(b) The contracting officer may, when contracting by negotiation, use in solicitations and contracts a clause similar to the clause at FAR 52.219–10, Incentive Subcontracting Program, when a subcontracting plan is required and inclusion of a monetary incentive is, in the judgment of the contracting officer, necessary to increase subcontracting opportunities for HBCU/MIs. The clause should include a separate goal for HBCU/MIs.

226.370–9 Solicitation provision and contract clause.

(a) Use the clause at 252.226–7000, Notice of Historically Black College or University and Minority Institution Set-Aside, in solicitations and contracts set aside for HBCU/MIs.

(b) Use the provision at FAR 52.226–2, Historically Black College or University and Minority Institution Representation, in solicitations set aside for HBCU/MIs.

Subpart 226.70—[Removed and Reserved]

■ 5. Subpart 226.70 is removed and reserved.

Subpart 226.72—[Removed]

■ 6. Subpart 226.72 is removed.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.226–7000 [Amended]

■ 7. Section 252.226–7000 is amended in the introductory text by removing ''226.7008'' and adding in its place ''226.370–9''.

[FR Doc. 05–23729 Filed 12–8–05; 8:45 am]
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DEPARTMENT OF DEFENSE

48 CFR Parts 211, 223, and 252

[DFARS Case 2003–D039]

Defense Federal Acquisition Regulation Supplement; Environment, Occupational Safety, and Drug-Free Workplace

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to the environment, occupational safety, and a drug-free workplace. This rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

EFFECTIVE DATE: December 9, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Debra Overstreet, Defense Acquisition Regulations System, OUSD(AT&L)DPAP(DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0296; facsimile (703) 602–0350. Please cite DFARS Case 2003–D039.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at *http://www.acq.osd.mil/dpap/dars/dfars/transformation/index.htm.*

This final rule is a result of the DFARS Transformation Initiative. The DFARS changes include—

- Deletion of redundant or unnecessary text at 223.300, 223.302, 223.370–3(a), 223.570–1, and 223.570–3.
- Deletion of text at 223.370–4 and 223.405 containing internal DoD procedures relating to safety precautions for ammunitions and explosives and use of recovered materials. This text has been relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI), available at *http://www.acq.osd.mil/dpap/dars/pgi.*
- Relocation of text on ozone-depleting substances, from Subpart 211.2 to Subpart 223.8, with retention of a cross-reference in Subpart 211.2.

DoD published a proposed rule at 70 FR 19039 on April 12, 2005. DoD received no comments on the proposed rule. Therefore, DoD has adopted the proposed rule as a final rule without change.

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 certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule updates and streamlines DFARS text, but makes no significant change to DoD contracting policy.

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.*

List of Subjects in 48 CFR Parts 211, 223, and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 211, 223, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 211, 223, and 252 continues to read as follows:

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

PART 211—DESCRIBING AGENCY NEEDS

■ 2. Section 211.271 is revised to read as follows:

211.271 Elimination of use of class I ozone-depleting substances.

See subpart 223.8 for restrictions on contracting for ozone-depleting substances.

PART 223—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

■ 3. The heading of part 223 is revised to read as set forth above.

223.300 [Removed]

■ 4. Section 223.300 is removed.

■ 5. Section 223.302 is revised to read as follows:

223.302 Policy.

(e) The contracting officer shall also provide hazard warning labels, that are received from apparent successful offerors, to the cognizant safety officer.

■ 6. Section 223.370–3 is amended by revising paragraph (a) to read as follows:

223.370–3 Policy.

(a) DoD policy is to ensure that its contractors take reasonable precautions in handling ammunition and explosives

so as to minimize the potential for mishaps.

* * * * *

■ 7. Section 223.370–4 is revised to read as follows:

223.370–4 Procedures.

Follow the procedures at PGI 223.370–4.

■ 8. Section 223.405 is revised to read as follows:

223.405 Procedures.

Follow the procedures at PGI 223.405.

223.570–1 [Removed]

■ 9. Section 223.570–1 is removed.

223.570–2 [Redesignated as 223.570–1]

■ 10. Section 223.570–2 is redesignated as section 223.570–1.

223.570–3 [Removed]

■ 11. Section 223.570–3 is removed.

223.570–4 [Redesignated as 223.570–2]

■ 12. Section 223.570–4 is redesignated as section 223.570–2.

