

listed in the FPI catalog to determine whether the FPI product is comparable to products available from the private sector. If the FPI product is not comparable, DoD must use competitive procedures to acquire the product. Section 811 became effective on October 1, 2001. Comments received in response to this interim rule will be considered in the formation of the final rule.

#### List of Subjects in 48 CFR Parts 208 and 210

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, 48 CFR Parts 208 and 210 are amended as follows:

1. The authority citation for 48 CFR Part 208 continues to read as follows:

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

#### PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

2. Section 208.602 is added to read as follows:

##### 208.602 Policy.

(a) Before purchasing a product listed in the FPI Schedule, departments and agencies shall conduct market research to determine whether the FPI product is comparable to products available from the private sector that best meet the Government's needs in terms of price, quality, and time of delivery (10 U.S.C. 2410n). This is a unilateral decision made solely at the discretion of the department or agency.

(i) If the FPI product is comparable, follow the policy at FAR 8.602(a).

(ii) If the FPI product is not comparable—

(A) Use competitive procedures to acquire the product; and

(B) Consider a timely offer from FPI for award in accordance with the specifications and evaluation factors in the solicitation.

3. Section 208.606 is revised to read as follows:

##### 208.606 Exceptions.

For DoD, FPI clearances also are not required—

(1) For orders of listed items totaling \$250 or less that require delivery within 10 days; or

(2) If market research shows that the FPI product is not comparable to products available from the private sector that best meet the Government's needs in terms of price, quality, and time of delivery.

4. Part 210 is added to read as follows:

#### PART 210—MARKET RESEARCH

Sec.

210.001 Policy.

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

##### 210.001 Policy.

(a) Also conduct market research before purchasing a product listed in the Federal Prison Industries (FPI) Schedule. Use the results to determine whether the FPI product is comparable to products available from the private sector that best meet the Government's needs in terms of price, quality, and time of delivery. (See subpart 208.6.)

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**BILLING CODE 5001-08-U**

#### DEPARTMENT OF DEFENSE

##### 48 CFR Part 215

[DFARS Case 2000-D018]

#### Defense Federal Acquisition Regulation Supplement; Changes to Profit Policy

**AGENCY:** Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to make changes to profit policy. The changes reduce the emphasis on facilities investment, add general and administrative expense to the cost base used in determining profit objectives, increase emphasis on performance risk, and encourage contractor cost efficiency.

**EFFECTIVE DATE:** April 26, 2002.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sandra Haberlin, OUSD(AT&L)DP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0289; facsimile (703) 602-0350. Please cite DFARS Case 2000-D018.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

This final rule amends the profit policy in DFARS Subpart 215.4. The rule—

- Reduces the value assigned to facilities capital employed for equipment by 50 percent, and eliminates facilities capital employed for buildings in establishing profit objectives on sole source, negotiated contracts;
- Offsets these changes by increasing the values for performance risk by 1 percentage point; and

- Adds a special factor for cost efficiency to encourage cost reduction efforts.

DoD published a proposed rule at 65 FR 45574 on July 24, 2000. Due to the complexity of the issues raised in the comments received, DoD published a notice of public meeting at 65 FR 69895 on November 21, 2000. The public meeting was held on December 12, 2000. After considering written comments received in response to the proposed rule, and verbal comments provided during the public meeting, DoD published a second proposed rule at 66 FR 48649 on September 21, 2001.

DoD received comments from five respondents on the second proposed rule. The comments, grouped into eight major categories, are discussed below:

1. *Use of the Cost Efficiency Factor.* Several respondents expressed concern regarding the measurement and documentation of cost savings. One thought metrics should be developed to aid in assessing cost efficiency gains. Another thought consideration should be expanded beyond "pending contracts" and that its use should be mandatory. Another wanted an element in the cost efficiency factor that would recognize new facilities when they contributed to improved productivity. *DoD Response:* Partially concur. A sentence has been added to DFARS 215.404-71-5(b)(4) to suggest how metrics could be used to demonstrate cost reduction efforts. The policy requires the contractor to demonstrate cost reduction efforts that benefit the pending contract. While we believe in a longer-term focus, we believe that the longer-term payoff will be on those contract actions that actually benefit from the contractor's efforts at cost reduction. Since cost efficiency is being added as a special factor, it already must be considered; however, we do not concur with mandating its use. We have also added a new 215.404-41-5(b)(8) to recognize new facilities when such investments contribute to improved productivity.

