

rule by including the term "PAHP" in the definition of "Choice counseling".

Waiver of Proposed Rulemaking

Ordinarily, a final rule is first published in the **Federal Register** in proposed form to provide a period for public comment before the provisions of the final rule take effect. We can waive this procedure, however, if we find good cause that a notice and comment procedure is impracticable, unnecessary, or contrary to the public interest, and incorporate a statement of finding in the final rule.

We find that it is unnecessary to undertake notice and public comment procedures in this case because the technical corrections made in this final rule do not make any substantive policy changes. This document merely makes technical corrections and conforming changes designed to clarify the provisions of the June 14, 2002 final rule, which was subjected to notice and comment. Therefore, for good cause, we waive notice and public comment procedures under 5 U.S.C. 553(b)(B).

Correction of Errors

In FR Doc. 02-14747 of June 14, 2002, (67 FR 4089), we are making the following corrections:

Corrections to the Regulations Text

List of Subjects

42 CFR Part 431

Grant programs-health, Health facilities, Medicaid, Privacy, Reporting and recordkeeping requirements.

42 CFR Part 438

Grant programs-health, Managed care entities, Medicaid, Quality assurance, Reporting and recordkeeping requirements.

Accordingly, 42 CFR parts 431 and 438 are corrected by making the following correcting amendments:

PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

1. The authority citation for part 431 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

§ 431.220 [Corrected]

2. In § 431.220, add new paragraph (a)(7) to read as follows:

§ 431.220 When a hearing is required.

(a) * * *

(7) Any enrollee who is entitled to a hearing under subpart B of part 438 of this chapter.

* * * * *

PART 438—MANAGED CARE

1. The authority citation for part 438 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

§ 438.8 [Corrected]

2. In § 438.8, add a new paragraph (b)(8) to read as follows:

§ 438.8 Provisions that apply to PIHPs and PAHPs.

* * * * *

(b) * * *

(8) Prohibitions against affiliations with individuals debarred by Federal agencies in § 438.610.

§ 438.10 [Corrected]

3. In § 438.10(e)(1)(ii), "PIHP" is revised to read "PIHPs".

4. In § 438.10(f)(6)(iv), the last reference to "§ 438.10(h)" is revised to read "§ 438.10(h)(1)".

5. In § 438.10(i)(3), the last reference to "potential enrollee" is revised to read "potential enrollees".

§ 438.52 [Corrected]

6. In § 438.52(d), the reference to "(b)(2) or (b)(3)" is revised to read "(b) or (c)".

§ 438.100 [Corrected]

7. In § 438.100(b)(2)(iii), the reference to "§ 438.10(f)(6)(xiii)" is revised to read "§ 438.10(f)(6)(xii)".

§ 438.102 [Corrected]

8. In § 438.102(b)(2), "§ 438.10(e) and (f)" is revised to read "§ 438.10, paragraphs (e) and (f)".

9. In § 438.102(c), "§ 438.10(e)(2)(ii) and (f)(6)(xii)" is revised to read "§ 438.10, paragraphs (e)(2)(ii)(E) and (f)(6)(xii)".

§ 438.114 [Corrected]

10. In § 438.114(d)(1)(ii), the phrase "PIHP, PAHP" is added between "MCO" and "or applicable State entity".

§ 438.116 [Corrected]

11. In § 438.116(b)(1), "MCO, PIHP, and PAHP" is revised to read "MCO or PIHP".

12. In § 438.116(b)(2), "MCO, PIHP, or PAHP" is revised to read "MCO or PIHP".

§ 438.703 [Corrected]

13. In § 438.703(e)(1) and (e)(2), the term "HMO" is revised to read "MCO".

§ 438.810 [Corrected]

14. In § 438.810(a), in the definition of "Choice counseling", "PAHP," is added between "PIHP" and "or PCCM".

15. In § 438.810, paragraph (c) is redesignated as paragraph (b)(3).

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: October 17, 2002.

Ann Agnew,

Executive Secretary to the Department.

