

appear on all other copies. Express all dates in sequence of day, month, and year with the month spelled out or abbreviated (e.g., 10 Sept. 67).

(bb) Block 28—Remarks. Use this space for reporting important facts such as:

(1) Delays, their cause, and responsible party (vessel, shore facility, Government representative, or others).

(2) Abnormal individual losses contributing to the total loss. Enter the cause of such losses as well as actual or estimated volumes involved. Such losses shall include, but not be restricted to, product remaining aboard (enter tanks in which contained), spillages, line breaks, etc. Note where gravity group change of receiving tank contents results in a fictitious loss or gain. Note irregularities observed on comparing vessel ullages obtained at loading point with those at the discharge point if they indicate an abnormal transportation loss or contamination.

(cc) Block 29—Company or receiving terminal. Line out “COMPANY OR.” Secure the signature of a representative of the receiving terminal.

(dd) Block 30—Certification by government representative. Line out “loaded.” The Government representative shall date and sign the form to certify inspection and acceptance, as applicable, by the Government. The name of the individual signing the certification as well as the names applied in Blocks 29 and 31 shall be typed or hand lettered on the master or all copies of the form. The signature in Block 30 must agree with the typed or lettered name to be acceptable to the paying office.

(ee) Block 31—Certification by master or agent. Obtain the signature of the master of the vessel or the vessel’s agent.

#### Part 8—Distribution of the DD Form 250-1

##### *F-801 Distribution.*

Follow the procedures at PGI F-801 for distribution of DD Form 250-1.

##### *F-802 Corrected DD Form 250-1.*

Follow the procedures at PGI F-802 when corrections to DD Form 250-1 are needed.

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Part 201

RIN 0750-AH35

#### Defense Federal Acquisition Regulation Supplement; Designation of a Contracting Officer’s Representative (DFARS Case 2011-D037)

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

**ACTION:** Final rule.

**SUMMARY:** DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to clarify that a contracting officer’s representative must be an employee, military or civilian, of the U.S. Government, a foreign government, or a North Atlantic Treaty Organization (NATO)/coalition partner, and that contractor personnel shall not serve as contracting officer’s representatives.

**DATES:** *Effective date:* September 20, 2011.

**FOR FURTHER INFORMATION CONTACT:** Mr. Manuel Quinones, telephone 703-602-8383.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

This rule is based on a request from Headquarters NATO Training Mission—Afghanistan (NTM-A) to permit the designation of non-U.S. Government employees as contracting officer’s representatives (CORs) in support of the NTM-A’s efforts to train the Afghan National Security Force (ANSF). The NTM-A supports the growth of the ANSF through numerous activities including the contracting of civilian mentoring services. These contracts for mentoring services to the ANSF require the contractor to deploy teams throughout the joint area of operations and interact with non-U.S. coalition partners exclusively. To provide assurance that contractual requirements are being met, it is crucial that contract performance information be submitted to the contracting officer by those coalition units with insight of contractor activities.

Contracting officers supporting contingency operations abroad require the flexibility to ensure the proper oversight of contract performance, such as at locations where there is no U.S. presence or the designation of a U.S. Government COR is not viable. This rule provides that flexibility by clarifying at DFARS 201.602-2 that a COR must be an employee, military or civilian, of the U.S. Government, a foreign government, or a NATO/coalition partner. CORs must meet all training and experience qualifications commensurate with the delegated responsibilities per DFARS 201.602-2(2)(ii). In addition, the rule makes clear that contractor personnel may not serve as CORs. Contractor personnel may, however, continue to perform technical oversight functions on behalf of the contracting officer, excluding those that are inherently governmental (see FAR 7.5).

DoD has issued this rule as a final rule because this rule does not have a significant effect beyond the internal

operating procedures of DoD and does not have a significant cost or administrative impact on contractors or offerors. Therefore, public comment is not required in accordance with 41 U.S.C. 1707.

##### 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 not a significant regulatory action and, therefore, was not 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 final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under Paperwork Reduction Act (44 U.S.C. chapter 35).

##### List of Subjects in 48 CFR Part 201

Government Procurement.

