

**DEPARTMENT OF DEFENSE****Defense Acquisition Regulations System****48 CFR Parts 201 and 212**

RIN 0750-AH65

**Defense Federal Acquisition Regulation Supplement; Inflation Adjustment of Threshold for Acquisition of Right-Hand Drive Passenger Sedans (DFARS Case 2012-D016)**

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

**ACTION:** Interim rule.

**SUMMARY:** DoD is issuing an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2012 that requires that the statutory limitation on the acquisition of right-hand drive passenger sedans be included on the list of dollar thresholds subject to inflation adjustment.

**DATES:** *Effective Date:* March 30, 2012.

*Comment Date:* Comments on the interim rule should be submitted in writing to the address shown below on or before May 29, 2012, to be considered in the formation of a final rule.

**ADDRESSES:** Submit comments identified by DFARS Case 2012-D016, using any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by entering "DFARS Case 2012-D016" under the heading "Enter keyword or ID" and selecting "Search." Select the link "Submit a Comment" that corresponds with "DFARS Case 2012-D016." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "DFARS Case 2012-D016" on your attached document.

- *Email:* [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2012-D016 in the subject line of the message.

- *Fax:* 571-372-6094.

- *Mail:* Defense Acquisition Regulations System, Attn: Dr. Laura Welsh, OUSD(AT&L)DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301-3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check [www.regulations.gov](http://www.regulations.gov), approximately two to three days after

submission to verify posting (except allow 30 days for posting of comments submitted by mail).

**FOR FURTHER INFORMATION CONTACT:** Dr. Laura Welsh, telephone 571-372-6091.

**SUPPLEMENTARY INFORMATION:****I. Background**

This interim rule revises the DFARS to implement section 814(b) of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112-81). Section 814(b) requires that the dollar limitation established in 10 U.S.C. 2253(a)(2) for the acquisition of right-hand drive passenger sedans be included on the list of dollar thresholds subject to inflation adjustment in accordance with the requirements of 41 U.S.C. 1908, and to adjust the threshold, as appropriate. 10 U.S.C. 2253(a)(2) is based on section 101(b) of the Fiscal Year 1986 Department of Defense Appropriations Act (Pub. L. 99-190). The threshold was previously amended from \$12,000 per vehicle to \$30,000 per vehicle in 1997 through section 805 of the Fiscal Year 1998 Department of Defense Appropriations Act (Pub. L. 105-85), enacted on November 18, 1997.

**II. Discussion and Analysis**

This interim rule revises the DFARS to implement section 814(b) of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112-81) as follows:

- Adds DFARS 201.109(a) to include the dollar limitation for the acquisition of right-hand drive passenger sedans in the list of statutory acquisition-related dollar thresholds to be adjusted for inflation.
- Adds DFARS 212.271 to provide the escalated threshold of \$40,000 per vehicle when acquiring right-hand drive passenger sedans.

**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 not a significant regulatory action and, therefore, was not 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**

DoD does not expect this rule to 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 it merely adjusts upward the current limitation for acquisition of right-hand drive passenger vehicles from \$30,000 to \$40,000 due to inflation. Therefore, an initial regulatory flexibility analysis has not been performed. DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2012-D016), in correspondence.

**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).

**VI. Determination To Issue an Interim Rule**

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because it implements section 814(b) of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112-81), enacted on December 31, 2011. Section 814(b) requires escalating the current threshold for acquisition of right-hand drive passenger sedans from \$30,000 to \$40,000. Pursuant to paragraph (d) of 41 U.S.C. 1908, revised thresholds take effect on the date of publication in the **Federal Register**. The threshold was last amended from \$12,000 per vehicle to \$30,000 per vehicle in 1997 through section 805 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105-85), enacted on November 18, 1997. Delaying implementation of the threshold adjustment may negatively impact contracting officers and the defense customers they support who require right-hand drive passenger sedans by restricting the purchase authority to the 1997 cost limitation of \$30,000, without providing for adjustment due to inflation. Transportation of personnel in right-hand drive passenger sedans is needed

overseas for reasons of safety and security and will allow personnel to move to work locations necessary to achieve the mission of the United States military worldwide, including support of overseas contingency operations. However, pursuant to 41 U.S.C. 1707 and FAR 1.501-3(b), DoD will consider public comments received in response to this interim rule in the formation of the final rule.