[FR Doc. 02-27256 Filed 10-24-02; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF DEFENSE

48 CFR Parts 208 and 216

[DFARS Case 2001-D017]

Defense Federal Acquisition Regulation Supplement; Competition Requirements for Purchase of Services Under Multiple Award Contracts

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 803 of the National Defense Authorization Act for Fiscal Year 2002. Section 803 requires DoD to issue DFARS policy requiring competition in the purchase of services under multiple award contracts.

DATES: Effective Date: October 25, 2002.

Applicability Date: This rule applies to all orders for services placed under multiple award contracts on or after October 25, 2002, regardless of whether the multiple award contracts were awarded before, on, or after that date.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Schneider, Defense Acquisition Regulations Council, OUSD(AT&L)DP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0326; facsimile (703) 602-0350. Please cite DFARS Case 2001-D017.

SUPPLEMENTARY INFORMATION:

Notification of training opportunities:

DoD and civilian agency contracting professionals that place orders under multiple award contracts using DoD funds, and contractors that sell services on multiple award contracts, should receive training on the new procedures for placing orders over \$100,000 for services. DoD has developed many training tools on Section 803 and will be providing training in the DC metro area. Please visit the Defense Procurement Home Page, "Interest Items" drop-down box, for Section 803 training materials and lists of training opportunities at <http://www.acq.osd.mil/dp>. Additional questions regarding training should be directed to Melissa Rider at

melissa.rider@osd.mil or (703) 695-1098.

A. Background

This rule amends DFARS Parts 208 and 216 to implement Section 803 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107). Section 803 requires DoD to issue DFARS policy requiring competition in the purchase of services under multiple award contracts. Multiple award contracts include the Multiple Award Schedules (MAS) Program operated by the General Services Administration (GSA) and multiple award indefinite-quantity (task and delivery) order contracts issued pursuant to FAR 16.504. Competition requirements for the MAS are set forth in DFARS 208.404-70. Competition requirements for multiple award indefinite-quantity contracts other than the MAS are covered in DFARS 216.505-70.

While DFARS 208.404-70, addressing MAS ordering, focuses on competition, DoD recognizes that additional regulatory coverage is needed to improve practices related to the acquisition of services under the MAS. In this regard, the Director of Defense Procurement is working with the other members of the Federal Acquisition Regulatory Council on separate revisions to FAR Subpart 8.4 that will provide Governmentwide guidance on considerations, in addition to competition, that must be taken into account to ensure sound MAS purchasing. These considerations include, among others, use of statements of work, effective pricing of orders, and proper documentation of award decisions.

In addition, the Administrator of the Office of Federal Procurement Policy (OFPP) has determined that additional clarification is necessary with respect to the structuring of orders under the MAS. FAR 12.207 currently requires that agencies use firm-fixed-price contracts or fixed-price contracts with economic price adjustment for the acquisition of commercial items. FAR 12.207 further states that use of any other contract type to acquire commercial items is prohibited. However, GSA's non-regulatory special ordering procedures for services permit use of additional contract types for commercial item acquisitions, which is the sole focus of the MAS. In particular, GSA's special ordering procedures permit orders to be priced on a time-and-materials or labor-hour basis under limited circumstances, *i.e.*, when the ordering office makes a determination that it is not possible at the time of placing the order to estimate accurately

the extent or duration of the work or to anticipate cost with any reasonable degree of confidence. The special ordering procedures rely on somewhat different and less stringent safeguard provisions than those that the FAR imposes when time-and-materials and labor-hour contracts are used.

The OFPP Administrator intends to work with the other FAR Council members to develop appropriate revisions to current FAR coverage to address the use of time-and-materials and labor-hour contracts for commercial item acquisitions, including safeguards that are needed to effectively protect taxpayer interests when these contractual arrangements are used under FAR Part 12.

DoD published a proposed rule at 67 FR 15351 on April 1, 2002, and held a public meeting on April 29, 2002. Seventy-one sources submitted written comments on the proposed rule. DoD considered all comments in the development of the final rule. A summary of the comments grouped by subject area is provided below:

1. Small Business Impact

Comment: The rule, as applied to the Federal Supply Schedules, could harm the small business community, as the requirement to provide all contractors a fair notice of the intent to make a purchase will dramatically increase the number of competitors for each task, which will likely reduce the odds of winning an award and which will increase bid and proposal costs. The additional procedural burden imposed by this rule will encourage contracting officers to bundle requirements, thereby making it less likely that DoD's small business goals will be met.

