

(J) State law enforcement agencies, which include, but are not limited to, State Attorneys General.

(vi) Utilization and quality control Quality Improvement Organizations described in part B of title XI and appropriate entities with contracts under section 1154(a)(4)(C) of the Social Security Act with respect to eligible organizations reviewed under the contracts;

(vii) Hospitals and other health care entities (as defined in section 431 of the HCQIA), with respect to physicians or other licensed health care practitioners who have entered (or may be entering) into employment or affiliation relationships with, or have applied for clinical privileges or appointments to the medical staff of, such hospitals or other health care entities;

(viii) A physician, dentist, or other health care practitioner who, and an entity which, requests information concerning himself, herself, or itself; and

(ix) A person or entity requesting statistical information, in a form which does not permit the identification of any individual or entity. (For example, researchers may use statistical information to identify the total number of nurses with adverse licensure actions in a specific State. Similarly, researchers may use statistical information to identify the total number of health care entities denied accreditation.)

(b) *Procedures for obtaining National Practitioner Data Bank information.*

Persons and entities may obtain information from the NPDB by submitting a request in such form and manner as the Secretary may prescribe. These requests are subject to fees as described in § 60.14.

#### § 60.14 Fees applicable to requests for information.

(a) *Policy on Fees.* The fees described in this section apply to all requests for information from the NPDB. The amount of such fees will be sufficient to recover the full costs of operating the NPDB. The actual fees will be announced by the Secretary in periodic notices in the **Federal Register**. However, for purposes of verification and dispute resolution at the time the report is accepted, the NPDB will provide a copy—at the time a report has been submitted, automatically, without a request and free of charge—of the record to the health care practitioner or entity who is the subject of the report and to the reporter.

(b) *Criteria for determining the fee.* The amount of each fee will be determined based on the following criteria:

(1) Direct and indirect personnel costs, including salaries and fringe benefits such as medical insurance and retirement;

(2) Physical overhead, consulting, and other indirect costs including materials and supplies, utilities, insurance, travel and rent and depreciation on land, buildings and equipment;

(3) Agency management and supervisory costs;

(4) Costs of enforcement, research, and establishment of regulations and guidance;

(5) Use of electronic data processing equipment to collect and maintain information—the actual cost of the service, including computer search time, runs and printouts; and

(6) Any other direct or indirect costs related to the provision of services.

(c) *Assessing and collecting fees.* The Secretary will announce through notice in the **Federal Register** from time to time the methods of payment of NPDB fees. In determining these methods, the Secretary will consider efficiency, effectiveness, and convenience for the NPDB users and the Department. Methods may include: Credit card; electronic fund transfer and other methods of electronic payment.

#### § 60.15 Confidentiality of National Practitioner Data Bank information.

(a) *Limitations on disclosure.* Information reported to the NPDB is considered confidential and shall not be disclosed outside the Department of Health and Human Services, except as specified in §§ 60.12, 60.13, and 60.16. Persons who, and entities which, receive information from the NPDB either directly or from another party may use it solely with respect to the purpose for which it was provided. Nothing in this paragraph shall prevent the disclosure of information by a party which is authorized under applicable State law to make such disclosure.

(b) *Penalty for violations.* Any person who violates paragraph (a) of this section shall be subject to a civil money penalty of up to \$11,000 for each violation. This penalty will be imposed pursuant to procedures at 42 CFR part 1003.

#### § 60.16 How to dispute the accuracy of National Practitioner Data Bank information.

(a) *Who may dispute National Practitioner Data Bank information.* Any physician, dentist, or other health care practitioner or health care entity may dispute the accuracy of information in the NPDB concerning himself, herself or itself. The Secretary will routinely mail a copy of any report filed in the NPDB to the subject individual or entity.

(b) *Procedures for filing a dispute.*

The subject of the report may dispute the accuracy of the report within 60 days from the date on which the Secretary mails the report to the subject individual or entity. The procedures for disputing a report are:

(1) Informing the Secretary and the reporting entity, in writing, of the disagreement, and the basis for it,

(2) Requesting simultaneously that the disputed information be entered into a “disputed” status and be reported to inquirers as being in a “disputed” status, and

(3) Attempting to enter into discussion with the reporting entity to resolve the dispute.

(c) *Procedures for revising disputed information.* (1) If the reporting entity revises the information originally submitted to the NPDB, the Secretary will notify all entities to whom reports have been sent that the original information has been revised.