2. *Reduction of Facilities Capital Employed as a Factor in Calculating Profit Objectives.* One respondent wanted facilities capital completely restored while another wanted only the equipment portion restored. A number of respondents believed it was a good idea to eliminate facilities capital, while others thought there might be circumstances where it would be desirable to reward facilities investment. *DoD Response:* Partially concur. The equipment portion has been restored by 50 percent from the policy shown in the first proposed rule. DoD remains concerned about overcapacity

within the defense industry and continues to believe some reduction in emphasis on facilities capital employed is warranted. However, we added a new 215.404-71-5(b)(8) so that contracting officers could recognize new facilities as part of the cost efficiency factor in appropriate circumstances.

3. *Adding general and administrative (G&A) expense to the Cost base used to develop profit objectives.* Some respondents thought putting G&A expense back into the cost base was a good idea, while others thought it would incentivize contractors to increase their G&A costs. *DoD Response:* Most other agencies include G&A in computing profit objectives, and this was the DoD policy until 1986. We believe that adding G&A into the cost base results in consistent treatment of all allowable costs when computing profit objectives, and that G&A expenses should not be subject to less favorable treatment than other types of contract costs.

4. *Revenue neutrality.* Some respondents believed that the changes to the profit policy would increase negotiated profits; one thought profits would stay the same; and one thought profits would decrease under the proposed policy. *DoD Response:* DoD's goal was to have the policy changes be revenue neutral, excluding the cost efficiency factor. We believe the final policy achieves that objective.

5. *Performance risk.* One respondent did not agree with the added emphasis on performance risk, whereas another respondent stated that the high end of the range should be increased to allow the contracting officer to provide the statutory limits where the risk merits the highest fee. *DoD Response:* Do not concur. The increase to performance risk was to offset the impact of reducing facilities capital employed, thereby maintaining revenue neutrality. Any further increase or decrease would affect the goal of revenue neutrality. Statutory limits of profit apply only to cost-plus-fixed-fee contracts.

6. *Contract type risk.* One respondent recommended increasing the weights for fixed-price contracts. *DoD Response:* Do not concur. This policy makes no change to contract type risk.

7. *Eliminate structured approach.* One respondent recommended eliminating the structured approach to profit, determining profit based on sound business judgment, and establishing a website with guidance on current profit incentivizing techniques used by Government and industry. *DoD Response:* Do not concur. The FAR requires a structured approach for establishing profit objectives. The

"Guide to Incentive Strategies for Defense Acquisitions" is available at [www.acq.osd.mil/ar/resources.htm](http://www.acq.osd.mil/ar/resources.htm).

#### 8. *Other Comments*

a. One respondent indicated that DoD should expressly allow and encourage the use of a technology incentive factor for superior life cycle support through COTS insertion. *DoD Response:* Technology incentive is not being considered as a part of this case.

b. One respondent recommended modifying DFARS 215.404-71-3(d)(2) so that it is inoperative when contractors furnish funds prior to contract award in order to protect schedule, permit efficient material ordering, and provide continuity of workflow. Additional profit for management/cost control should be allowed. *DoD Response:* Current policy is appropriate, which requires the contracting officer to assess the extent to which costs have been incurred prior to contract definitization, reimburse the contractor for actual costs incurred, and reduce contract risk accordingly.

c. One respondent stated that adjusting a factor or two by a point or half a point is not going to provide adequate incentive to change contractor operations. *DoD Response:* Concur. That is why a 4 percent factor for cost efficiency was added.

d. One respondent recommended eliminating cost of money since the money at stake is often minimal. *DoD Response:* Do not concur.

e. One respondent recommended that the profit percentage should be lowered if performance-based payments are used. *DoD Response:* Concur. The DFARS weighted guidelines method already has different weights for this type of financing than for the progress payments type of financing. In addition, contracts with performance-based payments do not receive any working capital adjustment factor.