DoD Response: The intent of the rule is to ensure fairness and enhance competition. The rule requires the Government to provide fair notice and opportunity. Because the rule does not require the contractor to respond to every notice—leaving the decision to respond to the contractor “the fair notice requirement, as imposed by this rule, should not increase bid and proposal costs. In addition, the final rule has taken into account the resource burdens associated with the fair notice process that might precipitate efforts to bundle. With respect to Federal Supply Schedule purchases, for example, DoD has revised the rule to shift the emphasis from providing fair notice to all contractors to providing fair notice to as many contractors as practicable based on effective market research. The final rule should increase competition while minimizing burden (otherwise associated with notifying all

contractors) by allowing contracting officers to provide notice to a reasonable number of offerors that can do the required work. DoD does not believe the rule will negatively affect the ability of DoD to meet its small business goals. However, a reminder that orders placed against Federal Supply Schedules may be credited toward the ordering agency's small business goals has been added to the rule.

Comment: It is unclear whether small business participation will be significantly affected and whether DoD will be allowed to continue with the practice of setting aside a portion of the work under multiple award contracts exclusively for small business concerns.

DoD Response: The rule does not change the policies associated with small business considerations. The preferences afforded small business concerns under FAR 8.404(b)(6) still apply.

2. Brooks Act Applicability

Comment: The rule should not apply to architect-engineer services. Acquisitions of architect-engineer services are governed by the Brooks Act (40 U.S.C. 541-544), as implemented in FAR Subpart 36.6.

DoD Response: Concur. The final rule has been amended to clarify that acquisitions of architect-engineer services are subject to the Brooks Act and the procedures in FAR Subpart 36.6.

3. Training

Comment: Sufficient training for contracting, program management, and requirements personnel is needed to ensure that services are acquired in accordance with regulatory requirements. Industry should have access to the same tools as Government personnel.

DoD Response: Concur. DoD has developed training packages that will be released with this DFARS rule and has revised the Defense Acquisition University contracting coursework to focus on the proper way to make awards under Federal Supply Schedules, Governmentwide acquisition contracts, multi-agency contracts and multiple award contracts. Additionally, DoD is exploring ways to best reach the program management community and has asked the Defense Acquisition University to insert material in its program management courses. DoD intends to make the Government training tools available to industry. An information briefing on this DFARS rule is available on the Defense Procurement Web site at <http://www.acq.osd.mil/dp>

under "Special Interest Items" in the dropdown box entitled "Section 803."

4. Clarification of Services Covered

Comment: DoD should revise the rule to clarify that the scope of the term "services" for purposes of the rule does not apply to product-like solutions, ancillary services, and transaction-based services. For example, the regulations that implement the Service Contract Act exempt contracts principally for the maintenance, calibration, or repair of many types of equipment, including automatic data processing equipment.

DoD Response: Do not concur. Section 803 provides no authority for DoD to limit the scope of the term "services" in the manner recommended by the respondent.

5. Electronic Notice

Comment: DoD should post the notice of fair opportunity to a specific web page or FedBizOpps.

DoD Response: Do not concur. The notice requirement is sufficiently addressed in the rule. The method of meeting that requirement is a management decision more appropriately made at the contracting office level. It should be noted that steps are being taken to improve transparency through electronic means. For example, GSA recently introduced "e-buy", among other things, to assist MAS customers in providing fair notice to MAS contractors. The availability of e-buy is highlighted in the rule.

6. Civilian Agency Applicability/Economy Act

Comment: Clarification is needed regarding the applicability of Section 803 to civilian agencies and interagency acquisitions made under the Economy Act.

DoD Response: Section 803 applies to all DoD requirements for services, regardless of which agency acquires the services. The final rule addresses this issue by adding a statement to clarify that the rule also applies to orders placed by non-DoD agencies on behalf of DoD.

7. Effective Date

Comment: Clarification is needed regarding the timing for applicability of the rule.

