

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Add section 252.204–70XX to read as follows:

252.204–70XX Alternative Line-Item Structure.

As prescribed in 204.7109(b), insert the following provision:

ALTERNATIVE LINE-ITEM STRUCTURE (DATE)

(a) Line items are the basic structural elements in a solicitation or contract that provide for the organization of contract requirements to facilitate pricing, delivery, inspection, acceptance and payment. Line items are organized into contract line items, subline items, and exhibit line items. Separate line items should be established to account for separate pricing, identification (see DFARS 211.274), deliveries, or funding. The Government recognizes that the line item structure in this solicitation may not conform to every offeror's practices. Failure to correct

these issues can result in difficulties in accounting for deliveries and processing payments. Therefore, offerors are invited to propose an alternative line item structure for items on which bids, proposals, or quotes are requested in this solicitation to ensure that the resulting contract structure is economically and administratively advantageous to the Government and the Contractor.

(b) If an alternative line-item structure is proposed, the structure must be consistent with DFARS 204.71 and PGI 204.71. A sample line-item structure and a proposed alternative structure are as follows:

Solicitation

| Item No. | Supplies/service | Quantity | Unit | Unit price | Amount |
|------------|---|----------|--------|------------|--------|
| 0001 | Computer, Desktop with CPU, Monitor, Keyboard and Mouse | 20 | EA ... | | |

Alternative line-item structure offer where monitors are shipped separately.

| Item No. | Supplies/service | Quantity | Unit | Unit price | Amount |
|----------|--|----------|--------|------------|--------|
| 0001 | Computer, Desktop with CPU, Keyboard and Mouse | 20 | EA ... | | |
| 0002 | Monitor | 20 | EA ... | | |

(End of provision)]

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DEPARTMENT OF DEFENSE**Defense Acquisition Regulations System****48 CFR Part 213**

RIN 0750–AH07

Defense Federal Acquisition Regulation Supplement; Ships Bunkers Easy Acquisition (SEA) Card® and Aircraft Ground Services (DFARS Case 2009–D019)

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

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to allow the use of U.S. Government fuel cards in lieu of a Purchase Order-Invoice-Voucher for fuel, oil, and refueling-related items for purchases not exceeding the simplified acquisition threshold.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before June 20, 2011, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2009–D019, using any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by inputting “DFARS Case 2009–D019” under the heading “Enter keyword or ID” and selecting “Search.” Select the link “Submit a Comment” that corresponds with “DFARS Case 2009–D019.” Follow the instructions provided at the “Submit a Comment” screen. Please include your name, company name (if any), and “DFARS Case 2009–D019” on your attached document. Follow the instructions for submitting comments.

E-mail: dfars@osd.mil. Include DFARS Case 2009–D019 in the subject line of the message.

Fax: 703–602–0350.

Mail: Defense Acquisition Regulations System, Attn: Mr. Dustin Pitsch, OUSD (AT&L) DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check <http://www.regulations.gov> approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Dustin Pitsch, Telephone: 703–602–1014.

SUPPLEMENTARY INFORMATION:**I. Background**

The military services and the U.S. Coast Guard have small vessels that must procure fuel away from their home stations. Due to their smaller size and unique mission requirements, these vessels are unable to use the Defense Energy Support Center (DESC) bunkers contracts at major seaports. Previously, DFARS 213.306(a)(1)(A) authorized only the use of the Aviation Into-plane Reimbursement (AIR) Card® up to the simplified acquisition threshold specifically for aviation fuel and oil. Refueling stops often include other ground refueling-related services that exceed the micro-purchase threshold. Due to port restrictions on vessel movements, bunkering merchants do not typically provide support to smaller vessels. These smaller vessels frequent “marina-type merchants.” These small vessels fulfill valid mission needs in direct support of national security. Unlike larger vessels with more predictable movements, small vessels’ needs are often unpredictable and far-reaching geographically.

DoD proposes to add language at DFARS section 213.306(a)(1)(A) to include purchases of marine fuel, oil, and refueling-related items using the Ships Bunkers Easy Acquisition (SEA)

Card® in lieu of the SF 44, Purchase Order-Invoice-Voucher, up to the simplified acquisition threshold. Additionally, this section is revised to include additional ground refueling-related services when using the AIR Card®. These changes for use of the AIR Card® and SEA Card® will improve the refueling capability of aircraft and smaller vessels at non-contract locations.