(2) If the reporting entity does not revise the reported information, the Secretary will, upon request, review the written information submitted by both parties (the subject individual or entity and the reporting entity). After review, the Secretary will either—

(i) If the Secretary concludes that the information is accurate, include a brief statement by the physician, dentist or other health care practitioner or health care entity describing the disagreement concerning the information, and an explanation of the basis for the decision that it is accurate, or

(ii) If the Secretary concludes that the information is incorrect, send corrected information to previous inquirers.

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Parts 232 and 252

RIN 0750–AF28

#### Defense Federal Acquisition Regulation Supplement; Electronic Submission and Processing of Payment Requests (DFARS Case 2005–D009)

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

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition

Regulation Supplement (DFARS) to update policy regarding requirements for DoD contractors to submit payment requests in electronic form. The proposed rule clarifies the situations under which DoD will grant exceptions to requirements for electronic submission of payment requests.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before May 22, 2006 to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2005–D009, using any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- E-mail: [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2005–D009 in the subject line of the message.

- Fax: (703) 602–0350.

- Mail: Defense Acquisition Regulations System, Attn: Mr. Bill Sain, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

- Hand Delivery/Courier: Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Mr. Bill Sain, (703) 602–0293.

#### **SUPPLEMENTARY INFORMATION:**

##### **A. Background**

DFARS subpart 232.70 and the corresponding contract clause at DFARS 252.232–7003 contain requirements for electronic submission and processing of contract payment requests, in accordance with 10 U.S.C. 2227. The DFARS provides for certain exceptions to these requirements, to include one that applies if a contractor is unable to submit, or DoD is unable to receive, a payment request in electronic form. When this exception applies, the contractor must submit the payment request using a method mutually agreed to by the contractor, the contracting officer, the contract administration office, and the payment office. This DFARS text has caused differing interpretations as to what constitutes a contractor's inability to submit an electronic payment request, and whether the contracting officer, the contract administration office, and the payment office all must agree that the contractor is unable to submit an electronic payment request or if this decision is the sole authority of the

contracting officer. Furthermore, the DFARS presently does not contain a requirement for the contract to specify the alternative method to be used when non-electronic submission is authorized.

To clarify requirements for submission of payment requests, DoD is proposing the following DFARS changes:

- Amendment of 232.7002(a) to replace the language that has caused confusion with an exception that applies when the administrative contracting officer determines, in writing, that electronic submission would be unduly burdensome to the contractor. The proposed language is consistent with the provisions of 10 U.S.C. 2227.

- Addition of a new paragraph at 232.7002(c) to require the contracting officer to specify, in Section G of the contract, the payment request method to be used when electronic submission is not required.

- Amendment of the clause at 252.232–7003 for consistency with the changes to 232.7002, and to add a reference to a DoD website that will contain a listing of the DoD activities and payment systems that are unable to receive payment requests in electronic form.

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 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 is designed to avoid any such impact by permitting alternative means of requesting payment when submission of electronic payment requests would be unduly burdensome to a contractor. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2005–D009.

##### **C. Paperwork Reduction Act**

The proposed 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 232 and 252**

Government procurement.

##### **Michele P. Peterson**

*Editor, Defense Acquisition Regulations System.*

Therefore, DoD proposes to amend 48 CFR parts 232 and 252 as follows:

1. The authority citation for 48 CFR parts 232 and 252 continues to read as follows:

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

##### **PART 232—CONTRACT FINANCING**

2. Section 232.7002 is revised to read as follows:

##### **232.7002 Policy.**

(a) Contractors shall submit payment requests in electronic form, except for—

(1) Purchases paid for with a Governmentwide commercial purchase card;

(2) Awards made to foreign vendors for work performed outside the United States;

(3) Classified contracts or purchases when electronic submission and processing of payment requests could compromise the safeguarding of classified information or national security;

(4) Contracts awarded by deployed contracting officers in the course of military operations, including, but not limited to, contingency operations as defined in 10 U.S.C. 101(a)(13) or humanitarian or peacekeeping operations as defined in 10 U.S.C.

2302(8) or contracts awarded by contracting officers in the conduct of emergency operations, such as responses to natural disasters or national or civil emergencies;

(5) Purchases to support unusual or compelling needs of the type described in FAR 6.302–2;

(6) Cases in which DoD is unable to receive payment requests in electronic form; or

(7) Cases in which the administrative contracting officer has determined, in writing, that electronic submission would be unduly burdensome to the contractor.

