

**List of Subjects in 48 CFR Part 239**

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, DoD proposes to amend 48 CFR part 239 as follows:

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.

**PART 239—ACQUISITION OF INFORMATION TECHNOLOGY****Subpart 239.73—[Removed and Reserved]**

2. Subpart 239.73 is removed and reserved.

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**DEPARTMENT OF DEFENSE****48 CFR Parts 239 and 252**

[DFARS Case 2003-D053]

**Defense Federal Acquisition Regulation Supplement; Update of Clauses for Telecommunications Services**

**AGENCY:** 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 clauses used in contracts for telecommunications services. This proposed rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before January 21, 2005, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2003-D053, using any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Defense Acquisition Regulations Web site: <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. Follow the instructions for submitting comments.
- E-mail: [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2003-D053 in the subject line of the message.

- Fax: (703) 602-0350.

- Mail: Defense Acquisition Regulations Council, Attn: Ms. Michele

Peterson, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062.

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

All comments received will be posted to <http://emissary.acq.osd.mil/dar/dfars.nsf>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Michele Peterson, (703) 602-0311.

**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/dfars/transf.htm>.

This proposed rule is a result of the DFARS Transformation initiative. The proposed changes include—

- Deletion of an obsolete clause at DFARS 252.239-7003, Facilities and Services to be Furnished—Common Carriers.
- Expansion of the applicability of the clauses at DFARS 252.239-7004, Orders for Facilities and Services; 252.239-7005, Rates, Charges, and Services; and 252.239-7007, Cancellation or Termination of Orders, to all carriers of telecommunications services. The clauses presently apply only to common carriers (those subject to Federal Communications Commission or other governmental regulation). Expansion of these clauses to all carriers reflects the current business environment, where the differences between common and noncommon carriers have become less distinct.

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 proposed DFARS changes reflect current business practices for the acquisition of telecommunications services. 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 2003-D053.

**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,**

*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, DoD proposes to amend 48 CFR parts 239 and 252 as follows:

1. The authority citation for 48 CFR parts 239 and 252 continues to read as follows:

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

**PART 239—ACQUISITION OF INFORMATION TECHNOLOGY****239.7406 [Amended]**

2. Section 239.7406 is amended in paragraph (c)(6) by removing “—Common Carriers.”

**239.7411 [Amended]**

3. Section 239.7411 is amended in paragraph (a) as follows:

- a. By removing paragraph (a)(2);
- b. By redesignating paragraphs (a)(3) through (a)(7) as paragraphs (a)(2) through (a)(6) respectively; and
- c. In newly designated paragraphs (a)(2), (a)(3), and (a)(5), by removing “—Common Carriers.”

**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES****252.239-7003 [Removed and Reserved]**

4. Section 252.239-7003 is removed and reserved.

**252.239-7004 [Amended]**

5. Section 252.239-7004 is amended as follows:

- a. In the section heading, by removing “—common carriers”;
- b. In the clause title, by removing “—COMMON CARRIERS”; and
- c. By revising the clause date to read “(XXX 2004).”

**252.239–7005 [Amended]**

6. Section 252.239–7005 is amended as follows:

- a. In the section heading, by removing “—common carriers”;

- b. In the clause title, by removing “—COMMON CARRIERS”;
- c. By revising the clause date to read “(XXX 2004)”; and
- d. In paragraph (f), in the first sentence, by removing “—Common Carriers.”

**252.239–7007 [Amended]**

7. Section 252.239–7007 is amended as follows:

- a. In the section heading, by removing “—common carriers”;
- b. In the clause title, by removing “—COMMON CARRIERS”;
- c. By revising the clause date to read “(XXX 2004)”; and
- d. In paragraph (b)(1), by removing “—Common Carriers.”

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