not desirable.

(5) No models, mockups or video tapes will be accepted.

(6) Technical proposals will be prepared in the same sequence as the statement of work.

(ii) *Content.*

All proposals must be complete and respond directly to the requirements of the solicitation. The factors and subfactors listed in Section M of the solicitation shall be addressed. Cost and supporting data shall be included only in the cost volume. All other information shall be included in the technical volume.

* * * * *

PART 236—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

36. Section 236.201 is amended by revising paragraph (a) to read as follows:

236.201 Evaluation of contractor performance.

(a) *Preparation of performance evaluation reports.* Use DD Form 2626, Performance Evaluation (Construction), instead of SF 1420.

* * * * *

37. Section 236.204 is added to read as follows:

236.204 Disclosure of the magnitude of construction projects.

Additional price ranges are—
(i) Between \$10,000,000 and \$25,000,000;

(ii) Between \$25,000,000 and \$100,000,000;

(iii) Between \$100,000,000 and \$250,000,000;

(iv) Between \$250,000,000 and \$500,000,000; and

(v) Over \$500,000,000.

38. Section 236.271 is revised to read as follows:

236.271 Cost-plus-fixed-fee contracts.

Annual military construction appropriations acts restrict the use of cost-plus-fixed-fee contracts (see 216.306(c)).

39. Section 236.604 is amended by adding paragraph (a) introductory text to read as follows:

236.604 Performance evaluation.

(a) *Preparation of performance reports.* Use DD Form 2631, Performance Evaluation (Architect-Engineer), instead of SF 1421.

(2) * * *

* * * * *

PART 242—CONTRACT ADMINISTRATION

40. Section 242.203 is amended by removing at the end of paragraph (a)(i)(P) the word “and”; by removing at the end of paragraph (a)(i)(Q) the period and adding a semicolon and the word “and”; by revising paragraph (a)(ii); by removing paragraph (a)(iii); and by redesignating paragraphs (a)(iv) and (a)(v) as (a)(iii) and (a)(iv) respectively. The revision reads as follows:

242.203 Retention of contract administration.

(a)(i) * * *
(ii) Contract administration functions for base, post, camp, and station contracts on a military installation are normally the responsibility of the installation or tenant commander. However, the Defense Contract Management Command (DCMC) shall, upon request of the military department, and subject to prior agreement, perform

contract administration services on a military installation.

* * * * *

PART 246—QUALITY ASSURANCE

41. Section 246.770-2 is amended by redesignating paragraphs (b) and (c) as paragraphs (c) and (d) respectively; by adding a new paragraph (b); and by revising the newly designated paragraph (c) to read as follows:

246.770-2 Policy.

(a) * * *

(b) Contracting officers and program managers shall consider the following when developing and negotiating weapon system warranty provisions:

(1) Warranties may not be appropriate in all situations, and a waiver should be sought if a warranty would not be cost-effective or would otherwise be inconsistent with the national defense.

In drafting warranty provisions, the drafters must ensure they understand the planned operational, maintenance, and supply concepts of the weapon system to be fielded, and must structure a warranty that matches those concepts. A warranty plan should be prepared in consonance with development of the warranty provision early in the weapon system's life cycle. The plan should contain program warranty strategy, terms of the warranty, administration and enforcement requirements, and should be coordinated with the user and support activities.

(2) A cost/benefit analysis must be accomplished in support of each warranty (see 246.770-7). The cost/benefit analysis compares all costs associated with the warranty to the expected benefits. An estimate shall be made of the likelihood of defects and the estimated cost of correcting such defects. Also, if substantive changes are required to the planned operational, maintenance, or supply concepts, any increased costs should be weighed against the expected benefits in deciding whether a warranty is cost-effective.

(3) The Warranty Guidebook prepared by the Defense Systems Management College, Fort Belvoir, VA 22060-5426, is a valuable reference that can assist in the development, negotiation, and administration of an effective weapon system warranty.

(c) Contracting officers may require warranties that provide greater coverage and remedies than specified in paragraph (a) of this subsection.

* * * * *

42. Section 246.770-8 is amended by revising the introductory text of paragraph (a); by removing paragraph (b)(2); by redesignating paragraph (b)(3) as paragraph (b)(2), and by revising the introductory text of paragraphs (c) and (c)(2). The revised text reads as follows:

246.770-8 Waiver and notification procedures.

(a) The Secretary of Defense has delegated waiver authority within the limits specified in 10 U.S.C. 2403. The waiving authority for the defense agencies is the Under Secretary of Defense (Acquisition and Technology). Submit defense agency waiver requests to the Director, Defense Procurement, for processing. The waiving authority for the military departments is the Secretary of the department with authority to redelegate no lower than an Assistant Secretary. The waiving authority may waive one or more of the weapon system warranties required by 246.770-2 if—

* * * * *

(c) Departments and agencies shall issue procedures for processing waivers and notifications to Congress.

(1) * * *

(2) Notifications shall include—

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

43. Section 252.209-7005 is amended by revising the clause date to read "(FEB 1996)"; and by revising paragraph (b) to read as follows:

252.209-7005 Military recruiting on campus.

