

deletion of text that duplicates policy found in 235.016. A reference to 236.016 has been retained in newly designated 205.207(d)(ii).

- Deletion of unnecessary text at DFARS 205.207(e), 205.470–1, and 205.502. The clause prescription at 205.470–2 is redesignated as 205.470 and amended to include a statutory reference.

DoD published a proposed rule at 69 FR 8148 on February 23, 2004. 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 relocates DFARS text, but makes no significant change to 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 205, 226, 235 and 252**

Government procurement.

**Michele P. Peterson,**  
*Executive Editor, Defense Acquisition Regulations Council.*

■ Therefore, 48 CFR parts 205, 226, 235, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 205, 226, 235, and 252 continues to read as follows:

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

**PART 205—PUBLICIZING CONTRACT ACTIONS**

■ 2. Section 205.207 is revised to read as follows:

**205.207 Preparation and transmittal of synopses.**

(d)(i) For acquisitions being considered for historically black college and university and minority institution set-asides under 226.7003—

(A) Cite the appropriate Numbered Note; and

(B) Include the notice at PGI 205.207(d)(i).

(ii) For broad agency announcement notices, see 235.016.

■ 3. Section 205.470 is revised to read as follows:

**205.470 Contract clause.**

Use the clause at 252.205–7000, Provision of Information to Cooperative Agreement Holders, in solicitations and contracts expected to exceed \$500,000. This clause implements 10 U.S.C. 2416.

**205.470–1 and 205.470–2 [Removed]**

■ 4. Sections 205.470–1 and 205.470–2 are removed.

■ 5. Section 205.502 is revised to read as follows:

**205.502 Authority.**

(a) *Newspapers.* Heads of contracting activities are delegated authority to approve the publication of paid advertisements in newspapers.

**PART 226—OTHER SOCIOECONOMIC PROGRAMS**

■ 6. Section 226.7003–2 is amended by revising paragraph (c) to read as follows:

**226.7003–2 Set-aside procedures.**

\* \* \* \* \*

(c) Follow the special synopsis instructions in 205.207(d). Interested HBCU/MIs must provide evidence of their capability to perform the contract, and a positive statement of their eligibility, within 15 days of publication of the synopsis in order for the acquisition to proceed as an HCBU/MI set-aside.

\* \* \* \* \*

**PART 235—RESEARCH AND DEVELOPMENT CONTRACTING**

**235.016 [Amended]**

■ 7. Section 235.016 is amended in paragraph (2)(ii) by revising the parenthetical to read “(see 205.207(d))”.

**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

**252.205–7000 [Amended]**

■ 8. Section 252.205–7000 is amended in the introductory text by removing “205.470–2” and adding in its place “205.470”.

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**BILLING CODE 5001–08–P**

**DEPARTMENT OF DEFENSE**

**48 CFR Parts 208, 210, 219, and 252**

[DFARS Case 2004–D005]

**Defense Federal Acquisition Regulation Supplement; Federal Prison Industries—Deletion of Duplicative Text**

**AGENCY:** Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to delete text on purchase of products from Federal Prison Industries (FPI). The DFARS text is no longer necessary as a result of Governmentwide policy on this subject that was added to the Federal Acquisition Regulation (FAR) on March 26, 2004.

**DATES:** Effective November 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** Ms. Michele Peterson, Defense Acquisition Regulations Council, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0311; facsimile (703) 602–0350. Please cite DFARS Case 2004–D005.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

DoD published DFARS policy at 67 FR 20687 on April 26, 2002, and 68 FR 64559 on November 14, 2003, to implement 10 U.S.C. 2410n, which contains requirements for (1) conducting market research before purchasing an FPI product; (2) use of competitive procedures if an FPI product is found to be noncomparable to products available from the private sector; (3) limiting an inmate worker’s access to information; and (4) prohibiting mandatory use of FPI as a subcontractor.

Section 637 of Division F of the Consolidated Appropriations Act, 2004 (Pub. L. 108–199), required the issuance of Governmentwide regulations that impose the procedures, standards, and limitations of 10 U.S.C. 2410n. Section 637 was implemented through publication of FAR policy in Federal Acquisition Circular 2001–21, at 69 FR 16148, on March 26, 2004. Since the FAR policy implementing 10 U.S.C. 2410n makes the DFARS policy unnecessary, this final rule removes the DFARS policy that was published at 67 FR 20687 on April 26, 2002, and 68 FR 64559 on November 14, 2003.

This rule was not subject to Office of Management and Budget review under

Executive Order 12866, dated September 30, 1993.

### B. Regulatory Flexibility Act

This rule will not have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of DoD. Therefore, publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2004-D005.

### 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 208, 210, 219, and 252

Government procurement.

**Michele P. Peterson,**  
*Executive Editor, Defense Acquisition Regulations Council.*

- Therefore, 48 CFR parts 208, 210, 219, and 252 are amended as follows:
- 1. The authority citation for 48 CFR parts 208, 210, 219, and 252 continues to read as follows:

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

#### PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

##### Subpart 208.6—[Removed]

- 2. Subpart 208.6 is removed.

##### PART 210—[REMOVED]

- 3. Part 210 is removed.

#### PART 219—SMALL BUSINESS PROGRAMS

##### 219.502-70 [Removed]

- 4. Section 219.502-70 is removed.

##### 219.508 [Removed]

- 5. Section 219.508 is removed.

#### PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

##### 252.219-7005 and 252.219-7006 [Removed and Reserved]

- 6. Sections 252.219-7005 and 252.219-7006 are removed and reserved.

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## DEPARTMENT OF DEFENSE

### 48 CFR Part 212

[DFARS Case 2003-D106]

#### Defense Federal Acquisition Regulation Supplement; Transition of Weapons-Related Prototype Projects to Follow-On 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 847 of the National Defense Authorization Act for Fiscal Year 2004. Section 847 authorizes DoD to carry out a pilot program that permits the use of streamlined contracting procedures for the production of items or processes begun as prototype projects under other transaction agreements.

**DATES:** *Effective date:* November 1, 2004.

*Comment date:* Comments on the interim rule should be submitted to the address shown below on or before January 3, 2005, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2003-D106, using any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Defense Acquisition Regulations Web Site: <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. Follow the instructions for submitting comments.
- E-mail: [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2003-D106 in the subject line of the message.

- Fax: (703) 602-0350.
- Mail: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062.

- Hand Delivery/Courier: Defense Acquisition Regulations Council, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202-3402.

All comments received will be posted to <http://emissary.acq.osd.mil/dar/dfars.nsf>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, (703) 602-0328.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

This interim rule adds a new DFARS subpart to implement Section 847 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108-136).

Section 847 authorizes DoD to carry out a pilot program for follow-on contracting for the production of items or processes begun as prototype projects under other transaction agreements. Contracts and subcontracts awarded under the program may be treated as those for the acquisition of commercial items; and items or processes acquired under the program may be treated as developed in part with Federal funds and in part at private expense for purposes of negotiating rights in technical data.

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 the rule applies only to production contracts for DoD weapons and weapon systems. Such contracts typically are not awarded to small business concerns. 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 subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003-D106.

### 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 847 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108-136). Section 847 authorizes DoD to carry out a pilot program that permits the use of streamlined contracting procedures for the production of items or processes begun as prototype projects under other transaction agreements. The program is intended to ease the transition of nontraditional defense contractors from prototype transactions to standard