

(2) On the board of directors of the Contractor;

(3) As a consultant, agent, or representative for the Contractor; or

(4) In any other capacity with the authority to influence, advise, or control the decisions of the Contractor with regard to this contract.

\* \* \* \* \*

(d) 10 U.S.C. 2408 provides that the Contractor shall be subject to a criminal penalty of not more than \$500,000 if convicted of knowingly—

\* \* \* \* \*

(h) Pursuant to 10 U.S.C. 2408(c), defense contractors and subcontractors may obtain information as to whether a particular person has been convicted of fraud or any other felony arising out of a contract with the DoD by contacting The Office of Justice Programs, The Denial of Federal Benefits Office, U.S. Department of Justice, telephone (301) 809-4904.

(End of clause)

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## DEPARTMENT OF DEFENSE

### 48 CFR Parts 205, 226, 235, and 252

[DFARS Case 2003-D016]

#### Defense Federal Acquisition Regulation Supplement; Publicizing Contract Actions

**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 update text pertaining to publicizing contract actions. This proposed rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before April 23, 2004, to be considered in the formation of the final rule.

**ADDRESSES:** Respondents may submit comments via the Internet at <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. As an alternative, respondents may e-mail comments to: [dfars@osd.mil](mailto:dfars@osd.mil). Please cite DFARS Case 2003-D016 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. Teresa Brooks, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC

20301-3062; facsimile (703) 602-0350. Please cite DFARS Case 2003-D016.

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

**FOR FURTHER INFORMATION CONTACT:** Ms. Teresa Brooks, (703) 602-0326.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at <http://www.acq.osd.mil/dp/dars/transf.htm>.

This proposed rule is a result of the DFARS Transformation initiative. The proposed changes include—

- Deletion of text at DFARS 205.207(d)(ii) containing a notice to be included in acquisitions being considered for historically black college and university and minority institution (HBCU/MI) set-aside. This notice will be relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI), with retention of a policy statement in DFARS 205.207 regarding use of the notice, and addition of a policy statement at DFARS 226.7003-2(c) regarding the requirement for an interested HBCU/MI to provide evidence of its capability and eligibility (which is also addressed in the notice). A proposed rule describing the purpose and structure of PGI is published elsewhere in this issue of the **Federal Register** under DFARS Case 2003-D090, Procedures, Guidance, and Information.

- Redesignation of DFARS 205.207(d)(iii) as 205.207(d)(ii), and deletion of text that duplicates policy found in 235.016. A reference to 236.016 has been retained in newly designated 205.207(d)(ii).

- Deletion of unnecessary text at DFARS 205.207(e), 205.470-1, and 205.502. The clause prescription at 205.470-2 is redesignated as 205.470 and amended to include a statutory reference.

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 does not expect this rule 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 the rule updates and relocates DFARS text, with no substantive change in policy. 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 subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003-D016.

##### 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 Parts 205, 226, 235 and 252

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, DoD proposes to amend 48 CFR Parts 205, 226, 235, and 252 as follows:

1. The authority citation for 48 CFR Parts 205, 226, 235, and 252 continues to read as follows:

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

##### PART 205—PUBLICIZING CONTRACT ACTIONS

2. Section 205.207 is revised to read as follows:

##### 205.207 Preparation and transmittal of synopses.

(d)(i) For acquisitions being considered for historically black college and university and minority institution set-asides under 226.7003—

(A) Cite the appropriate Numbered Note; and

(B) Include the notice at PGI 205.207(d)(i).

(ii) For broad agency announcement notices, see 235.016.

3. Section 205.470 is revised to read as follows:

**205.470 Contract clause.**

Use the clause at 252.205-7000, Provision of Information to Cooperative Agreement Holders, in solicitations and contracts expected to exceed \$500,000. This clause implements 10 U.S.C. 2416.

**205.470-1 and 205.470-2 [Removed]**

4. Sections 205.470-1 and 205.470-2 are removed.

5. Section 205.502 is revised to read as follows:

**205.502 Authority.**

(a) *Newspapers.* Heads of contracting activities are delegated authority to approve the publication of paid advertisements in newspapers.

**PART 226—OTHER SOCIOECONOMIC PROGRAMS**

6. Section 226.7003-2 is amended by revising paragraph (c) to read as follows:

**226.7003-2 Set-aside procedures.**

\* \* \* \* \*

(c) Follow the special synopsis instructions in 205.207(d). Interested HCBU/MIs must provide evidence of their capability to perform the contract, and a positive statement of their eligibility, within 15 days of publication of the synopsis in order for the acquisition to proceed as an HCBU/MI set-aside.

\* \* \* \* \*

**PART 235—RESEARCH AND DEVELOPMENT CONTRACTING****235.016 [Amended]**

7. Section 235.016 is amended in paragraph (2)(ii) by revising the parenthetical to read “(see 205.207(d))”.

**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES****252.205-7000 [Amended]**

8. Section 252.205-7000 is amended in the introductory text by removing “205.470-2” and adding in its place “205.470”.

[FR Doc. 04-3704 Filed 2-20-04; 8:45 am]

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**DEPARTMENT OF DEFENSE****48 CFR Part 206**

[DFARS Case 2003-D017]

**Defense Federal Acquisition Regulation Supplement; Competition Requirements**

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 update text pertaining to competition requirements. This proposed rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before April 23, 2004, to be considered in the formation of the final rule.

**ADDRESSES:** Respondents may submit comments on the Internet at <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. As an alternative, respondents may e-mail comments to: [dfars@osd.mil](mailto:dfars@osd.mil). Please cite DFARS Case 2003-D017 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. Teresa Brooks, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062; facsimile (703) 602-0350. Please cite DFARS Case 2003-D017.

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

**FOR FURTHER INFORMATION CONTACT:** Ms. Teresa Brooks, (703) 602-0326.

**SUPPLEMENTARY INFORMATION:****A. Background**

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at <http://www.acq.osd.mil/dp/dars/transf.htm>.

This proposed rule is a result of the DFARS Transformation initiative. The proposed changes include—

- Revision of DFARS 206.001 to clarify the text.

- Deletion of text at DFARS 206.202(b) regarding documentation needed to support a DoD determination to exclude a particular source from a contact action in order to establish or maintain an alternative source of supplies or services; and deletion of text at DFARS 206.302-2 containing examples of circumstances under which use of other than full and open competition may be appropriate due to unusual and compelling urgency. This text will be relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI). A proposed rule describing the purpose and structure of PGI is published elsewhere in this issue of the **Federal Register** under DFARS Case 2003-D090, Procedures, Guidance, and Information.

- Deletion of obsolete text at DFARS 206.302-1(b)(4) and deletion of unnecessary text at DFARS 206.303-1(b) and (c) and 206.303-2.

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 does not expect this rule 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 the DFARS changes are limited to clarifying revisions or deletion of text that is unnecessary or internal to DoD. 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 subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003-D017.

**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 206**

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, DoD proposes to amend 48 CFR part 206 as follows:

1. The authority citation for 48 CFR part 206 continues to read as follows:

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