

**PART 225—FOREIGN ACQUISITION**

■ 2. Section 225.7002-1 is amended in paragraph (b) by adding, after the period, a parenthetical sentence to read as follows:

**225.7002-1 Restrictions.**

\* \* \* \* \*

(b) \* \* \* (For guidance on dealing with noncompliance with this requirement, see PGI 225.7002-1(b).)

\* \* \* \* \*

■ 3. Section 225.7401 is amended in paragraph (b) by revising the second sentence to read as follows:

**225.7401 General.**

\* \* \* \* \*

(b) \* \* \* Follow the procedures in Army in Europe Regulation 715-9, available at <http://www.per.hqusaureur.army.mil/cpd/docper/GermanyDefault.aspx>.

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

■ 4. Section 252.212-7001 is revised to read as follows:

**252.212-7001 Contract terms and conditions required to implement statutes or Executive orders applicable to Defense acquisitions of commercial items.**

As prescribed in 212.301(f)(iii), use the following clause:

**Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items (Jul 2006)**

(a) The Contractor agrees to comply with the following Federal Acquisition Regulation (FAR) clause which, if checked, is included in this contract by reference to implement a provision of law applicable to acquisitions of commercial items or components.

52.203-3, Gratuities (APR 1984) (10 U.S.C. 2207).

(b) The Contractor agrees to comply with any clause that is checked on the following list of Defense FAR Supplement clauses which, if checked, is included in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items or components.

(1) 252.205-7000, Provision of Information to Cooperative Agreement Holders (DEC 1991) (10 U.S.C. 2416).

(2) 252.219-7003, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (DoD Contracts) (APR 1996) (15 U.S.C. 637).

(3) 252.219-7004, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (Test Program) (JUN 1997) (15 U.S.C. 637 note).

(4) 252.225-7001, Buy American Act and Balance of Payments Program (JUN 2005) (41 U.S.C. 10a-10d, E.O. 10582).

(5) 252.225-7012, Preference for Certain Domestic Commodities (JUN 2004) (10 U.S.C. 2533a).

(6) 252.225-7014, Preference for Domestic Specialty Metals (JUN 2005) (10 U.S.C. 2533a).

(7) 252.225-7015, Restriction on Acquisition of Hand or Measuring Tools (JUN 2005) (10 U.S.C. 2533a).

(8) 252.225-7016, Restriction on Acquisition of Ball and Roller Bearings (MAR 2006) (Section 8065 of Public Law 107-117 and the same restriction in subsequent DoD appropriations acts).

(9) 252.225-7021, Trade Agreements (JUN 2006) (19 U.S.C. 2501-2518 and 19 U.S.C. 3301 note).

(10) 252.225-7027, Restriction on Contingent Fees for Foreign Military Sales (APR 2003) (22 U.S.C. 2779).

(11) 252.225-7028, Exclusionary Policies and Practices of Foreign Governments (APR 2003) (22 U.S.C. 2755).

(12)(i) 252.225-7036, Buy American Act—Free Trade Agreements—Balance of Payments Program (JUN 2006) (41 U.S.C. 10a-10d and 19 U.S.C. 3301 note).

(ii) Alternate I (JAN 2005) of 252.225-7036.

(13) 252.225-7038, Restriction on Acquisition of Air Circuit Breakers (JUN 2005) (10 U.S.C. 2534(a)(3)).

(14) 252.226-7001, Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (SEP 2004) (Section 8021 of Pub. L. 107-248 and similar sections in subsequent DoD appropriations acts).

(15) 252.227-7015, Technical Data—Commercial Items (NOV 1995) (10 U.S.C. 2320).

(16) 252.227-7037, Validation of Restrictive Markings on Technical Data (SEP 1999) (10 U.S.C. 2321).

(17) 252.232-7003, Electronic Submission of Payment Requests (MAY 2006) (10 U.S.C. 2227).

(18) 252.237-7019, Training for Contractor Personnel Interacting with Detainees (SEP 2005) (Section 1092 of Public Law 108-375).

(19) 252.243-7002, Requests for Equitable Adjustment (MAR 1998) (10 U.S.C. 2410).

(20)(i) 252.247-7023, Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631).

