

PART 204—ADMINISTRATIVE MATTERS

■ 2. Revise section 204.7109 to read as follows:

204.7109 Contract clause.

Use the clause at 252.204–7006, Billing Instructions, in solicitations and contracts if Section G includes—

(a) Any of the standard payment instructions at PGI 204.7108(d)(1) through (6); or

(b) Other payment instructions, in accordance with PGI 204.7108(d)(12), that require contractor identification of the contract line item(s) on the payment request.

PART 212—ACQUISITION OF COMMERCIAL ITEMS**212.301 [Amended]**

■ 3. Amend section 212.301 by—

■ a. Removing paragraph (f)(ii)(C); and

■ b. Redesignating paragraphs (f)(ii)(D) through (G) as paragraphs (f)(ii)(C) through (F), respectively.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**252.204–7011 [Removed and Reserved]**

■ 4. Remove and reserve section 252.204–7011.

[FR Doc. 2018–11339 Filed 5–29–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE**Defense Acquisition Regulations System****48 CFR Parts 204, 212, 222, and 252**

[Docket DARS–2018–0016]

RIN 0750–AJ67

Defense Federal Acquisition Regulation Supplement: Repeal of DFARS Provision “Representation Regarding Combating Trafficking in Persons” (DFARS Case 2018–D003)

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 provision that is no longer necessary and duplicative of an existing Federal Acquisition Regulation (FAR) clause.

DATES: Effective May 30, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Carrie Moore, telephone 571–372–6093.

SUPPLEMENTARY INFORMATION:**I. Background**

DoD is amending the DFARS to remove the DFARS provision 252.222–7007, Representation Regarding Combating Trafficking in Persons, the associated provision prescription at DFARS 222.1771, and cross references to the provision at DFARS 204.1202 and 212.301. The DFARS provision notified offerors that, by submitting their offer to the Government, they certify that they will not engage in trafficking in persons in performance of the contract, will have policies in place to protect the rights of its employees, and have notified employees and subcontractors of their responsibility to report trafficking in persons violations and their protection from reprisal for reporting any such violation.

However, the United States Government has laws that prohibit trafficking in persons at 22 U.S.C. chapter 78 and Executive Order 13627, Strengthening Protections Against Trafficking in Persons in Federal Contracts. In addition, FAR clause, 52.222–50, Combating Trafficking in Persons, provides comprehensive guidance to contractors to ensure their compliance with the Government’s laws and policies on trafficking in persons when performing under a Federal contract. Specifically, the FAR clause prohibits contractors from engaging in trafficking in persons during the performance of the contract, requires contractors to notify its employees and subcontractors of the Government’s policy on trafficking in persons, and requires the contractor to have a compliance plan in place to ensure agreement with Federal law and policy. The purpose of the DFARS provision was to simply affirm that the contractor will comply with Federal trafficking in persons laws and policies. The provision contained no guidance or policy unique to DoD. As such, this DFARS provision is unnecessary and can be removed.

The removal of this DFARS text supports a recommendation from the DoD Regulatory Reform Task Force. On February 24, 2017, the President signed Executive Order (E.O.) 13777, “Enforcing the Regulatory Reform Agenda,” which established a Federal policy “to alleviate unnecessary regulatory burdens” on the American people. In accordance with E.O. 13777, DoD established a Regulatory Reform Task Force to review and validate DoD regulations, including the DFARS. A public notice of the establishment of the DFARS Subgroup to the DoD Regulatory Reform Task Force, for the purpose of

reviewing DFARS provisions and clauses, was published in the **Federal Register** at 82 FR 35741 on August 1, 2017, and requested public input. Two public comments were received on this provision. Both comments recommended elimination of the provision, as it is unnecessary. Subsequently, the DoD Task Force reviewed the requirements of DFARS provision 252.222–7007, Representation Regarding Combating Trafficking in Persons, and determined that the DFARS coverage was unnecessary and recommended removal.

II. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule does not add any new provisions or clauses or impact existing provisions or clauses. The rule merely removes DFARS provision 252.222–7007, Representation Regarding Combating Trafficking in Persons that is redundant to FAR clause, 52.222–50, Combating Trafficking in Persons.

III. Publication of This Final Rule for Public Comment is not Required by Statute

The statute that applies to the publication of the Federal Acquisition Regulation (FAR) is the Office of Federal Procurement Policy statute (codified at title 41 of the United States Code). Specifically, 41 U.S.C. 1707(a)(1) requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because DoD is not issuing a new regulation; rather, this rule merely removes an obsolete provision from the DFARS.