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

### B. Regulatory Flexibility Act

DoD certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities are below \$500,000, are based on adequate price competition, or are for commercial items, and do not require submission of cost or pricing data.

### 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 215

Government procurement.

#### Michele P. Peterson,

*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, 48 CFR Part 215 is amended as follows:

1. The authority citation for 48 CFR Part 215 continues to read as follows:

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

### PART 215—CONTRACTING BY NEGOTIATION

2. Sections 215.404-71-1 and 215.404-71-2 are revised to read as follows:

#### 215.404-71-1 General.

(a) The weighted guidelines method focuses on four profit factors—

- (1) Performance risk;
- (2) Contract type risk;
- (3) Facilities capital employed; and
- (4) Cost efficiency.

(b) The contracting officer assigns values to each profit factor; the value multiplied by the base results in the profit objective for that factor. Except for the cost efficiency special factor, each profit factor has a normal value and a designated range of values. The normal value is representative of average conditions on the prospective contract when compared to all goods and services acquired by DoD. The designated range provides values based on above normal or below normal conditions. In the price negotiation documentation, the contracting officer need not explain assignment of the normal value, but should address conditions that justify assignment of other than the normal value. The cost efficiency special factor has no normal value. The contracting officer shall exercise sound business judgment in selecting a value when this special factor is used (see 215.404-71-5).

#### 215.404-71-2 Performance risk.

(a) *Description.* This profit factor addresses the contractor's degree of risk in fulfilling the contract requirements. The factor consists of two parts:

- (1) Technical—the technical uncertainties of performance.
- (2) Management/cost control—the degree of management effort necessary—

- (i) To ensure that contract requirements are met; and
- (ii) To reduce and control costs.

(b) *Determination.* The following extract from the DD Form 1547 is annotated to describe the process.

Item	Contractor risk factors	Assigned weighting	Assigned value	Base (item 20)	Profit objective
21 .....	Technical .....	(1)	(2)	N/A	N/A
22 .....	Management/Cost Control .....	(1)	(2)	N/A	N/A
23 .....	Reserved.				
24 .....	Performance Risk (Composite) .....	N/A	(3)	(4)	(5)

(1) Assign a weight (percentage) to each element according to its input to the total performance risk. The total of the two weights equals 100 percent.

(2) Select a value for each element from the list in paragraph (c) of this subsection using the evaluation criteria in paragraphs (d) and (e) of this subsection.

(3) Compute the composite as shown in the following example:

	Assigned weighting (percent)	Assigned value (percent)	Weighted value (percent)
Technical .....	60	5.0	3.0
Management/Cost Control .....	40	4.0	1.6
Composite Value .....	100	.....	4.6

(4) Insert the amount from Block 20 of the DD Form 1547. Block 20 is total contract costs, excluding facilities capital cost of money.

(5) Multiply (3) by (4).

(c) Values: Normal and designated ranges.

	Normal value (percent)	Designated range
Standard .....	5	3% to 7%
Technology Incentive.	9	7% to 11%

(1) *Standard.* The standard designated range should apply to most contracts.

(2) *Technology incentive.* For the technical factor only, contracting officers may use the technology incentive range for acquisitions that include development, production, or application of innovative new technologies. The technology incentive range does not apply to efforts restricted to studies, analyses, or demonstrations that have a technical report as their primary deliverable.

