

sufficient cause to issue an interim rule without prior opportunity for public comment. *DoD Response:* Section 549 of Public Law 106–65 became effective upon enactment, on October 5, 1999. DoD issued a rule before receipt of public comments to promptly comply with the new statutory requirement.

*Comment:* One respondent stated that the rule calls for suspension and debarment without due process and asked what procedure exists for an educational institution to challenge a determination. *DoD Response:* This DFARS rule merely prescribes the action to be taken after an institution is determined to be ineligible for DoD contract awards. The procedures used to make that determination are addressed separately in the regulations at 32 CFR part 216.

*Comment:* One respondent stated that the requirements for stopping payments and terminating existing contracts go far beyond traditional suspension and debarment. *DoD Response:* These requirements are not new. They were added to the DFARS in 1995 to comply with Section 558 of Public Law 103–337, which prohibited DoD from providing funds to educational institutions that prevented military recruiting on campus. The current legislation contains a similar prohibition.

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 applies only to institutions of higher education that do not permit Senior ROTC units or military recruiting on campus.

#### 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 209, 243, and 252

Government procurement.

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

#### Interim Rule Adopted as Final With Changes

Accordingly, the interim rule amending 48 CFR Parts 209, 243, and 252, which was published at 65 FR 2056 on January 13, 2000, is adopted as a final rule with the following changes:

1. The authority citation for 48 CFR parts 209, 243, and 252 continues to read as follows:

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

#### PART 209—CONTRACTOR QUALIFICATIONS

##### 209.470–3 [Amended]

2. Section 209.470–3 is amended in paragraphs (b)(1), (2), and (3) by removing “Must” and adding in its place “Shall”.

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#### DEPARTMENT OF DEFENSE

#### 48 CFR Parts 215 and 253

[DFARS Case 2002–D012]

#### Defense Federal Acquisition Regulation Supplement; Weighted Guidelines Form

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

**ACTION:** Final rule.

**SUMMARY:** DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to revise the information on DD Form 1547, Record of Weighted Guidelines Application. The revisions correspond to changes to DoD profit policy published in the **Federal Register** on April 26, 2002.

**EFFECTIVE DATE:** July 30, 2002.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sandra Haberlin, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0289; facsimile (703) 602–0350. Please cite DFARS Case 2002–D012.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

DoD published a final rule in the **Federal Register** on April 26, 2002 (67 FR 20688), under DFARS Case 2000–

D018. That rule amended policy for computation of profit objectives by reducing the value assigned to facilities capital employed for equipment, eliminating the values assigned to facilities capital employed for buildings, increasing the values for performance risk, and adding a special factor for cost efficiency.

This final rule amends DD Form 1547, Record of Weighted Guidelines Application, and corresponding completion instructions, to reflect the changes to profit policy published on April 26, 2002.

DD Form 1547, and other forms prescribed by the DFARS, are not included in the Code of Federal Regulations. The forms are available electronically via the Internet at <http://web1.whs.osd.mil/icdhome/ddeforms.htm>.

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 2002–D012.

#### 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 215 and 253

Government procurement.

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

Therefore, 48 CFR Parts 215 and 253 are amended as follows:

1. The authority citation for 48 CFR Parts 215 and 253 continues to read as follows:

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

#### PART 215—CONTRACTING BY NEGOTIATION

2. Section 215.404–71–2 is amended in paragraph (b) introductory text by revising the table to read as follows:

**215.404-71-2 Performance risk.** (b) \* \* \*

Item	Contractor risk factors	Assigned weighting	Assigned value	Base (item 20)	Profit objective
21	Technical	(1)	(2)	N/A	N/A
22	Management/Cost Control	(1)	(2)	N/A	N/A
23	Performance Risk (Composite)	N/A	(3)	(4)	(5)

\* \* \* \* \*

**215.404-71-3 [Amended]**

3. Section 215.404-71-3 is amended as follows:

a. In paragraph (b) introductory text, in the table, by redesignating Items 25 and 26 as Items 24 and 25, respectively;

b. In paragraph (c)(2) by removing “(Block 26)” and adding in its place “(Block 25)”;

c. In paragraph (c)(5), in the second sentence, by removing “Block 26” and adding in its place “Block 25”.

4. Section 215.404-71-4 is amended in paragraph (b) introductory text by revising the table to read as follows:

**215.404-71-4 Facilities capital employed.**

\* \* \* \* \*

(b) \* \* \*

Item	Contractor facilities capital employed	Assigned value	Amount employed	Profit objective
26	Land	N/A	(2)	N/A
27	Buildings	N/A	(2)	N/A
28	Equipment	(1)	(2)	(3)

\* \* \* \* \*

**215.404-71-5 [Amended]**

5. Section 215.404-71-5 is amended in paragraph (a), in the last sentence, by adding, before the period, “(Block 29)”.

**215.404-72 [Amended]**

6. Section 215.404-72 is amended as follows:

a. In the heading of paragraph (b)(1), in the parenthetical, by removing “Blocks 21-24” and adding in its place “Blocks 21-23”;

b. In the heading of paragraph (b)(2), in the parenthetical, by removing “Block 25” and adding in its place “Block 24”.

Description	Code
Modified weighted guidelines approach (215.404-72) .....	5
Technology incentive (215.404-71-2(c)(2)) .....	6

\* \* \* \* \*

(15) *Block 30—total profit objective.* Enter the total of Blocks 23, 24, 25, 27, 28, and 29. This section is not required to be completed when using an alternate structured approach (215.404-73).

\* \* \* \* \*

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**FOR FURTHER INFORMATION CONTACT:** Ms. Angelena Moy, Defense Acquisition Regulations Council, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-1302; facsimile (703) 602-0350. Please cite DFARS Case 2001-D016.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

DoD published an interim rule at 67 FR 11435 on March 14, 2002, to implement a partnership agreement between DoD and SBA. The partnership agreement permits DoD to award 8(a) contracts directly to 8(a) concerns, on behalf of SBA. DoD received one comment on the interim rule, and that comment was in support of the rule. Therefore, DoD is adopting the interim rule as a final rule with only minor editorial changes.

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 affects only the administrative procedures used for award of contracts under the 8(a) Program.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the rule does not

**215.407-4 [Amended]**

7. Section 215.407-4 is amended in paragraph (c)(1) by revising the second parenthetical to read “(http://www.dema.hq.dla.mil/)”.

**PART 253—FORMS**

8. Section 253.215-70 is amended by revising paragraphs (c)(12) and (c)(15) to read as follows:

**253.215-70 DD Form 1547, Record of Weighted Guidelines Application.**

\* \* \* \* \*

(c) \* \* \*

(12) *Block 12—use code.* Enter the appropriate code for use of the weighted guidelines method—

Description	Code
Standard weighted guidelines method (215.404-71-2(c)(1)) ...	2
Alternate structured approach (215.404-73) .....	4

**DEPARTMENT OF DEFENSE**

**48 CFR Parts 219 and 252**

[DFARS Case 2001-D016]

**Defense Federal Acquisition Regulation Supplement; Partnership Agreement Between DoD and the Small Business Administration**

**AGENCY:** Department of Defense (DoD).  
**ACTION:** Final rule.

**SUMMARY:** DoD has adopted as final, with minor changes, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a partnership agreement between DoD and the Small Business Administration (SBA). The partnership agreement streamlines procedures for contract awards under SBA’s 8(a) Program.

**EFFECTIVE DATE:** July 30, 2002.