(b) DoD officials receiving payment requests in electronic form shall process the payment requests in electronic form. Any supporting documentation necessary for payment, such as receiving reports, contracts, contract modifications, and required certifications, also shall be processed in electronic form. Scanned documents are acceptable forms for processing supporting documentation.

(c) When payment requests will not be submitted in electronic form, Section G of the contract shall specify the alternative payment request method or methods to be used (e.g., facsimile, conventional mail).

3. Section 232.7004 is revised to read as follows:

**§ 232.7004 Contract clause.**

Except as provided in 232.7002(a)(1) through (6), use the clause at 252.232-7003, Electronic Submission of Payment Requests, in solicitations and contracts.

**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

4. Section 252.232-7003 is amended as follows:

a. By revising the clause date and paragraph (c);

b. By redesignating paragraph (d) as paragraph (e); and

c. By adding a new paragraph (d) to read as follows:

**252.232-7003 Electronic Submission of Payment Requests.**

\* \* \* \* \*

Electronic Submission of Payment Requests (XXX 2006)

\* \* \* \* \*

(c) The Contractor may submit a payment request in non-electronic form only when—

(1) The Administrative Contracting Officer has determined, in writing, that electronic submission would be unduly burdensome to the Contractor. In such cases, the Contractor shall include a copy of the Administrative Contracting Officer's determination with each request for payment; or

(2) DoD is unable to receive a payment request in electronic form. A listing of the DoD activities and payment systems that are unable to receive payment requests in electronic form is available at <http://www.dod.mil/dfas/ecedi/>.

(d) The Contractor shall submit any non-electronic payment requests using the method or methods specified in Section G of the contract.

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**DEPARTMENT OF DEFENSE**

**Defense Acquisition Regulations System**

**48 CFR Part 252**

**RIN 0750-AF24**

**Defense Federal Acquisition Regulation Supplement; Reports of Government Property (DFARS Case 2005-D015)**

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

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to revise requirements for reporting of Government property in the possession of DoD contractors. The proposed rule replaces existing DD Form 1662 reporting requirements with requirements for DoD contractors to electronically submit, to the Item Unique Identification (IUID) Registry, the IUID data applicable to the Government property in the contractor's possession. This will result in more efficient and accurate reporting of Government property in the possession of contractors.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before April 20, 2006 to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2005-D015, using any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2005-D015 in the subject line of the message.
- Fax: (703) 602-0350.
- Mail: Defense Acquisition Regulations System, Attn: Ms. Robin Schulze, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062.
- Hand Delivery/Courier: Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202-3402.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Ms. Robin Schulze, (703) 602-0326.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

The clause at DFARS 252.245-7001 presently requires contractors to submit an annual report for all DoD property for which the contractor is accountable. The report must be prepared in accordance with the requirements of DD Form 1662 or an approved substitute. DD Form 1662 provides for reporting of only summary level totals for each of the various types of Government property (e.g. land, special test equipment, industrial plant equipment), and does not consider capitalization requirements or useful lives, nor can it be used for existence, completeness, or valuation purposes. The limited data produced through use of DD Form 1662 is considered to be insufficient for complete visibility and control of DoD property.

This proposed rule would replace DD Form 1662 reporting with requirements for contractors to electronically submit, to the Item Unique Identification (IUID) Registry, the IUID data for all DoD tangible personal property in the possession of the contractor. The proposed rule also contains requirements for contractors to provide real property data to the owning military department's real property inventory system. This data will be used to populate DoD information systems for more effective and efficient accountability and control of DoD property.

DoD contractors with existing contracts containing DD Form 1662 reporting requirements are encouraged to request contract modifications to designate use of the procedures specified in this proposed rule as the approved substitute for DD Form 1662, as permitted by the clause at DFARS 252.245-7001.

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 has prepared an initial regulatory flexibility analysis consistent with 5 U.S.C. 603. A copy of the analysis may be obtained from the point of contact specified herein. The analysis is summarized as follows:

This proposed rule amends the DFARS to require DoD contractors to electronically submit, to the IUID Registry, the IUID data for DoD personal property in the contractor's possession. In addition, the proposed rule contains requirements for contractors to maintain records in DoD real property inventory systems for all real property provided under the contract. The existing