(d) *Evaluation criteria for technical.*

(1) Review the contract requirements and focus on the critical performance elements in the statement of work or specifications. Factors to consider include—

- (i) Technology being applied or developed by the contractor;
  - (ii) Technical complexity;
  - (iii) Program maturity;
  - (iv) Performance specifications and tolerances;
  - (v) Delivery schedule; and
  - (vi) Extent of a warranty or guarantee.
- (2) *Above normal conditions.*

(i) The contracting officer may assign a higher than normal value in those cases where there is a substantial technical risk. Indicators are—

(A) Items are being manufactured using specifications with stringent tolerance limits;

(B) The efforts require highly skilled personnel or require the use of state-of-the-art machinery;

(C) The services and analytical efforts are extremely important to the Government and must be performed to exacting standards;

(D) The contractor's independent development and investment has reduced the Government's risk or cost;

(E) The contractor has accepted an accelerated delivery schedule to meet DoD requirements; or

(F) The contractor has assumed additional risk through warranty provisions.

(ii) Extremely complex, vital efforts to overcome difficult technical obstacles that require personnel with exceptional abilities, experience, and professional credentials may justify a value significantly above normal.

(iii) The following may justify a maximum value—

(A) Development or initial production of a new item, particularly if performance or quality specifications are tight; or

(B) A high degree of development or production concurrency.

(3) *Below normal conditions.*

(i) The contracting officer may assign a lower than normal value in those cases where the technical risk is low.

Indicators are—

(A) Requirements are relatively simple;

(B) Technology is not complex;

(C) Efforts do not require highly skilled personnel;

(D) Efforts are routine;

(E) Programs are mature; or

(F) Acquisition is a follow-on effort or a repetitive type acquisition.

(ii) The contracting officer may assign a value significantly below normal for—

(A) Routine services;

(B) Production of simple items;

(C) Rote entry or routine integration of Government-furnished information; or

(D) Simple operations with Government-furnished property.

(4) *Technology incentive range.*

(i) The contracting officer may assign values within the technology incentive range when contract performance includes the introduction of new, significant technological innovation. Use the technology incentive range only for the most innovative contract efforts. Innovation may be in the form of—

(A) Development or application of new technology that fundamentally changes the characteristics of an existing product or system and that results in increased technical performance, improved reliability, or reduced costs; or

(B) New products or systems that contain significant technological advances over the products or systems they are replacing.

(ii) When selecting a value within the technology incentive range, the contracting officer should consider the relative value of the proposed innovation to the acquisition as a whole. When the innovation represents a minor benefit, the contracting officer should consider using values less than the

norm. For innovative efforts that will have a major positive impact on the product or program, the contracting officer may use values above the norm.

(e) *Evaluation criteria for management/cost control.*

(1) The contracting officer should evaluate—

(i) The contractor's management and internal control systems using contracting office information and reviews made by field contract administration offices or other DoD field offices;

(ii) The management involvement expected on the prospective contract action;

(iii) The degree of cost mix as an indication of the types of resources applied and value added by the contractor;

(iv) The contractor's support of Federal socioeconomic programs;

(v) The expected reliability of the contractor's cost estimates (including the contractor's cost estimating system);

(vi) The adequacy of the contractor's management approach to controlling cost and schedule; and

(vii) Any other factors that affect the contractor's ability to meet the cost targets (e.g., foreign currency exchange rates and inflation rates).

(2) *Above normal conditions.*

(i) The contracting officer may assign a higher than normal value when there is a high degree of management effort. Indicators of this are—

(A) The contractor's value added is both considerable and reasonably difficult;

(B) The effort involves a high degree of integration or coordination;

(C) The contractor has a good record of past performance;

(D) The contractor has a substantial record of active participation in Federal socioeconomic programs;

(E) The contractor provides fully documented and reliable cost estimates;

(F) The contractor makes appropriate make-or-buy decisions; or

(G) The contractor has a proven record of cost tracking and control.

(ii) The contracting officer may justify a maximum value when the effort—

(A) Requires large scale integration of the most complex nature;

(B) Involves major international activities with significant management coordination (e.g., offsets with foreign vendors); or

(C) Has critically important milestones.