DoD Response: Section 803 applies to all purchases of services made under multiple award contracts, regardless of whether the multiple award contracts were entered into before, on, or after the effective date of this rule. This DFARS rule contains the same effective date and applicability requirements. Contracting officers must review the

terms and conditions of existing contracts to determine if modifications to the contracts are needed.

8. Exceptions to the Rule

Comment: The rule should provide an exception that allows a sole-source follow-on to an initially placed sole-source order with adequate justification and legal review.

DoD Response: The statute does not provide this authority. Section 803 authorizes use of the exceptions in 2304c(b) which allow for a logical follow-on to a task or delivery order already issued on a competitive basis.

9. Burden on Industry and Government

Comment: The rule is difficult to understand; the notification requirement will unnecessarily slow down the acquisition process and increase acquisition costs; and it will be burdensome for each company to continuously receive solicitations for work they have no interest in performing.

DoD Response: The intent of the rule is to ensure fairness by requiring a fair notice, fair opportunity to respond, and fair consideration of offers. The value added by the fairness component should outweigh any burdens associated with the rule. The final rule was drafted to provide as much flexibility as permitted by Section 803.

10. Blanket Purchase Agreement (BPA) Issues

Comment: The rule should be revised to delete the overly restrictive requirement that single award BPA tasks or services be firm-fixed-price, as this is not required by statute or policy. The BPA competition requirements in 208.404–70(d) should apply only to the initial establishment of the BPA, and thereafter the traditional Federal Supply Schedule rules for the placement of orders should apply.

DoD Response: DoD does not agree with the respondent's recommendation regarding the use of traditional Federal Supply Schedule rules for placement of orders, as this is contrary to the provisions of Section 803. However, as noted above, the OFPP Administrator intends to work with the other FAR Council members to develop appropriate FAR coverage addressing the use of time-and-materials and labor-hour contracts for commercial item acquisitions, including safeguards that are needed to effectively protect the government's interest when these contractual arrangements are used.

11. Ordering Procedures

Comment: The ordering procedures in the proposed rule were derived from FAR 16.505(b)(1), which was based upon the fair opportunity requirements of the Federal Acquisition Streamlining Act of 1994 (FASA). Section 803 displaced the ordering procedures under FASA. Therefore, appropriate revisions should be made to the rule, e.g., the statement in 216.505–70(d)(3)(ii) to "Not use any method (such as allocation or designation of any preferred awardee)" is unnecessary and confuses the issue, because Section 803 now requires that orders be placed on a competitive basis that affords all contractors a fair opportunity to submit an offer. Obviously, an allocation method cannot be used under the Section 803 description of competitive basis, so there is no need to mention this issue.

DoD Response: DoD agrees that language in the proposed rule at 216.505–70(d)(3)(i) through (iv) and 216.505–70(e)(2) and (3) is not essential given that the rule makes competition requirements clear.

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.* The rule clarifies and strengthens existing FAR requirements for competition in the placement of orders under multiple award contracts. The rule makes no change to preferences afforded small business concerns under FAR 8.404(b)(6) for the placement of orders against Federal Supply Schedules. FAR 8.404(b)(6) specifies that contracting officers should (1) consider including one or more small, women-owned small, and/or small disadvantaged business schedule contractor(s) when conducting evaluations and before placing an order; and (2) for orders exceeding the micro-purchase threshold, give preference to the items of small business concerns when two or more items at the same delivered price will satisfy the requirement.

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 and 216

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 208 and 216 are amended as follows:

1. The authority citation for 48 CFR Parts 208 and 216 continues to read as follows:

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

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

2. The heading of Subpart 208.4 is revised to read as follows:

Subpart 208.4—Federal Supply Schedules

3. Section 208.404 is amended by adding paragraph (b) to read as follows:

208.404 Using schedules.

* * * * *

(b) *Ordering procedures for optional use schedules—*

(2) *Orders exceeding the micro-purchase threshold but not exceeding the maximum order threshold.* The procedures at FAR 8.404(b)(2), regarding review of catalogs or pricelists of at least three schedule contractors, do not apply to orders for services exceeding \$100,000. Instead, use the procedures at 208.404–70.

(3) *Orders exceeding the maximum order threshold.*

(i) For orders for services exceeding \$100,000, use the procedures at 208.404–70 in addition to the procedures at FAR 8.404(b)(3)(i).

