

List of Subjects in 48 CFR Part 207

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule amending 48 CFR Part 207, which was published at 68 FR 43331 on July 22, 2003, is adopted as a final rule without change.

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BILLING CODE 5001-08-P

DEPARTMENT OF DEFENSE**48 CFR Parts 216 and 217**

[DFARS Case 2003-D097]

Defense Federal Acquisition Regulation Supplement; Contract Period for Task and Delivery Order Contracts

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 843 of the National Defense Authorization Act for Fiscal Year 2004. Section 843 provides that the contract period of a task or delivery order contract awarded pursuant to 10 U.S.C. 2304a may cover a total period of not more than 5 years.

DATES: *Effective date:* March 23, 2004.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before May 24, 2004, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments via the Internet at <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. As an alternative, respondents may e-mail comments to: dfars@osd.mil. Please cite DFARS Case 2003-D097 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Teresa Brooks, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062; facsimile (703) 602-0350. Please cite DFARS Case 2003-D097.

At the end of the comment period, interested parties may view public comments on the Internet at <http://emissary.acq.osd.mil/dar/dfars.nsf>.

FOR FURTHER INFORMATION CONTACT: Ms. Teresa Brooks, (703) 602-0326.

SUPPLEMENTARY INFORMATION:**A. Background**

This interim rule amends DFARS Subparts 216.5 and 217.2 to implement section 843 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108-136). Section 843 amends the general authority for task and delivery order contracts at 10 U.S.C. 2304a to specify that task or delivery order contracts entered into under that section may cover a total period of not more than 5 years. The rule clarifies that the total period includes all options or modifications.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD has prepared an initial regulatory flexibility analysis consistent with 5 U.S.C. 604. The analysis is summarized as follows: This interim rule applies to all new DoD solicitations for supplies or services that will result in a task or delivery order contract awarded pursuant to 10 U.S.C. 2304a. It may affect businesses interested in submitting offers for such contracts. The impact on small entities is uncertain. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003-D097.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. 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 publish an interim rule prior to affording the public an opportunity to comment. This action is necessary to implement section 843 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108-136), which provides that the contract period of a task or delivery order contract awarded pursuant to 10 U.S.C. 2304a may cover a total period of not more than 5 years. Comments received in response to this

interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 216 and 217

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■ Therefore, 48 CFR Parts 216 and 217 are amended as follows:

■ 1. The authority citation for 48 CFR Parts 216 and 217 continues to read as follows:

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

PART 216—TYPES OF CONTRACTS

■ 2. Section 216.501-2 is added to read as follows:

216.501-2 General.

(a) *See* 217.204(e) for limitations on the period for task order or delivery order contracts awarded by DoD pursuant to 10 U.S.C. 2304a.

PART 217—SPECIAL CONTRACTING METHODS

■ 3. Section 217.204 is added to read as follows:

217.204 Contracts.

(e) Notwithstanding FAR 17.204(e), the period of a task order or delivery order contract, including all options or modifications, awarded by DoD pursuant to 10 U.S.C. 2304a shall not exceed 5 years.

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DEPARTMENT OF DEFENSE**48 CFR Part 217**

[DFARS Case 2002-D041]

Defense Federal Acquisition Regulation Supplement; Multiyear Contracting Authority Revisions

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has adopted as final, without change, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 820 of the National Defense Authorization Act for Fiscal Year 2003. Section 820 restricts the use of multiyear contracts for supplies to only those for complete and usable end items, and restricts the use of advance procurement to only those long-lead items necessary in order