(3) *Below normal conditions.*

(i) The contracting officer may assign a lower than normal value when the management effort is minimal. Indicators of this are—

(A) The program is mature and many end item deliveries have been made;

(B) The contractor adds minimal value to an item;

(C) The efforts are routine and require minimal supervision;

(D) The contractor provides poor quality, untimely proposals;

(E) The contractor fails to provide an adequate analysis of subcontractor costs;

(F) The contractor does not cooperate in the evaluation and negotiation of the proposal;

(G) The contractor's cost estimating system is marginal;

(H) The contractor has made minimal effort to initiate cost reduction programs;

(I) The contractor's cost proposal is inadequate;

(J) The contractor has a record of cost overruns or another indication of unreliable cost estimates and lack of cost control; or

(K) The contractor has a poor record of past performance.

(ii) The following may justify a value significantly below normal—

(A) Reviews performed by the field contract administration offices disclose unsatisfactory management and internal control systems (e.g., quality assurance, property control, safety, security); or

(B) The effort requires an unusually low degree of management involvement.

3. Section 215.404-71-3 is amended as follows:

a. In paragraph (b), in the table, by removing the heading "Base (Item 18)" and adding in its place "Base (Item 20)"; and

b. By revising paragraph (b)(2) and the introductory text of paragraph (e)(2) to read as follows:

**215.404-71-3 Contract type risk and working capital adjustment.**

\* \* \* \* \*

(b) \* \* \*

(2) Insert the amount from Block 20, i.e., the total allowable costs excluding facilities capital cost of money.

\* \* \* \* \*

(e) \* \* \*

(2) Total costs equal Block 20 (i.e., all allowable costs excluding facilities capital cost of money), reduced as appropriate when—

\* \* \* \* \*

4. Section 215.404-71-4 is amended as follows:

a. In paragraph (a), in the first sentence, by removing the word "aggressive";

b. In paragraph (b)(2)(ii), in the first and last sentences, by removing "Block 18" and adding in its place "Block 20"; and

c. By revising paragraphs (c) and (d) to read as follows:

**215.404-71-4 Facilities capital employed.**

\* \* \* \* \*

(c) *Values: Normal and designated ranges.* These are the normal values and ranges. They apply to all situations.

Asset type	Normal value (percent)	Designated range
Land .....	0	N/A
Buildings .....	0	N/A
Equipment .....	17.5	10 to 25

(d) *Evaluation criteria.*

(1) In evaluating facilities capital employed, the contracting officer—

(i) Should relate the usefulness of the facilities capital to the goods or services being acquired under the prospective contract;

(ii) Should analyze the productivity improvements and other anticipated industrial base enhancing benefits resulting from the facilities capital investment, including—

(A) The economic value of the facilities capital, such as physical age, undepreciated value, idleness, and expected contribution to future defense needs; and

(B) The contractor's level of investment in defense related facilities as compared with the portion of the contractor's total business that is derived from DoD; and

(iii) Should consider any contractual provisions that reduce the contractor's risk of investment recovery, such as termination protection clauses and capital investment indemnification.

(2) *Above normal conditions.*

(i) The contracting officer may assign a higher than normal value if the facilities capital investment has direct, identifiable, and exceptional benefits. Indicators are—

(A) New investments in state-of-the-art technology that reduce acquisition cost or yield other tangible benefits such as improved product quality or accelerated deliveries; or

(B) Investments in new equipment for research and development applications.

(ii) The contracting officer may assign a value significantly above normal when there are direct and measurable benefits in efficiency and significantly reduced acquisition costs on the effort being priced. Maximum values apply only to those cases where the benefits of the facilities capital investment are substantially above normal.

(3) *Below normal conditions.*

(i) The contracting officer may assign a lower than normal value if the facilities capital investment has little benefit to DoD. Indicators are—

(A) Allocations of capital apply predominantly to commercial item lines;

(B) Investments are for such things as furniture and fixtures, home or group level administrative offices, corporate aircraft and hangars, gymnasiums; or

(C) Facilities are old or extensively idle.

(ii) The contracting officer may assign a value significantly below normal when a significant portion of defense manufacturing is done in an environment characterized by outdated, inefficient, and labor-intensive capital equipment.