(7) *Documentation.* For orders for services exceeding \$100,000, use the procedures at 208.404–70 in addition to the procedures at FAR 8.404(b)(7).

4. Section 208.404–70 is added to read as follows:

208.404–70 Additional ordering procedures for services.

(a) This subsection—

(1) Implements Section 803 of the National Defense Authorization Act for Fiscal Year 2002 (Pub. L. 107–107); and

(2) Also applies to orders placed by non-DoD agencies on behalf of DoD.

(b) Each order for services exceeding \$100,000 shall be placed on a competitive basis in accordance with paragraph (c) of this subsection, unless the contracting officer waives this requirement on the basis of a written determination that—

(1) One of the circumstances described at FAR 16.505(b)(2)(i) through (iii) applies to the order; or

(2) A statute expressly authorizes or requires that the purchase be made from a specified source.

(c) An order for services exceeding \$100,000 is placed on a competitive basis only if the contracting officer provides a fair notice of the intent to make the purchase, including a description of the work the contractor shall perform and the basis upon which the contracting officer will make the selection, to—

(1) As many schedule contractors as practicable, consistent with market research appropriate to the circumstances, to reasonably ensure that offers will be received from at least three contractors that can fulfill the work requirements, and the contracting officer—

(i)(A) Receives offers from at least three contractors that can fulfill the work requirements; or

(B) Determines in writing that no additional contractors that can fulfill the work requirements could be identified despite reasonable efforts to do so (documentation should clearly explain efforts made to obtain offers from at least three contractors); and

(ii) Ensures all offers received are fairly considered; or

(2) All contractors offering the required services under the applicable multiple award schedule, and affords all contractors responding to the notice a fair opportunity to submit an offer and have that offer fairly considered. Posting of a request for quotations on the General Services Administration's electronic quote system, "e-Buy" (<http://www.gsaAdvantage.gov>), is one medium for providing fair notice to all contractors as required by this paragraph (c).

(d) Single and multiple blanket purchase agreements (BPAs) may be established against Federal Supply Schedules (see FAR 8.404(b)(4)) if the contracting officer—

(1) Follows the procedures in paragraphs (b) and (c) of this subsection;

(2)(i) For a single BPA, defines the individual tasks to be performed; or

(ii) For multiple BPAs, forwards the statement of work and the selection criteria to all multiple BPA holders before placing orders; and

(3) Reviews established BPAs no less than annually to determine whether the BPA still represents the best value.

(e) Orders placed against Federal Supply Schedules may be credited toward the ordering agency's small business goals (see FAR 8.404(b)(6)).

PART 216—TYPES OF CONTRACTS

5. Section 216.501–1 is added to read as follows:

216.501–1 Definitions.

Multiple award contract, as used in this subpart, means—

(1) A multiple award task order contract entered into in accordance with FAR 16.504(c); or

(2) Any other indefinite-delivery, indefinite-quantity contract that an agency enters into with two or more sources under the same solicitation.

6. Section 216.505–70 is added to read as follows:

216.505–70 Orders for services under multiple award contracts.

(a) This subsection—

(1) Implements Section 803 of the National Defense Authorization Act for Fiscal Year 2002 (Pub. L. 107–107);

(2) Applies to orders for services exceeding \$100,000 placed under multiple award contracts, instead of the procedures at FAR 16.505(b)(1) and (2) (see Subpart 208.4 for procedures applicable to orders placed against Federal Supply Schedules);

(3) Also applies to orders placed by non-DoD agencies on behalf of DoD; and

(4) Does not apply to orders for architect-engineer services, which shall be placed in accordance with the procedures in FAR subpart 36.6.

(b) Each order for services exceeding \$100,000 shall be placed on a competitive basis in accordance with paragraph (c) of this subsection, unless the contracting officer waives this requirement on the basis of a written determination that—

(1) One of the circumstances described at FAR 16.505(b)(2)(i) through (iv) applies to the order; or

(2) A statute expressly authorizes or requires that the purchase be made from a specified source.

