

contracts or subcontracts) to the Government from a contractor or subcontractor that is not required by any contractual or other legal obligation. Follow the procedures at PGI 242.7100 for voluntary refunds.

242.7101 and 242.7102 [Removed]

- 13. Sections 242.7101 and 242.7102 are removed.
- 14. Sections 242.7400 and 242.7401 are revised to read as follows:

242.7400 General.

(a) Program managers may conclude that they need technical representation in contractor facilities to perform non-contract administration service (CAS) technical duties and to provide liaison, guidance, and assistance on systems and programs. In these cases, the program manager may assign technical representatives under the procedures in 242.7401.

(b) A technical representative is a representative of a DoD program, project, or system office performing non-CAS technical duties at or near a contractor facility. A technical representative is not—

- (1) A representative of a contract administration or contract audit component; or
- (2) A contracting officer's representative (see 201.602).

242.7401 Procedures.

When the program, project, or system manager determines that a technical representative is required, follow the procedures at PGI 242.7401.

242.7500 and 242.7501 [Removed]

- 15. Sections 242.7500 and 242.7501 are removed.

242.7502 and 242.7503 [Redesignated]

- 16. Sections 242.7502 and 242.7503 are redesignated as sections 242.7501 and 242.7502, respectively.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.242-7000 [Removed and Reserved]

- 17. Section 252.242-7000 is removed and reserved.
- 18. Section 252.242-7004 is amended by revising the clause date and adding paragraph (d)(4) to read as follows:

252.242-7004 Material Management and Accounting System.

* * * * *

MATERIAL MANAGEMENT AND ACCOUNTING SYSTEM (NOV 2005)

* * * * *

(d) * * *

(4) If the contractor fails to make adequate progress, the ACO must take further action. The ACO may—

- (i) Elevate the issue to higher level management;
- (ii) Further reduce progress payments and/or disallow costs on vouchers;
- (iii) Notify the contractor of the inadequacy of the contractor's cost estimating system and/or cost accounting system; and
- (iv) Issue cautions to contracting activities regarding the award of future contracts.

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DEPARTMENT OF DEFENSE

48 CFR Part 243

[DFARS Case 2003-D024]

Defense Federal Acquisition Regulation Supplement; Contract Modifications

AGENCY: Department of Defense (DoD).
ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to contract modifications. This rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

EFFECTIVE DATE: November 9, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Tronic, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0289; facsimile (703) 602-0350. Please cite DFARS Case 2003-D024.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or

a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at <http://www.acq.osd.mil/dpap/dars/dfars/transformation/index.htm>.

This final rule is a result of the DFARS Transformation initiative. The rule:

- Deletes unnecessary text at DFARS 243.102, 243.105(a)(ii), 243.107, and 243.204-71.
- Deletes obsolete text at DFARS 243.105(a)(i).
- Updates text at DFARS 243.107-70 for consistency with the requirements of the clause at DFARS 252.249-7002, Notification of Anticipated Contract Termination or Reduction.
- Clarifies procedures at DFARS 243.204-70 for determining if a request for equitable contract adjustment meets the dollar threshold for requiring contractor certification.

- Deletes text at DFARS 243.170, 243.171, and 243.204 containing procedures for identification of foreign military sales requirements, for obligation or deobligation of contract funds, and for review and definitization of contract change orders. This text has been relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI), available at <http://www.acq.osd.mil/dpap/dars/pgi>.

DoD published a proposed rule at 70 FR 14629 on March 23, 2005. DoD received no comments on the proposed rule. Therefore, DoD has adopted the proposed rule as a final rule without change.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD certifies that this final rule will not 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 updates, clarifies, and streamlines DFARS text, but makes no significant change to DoD contracting policy.

C. 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 Part 243

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR part 243 is amended as follows:

PART 243—CONTRACT MODIFICATIONS

■ 1. The authority citation for 48 CFR part 243 continues to read as follows:

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

243.102, 243.105, and 243.107 [Removed]

■ 2. Sections 243.102, 243.105, and 243.107 are removed.
 ■ 3. Section 243.107-70 is amended by revising the second sentence to read as follows:

243.107-70 Notification of substantial impact on employment.

* * * The clause prescribed at 249.7003(c) requires that the contractor notify its employees, its subcontractors, and State and local officials when a contract modification will have a substantial impact on employment.

■ 4. Sections 243.170 and 243.171 are revised to read as follows:

243.170 Identification of foreign military sale (FMS) requirements.

Follow the procedures at PGI 243.170 for identifying contract modifications that add FMS requirements.

243.171 Obligation or deobligation of funds.

Follow the procedures at PGI 243.171 when obligating or deobligating funds.

■ 5. Section 243.204 is revised to read as follows:

243.204 Administration.

Follow the procedures at PGI 243.204 for review and definitization of change orders.

■ 6. Section 243.204-70 is amended by revising paragraph (b) to read as follows:

243.204-70 Certification of requests for equitable adjustment.

* * * * *

(b) To determine if the dollar threshold for requiring certification is met, add together the absolute value of each cost increase and each cost decrease. See PGI 243.204-70(b) for an example.

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243.204-71 [Removed]

■ 7. Section 243.204-71 is removed.

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DEPARTMENT OF DEFENSE**48 CFR Parts 244 and 252**

[DFARS Case 2003-D025]

Defense Federal Acquisition Regulation Supplement; Subcontracting Policies and Procedures

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to subcontracts awarded under DoD contracts. This rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

EFFECTIVE DATE: November 9, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Tronic, Defense Acquisition Regulations System, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0289; facsimile (703) 602-0350. Please cite DFARS Case 2003-D025.

SUPPLEMENTARY INFORMATION:**A. Background**

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at <http://www.acq.osd.mil/dpap/dars/dfars/transformation/index.htm>.

This final rule is a result of the DFARS Transformation initiative. The rule:

- Revises DFARS 244.301 to clarify Government responsibilities for conducting reviews of contractor purchasing systems.

- Deletes text at DFARS 244.304 containing examples of weaknesses in a contractor's purchasing system that may indicate the need for a review. This text has been relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI),

available at <http://www.acq.osd.mil/dpap/dars/pgi>.

- Updates the clause at DFARS 252.244-7000 to reflect the current title of the clause at FAR 52.244-6, Subcontracts for Commercial Items.

DoD published a proposed rule at 70 FR 19044 on April 12, 2005. DoD received no comments on the proposed rule. Therefore, DoD has adopted the proposed rule as a final rule without change.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD certifies that this final rule will not 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 updates, clarifies, and streamlines DFARS text, but makes no significant change to DoD contracting policy.

C. 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 244 and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 244 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 244 and 252 continues to read as follows:

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

PART 244—SUBCONTRACTING POLICIES AND PROCEDURES

■ 2. Section 244.301 is revised to read as follows:

244.301 Objective.

The administrative contracting officer (ACO) is solely responsible for initiating reviews of the contractor's purchasing systems, but other organizations may request that the ACO initiate such reviews.

■ 3. Section 244.304 is revised to read as follows:

244.304 Surveillance.

(b) The ACO, or the purchasing system analyst (PSA) with the