5. Section 215.404-71-5 is added to read as follows:

**215.404-71-5 Cost efficiency factor.**

(a) This special factor provides an incentive for contractors to reduce costs. To the extent that the contractor can demonstrate cost reduction efforts that benefit the pending contract, the contracting officer may increase the prenegotiation profit objective by an amount not to exceed 4 percent of total objective cost (Block 20 of the DD Form 1547) to recognize these efforts.

(b) To determine if using this factor is appropriate, the contracting officer shall consider criteria, such as the following, to evaluate the benefit the contractor's cost reduction efforts will have on the pending contract:

(1) The contractor's participation in Single Process Initiative improvements;

(2) Actual cost reductions achieved on prior contracts;

(3) Reduction or elimination of excess or idle facilities;

(4) The contractor's cost reduction initiatives (e.g., competition advocacy programs, technical insertion programs, obsolete parts control programs, spare parts pricing reform, value engineering, outsourcing of functions such as information technology). Metrics developed by the contractor such as fully loaded labor hours (i.e., cost per labor hour, including all direct and indirect costs) or other productivity measures may provide the basis for assessing the effectiveness of the contractor's cost reduction initiatives over time;

(5) The contractor's adoption of process improvements to reduce costs;

(6) Subcontractor cost reduction efforts;

(7) The contractor's effective incorporation of commercial items and processes; or

(8) The contractor's investment in new facilities when such investments contribute to better asset utilization or improved productivity.

(c) When selecting the percentage to use for this special factor, the contracting officer has maximum flexibility in determining the best way to evaluate the benefit the contractor's cost reduction efforts will have on the pending contract. However, the contracting officer shall consider the impact that quantity differences, learning, changes in scope, and economic factors such as inflation and deflation will have on cost reduction.

**215.404-72 [Amended]**

6. Section 215.404-72 is amended as follows:

a. In paragraph (b)(1)(i), in the first sentence, by removing "Block 18" and adding in its place "Block 20";

b. By removing paragraph (b)(1)(ii); and

c. By redesignating paragraph (b)(1)(iii) as paragraph (b)(1)(ii).

7. Section 215.404-73 is amended by revising the first sentence of paragraph (b)(2)(i) to read as follows:

**215.404-73 Alternate structured approaches.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) The contracting officer shall reduce the overall prenegotiation profit objective by the amount of facilities capital cost of money. \* \* \*

\* \* \* \* \*

8. Section 215.404-74 is amended by revising paragraph (c) to read as follows:

**215.404-74 Fee requirements for cost-plus-award-fee contracts.**

\* \* \* \* \*

(c) Apply the offset policy in 215.404-73(b)(2) for facilities capital cost of money, i.e., reduce the base fee by the amount of facilities capital cost of money; and

\* \* \* \* \*

[FR Doc. 02-10096 Filed 4-25-02; 8:45 am]

BILLING CODE 5001-08-U

**DEPARTMENT OF DEFENSE**

**48 CFR Part 225**

[DFARS Case 2002-D007]

**Defense Federal Acquisition Regulation Supplement; NAFTA Procurement Threshold**

**AGENCY:** Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS). The rule implements the

determination of the U.S. Trade Representative to increase the dollar threshold for application of the North American Free Trade Agreement (NAFTA) to procurement of goods from Mexico, from \$54,372 to \$56,190.

**EFFECTIVE DATE:** April 26, 2002.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, Defense Acquisition Regulations Council, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0328; facsimile (703) 602-0350. Please cite DFARS Case 2002-D007.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

On February 21, 2002 (67 FR 8057), the U.S. Trade Representative published a determination that increased the dollar threshold for application of NAFTA to procurement of goods from Mexico, from \$54,372 to \$56,190. This final rule amends the prescription for use of the clause at DFARS 252.225-7036, Buy American Act—North American Free Trade Agreement Implementation Act—Balance of Payments Program, to reflect the new dollar threshold.

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

**B. Regulatory Flexibility Act**

This rule will not have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of DoD. Therefore, publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2002-D007.

**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 225**

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, 48 CFR part 225 is amended as follows:

1. The authority citation for 48 CFR part 225 continues to read as follows: