

who has been authorized by the Captain of the Port, Baltimore, Maryland to act on his or her behalf.

(b) *Location.* The following area is a security zone: All waters of the Severn River, from shoreline to shoreline, bounded by a line drawn from Horseshoe Point, at 38°59'47.6" N, 076°29'33.2" W; eastward across the Severn river to a point located at 39°00'01.5" N; 076°29'08.5" W; and a line drawn from Biemans Point, at 38°59'14.4" N, 076°28'30.1" W; westward across the Severn River to a point 38°59'03.5" N, 076°28'50.0" W; located on the Naval Academy waterfront. This security zone includes the waters of College Creek eastward of the King George Street Bridge (NAD 1983).

(c) *Regulations.* (1) The general regulations governing security zones found in § 165.33 apply to the security zone described in paragraph (b) of this section.

(2) Entry into or remaining in this zone is prohibited unless authorized by the Captain of the Port, Baltimore, Maryland.

(3) Persons or vessels requiring entry into or passage through the security zone must first request authorization from the Captain of the Port, Baltimore to seek permission to transit the area. The Captain of the Port, Baltimore, Maryland can be contacted at telephone number (410) 576-2693. The Coast Guard vessels enforcing this section can be contacted on VHF Marine Band Radio, VHF channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port, Baltimore, Maryland and proceed at the minimum speed necessary to maintain a safe course while within the zone.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(e) *Enforcement period.* This section will be enforced annually on the Friday before the Memorial Day holiday in May from 7:30 a.m. to 2 p.m. local time.

Dated: January 29, 2007.

**Brian D. Kelley,**

*Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.*

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Parts 204, 212, and 252

RIN 0750-AF55

#### Defense Federal Acquisition Regulation Supplement; DoD Representations and Certifications in the Online Representations and Certifications Application (DFARS Case 2006-D032)

**AGENCY:** Defense Acquisition Regulations System, 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 address DoD-unique requirements relating to the Online Representations and Certifications Application (ORCA). ORCA presently includes only representations and certifications required by the Federal Acquisition Regulation, but is being revised to also include those required by the DFARS.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before April 13, 2007, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2006-D032, using any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *E-mail:* [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2006-D032 in the subject line of the message.

- *Fax:* (703) 602-0350.

- *Mail:* Defense Acquisition Regulations System, Attn: Ms. Felisha Hitt, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062.

- *Hand Delivery/Courier:* Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202-3402.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Ms. Felisha Hitt, (703) 602-0310.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

Subpart 4.12 of the Federal Acquisition Regulation (FAR) requires prospective contractors to complete

electronic annual representations and certifications in ORCA, in conjunction with required registration in the Central Contractor Registration database. ORCA presently includes only representations and certifications required by the FAR, but is being revised to also include those required by the DFARS. This will eliminate the need for offerors to submit the same information to various DoD offices in response to individual solicitations.

Section 204.1202(2) of the proposed rule lists the existing DFARS representations and certifications that will be included in ORCA. The DFARS representations and certifications implement DoD-unique statutory requirements and trade agreements, and contain special requirements applicable to the significant number and various types of defense contracts and subcontracts performed outside the United States.

The proposed rule contains a substitute paragraph (c) for use with the provision at FAR 52.204-8, Annual Representations and Certifications, to permit the inclusion of information relating to both the FAR and the DFARS. An offeror must include information in paragraph (c) only if changes to the offeror's annual representations and certifications apply to a particular solicitation.

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 has prepared an initial regulatory flexibility analysis consistent with 5 U.S.C. 603. The analysis is summarized as follows:

The objective of the rule is to provide a centralized location for the representation and certification information required by the DFARS, thereby eliminating the need for offerors to submit the same information to various DoD offices in response to individual solicitations. The legal basis for the rule is 41 U.S.C. 421. The rule will apply to all entities registered in the Central Contractor Registration database. FAR 4.1102 requires that prospective contractors be registered in the database before the award of a contract or agreement, with certain exceptions. Administrative personnel that have general knowledge of the contractor's business should be able to enter the required information into the database. The rule is expected to have a positive impact on small business concerns by reducing administrative burdens.

A copy of the analysis may be obtained from the point of contact specified herein. 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 2006–D032.

**C. Paperwork Reduction Act**

The information collection requirements of the representations and certifications addressed in this proposed rule that require offerors to provide specific fill-in information have been approved by the Office of Management and Budget under Control Numbers 0704–0229, 0704–0245, and 0704–0259. The proposed rule does not impose information collection requirements beyond those already required by existing DFARS representations and certifications.

**List of Subjects in 48 CFR Parts 204, 212, and 252**

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

Therefore, DoD proposes to amend 48 CFR parts 204, 212, and 252 as follows:

1. The authority citation for 48 CFR parts 204, 212, and 252 continues to read as follows:

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

**PART 204—ADMINISTRATIVE MATTERS**

2. Subpart 204.12 is added to read as follows:

**Subpart 204.12—Annual Representations and Certifications**

**204.1202 Solicitation provision and contract clause.**

When using the provision at FAR 52.204–8, Annual Representations and Certifications—

(1) Use the provision with 252.204–7XXX, Alternate A, Annual Representations and Certifications; and

(2) Do not include the following representations and certifications:

(i) 252.209–7005, Reserve Officer Training Corps and Military Recruiting on Campus.

(ii) 252.212–7000, Offeror Representations and Certifications—Commercial Items.

(iii) 252.216–7003, Economic Price Adjustment—Wage Rates or Material Prices Controlled by a Foreign Government.

(iv) 252.225–7000, Buy American Act—Balance of Payments Program Certificate.

(v) 252.225–7020, Trade Agreements Certificate.

(vi) 252.225–7031, Secondary Arab Boycott of Israel.

(vii) 252.225–7035, Buy American Act—Free Trade Agreements—Balance of Payments Program Certificate.

(viii) 252.225–7042, Authorization to Perform.

(ix) 252.229–7003, Tax Exemptions (Italy).

(x) 252.229–7005, Tax Exemptions (Spain).

(xi) 252.239–7011, Special Construction and Equipment Charges.

(xii) 252.247–7022, Representation of Extent of Transportation by Sea.

**PART 212—ACQUISITION OF COMMERCIAL ITEMS**

3. Section 212.301 is amended by adding paragraph (f) introductory text to read as follows:

**212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.**

(f) The following additional provisions and clauses apply to DoD solicitations and contracts for the acquisition of commercial items. If the offeror has completed the provisions listed in paragraph (f)(i) or (ii) of this section electronically as part of its annual representations and certifications at <https://orca.bpn.gov>, the contracting officer may consider this information instead of requiring the offeror to complete these provisions for a particular solicitation.

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**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

4. Section 252.204–7XXX is added to read as follows:

**252.204–7XXX Alternate A, Annual Representations and Certifications.**

Alternate A, Annual Representations and Certifications (XXX 2007)

As prescribed in 204.1202, substitute the following paragraph (c) for paragraph (c) of the provision at FAR 52.204–8:

(c) The offeror has completed the annual representations and certifications electronically via the Online Representations and Certifications Application (ORCA) Web site at <https://orca.bpn.gov/>. After reviewing the ORCA database information, the offeror verifies by submission of the offer that the representations and certifications currently posted electronically have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer, and are incorporated in this offer by reference (see FAR 4.1201); except for the changes identified below [offeror to insert changes, identifying change by clause number, title, date]. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR/DFARS Clause #	Title	Date	Change

Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on ORCA.

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