203.171–4 Solicitation provision and contract clause.

(a) Use the clause at 252.203–7000, Requirements Relating to Compensation of Former DoD Officials, in all solicitations and contracts.

(b) Use the provision at 252.203–7005, Representation Relating to Compensation of Former DoD Officials, in all solicitations, including solicitations for task and delivery orders.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Add section 252.203–7005 to read as follows:

252.203–7005 Representation Relating to Compensation of Former DoD Officials.

As prescribed in 203.171–4(b), insert the following provision:

REPRESENTATION RELATING TO COMPENSATION OF FORMER DOD OFFICIALS (NOV 2011)

(a) *Definition. Covered DoD official* is defined in the clause at 252.203–7000, Requirements Relating to Compensation of Former DoD Officials.

(b) By submission of this offer, the offeror represents, to the best of its knowledge and belief, that all covered DoD officials employed by or otherwise receiving compensation from the offeror, and who are expected to undertake activities on behalf of the offeror for any resulting contract, are presently in compliance with all post-employment restrictions covered by 18 U.S.C. 207, 41 U.S.C. 2101–2107, and 5 CFR parts 2637 and 2641, including Federal Acquisition Regulation 3.104–2.

(End of provision)

[FR Doc. 2011–29421 Filed 11–17–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 242

RIN 0750–AH41

Defense Federal Acquisition Regulation Supplement: Administering Trafficking in Persons Regulations (DFARS Case 2011–D051)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to add to the list of contract administration functions a requirement to maintain surveillance over contractor compliance with duties and responsibilities pertaining to trafficking in persons when they are incorporated in contracts.

DATES: *Effective Date:* November 18, 2011.

FOR FURTHER INFORMATION CONTACT: Meredith Murphy, telephone (703) 602–1302.

SUPPLEMENTARY INFORMATION:

I. Background

The current FAR, at section 22.1705, entitled ''Contract clause,'' prescribes use of the clause at FAR 52.222–50, Combating Trafficking in Persons, in all solicitations and contracts. When the contract will be performed outside the United States, the clause must be used with its Alternate I, as prescribed in FAR 22.1705(b). The clause requires contractors to inform employees of the Government's zero-tolerance policy and the actions that will be taken against them for violations of the policy. In addition, contractors are required to notify the contracting officer immediately of any information received about an employee's conduct that violates this policy and also of actions taken against an employee as a result of the violation.

While the clause at FAR 52.222–50, Combating Trafficking in Persons, has been in effect since February 2009, the listing of Government contract administration functions was not modified at that time to add surveillance of a contractor's compliance with the clause requirements. Because the addition of this contract administration function is internal to DoD and will not impact current contract requirements or contract clauses, this is not a significant revision as defined at FAR 1.501–1. Therefore, under the authority at FAR 1.501–3(a), this rule can be published as a final rule without first obtaining public comment.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because an initial regulatory flexibility analysis is only required for proposed or interim rules that require publication for public comment (5 U.S.C. 603) and a final regulatory flexibility analysis is only required for final rules that were previously published for public comment, and for which an initial regulatory flexibility analysis was prepared (5 U.S.C. 604).

This final rule does not constitute a significant DFARS revision as defined at FAR 1.501–1 because this rule will not have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of the Government. Therefore, publication for public comment under 41 U.S.C. 1707 is not required.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 242

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 242 is amended as follows:

PART 242—CONTRACT ADMINISTRATION AND AUDIT SERVICES

■ 1. The authority citation for 48 CFR part 242 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. Amend section 242.302 by adding paragraph (a)(S–73) to read as follows:

242.302 Contract administration functions.

(a) * * *

(S–73) Maintain surveillance over contractor compliance with trafficking in persons requirements for all DoD contracts for services incorporating the clause at FAR 52.222–50, Combating Trafficking in Persons, and, when necessary, its Alternate I, as identified

in the clause prescription at FAR 22.1705. (See PGI 222.1703.)

[FR Doc. 2011–29426 Filed 11–17–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 211 and 225

RIN 0750–AH22

Defense Federal Acquisition Regulation Supplement: Fire-Resistant Fiber for Production of Military Uniforms (DFARS Case 2011–D021)

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

ACTION: Final rule.

SUMMARY: DoD is adopting as final, with changes, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement the section of the National Defense Authorization Act for Fiscal Year 2011 that prohibits specification of the use of fire-resistant rayon fiber in solicitations issued before January 1, 2015.

