

Defense Federal Acquisition Regulation Supplement

Part 212—Acquisition of Commercial Items

SUBPART 212.1--ACQUISITION OF COMMERCIAL ITEMS--GENERAL *(Added December 06, 2001)*

212.102 Applicability.

(a)(i) In accordance with Section 821 of the National Defense Authorization Act for Fiscal Year 2001 (Pub. L. 106-398), the contracting officer also may use FAR Part 12 for any performance-based contracting for services if the procedures in FAR Subpart 13.5 are not used, and the contract or task order--

- (A) Is entered into on or before October 30, 2003;
- (B) Has a value of \$5 million or less;
- (C) Meets the definition of performance-based contracting at FAR 2.101;
- (D) Uses quality assurance surveillance plans;
- (E) Includes performance incentives where appropriate;
- (F) Specifies a firm-fixed price; and

(G) Is awarded to an entity that provides similar services at the same time to the general public under terms and conditions similar to those in the contract.

(ii) In exercising the authority specified in paragraph (a)(i) of this section, the contracting officer should modify paragraph (a) of the clause at FAR 52.212-4 as may be necessary to ensure the contract's remedies adequately protect the Government's interests.