

## Department of Defense

212.102

### 211.273-4 Contract clause.

Use the clause at 252.211-7005, Substitutions for Military or Federal Specifications and Standards, in solicitations and contracts exceeding the micro-purchase threshold, when procuring previously developed items.

[62 FR 44224, Aug. 20, 1997]

### Subpart 211.5—Liquidated Damages

#### 211.503 Contract clauses.

(b) Use the clause at FAR 52.211-12, Liquidated Damages—Construction, in all construction contracts exceeding \$500,000, except cost-plus-fixed-fee contracts or contracts where the contractor cannot control the pace of the work. Use of the clause in contracts of \$500,000 or less is optional.

[60 FR 61594, Nov. 30, 1995. Redesignated at 66 FR 49861, Oct. 1, 2001]

### Subpart 211.6—Priorities and Allocations

#### 211.602 General.

DoD implementation of the Defense Priorities and Allocations System is in DoDD 4400.1, Defense Production Act Programs.

[64 FR 51075, Sept. 21, 1999]

## PART 212—ACQUISITION OF COMMERCIAL ITEMS

### Subpart 212.1—Acquisition of Commercial Items—General

Sec.

212.102 Applicability.

#### Subpart 212.2—Special Requirements for the Acquisition of Commercial Items

212.211 Technical data.

#### Subpart 212.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items

212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

212.302 Tailoring of provisions and clauses for the acquisition of commercial items.

212.303 Contract format.

### Subpart 212.5—Applicability of Certain Laws to the Acquisition of Commercial Items

212.503 Applicability of certain laws to Executive agency contracts for the acquisition of commercial items.

212.504 Applicability of certain laws to subcontracts for the acquisition of commercial items.

### Subpart 212.6—Streamlined Procedures for Evaluation and Solicitation for Commercial Items

212.602 Streamlined evaluation of offers.

AUTHORITY: 41 U.S.C. 421 and 48 CFR Chapter 1.

SOURCE: 60 FR 61595, Nov. 30, 1995, unless otherwise noted.

### Subpart 212.1—Acquisition of Commercial Items—General

#### 212.102 Applicability.

(a)(i) In accordance with Section 821 of the National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398), the contracting officer also may use FAR part 12 for any performance-based contracting for services if the procedures in FAR Subpart 13.5 are not used, and the contract or task order—

(A) Is entered into on or before October 30, 2003;

(B) Has a value of \$5 million or less;

(C) Meets the definition of performance-based contracting at FAR 2.101;

(D) Uses quality assurance surveillance plans;

(E) Includes performance incentives where appropriate;

(F) Specifies a firm-fixed price; and

(G) Is awarded to an entity that provides similar services at the same time to the general public under terms and conditions similar to those in the contract.

(ii) In exercising the authority specified in paragraph (a)(i) of this section, the contracting officer should modify paragraph (a) of the clause at FAR 52.212-4 as may be necessary to ensure the contract's remedies adequately protect the Government's interests.

[66 FR 63336, Dec. 6, 2001]