to make a state-level commitment for five years.

(c) *Deployment schedule.* Recipients of Phase II funding must complete deployment to 85% of supported locations within three years of notification of Phase II support authorization and to 100% of supported locations within five years of notification of Phase II support authorization. For purposes of meeting the obligation to deploy to the requisite number of supported locations, incumbent price cap carriers accepting a state-level commitment may serve locations in census blocks with costs above the extremely high-cost threshold instead of locations in eligible census blocks, provided that they meet the public interest obligations set forth in § 54.309 for those locations, and provided that the total number of locations covered is greater than or equal to the number of locations in the eligible census blocks for which the state-level commitment is made.

(d) *Disbursement of Phase II funding.* An eligible telecommunications carrier will be advised by public notice when it is authorized to receive support. The public notice will detail how disbursements will be made.

■ 4. In § 54.313, revise paragraphs (e)(1), (e)(2) and (e)(3) introductory text to read as follows:

§ 54.313 Annual reporting requirements for high-cost recipients

* * * * *

(e) * * *

(1) *In the calendar year no later than three years after notification of authorization of CAF Phase II funding,* a certification that the recipient is providing broadband meeting the requisite public interest obligations specified in § 54.309 to 85% of its supported locations.

(2) *In the calendar year no later than five years after notification of authorization of CAF Phase II funding,* a certification that the recipient is providing broadband meeting the requisite public interest obligations specified in § 54.309 to 100% of its supported locations.

(3) *In the calendar year after the filing of its initial five-year service quality improvement plan, and every year thereafter,* a progress report on the company's five-year service quality improvement plan, including the following information:

* * * * *

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 203 and 252

RIN 0750–AH97

Defense Federal Acquisition Regulation Supplement: Enhancement of Contractor Employee Whistleblower Protections (DFARS Case 2013–D010)

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

ACTION: Final rule.

SUMMARY: DoD has adopted as final, with changes, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement statutory amendments to whistleblower protections for contractor and subcontractor employees.

DATES: Effective February 28, 2014.

FOR FURTHER INFORMATION CONTACT: Amy Williams, telephone 571–372–6106.

SUPPLEMENTARY INFORMATION:

I. Background

This final rule finalizes an interim rule that revised the DFARS to implement section 827 (except paragraph (g)) of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239, enacted January 2, 2013). Section 827, entitled ''Enhancement of Whistleblower Protections for Contractor Employees,'' made extensive changes to 10 U.S.C. 2409, entitled ''Contractor employees: Protection from reprisal or disclosure.'' Paragraph (g) of section 827, which amended paragraph (k) of 10 U.S.C. 2324, entitled ''Allowable costs under defense contracts,'' is addressed under a separate DFARS case, 2013–D022, Allowability of Legal Costs for Whistleblower Proceedings.

Section 827 of the NDAA for FY 2013 created a standalone statute for DoD that is independent of the FAR coverage.

DoD published an interim rule in the **Federal Register** at 78 FR 59851 on September 30, 2013, to implement statutory amendments to the whistleblower protections for contractor and subcontractor employees. One respondent submitted a public comment in response to the interim rule.

II. Discussion and Analysis

A. Public Comments

DoD reviewed the public comment in the development of the final rule. A discussion of the comment is provided below.

Comment: The respondent recommended reinstating the clarifying statements at DFARS 203.903 and 203.905 that ''The following policy applies to DoD instead of the policy at FAR 3.903/3.905.''

Response: In the final rule, DoD has inserted a statement in section 203.900, Scope, to indicate that DFARS subpart 203.9 is to be used in lieu of FAR subpart 3.9. DFARS contractor whistleblower policies are based on 10 U.S.C. 2409, which is no longer implemented in the FAR (see FAR 3.900).

B. Other Changes

DoD has incorporated other non-substantive editorial changes in the final rule. In addition to redesignation of some paragraphs to conform to DFARS numbering conventions and minor wording changes for clarity, DoD has relocated DFARS 203.907, Classified information, to DFARS 203.903(2), because section 3.907 in the FAR is titled ''Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (the Recovery Act).'' DoD cannot assign a new title to the corresponding section in the DFARS.

