

sections 4(i), 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303, and 307, and section 202(h) of the Telecommunications Act of 1996.

16. The Request for Reconsideration filed by Sinclair Broadcast Group, Inc., is denied.

#### Ordering Clauses

17. Pursuant to the authority contained in sections 1, 2(a), 4(i), 303, 307, 309, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, and 310, and section 202(h) of the Telecommunications Act of 1996, this *R&O* is adopted.

18. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *R&O*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

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## DEPARTMENT OF DEFENSE

### 48 CFR Part 207

[DFARS Case 2002-D036]

#### Defense Federal Acquisition Regulation Supplement; Buy-to-Budget Acquisition of End Items

**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 801 of the National Defense Authorization Act for Fiscal Year 2003. Section 801 authorizes DoD to acquire a higher quantity of an end item than the quantity specified in law, under certain conditions.

**DATES:** Effective date: July 22, 2003.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before September 22, 2003, to be considered in the formation of the final rule.

**ADDRESSES:** Respondents may submit comments directly on the World Wide Web at <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. As an alternative, respondents may e-mail comments to: [dfars@acq.osd.mil](mailto:dfars@acq.osd.mil). Please cite DFARS

Case 2002-D036 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. Susan Schneider, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062; facsimile (703) 602-0350. Please cite DFARS Case 2002-D036.

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

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan Schneider, (703) 602-0326.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

This interim rule adds a new subpart at DFARS 207.70 to implement Section 801 of the National Defense Authorization Act for Fiscal Year 2003 (Pub. L. 107-314). Section 801 added 10 U.S.C. 2308, which provides that DoD may acquire a higher quantity of an end item than the quantity specified in a law providing for the funding of the acquisition, if the agency head makes certain findings with regard to the acquisition.

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 does not expect this rule to 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 any additional quantities acquired as a result of this rule must be acquired without additional funding. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2002-D036.

##### 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 interim rule implements Section 801 of the National Defense Authorization Act for Fiscal Year 2003 (Pub. L. 107-314), which authorizes DoD to acquire a higher quantity of an end item than the quantity specified in law, under certain conditions. Section 801 required issuance of final implementing regulations by April 1, 2003. Comments received in response to this interim rule will be considered in the formation of the final rule.

#### List of Subjects in 48 CFR Part 207

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

■ Therefore, 48 CFR Part 207 is amended as follows:

■ 1. The authority citation for 48 CFR Part 207 continues to read as follows:

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

#### PART 207—ACQUISITION PLANNING

■ 2. Subpart 207.70 is added to read as follows:

##### Subpart 207.70—Buy-to-Budget—Additional Quantities of End Items

Sec.

207.7001 Definition.

207.7002 Authority to acquire additional quantities of end items.

207.7003 Limitation.

##### Subpart 207.70—Buy-to-Budget—Additional Quantities of End Items

###### 207.7001 Definition.

*End item*, as used in this subpart, means a production product assembled, completed, and ready for issue or deployment.

###### 207.7002 Authority to acquire additional quantities of end items.

10 U.S.C. 2308 authorizes DoD to use funds available for the acquisition of an end item to acquire a higher quantity of the end item than the quantity specified in a law providing for the funding of that acquisition, if the head of an agency determines that—

(a) The agency has an established requirement for the end item that is expected to remain substantially unchanged throughout the period of the acquisition;

(b) It is possible to acquire the higher quantity of the end item without

additional funding because of production efficiencies or other cost reductions;

(c) The amount of funds used for the acquisition of the higher quantity of the end item will not exceed the amount provided under that law for the acquisition of the end item; and

(d) The amount provided under that law for the acquisition of the end item is sufficient to ensure that each unit of the end item acquired within the higher quantity is fully funded as a complete end item.

#### 207.7003 Limitation.

For noncompetitive acquisitions, the acquisition of additional quantities is limited to not more than 10 percent of the quantity approved in the justification and approval prepared in accordance with FAR part 6 for the acquisition of the end item.

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## DEPARTMENT OF DEFENSE

### 48 CFR Part 217

[DFARS Case 2003-D004]

#### Defense Federal Acquisition Regulation Supplement; Multiyear Procurement Authority for Environmental Services for Military Installations

**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 827 of the National Defense Authorization Act for Fiscal Year 2003. Section 827 authorizes DoD to enter into multiyear contracts for environmental remediation services for military installations.

**DATES:** *Effective date:* July 22, 2003.

*Comment date:* Comments on the interim rule should be submitted to the address shown below on or before September 22, 2003, to be considered in the formation of the final rule.

**ADDRESSES:** Respondents may submit comments directly on the World Wide Web at <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. As an alternative, respondents may e-mail comments to: [dfars@acq.osd.mil](mailto:dfars@acq.osd.mil). Please cite DFARS Case 2003-D004 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: Mr. Euclides Barrera, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062; facsimile (703) 602-0350. Please cite DFARS Case 2003-D004.

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

**FOR FURTHER INFORMATION CONTACT:** Mr. Euclides Barrera, (703) 602-0296.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

10 U.S.C. 2306c provides authority for DoD to enter into contracts for periods of not more than 5 years for certain services, and for items of supply related to those services, even though funds would otherwise be available for obligation only within the fiscal year for which appropriated. Such contracts are authorized if the head of the agency finds that (1) there will be a continuing requirement for the services consonant with current plans for the proposed contract period; (2) the furnishing of such services will require a substantial initial investment in plant or equipment, or the incurrence of substantial contingent liabilities for the assembly, training, or transportation of a specialized work force; and (3) the use of such a contract will promote the best interests of the United States by encouraging effective competition and promoting economies in operation. 10 U.S.C. 2306c is implemented at DFARS 217.171(a).

Section 827 of the National Defense Authorization Act for Fiscal Year 2003 (Pub. L. 107-314) amended 10 U.S.C. 2306c to add environmental remediation services for military installations to the types of services for which multiyear contracting is authorized. This interim rule amends DFARS 217.171(a), and adds a definition of "military installation" at DFARS 217.103, to implement Section 827.

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 does not expect this rule to 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 application of the rule is limited to contracts for environmental remediation services for military installations. In addition, before using

the multiyear contracting authority provided by the rule, the head of the agency must determine that certain conditions exist, to include a determination that use of a multiyear contract will promote the best interests of the United States by encouraging effective competition and promoting economies in operations. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003-D004.

##### 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 interim rule implements Section 827 of the National Defense Authorization Act for Fiscal Year 2003 (Pub. L. 107-314), which provides authority for DoD to enter into multiyear contracts for environmental remediation services for military installations. Section 827 became effective upon enactment on December 2, 2002. Comments received in response to this interim rule will be considered in the formation of the final rule.

##### List of Subjects in 48 CFR Part 217

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

■ Therefore, 48 CFR Part 217 is amended as follows:

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

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

##### PART 217—SPECIAL CONTRACTING METHODS

■ 2. Section 217.103 is revised to read as follows:

##### 217.103 Definitions.

As used in this subpart—