

*H. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

40. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives, among others: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

41. We sought to minimize the burdens imposed on small entities where doing so would not compromise the goals of the universal service low-income mechanism. In order to minimize the impact on ETCs, and under the advisement of a number of industry representatives, we have placed the burden of checking for duplicate claims upon USAC, rather than ETCs. Furthermore, the duplicate resolution process set forth in the order requires USAC to notify an ETC which customers should be de-enrolled from the ETC's Lifeline program.

*I. Report to Congress*

42. The Commission will send a copy of the order, including this FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the Commission will send a copy of the order, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

**List of Subjects in 47 CFR Part 54**

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

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

**Final Rules**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

**PART 54—UNIVERSAL SERVICE**

■ 1. The authority citation for part 54 continues to read as follows:

**Authority:** 47 U.S.C. Secs. 151, 154(i), 201, 205, 214, and 254 unless otherwise noted.

■ 2. Amend § 54.401 by revising paragraph (a)(1) to read as follows:

**§ 54.401 Lifeline defined.**

(a) \* \* \*

(1) That is available only to qualifying low-income consumers, and no qualifying consumer is permitted to receive more than one Lifeline subsidy concurrently.

\* \* \* \* \*

■ 3. Amend § 54.405 by revising paragraph (a), and adding paragraph (e), to read as follows:

**§ 54.405 Carrier obligation to offer Lifeline.**

\* \* \* \* \*

(a) Make available one Lifeline service, as defined in § 54.401, per qualifying low-income consumer that is not currently receiving Lifeline service from that or any other eligible telecommunications carrier, and

\* \* \* \* \*

(e) *De-enrollment.* Notwithstanding § 54.405(c) and (d) of this section, upon notification by the Administrator to any ETC in any state that a subscriber is receiving Lifeline service from another eligible telecommunications carrier and should be de-enrolled from participation in that ETC's Lifeline program, the ETC shall de-enroll the subscriber from participation in that ETC's Lifeline program within 5 business days. An ETC shall not be eligible for Lifeline reimbursement as described in §§ 54.403 and 54.407 for any de-enrolled subscriber following the date of that subscriber's de-enrollment.

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**DEPARTMENT OF DEFENSE**

**Defense Acquisition Regulations System**

**48 CFR Part 204**

**RIN 0750-AH25**

**Defense Federal Acquisition Regulation Supplement (DFARS); Assignment of Order Codes (DFARS Case 2011-D004)**

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** The Department of Defense is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to specify Defense

Procurement and Acquisition Policy, Program Development and Implementation, as the office responsible for maintaining order code assignments. The order code procedures are moved from the DFARS to its companion resource, DFARS Procedures, Guidance, and Information.

**DATES:** *Effective Date:* June 29, 2011

**FOR FURTHER INFORMATION CONTACT:** Mr. Julian Thrash, 703-602-0310.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Director, Defense Procurement and Acquisition Policy letter dated September 21, 2010, replaced the Defense Logistics Agency with Defense Procurement and Acquisition Policy, Program Development and Implementation, as the responsible office for the maintenance of all order code assignments for use in the first two positions of an order number when an activity places an order against another activity's contract or agreement. In addition, the procedures and addresses for order code monitors are moved to the DFARS companion resource, DFARS Procedures, Guidance, and Information.

**II. Regulatory Flexibility Act**

The Regulatory Flexibility Act does not apply to this rule because an initial regulatory flexibility analysis is only required for proposed or interim rules that require publication for public comment (5 U.S.C. 603) and a final regulatory flexibility analysis is only required for final rules that were previously published for public comment, and for which an initial regulatory flexibility analysis was prepared (5 U.S.C. 604).

This final rule does not constitute a significant DFARS revision as defined at FAR 1.501-1 because 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 the Government. Therefore, publication for public comment under 41 U.S.C. 1707 is not required.

**III. Paperwork Reduction Act**

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

**List of Subjects in 48 CFR Part 204**

Government procurement.

