

the proceeding, if the system and affiliated company were a small system and small company respectively as of the effective date of this rule and as of the period during which the disputed rates were in effect. This rule shall not affect the validity of a final rate decision made by a franchising authority before June 5, 1995.

(10) In any proceeding before the Commission involving a cable programming services tier complaint in which a final decision had not been issued as of June 5, 1995, a small system owned by a small cable company may elect the form of rate regulation set forth in this section to justify rates charged prior to the adoption of this rule and to establish new rates. For purposes of this paragraph, a decision shall not be deemed final until the operator has exhausted or is time-barred from pursuing any avenue of appeal, review, or reconsideration.

§ 76.953 [Amended]

5. Section 76.953 is amended by removing paragraph (a) and redesignating paragraphs (b) and (c) as paragraphs (a) and (b) respectively.

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DEPARTMENT OF DEFENSE

48 CFR Part 253

[DFARS Case 95-D711]

Defense Federal Acquisition Regulation Supplement; Contract Data Reporting

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: This final rule is issued pursuant to the Federal Acquisition Streamlining Act of 1994, dated October 7, 1994, ("the Act"). The Director of Defense Procurement is amending the Defense Federal Acquisition Regulation Supplement concerning use of DD Form 350, Individual Contracting Action Report, and DD Form 1057, Monthly Contracting Summary of Actions \$25,000 or Less, as a result of interim FAR rules effective as of July 3, 1995 (Simplified Acquisition, FACNET and Electronic Contracting FAR rules under FAR Cases 94-770 and 91-104).

DATES: Effective date: July 6, 1995.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa D. Rider, DFARS FASTA Implementation Secretariat, at (703) 614-1634. Please cite DFARS Case 95-D711.

SUPPLEMENTARY INFORMATION:

A. Background

The Federal Acquisition Streamlining Act of 1994, Pub. L. 103-355, ("the Act") provides authorities that streamline the acquisition process and minimize burdensome Government-unique requirements. Major changes that can be expected in the acquisition process as a result of the Act's implementation include changes in the areas of Commercial Item Acquisition, Simplified Acquisition Procedures, the Truth in Negotiations Act, and introduction of the Federal Acquisition Computer Network (FACNET).

DFARS Case 95-D711 makes minimal changes to the contract data reporting system. This will allow the various service and defense agency automated data reporting systems to be modified as quickly as possible.

Except for contracting actions pertaining to contingencies as specified in FAR 13.101, all contracting actions exceeding \$25,000 shall continue to be reported on the DD Form 350. The Act requires detailed reporting of contracting actions exceeding \$25,000 (including actions using simplified acquisition procedures, i.e. purchase orders and orders/calls under a blanket purchase agreement (BPA)) until October 1, 1999. All contingency contracting actions, as specified in FAR 13.101, will continue to be reported on the DD Form 1057.

The term "small purchase procedures" has been superseded under the Act. Therefore, in drafting regulatory revisions under FAR Case 94-770, the Simplified Acquisition team included wholesale elimination of this term in the FAR and DFARS coverage they prepared. The contract reporting changes required to complete implementation of this concept include renaming Code 9 in Block B13 of the DD Form 350 to read "Purchase/Modification Using Simplified Acquisition Procedures." A future DFARS rule will include changes to completely eradicate the term "small purchase" from both the DD Form 350 and the DD Form 1057. Until that rule is published, a memorandum from the Director of Defense Procurement will direct that the term "small purchase procedures" on the two forms be interpreted to mean "simplified acquisition procedures."

Orders, calls, and modifications awarded after the effective date of this final rule pertaining to any blanket purchase agreement will be reported as code 9 (simplified acquisition procedure) in Block B13 of the DD Form 350 instead of code 4 (order under a

BOA). Purchase orders or modifications issued after the effective date of this final rule will also be reported as code 9. If code 9 is used in Block B13, then Block C8, Solicitation Procedures, should be blank. Orders under basic ordering agreements will continue to be reported as code 4.

The category of small business-small purchase set-aside is no longer valid. Actions under the simplified acquisition threshold reserved for small businesses will be reported as small business set-asides. However, the OSD data base will continue to accept DD Form 350 and DD Form 1057 data reported as small business-small purchase actions until the end of FY95, but this data will be converted to be included with small business set-aside data.

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of Public Law 98-577 and publication for public comment is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected DFARS subpart will be considered in accordance with Section 610 of the Act.

C. The Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the final rule does not impose any additional reporting or record keeping requirements that require Office of Management and Budget approval under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Part 253

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 253 is amended as follows:

1. The authority citation for 48 CFR Part 253 is revised to read as follows:

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

PART 253—FORMS

2. Section 253.204-70 is amended by revising paragraphs (b)(13)(iv), (b)(13)(ix), (c)(4)(viii), and (d)(5)(iv)(A)(2); by removing paragraph (d)(5)(iv)(A)(7); and by adding paragraph (c)(4)(iii)(A)(6) to read as follows:

253.204-70 DD Form 350, Individual Contracting Action Report.

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(b) * * *

(13) * * *