## List of Subjects in 48 CFR Parts 209, 216, 217, 246, and 252

Government procurement.

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Therefore, 48 CFR 209, 216, 217, 246, and 252 are proposed to be amended as follows:

## PART 209—CONTRACTOR QUALIFICATIONS

1. The authority citation for 48 CFR Parts 209, 216, 217, 246, and 252 is revised to read as follows:

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

2. Section 209.206–70 is added to read as follows:

## 209.206-70 Quality control of critical aircraft and ship spare parts.

In accordance with 10 U.S.C. 2383, a contractor supplying any spare or repair part, that is critical to the operation of an aircraft or ship, is required to provide a part that meets all appropriate qualification and quality requirements as may be specified in the solicitation and made available to prospective offerors. The qualification requirements shall be identical to the DoD qualification requirements that were used to qualify the original production part, unless it is determined by the head of the requiring activity, in writing, that—

- (a) There are other requirements sufficiently similar to those requirements that should be used instead; or
- (b) Any or all such requirements are unnecessary.

#### PART 216—TYPES OF CONTRACTS

3. Section 216.603–4 is revised to read as follows:

### 216.603-4 Contract clauses.

(b)(2) See 217.7405(a) for additional guidance regarding use of the clause at FAR 52.216–24, Limitation of Government Liability.

- (3) Use the clause at 252.217–XXXX, Contract Definitization, in accordance with its prescription at 217.7405(b), instead of the clause at FAR 52.216–25, Contract Definitization.
- 4. Section 216.703 is amended by revising paragraph (c) to read as follows:

## 216.703 Basic ordering agreements.

(c) *Limitations*. The period during which orders may be placed against a basic ordering agreement may not exceed three years. The contracting officer, with the approval of the chief of

the contracting office, may grant extensions for up to two years. No single extension shall exceed one year. See subpart 217.74 for additional limitations on the use of undefinitized orders under basic ordering agreements.

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# PART 217—SPECIAL CONTRACTING METHODS

5. Section 217.202 is amended by adding paragraph (3) to read as follows:

## 217.202 Use of options.

\* \* \* \* :

- (3) See subpart 217.74 for limitations on the use of undefinitized options.
- 6. Section 217.7402 is amended by revising paragraph (b) to read as follows:

### 217.7402 Exceptions.

\* \* \* \* \*

(b) Purchases at or below the simplified acquisition threshold;

### 217.7404-3 [Amended]

7. Section 217.7404–3 is amended in the introductory text of paragraph (a) by revising the word "earliest" to read "earlier."

8. Section 217.7405 is revised to read as follows:

### § 217.7405 Contract clauses.

(a) Use the clause at FAR 52.216–24, Limitation of Government Liability, in all UCAs, solicitations associated with UCAs, basic ordering agreements, indefinite delivery contracts, and any other type of contract providing for the use of UCAs.

(b) Use the clause at DFARS 252.217-XXXX, Contract Definitization, in all UCAs, solicitations associated with UCAs, basic ordering agreements, indefinite delivery contracts, and any other type of contract providing for the use of UCAs. Insert the applicable information in paragraphs (a), (b), and (d) of the clause. If, at the time of entering into the UCA, the contracting officer knows that the definitive contract action will be based on adequate price competition or otherwise will meet the criteria of FAR 15.804-3 for not requiring submission of cost or pricing data, the words "and cost or pricing data" may be deleted from paragraph (a) of the clause.

## PART 246—QUALITY ASSURANCE

9. Section 246.770–2 is amended by redesignating paragraphs (b) and (c) as (c) and (d), respectively, by adding a new paragraph (b), and by revising newly designated paragraph (c) to read as follows:

### 246.770-2 Policy.

\* \* \* \* \*

(b) Contracting officers and program managers shall consider the following when developing and negotiating weapon system warranty provisions:

(1) Warranties may not be appropriate in all situations, and a waiver should be sought if a warranty would not be costeffective or would otherwise be inconsistent with the national defense. In drafting warranty provisions, the drafters must ensure they understand the planned operational, maintenance, and supply concepts of the weapon system to be fielded, and must structure a warranty that matches those concepts. A warranty plan should be prepared in consonance with development of the warranty provisions early in the weapon system's life cycle. The plan should contain program warranty strategy, terms of the warranty, administration and enforcement requirements, and should be coordinated with the user and support activities.

(2) A cost/benefit analysis must be accomplished in support of each warranty (see 246.770–7). The cost/benefit analysis compares all costs associated with the warranty to the expected benefits. An estimate shall be made of the likelihood of defects and the estimated cost of correcting such defects. Also, if substantive changes are required to the planned operational, maintenance, or supply concepts, any increased costs should be weighed against the expected benefits in deciding whether a warranty is cost-

effective.

(3) The Warranty Guidebook prepared by the Defense Systems Management College, Fort Belvoir, VA 22060–5426, is a valuable reference that can assist in the development, negotiation, and administration of an effective weapon system warranty.

(c) Contracting officers may require warranties that provide greater coverage and remedies than specified in paragraph (a) of this subsection.

10. Section 246.770–8 is amended by removing paragraph (b)(2), redesignating paragraph (b)(3) as (b)(2), and revising the introductory texts of paragraphs (a), (c), and (c)(2) to read as follows:

## 246.770-8 Waiver and notification procedures.

(a) The Secretary of Defense has delegated waiver authority within the limits specified in 10 U.S.C. 2403. The waiving authority for the defense agencies is the Under Secretary of Defense (Acquisition and Technology). Submit defense agency waiver requests to the Director, Defense Procurement, for processing. The waiving authority