**Mary Overstreet,**

*Editor, Defense Acquisition Regulations System.*

Therefore, 48 CFR part 204 continues to read as follows:

**PART 204—ADMINISTRATIVE MATTERS**

■ 1. The authority citation for 48 CFR part 204 continues to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. Revise section 204.7005 to read as follows:

**204.7005 Assignment of order codes.**

(a) Defense Procurement and Acquisition Policy, Program Development and Implementation, maintains the order code assignments for use in the first two positions of an order number when an activity places an order against another activity's contract or agreement (*see* 204.7004(d)(2)).

(b) Contracting activities shall follow the procedures at PGI 204.7005 for requests for assignment of or changes in two-character order codes.

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**DEPARTMENT OF DEFENSE****Defense Acquisition Regulations System****48 CFR Parts 212 and 222**

**RIN 0750-AH34**

**Defense Federal Acquisition Regulation Supplement; Extension of Restrictions on the Use of Mandatory Arbitration Agreements (DFARS Case 2011-D035)**

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD is issuing a final rule to implement section 8102 of the DoD and Full-Year Continuing Appropriations Act, 2011 and similar sections in subsequent appropriations acts, to extend the restriction on the use of mandatory arbitration agreements, when awarding contracts that exceed \$1 million, to use of 2011 and subsequent fiscal year funds appropriated or otherwise made available by this Act or any subsequent DoD appropriation act. Section 8102

allows the Secretary of Defense to waive applicability to a particular contractor or subcontractor, if determined necessary to avoid harm to national security.

**DATES:** *Effective date:* June 29, 2011.

**FOR FURTHER INFORMATION CONTACT:** Mr. Julian Thrash, 703-602-0310.

**SUPPLEMENTARY INFORMATION:****I. Background**

Section 8102 of the DoD and Full-Year Continuing Appropriations, 2011 (Pub. L. 112-10), prohibits the use of Fiscal Year (FY) 2011 funds for any contract (including task or delivery orders and bilateral modifications adding new work) in excess of \$1 million, if the contractor restricts its employees to arbitration for claims under title VII of the Civil Rights Act of 1964, or tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention.

This rule does not apply to the acquisition of commercial items. Section 8102(b) requires the contractor to certify compliance by subcontractors.

Additionally, enforcement of the mandatory arbitration provisions related to the covered areas, does not affect the enforcement of other aspects of an agreement that is not related to those areas.

This rule allows the Secretary of Defense to waive applicability to a particular contract or subcontract, if determined necessary to avoid harm to national security.

Section 8102 of the DoD and Full-Year Continuing Appropriations, 2011, extends the restrictions of section 8116 of the Defense Appropriations Act for Fiscal Year 2010 (Pub. L. 111-118). In implementing section 8116, public comments were obtained under DFARS Case 2010-D004.

This final rule does not constitute a significant DFARS revision as defined at FAR 1.501-1 because the requirements are already in place and this final rule merely extends the existing DFARS coverage. Therefore, there is no significant cost or administrative impact on contractors or offerors resulting from issuance of this rule and public comment is not required in accordance with 41 U.S.C. 1707(a).

Since DoD anticipates that this will be an ongoing requirement, this rule applies to use of all subsequent fiscal year funds appropriated or otherwise made available under subsequent DoD appropriations acts. If the restriction is

removed at a future date, DoD will amend the DFARS accordingly.

**II. Executive Orders 12866 and 13563**

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

**III. Regulatory Flexibility Act**

The Regulatory Flexibility Act does not apply to this rule. This final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501 and public comment is not required in accordance with 41 U.S.C. 1707.

**IV. 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 212 and 222**

Government procurement.

**Mary Overstreet,**

*Editor, Defense Acquisition Regulations System.*

Therefore, 48 CFR parts 212 and 222 are amended as follows:

■ 1. The authority citation for 48 CFR parts 219 and 252 continues to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

**PART 212—ACQUISITION OF COMMERCIAL ITEMS**

■ 2. Amend section 212.503 by revising paragraph (a)(xi) to read as follows:

**212.503 Applicability of certain laws to Executive Agency contracts for the acquisition of commercial items.**

(a) \* \* \*

(xi) Section 8116 of the Defense Appropriations Act for Fiscal Year 2010