II. Executive Order 12866 and Executive Order 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

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule does not have a significant effect beyond DoD's internal operating procedures, substituting use of a fuel card for the SF 44. However, an Initial Regulatory Flexibility Analysis has been prepared and is summarized as follows.

This is a proposed rule to revise the Defense Federal Acquisition Regulation Supplement (DFARS) at 213 to allow the use of U.S. Government fuel cards in lieu of a Purchase Order-Invoice-Voucher for fuel, oil, and refueling-related items for purchases not exceeding the simplified acquisition threshold. The rule facilitates open market purchases and will not have a significant cost or administrative impact on contractors, subcontractors, or offerors.

The objective of this rule is to amend the DFARS at 213.306(a)(1)(A) to (1) permit the purchase of marine fuel using the Ships' bunkers Easy Acquisition (SEA) Card® in lieu of the SF44, Purchase Order-Invoice-Voucher, up to the simplified acquisition threshold and (2) provide additional

ground refueling-related services when using the AIR Card®.

Purchases of aviation fuel are on-the-spot, over the counter transactions ("gas and go"), but generally exceed the micro-purchase threshold due to the price of aviation fuel and oil fuel tank capacities. Accordingly, the threshold for SF44/AIR Card® purchases of fuel and oil was set at the simplified acquisition threshold (SAT) (at DFARS 213.306(1)(1)(A)) under DFARS Case 2007–D017 (final rule effective date February 12, 2007).

The military services and the U.S. Coast Guard have small vessels that fulfill valid mission needs in direct support of national security. Unlike larger vessels, small vessels' movements and needs are often unpredictable. These small vessels must procure fuel away from their home stations, but because of their smaller size and unique mission requirements are unable to use the Defense Logistics Agency energy bunkers contracts available at major seaports. Due to port restrictions, bunkering merchants do not typically provide support to smaller vessels. Instead, these smaller vessels frequent non-contract merchants or "marina-type merchants" that otherwise serve civilian recreational watercraft and similar needs.

Under final DFARS Case 2006–D017, DoD established the threshold for purchases of the AIR Card® as an electronic replacement for the SF44. Presently, DFARS 213.306(a)(1)(A) authorizes only the use of the Aviation Into-plane Reimbursement (AIR) Card® up to the simplified acquisition threshold to procure aviation fuel and oil. However, refueling stops often include other required ground refueling-related services that exceed the micro-purchase threshold. The proposed changes to DFARS subpart 213.306 will permit use of the fuel cards up to the simplified acquisition threshold for other ground refueling-related services and for smaller Navy, Coast Guard, and Army (to include Corp of Engineers) vessels to procure marine fuel while away from their home station.

Approximately 80% of "marina-type merchants" are considered small businesses. Marina-type merchants accepting the SEA Card® will pay a normal fee to the banking institution or processing center, similar to VISA charges these merchants incur from other credit card clients. In addition, merchants are expected to benefit from accelerated payments, since they will be paid by the banking institution in accordance with their merchant agreement. The rule facilitates open market purchases, benefits merchants by

making it much easier for merchants to do business with the military and will not have a significant cost or administrative impact on contractors, subcontractors, or offerors.

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule does not have a significant effect beyond DoD's internal operating procedures, substituting the use of a fuel card (AIR Card® and SEA Card®) in lieu of the SF44, Purchase Order-Invoice-Voucher.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2009–D019) in correspondence.

IV. Paperwork Reduction Act

This 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 213

Government procurement.

Mary Overstreet,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 213 is proposed to be amended as follows:

PART 213—SIMPLIFIED ACQUISITION PROCEDURES

1. The authority citation for 48 CFR part 213 continues to read as follows:

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

2. In section 213.306, revise paragraph (a)(1)(A) to read as follows:

213.306 SF44, Purchase Order-Invoice-Voucher.

(a)(1) * * *

(A) Fuel and oil. U.S. Government fuel cards may be used in lieu of an SF44 for fuel, oil, and authorized refueling-related items (see PGI 213.306 for procedures on use of fuel cards);

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