

for chemical reactions, as a carrier or laboratory chemical and other critical analytical and laboratory purposes. Pursuant to Decision XI/15 of the Parties to the Montreal Protocol, effective January 1, 2002 the following uses of class I controlled substances are not considered essential under the global laboratory exemption:

- a. Testing of oil and grease, and total petroleum hydrocarbons in water;
- b. Testing of tar in road-paving materials; and
- c. Forensic finger printing.

Production for essential laboratory and analytical purposes is authorized provided that these laboratory and analytical chemicals shall contain only controlled substances manufactured to the following purities:

CTC (reagent grade)—99.5
 1,1,1, trichloroethane—99.5
 CFC-11—99.5
 CFC-13—99.5
 CFC-12—99.5
 CFC-113—99.5
 CFC-114—99.5
 Other w/ Boiling P>20 degrees C—99.5
 Other w/ Boiling P<20 degrees C—99.0

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DEPARTMENT OF DEFENSE

48 CFR Part 203

[DFARS Case 99-D028]

Defense Federal Acquisition Regulation Supplement; Anticompetitive Teaming

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to add policy addressing exclusive teaming arrangements. The proposed amendments specify that certain exclusive teaming arrangements may evidence violations of the antitrust laws.

DATES: Comments on the proposed rule should be submitted in writing to the address specified below on or before December 31, 2001, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments directly on the World Wide Web at <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. As an alternative, respondents may e-mail comments to: dfars@acq.osd.mil. Please cite

DFARS Case 99-D028 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Susan Schneider, OUSD(AT&L)DP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062; facsimile (703) 602-0350. Please cite DFARS Case 99-D028.

At the end of the comment period, interested parties may view public comments on the World Wide Web at <http://emissary.acq.osd.mil/dar/dfars.nsf>.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Schneider, (703) 602-0326. Please cite DFARS Case 99-D028.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule amends DFARS Subpart 203.3 to add a definition of “exclusive teaming arrangement” and to specify that certain exclusive teaming arrangements may evidence violations of the antitrust laws. DoD previously published a proposed rule on this subject at 64 FR 63002, November 18, 1999. As a result of public comments received on the previous proposed rule, DoD is publishing this revised proposed rule to clarify that not all exclusive teaming arrangements evidence violations of the antitrust laws.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because DoD does not expect frequent use of anticompetitive teaming arrangements by contractors or subcontractors. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 99-D028.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 203

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR part 203 as follows:

1. The authority citation for 48 CFR part 203 continues to read as follows:

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

PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

2. Sections 203.302 and 203.303 are added to read as follows:

203.302 Definitions.

Exclusive teaming arrangement means that two or more companies agree, in writing, through understandings, or by any other means, to team together on a procurement and further agree not to team with any other competitors on that procurement.

203.303 Reporting suspected antitrust violations.

(c)(i) Practices or events that may evidence violations of the antitrust laws also include exclusive teaming arrangements when all of the following conditions exist:

(A) One or a combination of the companies participating on the team is the sole provider of a product or service that is essential for contract performance;

(B) The teaming arrangement impairs competition; and

(C) Government efforts to eliminate the teaming arrangement are not successful.

(ii) This policy applies only to exclusive teaming arrangements that meet all three of the conditions in paragraph (c)(i) of this section and should not be misconstrued to imply that all exclusive teaming arrangements evidence violations of the antitrust laws.

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