II. 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

A final regulatory flexibility analysis has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* and is summarized as follows:

The Department of Defense (DoD) is amending the Defense Federal Acquisition Regulations Supplement (DFARS) to implement changes to existing protections for contractor whistleblower employees in accordance with section 827 of the National Defense

Authorization Act for Fiscal Year 2013. Section 827 amends 10 U.S.C. 2409 and 10 U.S.C. 2324(k), making the changes applicable to DoD and NASA. Each agency is amending its FAR supplement. This analysis pertains only to the DFARS final rule. DFARS is revising subpart 203.9, ''Whistleblower Protections for Contractor Employees.'' The subpart covers the policy, procedures for filing and investigating complaints, remedies, and the prescription for the clause at DFARS 252.203–7002, entitled ''Requirement to Inform Employees of Whistleblower Rights.''

The rule applies to all entities, small as well as large, at the prime contract and subcontract level. However, not all entities will have a situation that requires an employee to use the whistleblower provisions, and there is no way to predict the potential number of whistleblowers in advance. However, a small entity could be impacted by a whistleblower employee either as a Government prime contractor or subcontractor. In addition, the impact on an entity is directly related to the seriousness of the alleged wrongdoing.

No comments were received from the public on the Regulatory Flexibility analysis. No comments were received from the Chief Counsel for Advocacy of the Small Business Administration.

There are no reporting requirements associated with this rule. However, a firm accused of retaliating against an employee whistleblower is likely to be required to furnish human resources documentation to disprove the accusation. This documentation, however, would only be required in the course of an investigation of the accusation, not as a result of a contract clause.

There are no alternatives to this rule. Because of the terms used in the statute, DoD is unable to exempt small entities or establish a dollar threshold for coverage. Regardless of the size of the business, a whistleblower employee must be protected from retaliation by his/her employer.

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 Parts 203 and 252

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Accordingly, the interim rule amending 48 CFR parts 203 and 252, which was published in the **Federal Register** at 78 FR 59851 on September 30, 2013, is adopted as a final rule with the following changes:

PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

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

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

■ 2. Section 203.900 is amended by—
■ a. Adding introductory text;
■ b. Redesignating paragraphs (a) and (b) as paragraphs (1) and (2); and
■ c. In redesignated paragraph (2), further redesignating paragraphs (1) and (2) as paragraphs (2)(i) and (ii).

The addition reads as follows:

203.900 Scope of subpart.

This subpart applies to DoD instead of FAR subpart 3.9.

* * * * *

203.901 [Amended]

■ 3. Section 203.901 heading is amended by removing ''Definition'' and adding in its place ''Definitions''.

■ 4. Section 203.903 is amended by—
■ a. Revising paragraph (1);
■ b. Redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and
■ c. Adding a new paragraph (2).

The revision and addition read as follows:

203.903 Policy.

(1) *Prohibition.* 10 U.S.C. 2409 prohibits contractors and subcontractors from discharging, demoting, or otherwise discriminating against an employee as a reprisal for disclosing, to any of the entities listed at paragraph (2) of this section, information that the employee reasonably believes is evidence of gross mismanagement of a DoD contract, a gross waste of DoD funds, an abuse of authority relating to a DoD contract, a violation of law, rule, or regulation related to a DoD contract (including the competition for or negotiation of a contract), or a substantial and specific danger to public health or safety. Such reprisal is prohibited even if it is undertaken at the request of an executive branch official, unless the request takes the form of a non-discretionary directive and is within the authority of the executive branch official making the request.

(2) *Classified information.* As provided in section 827(h) of the National Defense Authorization Act for Fiscal Year 2013, nothing in this subpart provides any rights to disclose classified information not otherwise provided by law.

* * * * *

203.904 [Amended]

■ 5. Section 203.904 is amended by—
■ a. Redesignating paragraphs (a), (b), and (c) as paragraphs (1), (2), and (3), respectively; and
■ b. In the newly redesignated paragraph (3), further redesignating paragraphs (1), (2), (3), (4), and (5) as paragraphs (3)(i), (ii), (iii), (iv), and (v), respectively.

■ 6. Section 203.905 is amended by revising paragraph (2) to read as follows:

203.905 Procedures for investigating complaints.

* * * * *

(2) If the DoD Inspector General investigates the complaint, the DoD Inspector General will—

(i) Notify the complainant, the contractor alleged to have committed the violation, and the head of the agency; and

(ii) Provide a written report of findings to the complainant, the contractor alleged to have committed the violation, and the head of the agency.

* * * * *

203.907 [Removed]

■ 7. Remove Section 203.907.

[FR Doc. 2014–04158 Filed 2–27–14; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 204, 212, 227, 237, and 252

RIN 0750–AH54

Defense Federal Acquisition Regulation Supplement; Disclosure to Litigation Support Contractors (DFARS Case 2012–D029)

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

ACTION: Interim rule.