Mary Overstreet,

*Editor, Defense Acquisition Regulations System.*

Therefore, 48 CFR part 201 is amended as follows:

#### PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM

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

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

■ 2. Section 201.602-2 is amended to revise paragraph (2)(i) to read as follows:

##### 201.602-2 Responsibilities.

\* \* \* \* \*

(2) \* \* \*

(j) Must be an employee, military or civilian, of the U.S. Government, a foreign government, or a North Atlantic Treaty Organization/coalition partner. In no case shall contractor personnel serve as CORs;

\* \* \* \* \*

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

48 CFR Parts 201, 209, 212, 215, 219, 232, 237, 243, 252, and Appendix I to Chapter 2

RIN 0750-AG38

#### Defense Federal Acquisition Regulation Supplement; Positive Law Codification of Title 41 U.S.C. (DFARS Case 2011-D036)

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

**ACTION:** Final rule.

**SUMMARY:** DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to conform references throughout the DFARS to the new Codification of Title 41, United States Code, "Public Contracts."

**DATES:** *Effective date:* September 20, 2011.

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

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On January 4, 2011, Public Law 111-350 enacted a new codified version of Title 41, United States Code (U.S.C.), entitled "Public Contracts." The purpose of this final rule is to update all references to Title 41 in the DFARS to conform to the recodification.

DoD has issued a final rule because this rule does not have a significant effect beyond the internal operating procedures of DoD and does not have a significant cost or administrative impact on contractors or offerors. Therefore public comment is not required in accordance with 41 U.S.C. 1303.

##### 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 not a significant regulatory action and, therefore, was not 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 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 Parts 201, 209, 212, 215, 219, 232, 237, 243, 252, and Appendix I to Chapter 2

Government procurement.

Mary Overstreet,

*Editor, Defense Acquisition Regulations System.*

Therefore, 48 CFR parts 201, 209, 212, 215, 219, 232, 237, 243, 252 and appendix I to chapter II are amended as follows:

■ 1. The authority citation for 48 CFR parts 201, 209, 212, 215, 219, 232, 237, 243, 252, and appendix I to chapter II continues to read as follows:

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

#### PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM

##### 201.107 [Amended]

■ 2. Amend section 201.107 by—  
 ■ (a) Removing "Section" from the introductory text and adding in its place "section"; and  
 ■ (b) Removing "425" from the introductory text and adding in its place "1304".

##### 201.304 [Amended]

■ 3. Amend section 201.304(2) by—  
 ■ (a) Removing "Section" and adding in its place "section"; and  
 ■ (b) Removing "425" and adding in its place "1304".

#### PART 209—CONTRACTOR QUALIFICATIONS

##### 209.406-2 [Amended]

■ 4. Amend section 209.406-2(2) by—  
 ■ (a) Removing "Section" and adding in its place "section";  
 ■ (b) Removing "(Pub. L. 110-181)"; and  
 ■ (c) Removing "423(e)(3)(A)(iii)" and adding in its place "2105(c)(1)(C)".

#### PART 212—ACQUISITION OF COMMERCIAL ITEMS

##### 212.207 [Amended]

■ 5. Amend section 212.207—  
 ■ (a) In paragraph (b)(i) by removing "403(12)(E)" and adding in its place "103"; and  
 ■ (b) In paragraph (b)(iii)(A) by removing "403(12)(F)" and adding in its place "103".

#### PART 215—CONTRACTING BY NEGOTIATION

■ 6. Revise the heading of section 215.403-1 to read as follows:

**215.403-1 Prohibition on obtaining cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. chapter 35).**

\* \* \* \* \*

#### PART 219—SMALL BUSINESS PROGRAMS

##### 219.703 [Amended]

■ 7. Amend section 219.703(a) introductory text by—  
 ■ (a) Removing "46-48" and adding in its place "8502-8504"; and  
 ■ (b) Removing "Section" and adding in its place "section".

#### PART 232—CONTRACT FINANCING

##### 232.803 [Amended]

■ 8. Amend section 232.803(d) by removing "Section 3737(e) of the Revised Statutes (41 U.S.C. 15)" and adding in its place "41 U.S.C. 6305".

#### PART 237—SERVICE CONTRACTING

##### 237.102-71 [Amended]

■ 9. Amend section 237.102-71(a)(2) by removing "357(b)" and adding in its place "6701".

#### PART 243—CONTRACT MODIFICATIONS

##### 243.204-71 [Amended]

■ 10. Amend section 242.204-71(c) by removing "605(c)" and adding in its place "7103".