■ 13. Section 223.803 is revised to read as follows:

223.803 Policy.

(1) *Contracts.* No DoD contract may include a specification or standard that requires the use of a class I ozone-depleting substance or that can be met only through the use of such a substance unless the inclusion of the specification or standard is specifically authorized at a level no lower than a general or flag officer or a member of the Senior Executive Service of the requiring activity in accordance with Section 326, Public Law 102–484 (10 U.S.C. 2301 (repealed) note). This restriction is in addition to any imposed by the Clean Air Act and applies after June 1, 1993, to all DoD contracts, regardless of place of performance.

(2) *Modifications.* (i) Contracts awarded before June 1, 1993, with a value in excess of $10 million, that are modified or extended (including option exercise) and, as a result of the modification or extension, will expire more than one year after the effective date of the modification or extension, must be evaluated in accordance with agency procedures for the elimination of ozone-depleting substances.

(A) The evaluation must be carried out within 60 days after the first modification or extension.

(B) No further modification or extension may be made to the contract until the evaluation is complete.

(ii) If, as a result of this evaluation, it is determined that an economically feasible substitute substance or alternative technology is available, the contracting officer shall modify the contract to require the use of the substitute substance or alternative technology.

(iii) If a substitute substance or alternative technology is not available, a written determination shall be made to that effect at a level no lower than a general or flag officer or a member of the Senior Executive Service of the requiring activity.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.223–7004 [Amended]

■ 14. Section 252.223–7004 is amended in the introductory text by removing ''223.570–4'' and adding in its place ''223.570–2''.

[FR Doc. 05–23730 Filed 12–8–05; 8:45 am]

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DEPARTMENT OF DEFENSE

48 CFR Parts 216 and 217

[DFARS Case 2003–D097/2004–D023]

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

AGENCY: 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 Section 843 of the National Defense Authorization Act for Fiscal Year 2004 and Section 813 of the National Defense Authorization Act for Fiscal Year 2005. Section 843 placed a 5-year limit on the period of task or delivery order contracts awarded under 10 U.S.C. 2304a. Section 813 further amended 10 U.S.C. 2304a to permit a total period of up to 10 years, which may be exceeded if the head of the agency determines in writing that exceptional circumstances require a longer contract period.

EFFECTIVE DATE: December 9, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Schulze, Defense Acquisition Regulations System, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0326; facsimile (703) 602–0350. Please cite DFARS Case 2003–D097.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule implements Section 843 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136) and Section 813 of the National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108–375). Section 843 amended the general authority for task and delivery order contracts at 10 U.S.C. 2304a to specify that a task or delivery order contact entered into under that section may cover a total period of not more than 5 years. Section 813 further amended 10 U.S.C. 2304a to permit a total contract period of not more than 10 years, unless the head of the agency determines in writing that exceptional circumstances require a longer contract period.

DoD published an interim rule implementing Section 843 of Public Law 108–136 at 69 FR 13478 on March 23, 2004. As a result of public comments received on the interim rule, and to implement the provisions of Section 813 of Public Law 108–375, DoD published a second interim rule at 69 FR 74992 on December 15, 2004. Four sources submitted comments on the second interim rule. A discussion of the comments is provided below.

1. *Comment: Clarification of reporting requirement.* One respondent recommended amendment of the rule to specify the frequency and ending date of the reporting requirement that applies to contracts with ordering periods exceeding 10 years.

DoD Response: Concur. The final rule amends DFARS 217.204(e)(ii) to specify that DoD must submit a report to Congress, annually through fiscal year 2009, when an ordering period is extended beyond 10 years.

2. *Comment: Applicability to information technology contracts.* One respondent recommended consolidation of the text addressing the types of contracts to which the rule does not apply. In addition, the respondent recommended deletion of text addressing the applicability of the rule to information technology contracts. The respondent did not believe it was necessary to call out a single type of contract with regard to the rule's applicability.

DoD Response: Partially concur. The final rule revises DFARS 217.204(e)(iii) to consolidate the text addressing the types of contracts to which the rule does not apply, and to remove the reference to information technology contracts. However, a parenthetical phrase emphasizing the applicability of the rule to information technology contracts has been added at 217.204(e)(i), since FAR 17.204(e) specifically exempts