(ii) Alternate I (MAR 2000) of 252.247-7023.

(iii) Alternate II (MAR 2000) of 252.247-7023.

(iv) Alternate III (MAY 2002) of 252.247-7023.

(21) 252.247-7024, Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

(c) In addition to the clauses listed in paragraph (e) of the Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items clause of this contract (FAR 52.212-5), the Contractor shall include the terms of the following clauses, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under this contract:

(1) 252.225-7014, Preference for Domestic Specialty Metals, Alternate I (APR 2003) (10 U.S.C. 2533a).

(2) 252.237-7019, Training for Contractor Personnel Interacting with Detainees (SEP 2005) (Section 1092 of Public Law 108-375).

(3) 252.247-7023, Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631).

(4) 252.247-7024, Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

(End of clause)

[FR Doc. E6-10841 Filed 7-10-06; 8:45 am]

BILLING CODE 5001-08-P

**DEPARTMENT OF DEFENSE****Defense Acquisition Regulations System****48 CFR Part 239**

[DFARS Case 2003-D094]

**Defense Federal Acquisition Regulation Supplement; Exchange or Sale of Government-Owned Information Technology**

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

**ACTION:** Final rule.

**SUMMARY:** DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to delete obsolete procedures for the exchange or sale of Government-owned information technology. This rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

**DATES:** *Effective Date:* July 11, 2006.

**FOR FURTHER INFORMATION CONTACT:** Mr. Bill Sain, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0293; facsimile (703) 602-0350. Please cite DFARS Case 2003-D094.

**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 Subpart 239.70 to delete obsolete procedures for the exchange or sale of Government-owned information technology. DoD now handles the exchange or sale of information technology equipment in the same manner as other personal property, in accordance with DoD 4140.1-R, DoD Supply Chain Materiel Management Regulation. The rule includes a reference to DoD 4140.1-R, at DFARS 239.7001.

DoD published a proposed rule at 70 FR 54697 on September 16, 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 deletes procedures that have become obsolete with regard to the exchange or sale of Government-owned information technology.

#### 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 239

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

■ Therefore, 48 CFR part 239 is amended as follows:

#### PART 239—ACQUISITION OF INFORMATION TECHNOLOGY

■ 1. The authority citation for 48 CFR part 239 continues to read as follows:

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

■ 2. Subpart 239.70 is revised to read as follows:

#### Subpart 239.70—Exchange or Sale of Information Technology

##### 239.7001 Policy.

Agencies shall follow the procedures in DoD 4140.1-R, DoD Supply Chain Materiel Management Regulation, Chapter 9, Section C9.5, when considering the exchange or sale of Government-owned information technology.

[FR Doc. E6-10852 Filed 7-10-06; 8:45 am]

BILLING CODE 5001-08-P

#### DEPARTMENT OF DEFENSE

#### Defense Acquisition Regulations System

#### 48 CFR Parts 239 and 252

[DFARS Case 2003-D068]

#### Defense Federal Acquisition Regulation Supplement; Acquisition of Information Technology

**AGENCY:** Defense Acquisition Regulations System, 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 on the acquisition of information technology. This rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

**EFFECTIVE DATE:** July 11, 2006.

**FOR FURTHER INFORMATION CONTACT:** Mr. Bill Sain, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0293; facsimile (703) 602-0350. Please cite DFARS Case 2003-D068.

#### 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 DFARS changes—

- Remove text that is obsolete or unnecessary;
- Clarify text addressing charges for special construction or assembly related to telecommunications services;
- Clarify the text of clauses used in basic agreements for telecommunications services; and
- Remove text addressing the acquisition of telecommunications services from foreign carriers and examples of instances where additional information may be necessary to determine price reasonableness. Text on these subjects has been relocated to the 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 54698 on September 16, 2005. DoD received no comments on the proposed rule. DoD has adopted the proposed rule as a final rule, with an additional change at DFARS 239.7406(c) to add a reference to PGI text containing examples of instances where additional information may be necessary to determine price reasonableness.

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 and clarifies DFARS text, but makes no significant change to DoD policy for the acquisition of information technology.

#### 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 239 and 252

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

■ Therefore, 48 CFR parts 239 and 252 are amended as follows: