

significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because DoD is not issuing a new regulation; rather, this rule is removing an unneeded contract clause from the DFARS that will reduce the administrative burden on contractors or offerors.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold, for Commercial Products Including Commercially Available Off-the-Shelf (COTS) Items, and for Commercial Services

This rule does not impose any new requirements on contracts at or below the simplified acquisition threshold, for commercial products including commercially available off-the-shelf items, or for commercial services. The rule removes and reserves DFARS clause 252.211-7006, Passive Radio Frequency Identification, and removes the clause from the list of solicitation provisions and contract clauses for the acquisition of commercial items at DFARS 212.301.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 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). E.O. 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 E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

V. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801-808) before an interim or final rule takes effect, DoD will submit a copy of the interim or final rule with the form, Submission of Federal Rules Under the Congressional Review Act, to the U.S. Senate, the U.S. House of Representatives, and to the Comptroller General of the United States. A major rule under the Congressional Review Act cannot take effect until 60 days after it is published in the **Federal Register**. The Office of Information and Regulatory Affairs has

determined that this rule is not a major rule as defined by 5 U.S.C. 804.

VII. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501-1, and 41 U.S.C. 1707 does not require publication for public comment.

VIII. Paperwork Reduction Act

This rule removes the information collection requirements associated with the clause at DFARS 252.211.7006, Passive Radio Frequency Identification, currently approved under OMB Control Number 0704-0434, entitled "Radio Frequency Identification Advance Shipment Notices". Accordingly, DoD submitted, and OMB approved, the following reduction of the annual reporting burden and OMB inventory of hours under OMB Control Number 0704-0434 as follows:

Respondents: 5,217.

Responses per respondent: 3,782.

Total annual responses: 19,732,850.

Hours per response: Approximately 1.16 seconds.

Total response burden hours: 6,358.

List of Subjects in 48 CFR Parts 211, 212, and 252

Government procurement.

Jennifer D. Johnson,
Editor/Publisher, *Defense Acquisition Regulations System*.

Therefore, 48 CFR parts 211, 212, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 211, 212, and 252 continues to read as follows:

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

PART 211—DESCRIBING AGENCY NEEDS

211.275 [Removed and Reserved]

■ 2. Remove and reserve section 211.275.

211.275-1 through 211.275-3 [Removed]

■ 3. Remove sections 211.275-1 through 211.275-3.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

212.301 [Amended]

■ 4. Amend section 212.301 by—
■ a. Removing paragraph (f)(iv)(B); and
■ b. Redesignating paragraphs (f)(iv)(C) and (D) as paragraphs (f)(iv)(B) and (C).

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.211-7006 [Removed and Reserved]

■ 5. Remove and reserve section 252.211-7006.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212 and 252

[Docket DARS-2022-0027]

RIN 0750-AL71

Defense Federal Acquisition Regulation Supplement: Removal of Pilot Program for Acquisition of Military-Purpose Nondevelopmental Items (DFARS Case 2022-D022)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to remove the Pilot Program for Acquisition of Military-Purpose Nondevelopmental Items, since the statutory authority for the program has expired.

DATES: Effective October 28, 2022.

FOR FURTHER INFORMATION CONTACT: Ms. Jeanette Snyder, telephone 703-508-7524.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is issuing a final rule to remove DFARS subpart 212.71, Pilot Program for Acquisition of Military-Purpose Nondevelopmental Items, and the solicitation provision at DFARS 252.212-7002, Pilot Program for Acquisition of Military-Purpose Nondevelopmental Items. Section 866 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2011 (Pub. L. 111-383; 10 U.S.C. 2302 note) authorized the pilot program for a 5-year period through January 6, 2016, and the pilot program was implemented in the DFARS by publication of an interim rule at 76 FR 38048. Subsequently, section 814 of the NDAA for FY 2014 extended the pilot program through December 31, 2019, and this sunset date was implemented in the DFARS by publication of a final rule at 79 FR

17446 on March 28, 2014. Since the pilot program expired on December 31, 2019, the program is being removed from the DFARS. No contracts were awarded as a result of this pilot program.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the Federal Acquisition Regulation (FAR) is 41 U.S.C. 1707, Publication of Proposed Regulations. Subsection (a)(1) of the statute requires that a procurement policy, regulation, procedure, or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment because it merely removes obsolete text from the DFARS for a pilot program that did not result in the award of any contracts by DoD; therefore, this final rule does not impact the Government, contractors, or offerors.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold, for Commercial Products Including Commercially Available Off-the-Shelf Items, and for Commercial Services

This rule does not create any new solicitation provisions or contract clauses. Although this rule removes the provision at DFARS 252.212-7002, Pilot Program for Acquisition of Military Purpose Nondevelopmental Items, it does not impact any other existing solicitation provisions, contract clauses, or prescriptions for the use of solicitation provisions or contract clauses.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 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). E.O. 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 E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

V. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801-808) before an interim or final rule takes effect, DoD will submit a copy of the interim or final rule with the form, Submission of Federal Rules under the Congressional Review Act, to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule under the Congressional Review Act cannot take effect until 60 days after it is published in the **Federal Register**. The Office of Information and Regulatory Affairs has determined that this rule is not a major rule as defined by 5 U.S.C. 804.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501-1, and 41 U.S.C. 1707 does not require publication for public comment.

VII. Paperwork Reduction Act

This proposed 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 Parts 212 and 252

Government procurement.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 212 and 252 are amended as follows:

- 1. The authority citation for 48 CFR parts 212 and 252 continues to read as follows:

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

PART 212—ACQUISITION OF COMMERCIAL ITEMS

Subpart 212.71 [Removed and Reserved]

- 2. Remove and reserve subpart 212.71, consisting of sections 212.7100, 212.7101, 212.7102, 212.7102-1 through 212.7102-3, and 212.7103.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.212-7002 [Removed and Reserved]

- 3. Remove and reserve section 252.212-7002.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212, 213, 229, 232, and 252

[Docket DARS-2022-0014]

RIN 0750-AL51

Defense Federal Acquisition Regulation Supplement: Reporting Tax Information on Certain Foreign Procurements (DFARS Case 2021-D029)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to allow for the efficient and accurate identification of contracts subject to excise tax withholding. DoD is also amending the DFARS to prohibit use of the Governmentwide commercial purchase card as a method of payment when the tax on certain foreign procurements applies. These changes will promote the efficient administration of the excise tax.

DATES: Effective October 28, 2022.

FOR FURTHER INFORMATION CONTACT: David E. Johnson, telephone 202-913-5764.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the **Federal Register** at 87 FR 37473 on June 23, 2022, to amend the DFARS to promote the efficient administration of the two-percent excise tax on specified Federal procurement payments to certain foreign persons. Section 301 of the James Zadroga 9/11 Health and Compensation Act of 2010 (Pub. L. 111-347), codified at 26 U.S.C. 5000C, imposes a two-percent excise tax on specified Federal procurement payments to certain foreign persons; it does not apply to payments to United States persons. With certain exceptions,