* * * * *

(b) *General.* An institution of higher education that has been determined, using procedures established by the Secretary of Defense at 32 CFR part 216: (1) to have a policy of denying, or (2) to effectively prevent the Secretary of Defense from obtaining for military recruiting purposes, entry to such institution's campuses, access to students on those campuses, or access to directory information pertaining to its students, is ineligible for contract award and payments under existing contracts. In addition, the Government shall terminate this contract for the Contractor's material failure to comply with the terms and conditions of award.

* * * * *

44. Section 252.217-7027 is revised to read as follows:

252.217-7027 Contract Definitization.

As prescribed in 217.7406(b), use the following clause:

CONTRACT DEFINITIZATION (FEB 1996)

(a) A _____ (*insert specific type of contract action*) is contemplated. The Contractor agrees to begin promptly negotiating with the Contracting Officer the terms of a definitive contract that will include (1) all clauses required by the Federal Acquisition Regulation (FAR) on the date of execution of the underfinitized contract action, (2) all clauses required by law on the date of execution of the definitive contract action, and (3) any other mutually agreeable clauses, terms, and conditions. The Contractor agrees to submit a _____ (*insert type of proposal; e.g., fixed-price or cost-and-fee*) proposal and cost or pricing data supporting its proposal.

(b) The schedule for definitizing this contract is as follows (*insert target date for definitization of the contract action and dates for submission of proposed, beginning of negotiations, and, if appropriate, submission of the make-or-buy and subcontracting plans and cost or pricing data*).

(c) If agreement on a definitive contract action to supersede this undefinitized contract action is not reached by the target date in paragraph (b) of this clause, or within any extension of it granted by the Contracting Officer, the Contracting Officer may, with the approval of the head of the contracting activity, determine a reasonable price or fee in accordance with subpart 15.8 and part 31 of the FAR, subject to Contractor appeal as provided in the Disputes clause. In any event, the Contractor shall proceed with completion of the contract, subject only to the Limitation of Government Liability clause.

(1) After the Contracting Officer's determination of price or fee, the contract shall be governed by—

(i) All clauses required by the FAR on the date of execution of this underfinitized contract action for either fixed-price or cost-reimbursement contracts, as determined by the Contracting Officer under this paragraph (c);

(ii) All clauses required by law as of the date of the Contracting Officer's determination; and

(iii) Any other clauses, terms, and conditions mutually agreed upon.

(2) To the extent consistent with paragraph (c)(1) of this clause, all clauses, terms, and conditions included in this undefinitized contract action shall continue in effect, except those that by their nature apply only to an undefinitized contract action.

(d) The definitive contract resulting from this undefinitized contract action will include a negotiated _____ (*insert "cost/price ceiling" or "firm-fixed price"*) in no event to exceed _____

_____ (*insert the not-to-exceed amount*).

(End of clause)

45. Section 252.223-7007 is added to read as follows:

252.223-7007 Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives.

As prescribed in 223.7203, use the following clause:

Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives (Feb. 1996)

(a) Definition.

"Arms, ammunition, and explosives (AA&E)," as used in this clause, means those items within the scope (chapter 1, paragraph B) of DoD 5100.76-M, Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives.

(b) The requirements of DoD 5100.76-M apply to the following items of AA&E being developed, produced, manufactured, or purchased for the Government, or provided to the Contractor as Government-furnished property under this contract:

Nomenclature	National stock number	Sensitivity category

(c) The Contractor shall comply with the requirements of DoD 5100.76-M, as specified in the statement of work. The edition of DoD 5100.76-M in effect on the date of issuance of the solicitation for this contract shall apply.

(d) The Contractor shall allow representatives of the Defense Investigative Service (DIS), and representatives of other appropriate offices of the Government, access at all reasonable times into its facilities and those of its subcontractors, for the purpose of performing surveys, inspections, and investigations necessary to review compliance with the physical security standards applicable to this contract.

(e) The Contractor shall notify the cognizant DIS field office of any subcontract involving AA&E within 10 days after award of the subcontract.

(f) The Contractor shall ensure that the requirements of this clause are included in all subcontracts, at every tier—

(1) For the development, production, manufacture, or purchase of AA&E; or

(2) When AA&E will be provided to the subcontractor as Government-furnished property.

(g) Nothing in this clause shall relieve the Contractor of its responsibility for complying with applicable Federal, state, and local laws, ordinances, codes, and regulations (including requirements for obtaining licenses and permits) in connection with the performance of this contract.

(End of clause)

252.228-7006 [Removed and Reserved]

46. Section 252.228-7006 is removed and reserved.

252.232-7004 [Amended]

47. Section 252.232-7004 is amended by revising the clause date to read "(FEB 1996)" and by revising in paragraph (a), in the parenthetical phrase, the word

“excepting” to read “including” and the phrase “Undefinitized Actions” to read “Undefinitized Contract Actions.”

