

13175 that would require a tribal summary impact statement. The rescission does not “have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.”

List of Subjects in 41 CFR Part 60–1

Administrative practice and procedure, Civil rights, Employment, Equal employment opportunity, Government contracts, Government procurement, Investigations, Labor, Reporting and recordkeeping requirements.

Jenny R. Yang,

Director, Office of Federal Contract Compliance Programs.

For the reasons set forth in the preamble, OFCCP amends 41 CFR part 60–1 as follows:

PART 60–1—OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS

■ 1. The authority citation for part 60–1 continues to read as follows:

Authority: Sec. 201, E.O. 11246, 30 FR 12319, 3 CFR, 1964–1965 Comp., p. 339, as amended by E.O. 11375, 32 FR 14303, 3 CFR, 1966–1970 Comp., p. 684, E.O. 12086, 43 FR 46501, 3 CFR, 1978 Comp., p. 230, E.O. 13279, 67 FR 77141, 3 CFR, 2002 Comp., p. 258 and E.O. 13672, 79 FR 42971.

§ 60–1.3 [Amended]

■ 2. Amend § 60–1.3 by removing the following:

- a. Definitions of “Particular religion,” “Religion,” “Religious corporation, association, educational institution, or society,” and “Sincere.”
- b. Paragraphs (a) and (b).

§ 60–1.5 [Amended]

■ 3. Amend § 60–1.5 by removing paragraphs (e) and (f).

[FR Doc. 2023–04150 Filed 2–28–23; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212, 225, and 252

[Docket DARS–2022–0020]

RIN 0750–AL61

Defense Federal Acquisition Regulation Supplement: Employment Transparency Regarding Individuals Who Perform Work in the People’s Republic of China (DFARS Case 2022–D010)

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

ACTION: Final rule.

SUMMARY: DoD is adopting as final, without change, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2022 that requires a disclosure from entities that employ one or more individuals who will perform work in the People’s Republic of China.

DATES: Effective March 1, 2023.

FOR FURTHER INFORMATION CONTACT: Kimberly Bass, telephone 703–717–3446.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published an interim rule in the **Federal Register** at 87 FR 52339 on August 25, 2022, to implement section 855 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2022 (Pub. L. 117–81, 10 U.S.C. 4651 note prec.). Section 855 requires offerors, when submitting a bid or proposal for a covered contract, to disclose their use of workforce and facilities in the People’s Republic of China, if they employ one or more individuals who will perform work in the People’s Republic of China, unless a national security waiver has been granted. A recurring disclosure is also required for fiscal years 2023 and 2024, for contractors that are covered entities and are a party to one or more covered contracts in each fiscal year, to disclose if the contractor employs one or more individuals who perform work in the People’s Republic of China on any such contract. One respondent submitted a public comment in response to the interim rule.

II. Discussion and Analysis

DoD reviewed the public comment in the development of the final rule. No

changes were made to the rule as a result of the comment. A discussion of the public comment, which stated support for the rule, is provided as follows:

Comment: The respondent supported the disclosure requirement in the interim rule, stating that an outright ban for contracts exceeding the \$5 million threshold would be inappropriate and would not allow a follow-on investigation to reach a determination that protects our national security interests while minimizing the effects on businesses and individuals.

Response: DoD acknowledges the support for the rule.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Services and Commercial Products, Including Commercially Available Off-the-Shelf (COTS) Items

The requirements of section 855 of the NDAA for FY 2022 apply to covered contracts valued in excess of \$5 million, excluding contracts for commercial products or commercial services. Therefore, DoD is not applying the rule to contracts at or below the SAT or to contracts for the acquisition of commercial services or commercial products, including COTS items.

IV. 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.

V. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801–808) before an interim or final rule takes effect, DoD will submit a copy of the interim or final rule with the form, Submission of Federal Rules under the Congressional Review Act, to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule under the Congressional Review Act cannot take effect until 60 days after it is published in the **Federal Register**. The Office of

Information and Regulatory Affairs has determined that this rule is not a major rule as defined by 5 U.S.C. 804.