DATES: *Effective Date:* November 18, 2011.

FOR FURTHER INFORMATION CONTACT: Ms. Amy G. Williams, telephone 703–602–0328.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published an interim rule in the **Federal Register** at 76 FR 32843 on June 6, 2011, to implement section 821 of the National Defense Authorization Act for Fiscal Year 2011. Section 821 prohibits specification of the use of fire-resistant rayon fiber in solicitations issued before January 1, 2015.

Ten respondents submitted public comments in response to the interim rule. Nine of the respondents (manufacturers, suppliers, or distributors of fire-resistant fibers, yarns, fabrics, or military uniforms) submitted comments that were essentially the same.

II. Discussion and Analysis of the Public Comments

DoD reviewed the public comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Implements Law as Written

Comment: One respondent stated that the DFARS interim rule implements the statute as written.

Response: Noted.

B. Selection of Fire-Resistant Rayon Fiber

Comment: Nine respondents stated that the law only requires that DoD solicitations prior to January 1, 2015, not specify the use of fire-resistant rayon fiber. The law does not restrict DoD's selection and use of fabrics containing fire-resistant rayon fiber. The respondents recommended that the DFARS final rule make clear that the rule does not prohibit DoD from selecting fabrics that include fire-resistant rayon fibers.

Response: These responses have correctly stated the requirements of the law. The DFARS interim rule correctly reflected the statute. However, DoD has added clarification to the title and text of section 225.7016, that it is the requirement that is prohibited, not the voluntary offer and use.

C. Specification of Other Fire-Resistant Fibers

Comment: Nine respondents stated that the law is narrow in its application only to fire-resistant rayon fibers. According to the respondents, the law does not address DoD's ability to specify inherently flame-resistant cellulosic fibers; this broader category includes any manmade cellulosic fiber that has fire resistance added to its slurry before fiber extrusion, such as acetate, rayon, lyocell, *etc.* The respondents recommended that the DFARS final rule make it clear that the prohibition applies only to DoD's ability to specify the use of fire-resistant rayon fibers, and not to any other categories of fibers.

Response: The DoD interim rule clearly reflected the statutory prohibition on requiring the use of fire-resistant rayon fiber in a specification. However, it would be contrary to the intent of the statute to state the requirements of the solicitation in such a way as to exclude categories of fire-resistant fiber (such as polymers) from consideration.

D. Specification of Branded Products

Comment: Eight respondents stated that the law does not restrict the specification of branded products. The respondents recommended that the DFARS rule not include any mention of branded commercial products.

Response: The interim DFARS rule did not make any mention of branded commercial products. However, if a solicitation specifies the use of a branded commercial product that contains fire-resistant rayon fibers, then it would be in violation of the prohibition not to specify the use of fire-resistant rayon fiber.

E. Domestic Nonavailability Determinations (DNADs) or Waivers

Comment: Nine respondents recommended that the DFARS rule should make clear that it does not prohibit DoD's ability to source foreign fibers under its DNAD authority or a legislated waiver to the Berry Amendment.

Response: There is nothing in the interim or final rule that would, in any way, affect DoD's ability to source foreign fibers under its DNAD authority or a legislated waiver to the Berry Amendment.

F. Inequity in the Treatment of Foreign Fibers

Comment: Nine respondents stated that the law produces inequity in the treatment of foreign fibers that are specified by DoD and are purchased under DoD's authority to waive the Berry Amendment. The respondents cited various foreign fibers, none of which are ''restricted for specification.''

Response: Noted. However, the DFARS rule must implement the statute as enacted.

G. Impact on Small Business

Comment: Nine respondents disagreed with the statement in the initial regulatory flexibility analysis that the impact on small businesses will be minimal. The respondents cited two points on which they disagree with the analysis:

1. According to the respondents, Nomex is not a substitute for fire-resistant rayon fiber for the manufacture of all types of military uniforms. The respondents stated that Nomex is widely used in flight suits, but not in ground troop uniforms, unless used with cotton. Cotton requires topical fire resistant treatment, which is not permanent for the life of the fiber. According to the respondents, the alternatives to the use of fire-resistant rayon are ''next best'' as a permanent fire-resistant solution in hot and humid environments and are also more expensive.

2. Dozens of small businesses currently supply DoD with uniforms made using fire-resistant rayon fibers. The impact on small business can be significant if designing new products and producing existing programs becomes restrained by availability of raw materials.