PART 253—FORMS

48. Section 253.213-70 is amended by revising paragraph (e)(14) to read as follows:

253.213-70— Instructions for completion of DD Form 1155

* * * * *

(e) * * *

14 SHIP TO—

If a single ship-to point applies to the entire order, enter the name and address of that point in this block and a DODAAD code in the code block. For FMS shipments, enter the MAPAD code in the code block and an instruction for the contractor to contact the transportation office of the administering activity to obtain a name and shipping address. Enter multiple ship-to points in the schedule and mark this block, “See Schedule.”

* * * * *

49. At the end of Part 253 “253.303-2626, Performance Evaluation (construction)” and “253.303-2631, Performance Evaluation (Architect-Engineer)” are added to the DFARS Form List.

Appendix G to Chapter 2 [Amended]

50-51. Appendix G to Chapter 2, Part 3, Navy Activity Address Numbers, is amended by revising activity address numbers N00019, N00023, N00024, N00030, N00039, N00104, N00383, and by adding activity address number N00391 to read as follows:

Appendix G—Activity Address Numbers

* * * * *

PART 3—NAVY ACTIVITY ADDRESS NUMBERS

* * * * *

N00019—Naval Air Systems Command EF*, GU*—1421 Jefferson Davis

Highway

EF0-9—Arlington, VA 22243-5120

* * * * *

N00023—Naval Supply Systems Command

4J*, L5*—1931 Jefferson Davis Highway 4J0-9—Arlington, VA 22241-5360

N00024—Naval Sea Systems Command EH*, U0*—2531 Jefferson Davis

Highway

EH0-9—Arlington, VA 22242-5160

* * * * *

N00030—Strategic Systems Programs

EK*—1931 Jefferson Davis Highway EK0-9—Arlington, VA 22241-5362

* * * * *

N00039—Space and Naval Warfare Systems Command

NS*—2451 Crystal Drive NS0-9—Arlington, VA 22245-5200

* * * * *

N00104—Naval Inventory Control Point EP—5450 Carlisle Pike

EQ—Box 2020, Mechanicsburg, PA 17055-0788

* * * * *

N00383—Naval Inventory Control Point GB—700 Robbins Avenue

GC—Philadelphia, PA 19111-5098

* * * * *

N00391—Naval Inventory Control Point EP, EQ,—700 Robbins Avenue

GB, GC—Philadelphia, PA 19111-5098

* * * * *

52. Appendix G to Chapter 2, Part 4, Marine Corps Activity Address Numbers, is amended by revising activity number M67854 to read as follows:

PART 4—MARINE CORPS ACTIVITY ADDRESS NUMBERS

* * * * *

M67854—Marine Corps Systems Command

(MAJ00027)—2033 Barnett Ave, Suite 315

MU6-9—Quantico, VA 22134-5010

* * * * *

53. Appendix G, Chapter 2, Part 10, Miscellaneous Defense Activities Activity Address Numbers, is amended by revising activity number MDA946 to read as follows:

PART 10—MISCELLANEOUS DEFENSE ACTIVITIES ACTIVITY ADDRESS NUMBERS

* * * * *

MDA946—Real Estate and Facilities Directorate, Washington headquarters Services, 1155 Defense Pentagon, room 3C345, Washington, DC 20301-1155

* * * * *

[FR Doc. 96-4480 Filed 2-28-96; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No. 951221305-6038-02; I.D. 020296B]

Reef Fish Fishery of the Gulf of Mexico; Revised 1996 Red Snapper Season

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

ACTION: Emergency interim rule.

SUMMARY: NMFS issues this emergency interim rule to suspend implementation of the red snapper individual transferable quota (ITQ) system for the Gulf of Mexico, previously scheduled to begin April 1, 1996, to make the entire 1996 commercial quota for red snapper available to the fishery which opened February 1, 1996, and to extend for the emergency period the red snapper trip limit and permit endorsement system. The intended effect is to respond to an emergency situation involving the commercial red snapper fishery by preventing adverse social and economic impacts on fishery participants while allowing a controlled harvest of fish for the 1996 season.

EFFECTIVE DATES: The amendments to §§ 641.7 paragraphs (nn) through (pp) and 641.31 through 641.33 are effective February 23, 1996, through May 29, 1996.

The removal of §§ 641.34 and 641.7 paragraph (qq) is effective February 23, 1996.

The April 1, 1996, effective date for the amendments to part 641 listed in amendatory instruction 2 are delayed indefinitely.

ADDRESSES: Copies of documents supporting this action, including an environmental assessment, may be obtained from Robert Sadler, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Robert Sadler, 813-570-5305.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented through regulations at 50 CFR part 641 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Delayed Opening of the 1996 Commercial Red Snapper Fishery

Under the provisions of an emergency interim rule (61 FR 17, January 2, 1996), requested by the Council and issued by NMFS, (1) the opening of the 1996 red snapper commercial fishery was delayed from January 1 until February 1, 1996; (2) an interim commercial quota of 1.00 million lb (0.45 million kg) was established for the period February 1 through March 31, 1996; and (3) the red snapper trip limit and vessel permit endorsement system was continued