#### List of Subjects in 48 CFR Parts 201 and 212

Government procurement.

**Ynette R. Shelkin,**

*Editor, Defense Acquisition Regulations System.*

Therefore, 48 CFR parts 201 and 212 are amended as follows:

#### PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM

■ 1. The authority citation for 48 CFR part 201 is revised to read as follows:

**Authority:** 41 U.S.C. 1303 and CFR chapter 2.

■ 2. Section 201.109 is amended to add paragraph (a) to read as follows:

##### 201.109 Statutory acquisition-related dollar thresholds-adjustment for inflation.

(a) Section 814(b) of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112-81) requires that the threshold established in 10 U.S.C. 2253(a)(2) for the acquisition of right-hand drive passenger sedans be included in the list of dollar thresholds that are subject to adjustment for inflation in accordance with the requirements of 41 U.S.C. 1908, and is adjusted pursuant to such provisions, as appropriate.

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#### PART 212—ACQUISITION OF COMMERCIAL ITEMS

■ 3. The authority citation for 48 CFR part 212 continues to read as follows:

**Authority:** 41 U.S.C. 1303 and CFR chapter 2.

■ 4. Section 212.271 is added to subpart 212.2 to read as follows:

##### 212.271 Limitation on acquisition of right-hand drive passenger sedans.

10 U.S.C. 2253(a)(2) limits the authority to purchase right-hand drive passenger sedans to a cost of not more than \$40,000 per vehicle.

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BILLING CODE 5001-06-P

#### DEPARTMENT OF DEFENSE

##### Defense Acquisition Regulations System

#### 48 CFR Part 203

##### Defense Federal Acquisition Regulation Supplement; Technical Amendment

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

**ACTION:** Final rule.

**SUMMARY:** DoD is making a technical amendment to the Defense Federal Acquisition Regulation Supplement (DFARS) to add a reference for reporting suspected lobbying violations.

**DATES:** *Effective Date:* March 30, 2012.

**FOR FURTHER INFORMATION CONTACT:** Ms. Ynette R. Shelkin, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301-3060. Telephone 571-372-6089; facsimile 571-372-6101.

**SUPPLEMENTARY INFORMATION:** This final rule amends the DFARS by adding text at 203.806 to provide guidance to explain how and where to report violations or potential violations of the Lobbying Disclosure Act (31 U.S.C. 1352).

#### List of Subjects in 48 CFR Part 203

Government procurement.

**Ynette R. Shelkin,**

*Editor, Defense Acquisition Regulations System.*

Therefore, 48 CFR part 203 is amended as follows:

#### PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

■ 1. The authority citation for 48 CFR part 203 is revised to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 2.

■ 2. Add subpart 203.8 consisting of section 203.806 to read as follows:

##### Subpart 203.8—Limitations on the Payment of Funds To Influence Federal Transactions

##### 203.806 Processing suspected violations.

Report suspected violations to the address at PGI 203.8(a).

[FR Doc. 2012-7439 Filed 3-29-12; 8:45 am]

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#### DEPARTMENT OF DEFENSE

##### Defense Acquisition Regulations System

#### 48 CFR Parts 204, 209, 216, 229, and 252

RIN 0750-AH38

##### Defense Federal Acquisition Regulation Supplement: Separation of Combined Provisions and Clauses (DFARS Case 2011-D048)

**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 separate provisions and clauses that are currently combined in order to be in compliance with DFARS drafting conventions.

**DATES:** *Effective Date:* March 30, 2012.

**FOR FURTHER INFORMATION CONTACT:** Amy G. Williams, telephone 571-372-6106.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

DoD published a proposed rule in the **Federal Register** at 76 FR 71922 on November 21, 2011, to separate provisions and clauses that are currently combined in order to comply with DFARS drafting conventions. A provision is included only in the solicitation, and generally includes representations and certifications, to which the offeror responds in its offer. A contract clause is included in both the solicitation and the resultant contract, and provides the terms that apply throughout contract performance. It is inconsistent with DFARS drafting conventions to combine a provision and a clause in a single clause. This rule removes the representations from the following five DFARS clauses and creates five new provisions to be used in solicitations that include the associated clauses: