

reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 5, 2007.

Jane Diamond,

Acting Regional Administrator, Region IX.

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(350)(i)(C) and (c)(352) to read as follows:

§ 52.220 Identification of plan.

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(c) * * *
(350) * * *
(i) * * *

(C) San Joaquin Valley Unified Air Pollution Control District.

(1) Rule 4702, adopted on August 21, 2003 and amended on January 18, 2007.

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(352) New and amended regulations were submitted on September 5, 2007, by the governor's designee.

(i) Incorporation by reference.

(A) Sacramento Metropolitan Air Quality Management District.

(1) Rule 413, adopted on April 6, 1995 and amended on March 24, 2005.

[FR Doc. E8-171 Filed 1-9-08; 8:45 am]

BILLING CODE 6560-50-P

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: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement

(DFARS) to address the DFARS provisions included in the Online Representations and Certifications Application (ORCA). Use of ORCA eliminates the need for offerors to repetitively submit the same information in response to Government solicitations.

DATES: *Effective Date:* January 10, 2008.

FOR FURTHER INFORMATION CONTACT: Ms. Felisha Hitt, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone 703-602-0310; facsimile 703-602-7887. Please cite DFARS Case 2006-D032.

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. FAR 4.1202 prescribes use of the solicitation provision at 52.204-8, Annual Representations and Certifications; provides a list of the FAR representations and certifications in ORCA; and provides direction to the contracting officer to exclude those representations and certifications from solicitations that contain the clause at FAR 52.204-7, Central Contractor Registration.

Similarly, this DFARS rule contains a list of the DFARS representations and certifications in ORCA, and provides direction to the contracting officer to exclude those representations and certifications when using the provision at FAR 52.204-8. In addition, the DFARS rule contains a substitute paragraph (c) for use with the provision at FAR 52.204-8 to permit 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.

DoD published a proposed rule at 72 FR 6515 on February 12, 2007. DoD received comments from one respondent. A discussion of the comments is provided below.

1. *Comment:* The respondent suggested administrative changes to the organization of the contents of ORCA to enhance the certification process.

DoD Response: The comment is outside the scope of this DFARS case. However, the comment has been forwarded to the Government officials

responsible for managing the ORCA system.

2. *Comment:* The respondent recommended revision of the introductory statement at 204.1202(2), from "Do not include the following representations and certifications" to "Do not include the following representations and certifications in solicitations and contracts."

DoD Response: DoD believes that the direction in the introductory statement is clear as written, and that the additional phrase is unnecessary.

3. *Comment:* The respondent recommended amendment of the second sentence in the introductory text at 212.301(f) pertaining to commercial item solicitations, to change "may" to "shall" with regard to direction to the contracting officer to consider the information in ORCA.

DoD Response: DoD has retained "may" in this sentence to provide flexibility to the contracting officer in the review of representations and certifications.

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 a final regulatory flexibility analysis consistent with 5 U.S.C. 604. A copy of the analysis may be obtained from the point of contact specified herein. The analysis is summarized as follows:

The objective of the rule is to maintain 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 rule will apply to prospective DoD contractors 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 applicable representation and certification information into ORCA. The rule is expected to have a positive impact on small business concerns by reducing administrative burdens.

C. Paperwork Reduction Act

The information collection requirements of the representations and certifications addressed in this 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. This 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, 48 CFR parts 204, 212, and 252 are amended 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 252.204–7007, 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 252.204–7007 is added to read as follows:

252.204–7007 Alternate A, Annual Representations and Certifications.

Alternate A, Annual Representations and Certifications (JAN 2008)

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 No.	Title	Date	Change
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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.

[FR Doc. E8–177 Filed 1–9–08; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 207, 209, 234, 235, and 252

RIN 0750–AF80

Defense Federal Acquisition Regulation Supplement; Lead System Integrators (DFARS Case 2006–D051)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 807 of the National Defense Authorization Act for Fiscal Year 2007. Section 807 places limitations on contractors acting as lead system integrators in the acquisition of major DoD systems. Such contractors may have no direct financial interest in the development or construction of any individual system or element of any