DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 202, 212, and 234

[DFARS Case 2008–D011]

Defense Federal Acquisition Regulation Supplement; Acquisition of Commercial Items

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

ACTION: Final rule.

SUMMARY: DoD is adopting as final, with changes, amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update text on transportation matters relating to DoD contracts.

DATES: Effective Date: August 20, 2010.


SUPPLEMENTARY INFORMATION:

A. Background

DoD published an interim rule at 74 FR 34263 on July 15, 2009, to clarify the types of services to which this rule applies, consistent with subsections (c)(1)(A) and (c)(1)(C)(i) of section 805 of the NDAA for Fiscal Year 2008. Section 805 specified when time-and-materials or labor-hour contracts may be used for commercial item acquisitions. Section 815 of the NDAA for Fiscal Year 2008 provided clarification regarding situations under which the procurement of a major weapon system, subsystems of major weapon systems, and components and spare parts for major weapon systems, may be acquired using procedures established for the acquisition of commercial items. Section 815 also clarified that the terms “general public” and “non-governmental entities” with regard to sales of commercial items, do not include the Federal Government or a State, local, or foreign government.

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 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 reinforces existing requirements for the appropriate use of commercial acquisition procedures and for ensuring that contract prices are fair and reasonable.

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 202, 212, and 234

Government procurement.

Ynette R. Shelkin, Editor, Defense Acquisition Regulations System.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule published at 74 FR 34263 on July 15, 2009, as corrected at 75 FR 35825 on July 21, 2009, is adopted as final without change.

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