(c) An order for services exceeding \$100,000 is placed on a competitive basis only if the contracting officer—

(1) Provides a fair notice of the intent to make the purchase, including a description of the work the contractor shall perform and the basis upon which the contracting officer will make the selection, to all contractors offering the required services under the multiple award contract; and

(2) Affords all contractors responding to the notice a fair opportunity to submit an offer and have that offer fairly considered.

(d) When using the procedures in this subsection—

(1) The contracting officer should keep contractor submission requirements to a minimum;

(2) The contracting officer may use streamlined procedures, including oral presentations;

(3) The competition requirements in FAR part 6 and the policies in FAR subpart 15.3 do not apply to the ordering process, but the contracting officer shall consider price or cost under each order as one of the factors in the selection decision; and

(4) The contracting officer should consider past performance on earlier orders under the contract, including quality, timeliness, and cost control.

[FR Doc. 02-27110 Filed 10-24-02; 8:45 am]

BILLING CODE 5001-08-P

DEPARTMENT OF DEFENSE

48 CFR Part 201

[DFARS Case 2002-D021]

Defense Federal Acquisition Regulation Supplement; Contracting Officer Qualifications

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 824 of the National Defense Authorization Act for Fiscal Year 2002. Section 824 revised the qualification requirements that a new entrant into the contracting field must meet in order to serve as a contracting officer with authority to award or administer contracts exceeding the simplified acquisition threshold.

EFFECTIVE DATE: October 25, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Schneider, Defense Acquisition Regulations Council, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0326; facsimile (703) 602-0350. Please cite DFARS Case 2002-D021.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule revises DFARS 201.603-2 to implement Section 824 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107). Section 824 amended 10 U.S.C. 1724 to revise the qualification requirements that a new entrant into the contracting field must meet in order to serve as a contracting officer with authority to award or administer contracts exceeding the simplified acquisition threshold. The revised qualifications include a requirement for a baccalaureate degree and 24 semester

credit hours of study in a business-related discipline.

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 subpart in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2002-D021.

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 Part 201

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR part 201 is amended as follows:

1. The authority citation for 48 CFR part 201 continues to read as follows:

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

PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. Section 201.603-2 is revised to read as follows:

201.603-2 Selection.

(1) In accordance with 10 U.S.C. 1724, in order to qualify to serve as a contracting officer with authority to award or administer contracts for amounts above the simplified acquisition threshold, a person must—

(i) Have completed all contracting courses required for a contracting officer to serve in the grade in which the employee or member of the armed forces will serve;

(ii) Have at least 2 years experience in a contracting position;

(iii) Have—

(A) Received a baccalaureate degree from an accredited educational institution; and

(B) Completed at least 24 semester credit hours, or equivalent, of study from an accredited institution of higher education in any of the following

disciplines: accounting, business finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, and organization and management; and

(iv) Meet such additional requirements, based on the dollar value and complexity of the contracts awarded or administered in the position, as may be established by the Secretary of Defense.

(2) The qualification requirements in paragraph (1)(iii) of this subsection do not apply to a DoD employee or member of the armed forces who—

(i) On or before September 30, 2000, occupied—

(A) A contracting officer position with authority to award or administer contracts above the simplified acquisition threshold; or

(B) A position either as an employee in the GS-1102 occupational series or a member of the armed forces in an occupational specialty similar to the GS-1102 series;

(ii) Is in a contingency contracting force; or

(iii) Is an individual appointed to a 3-year developmental position.

Information on developmental opportunities is contained in DoD Manual 5000.52-M, Acquisition Career Development Program.

(3) Waivers to the requirements in paragraph (1) of this subsection may be authorized. Information on waivers is contained in DoD Manual 5000.52-M.

[FR Doc. 02-27107 Filed 10-24-02; 8:45 am]

BILLING CODE 5001-08-P

DEPARTMENT OF DEFENSE

48 CFR Parts 208, 239, 251, and 252

[DFARS Case 2000-D023]

Defense Federal Acquisition Regulation Supplement; Enterprise Software Agreements

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to add policy pertaining to the use of enterprise software agreements for the acquisition of commercial software and software maintenance.

EFFECTIVE DATE: October 25, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Schneider, Defense Acquisition Regulations Council, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0326; facsimile