

information about the process by which NTIA regularly revises the NTIA Manual and makes public this document and all revisions. Federal agencies are required to comply with the specifications in the NTIA Manual according to 47 U.S.C. § 901 *et seq.*, Executive Order 12046 (March 27, 1978), 43 FR 13349, 3 CFR 1978 Comp., p. 158, when requesting frequency assignments for use of the radio frequency spectrum.

This rule updates section 300.1(b) to specify the version of the NTIA Manual with which Federal agencies must comply when requesting frequency assignments for use of the radio frequency spectrum. In particular, section 300.1(b) amends the regulations by replacing "September 2008" with "September 2009." Upon the effective date of this rule, Federal agencies must comply with the requirements set forth in the January 2008 edition of the NTIA Manual, as revised through September 2009.

The NTIA Manual is scheduled for revision in January, May, and September of each year and is submitted to the Director of the **Federal Register** for Incorporation by Reference approval. The Director of the **Federal Register** approved this incorporation by reference in accordance with 5 U.S.C. § 552(a) and 1 CFR part 51. The NTIA Manual is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, by referring to Catalog Number 903-008-00000-8. A reference copy of the NTIA Manual, including all revisions in effect, is available in the Office of Spectrum Management, 1401 Constitution Avenue, NW, Room 1087, Washington, DC 20230, or call William Mitchell at (202) 482-8124, and available online at <http://www.ntia.doc.gov/osmhome/redbook/redbook.html>. The NTIA Manual is also on file at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Paperwork Reduction Act

This action does not contain collection of information requirements subject to the Paperwork Reduction Act (PRA). Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the PRA, unless that collection

displays a currently valid OMB Control Number.

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order 12866.

Administrative Procedure Act/Regulatory Flexibility Act

NTIA finds good cause under 5 U.S.C. § 553(b)(3)(B) to waive prior notice and opportunity for public comment as it is unnecessary. This action amends the regulations to include the date of the most current version of the NTIA Manual. These changes do not impact the rights or obligations of the public. The NTIA Manual applies only to Federal agencies. Because these changes impact only Federal agencies, NTIA finds it unnecessary to provide for the notice and comment requirements of 5 U.S.C. § 553.

Because notice and opportunity for comment are not required pursuant to 5 U.S.C. § 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. § 601 *et seq.*) are not applicable. Therefore, a regulatory flexibility analysis is not required and has not been prepared.

Executive Order 13132

This rule does not contain policies having federalism implications as that term is defined in EO 13132.

Regulatory Text

List of Subjects in 47 CFR Part 300

Incorporation by reference; Radio.

■ For the reasons set forth in the preamble, NTIA amends title 47, Part 300 as follows:

PART 300—MANUAL OF REGULATIONS AND PROCEDURES FOR FEDERAL RADIO FREQUENCY MANAGEMENT

■ 1. The authority citation for Part 300 continues to read as follows:

Authority: 47 U.S.C. 901 *et seq.*, Executive Order 12046 (March 27, 1978), 43 FR 13349, 3 CFR 1978 Comp., p. 158.

■ 2. Paragraph 300.1 (b) is revised to read as follows:

§ 300.1 Incorporation by reference of the Manual of Regulations and Procedures for Federal Radio Frequency Management.

* * * * *

(b) The Federal agencies shall comply with the requirements set forth in the January 2008 edition of the NTIA Manual, as revised through September 2009, which is incorporated by reference with approval of the Director,

Office of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

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Dated: February 4, 2010.

Anna M. Gomez,

Deputy Assistant Secretary for Communications and Information.

[FR Doc. 2010-2968 Filed 2-10-10; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 217

[DFARS Case 2008-D005]

RIN 0750-AG24

Defense Federal Acquisition Regulation Supplement; Limitation on Procurements on Behalf of DoD

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

ACTION: Final rule.

SUMMARY: DoD is adopting as final, with changes, the interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to address statutory provisions relating to interagency procurements on behalf of DoD. The final rule adds new policy at to address Section 801(b) requirements and expands existing DFARS definitions.

DATES: *Effective Date:* March 15, 2010.

FOR FURTHER INFORMATION CONTACT: Ms. Meredith Murphy, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), 3060 Defense Pentagon, Washington, DC 20301-3060, Telephone 703-602-1302; facsimile 703-602-0350, Please cite DFARS Case 2008-D005.

SUPPLEMENTARY INFORMATION:

A. Background

Section 854 of the National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108-375) prescribes policy for the acquisition of supplies and services through the use of contracts or orders issued by non-DoD agencies.

Section 801(b)(1), at paragraphs (A) and (C), of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181) authorizes a DoD acquisition official to procure property and services in excess of the simplified acquisition threshold through civilian agencies only if—

(1) The civilian agencies agree to adhere to defense procurement requirements; or

(2) The Under Secretary of Defense (AT&L) certifies that the procurement is in the best interest of the Department.

The statute also requires DoD to issue guidance on interagency contracting consistent with the Act that addresses the circumstances in which it is appropriate for DoD acquisition officials to procure goods or services through a contract entered into by an agency outside the DoD.

DoD published an interim rule at 74 FR 34270 on July 15, 2009, to address the new statutory requirements. Statutory limitations in section 817 of Public Law 109-364, the John Warner National Defense Authorization Act for Fiscal Year 2007, and section 811 of Public Law 109-163, the National Defense Authorization Act for Fiscal Year 2006, were previously implemented and do not impact this change.

Two respondents submitted comments on the interim rule. A discussion of the comments is provided as follows:

1. Compliance With Financial Management Regulations

Comment: Public Law 110-181 states that the non-DoD agency must comply with its requirements including the "applicable Department of Defense financial management regulations." This requirement for the non-DoD activity to follow the DoD financial management regulations when making purchases for a non-DoD component should be included in the DFARS.

Response: The rule has been amended at DFARS 217.7802(a) to clarify that non-DoD activities will comply with applicable DoD financial management

regulations when making purchases for a DoD component.

2. Definition of "Governmentwide Acquisition Contract"

Comment: "Governmentwide acquisition contract" should be defined in the DFARS to make certain of its appropriate meaning as defined in the public law.

Response: The rule was amended at DFARS 217.7801 to include the definition of "Governmentwide acquisition contract".

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 the rule addresses internal DoD procedural matters.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes do not impose 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 217

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

Accordingly, the interim rule amending 48 CFR part 217, which was published at 74 FR 34270 on July 15, 2009, is adopted as a final rule with the following changes:

PART 217—SPECIAL CONTRACTING METHODS

1. The authority citation for 48 CFR part 217 continues to read as follows:

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

2. Section 217.7801 is amended by adding the definition of "governmentwide acquisition contract" to read as follows:

217.7801 Definitions.

* * * * *

Governmentwide acquisition contract means a task or delivery order contract that—

(1) Is entered into by a non-defense agency; and

(2) May be used as the contract under which property or services are procured for one or more other departments or agencies of the Federal Government.

* * * * *

3. Section 217.7802 is amended by revising paragraph (a) introductory text to read as follows:

217.7802 Policy.

(a) A DoD acquisition official may place an order, make a purchase, or otherwise acquire supplies or services for DoD in excess of the simplified acquisition threshold through a non-DoD agency in any fiscal year only if the head of the non-DoD agency has certified that the non-DoD agency will comply with defense procurement requirements for the fiscal year to include applicable DoD financial management regulations.

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