VI. Regulatory Flexibility Act

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

This rule is required to implement section 855 of the National Defense Authorization Act (NDAA) for Fiscal Year 2022 (Pub. L. 117–81, 10 U.S.C. 4651 note prec.). The objective of the rule is to implement section 855 of the NDAA for FY 2022 to require offerors, when submitting a proposal for a covered contract, to disclose their use of workforce and facilities in the People's Republic of China if they employ one or more individuals who will perform work in the People's Republic of China, unless a national security waiver has been granted. A national security waiver may be granted if a determination is made that such disclosure would not be in the interest of national security. Recurring disclosures are required following contract award for contractors that are covered entities for fiscal years 2023 and 2024. The initial and recurring disclosures must include the total number of individuals who will perform work in the People's Republic of China on the covered contracts and a description of the physical presence of the facility, including the street address, where work on the covered contract will be performed.

There were no significant issues raised by the public comments in response to the initial regulatory flexibility analysis.

Federal Procurement Data System (FPDS) data was analyzed for fiscal years 2019, 2020, and 2021, purchases of supplies or end products and services for which the place of manufacture, place of performance, or country of the product's origin is China; with a value above \$5 million; and excluding commercial services, commercial products, and commercially available off-the-shelf (COTS) items. The FPDS data revealed no awards that met these criteria.

In addition, a data analysis was performed on the North Atlantic Treaty Organization (NATO) Commercial and Government Entity (NCAGE) codes from the NATO Support and Procurement Agency (NSPA) for entities located in the People's Republic of China, including Hong Kong. This review revealed a total of 5,143 entities. There were 4,706 entities in the People's Republic of China with NCAGE codes, and 437 entities in Hong Kong with

NCAGE codes. This list of NCAGE codes was compared to any People's Republic of China or Hong Kong NCAGE codes from the FPDS data results for a list of contract awards in fiscal years 2019, 2020 and 2021. Similarly, there were no contract awards to any unique entities or small business entities meeting the criteria.

There are projected reporting or recordkeeping requirements, and there may be costs to ensure compliance. The contractor's postaward disclosure is required for fiscal years 2023 and 2024, to disclose if a contractor that is a covered entity employs one or more individuals who perform work in the People's Republic of China on a covered contract. The disclosure must include the total number of individuals who will perform work in the People's Republic of China on the contract and a description of the exact street location of the physical presence in China where the work on the contract will be performed.

There are no known alternate approaches to the rule that would meet the objectives of the statute.

VII. Paperwork Reduction Act

This rule contains information collection requirements that have been approved by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35). This information collection requirement has been assigned OMB Control Number 0750–0005, entitled Defense Federal Acquisition Regulation Supplement (DFARS), Disclosure of Employment of Individuals Who Work in the People's Republic of China.

List of Subjects in 48 CFR Parts 212, 225, and 252

Government procurement.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

■ Accordingly, the interim rule implementing 48 CFR parts 212, 225, and 252, which was published at 87 FR 52339 on August 25, 2022, is adopted as final without change.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212, 232, and 252

[Docket DARS–2023–0004]

RIN 0750–AL27

Defense Federal Acquisition Regulation Supplement: Prompt Payment of Contractors (DFARS Case 2021–D008)

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 remove a clause and the associated prescription that are no longer necessary.

DATES: Effective March 16, 2023.

FOR FURTHER INFORMATION CONTACT: David E. Johnson, telephone 202–913–5764.

SUPPLEMENTARY INFORMATION:

I. Background

This rule implements section 815 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2021 (Pub. L. 116–283), which strengthened the requirement that DoD establish a goal to pay small business contractors within 15 days of receipt of an invoice. In particular, section 815(1) of the NDAA for FY 2021 amended 10 U.S.C. 2307(a)(2)(A) (now located in 10 U.S.C. 3801) by striking the language “if a specific payment date is not established by contract.” Section 815(2) of the NDAA for FY 2021 amended 10 U.S.C. 2307(a)(2)(B) by striking the language “if the prime contractor agrees” and replacing it with the language “if the prime contractor agrees or proposes.” Section 814 of the NDAA for FY 2022 (Pub. L. 117–81) rescinded section 815(2) of the NDAA for FY 2021.

In related Federal Acquisition Regulation (FAR) Case 2020–007, DoD, GSA, and NASA published a proposed rule at 86 FR 53923 on September 29, 2021, to implement a policy that provides for accelerated payments to contractors that are small businesses and to small business subcontractors by accelerating payments to their prime contractors. This change to the FAR implements section 873 of the NDAA for FY 2020 (Pub. L. 116–92). Section 873 requires agencies to establish an accelerated payment date for small business prime contractors, to the fullest