IV. Executive Orders 12866 and 13563

Executive Order (E.O.) 12866, Regulatory Planning and Review; and E.O. 13563, Improving Regulation and Regulatory Review, 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. The Office of Management and Budget, Office of Information and Regulatory Affairs (OIRA), has determined that this is not a significant regulatory action as defined under section 3(f) of E.O. 12866 and, therefore, was not subject to review under section 6(b). This rule is not a major rule as defined at 5 U.S.C. 804(2).

V. Exe This rule is not an E.O. 13771, Reducing and Controlling Regulatory Costs, regulatory action, because this rule is not significant under E.O. 12866.cutive Order 13771

This rule is not an E.O. 13771, Reducing and Controlling Regulatory Costs, regulatory action, because this rule is not significant under EO 12866.

VI. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see section III. of this preamble), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

VII. 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 204, 212, 222, and 252

Government procurement.

Amy G. Williams,

Deputy, Defense Acquisition Regulations System.

PART 204—ADMINISTRATIVE MATTERS

Therefore, 48 CFR parts 204, 212, 222, and 252 are amended as follows:

- 1. The authority citation for parts 204, 212, 222, and 252 continues to read as follows:

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

PART 204—ADMINISTRATIVE MATTERS

204.1202 [Amended]

- 2. Amend section 204.1202 by—
- a. Removing paragraph (2)(iv); and

- b. Redesignating paragraphs (2)(v) through (xiv) as paragraphs (iv) through (xiii), respectively.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

212.301 [Amended]

- 3. Amend section 212.301 by—
- a. Removing paragraph (f)(viii); and
- b. Redesignating paragraphs (f)(ix) through (xx) as paragraphs (f)(viii) through (xix), respectively.

PART 222—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

222.1771 [Removed]

- 4. Remove section 222.1771.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.222–7007 [Removed]

- 5. Remove section 252.222–7007.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 211, 215, 216, 218, and 225

[Docket DARS–2018–0026]

RIN 0750–AJ86

Defense Federal Acquisition Regulation Supplement: Delegation of Special Emergency Procurement Authority (DFARS Case 2018–D024)

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

ACTION: Final rule.

SUMMARY: DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to delegate to the head of the contracting activity the decision authorities provided to the head of the agency by sections of the National Defense Authorization Act for Fiscal Year 2018 that provide new special emergency procurement authorities. This final rule also makes conforming changes to nonstatutory emergency acquisition flexibilities relating to item-unique identification, receipt of only one offer, and limitations on time-and-materials contracts.

DATES: Effective May 30, 2018.

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

SUPPLEMENTARY INFORMATION:

I. Background

Sections 816 and 164 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2018 (Pub. L. 115–91) add new special emergency procurement authorities to include acquisitions, as determined by the head of the agency, that facilitate defense against or recovery from cyber attack; facilitate the provision of international disaster assistance; or support response to an emergency or major disaster. These sections 816 and 164 are being implemented in the Federal Acquisition Regulation (FAR) under FAR Case 2018–009.

Prior to this final rule, DFARS 218.271 delegated to the head of the contracting activity the determination authority for application of the previously existing special emergency procurement authorities (support of a contingency operation or to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack). In addition, the DFARS has provided nonstatutory emergency acquisition flexibilities relating to item-unique identification, receipt of only one offer, and limitations on time-and-materials contracts in circumstances similar to, but somewhat more expansive than those covered by the statutory special emergency procurement authorities.

II. Discussion and Analysis

This final rule delegates authority to the head of the contracting activity at DFARS 218.271 (redesignated 218.270) whatever special procurement authorities are specified in the FAR. This final rule also makes conforming changes to nonstatutory emergency acquisition flexibilities relating to item-unique identification (DFARS 211.274–2(b)(1)), receipt of only one offer (DFARS 215.371–4(a)(2)), and limitations on time-and-materials contracts (DFARS 216.601(d)(i)(A)(3)) and the associated references in part 218.

However, this final rule does not provide an exception at DFARS 211.274–2(b)(1) to the requirement for item unique identification, for acquisitions that facilitate defense against or recovery from cyber attack, because one of the reasons for use of item-unique identification is to ensure item-level traceability throughout the lifecycle to enhance cyber security (DFARS 211.274–1(e)). Therefore, in