

- Clarification that use of Wide Area WorkFlow-Receipt and Acceptance electronic form satisfies DD Form 250 distribution requirements. This is consistent with the clause at DFARS 252.246-7000, Material Inspection and Receiving Report.

- Deletion of procedures for documenting Government contract quality assurance performed at a subcontractor's facility and for distribution and correction of DD Form 250-1 documents. This text will be relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI), available at <http://www.acq.osd.mil/dpap/dars/pgi>.

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 makes no significant change to DoD policy for preparation and use of material inspection and receiving reports. 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 subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003-D085.

## C. Paperwork Reduction Act

The information collection requirements of DD Form 250, Material Inspection and Receiving Report, have been approved by the Office of Management and Budget under Control Number 0704-0248, for use through March 31, 2008.

## List of Subjects in 48 CFR Chapter 2

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

Therefore, DoD proposes to amend 48 CFR Appendix F to Chapter 2 as follows:

1. The authority citation for 48 CFR Appendix F to subchapter I continues to read as follows:

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

## Appendix F to Chapter 2—Material Inspection and Receiving Report

2. Appendix F to Chapter 2 is amended in Part 1, Section F-103, by revising paragraph (c) to read as follows:

### F-103 Use.

\* \* \* \* \*

(c) The contractor prepares the MIRR, except for entries that an authorized Government representative is required to complete. The contractor shall furnish sufficient copies of the completed form, as directed by the Government representative.

\* \* \* \* \*

3. Appendix F to Chapter 2 is amended by revising Part 2 to read as follows:

## PART 2—CONTRACT QUALITY ASSURANCE ON SHIPMENTS BETWEEN CONTRACTORS

### F-201 Procedures.

Follow the procedures at PGI F-201 for evidence of required Government contract quality assurance at a subcontractor's facility.

4. Appendix F to Chapter 2 is amended in Part 3, Section F-301, by revising paragraph (b)(21)(iii) in the first sentence and paragraph (b)(21)(iv)(D) introductory text to read as follows:

### F-301 Preparation instructions.

\* \* \* \* \*

(b) \* \* \*

(21) \* \* \*

(iii) When contract terms provide for use of Certificate of Conformance and shipment is made under these terms, the contractor shall enter in capital letters "CERTIFICATE OF CONFORMANCE" in Block 21a on the next line following the CQA and acceptance statements. \* \* \*

(iv) \* \* \*

(D) When Certificate of Conformance procedures apply, inspection or inspection and acceptance are at source, and the contractor's Certificate of Conformance is required, the contractor shall enter in capital letters "CERTIFICATE OF CONFORMANCE" as required by paragraph (b)(21)(iii) of this section.

\* \* \* \* \*

5. Appendix F to Chapter 2 is amended in Part 4, Section F-401, by revising paragraph (a) to read as follows:

### F-401 Distribution.

(a) The contractor is responsible for distributing the DD Form 250, including mailing and payment of postage. Use of Wide Area WorkFlow-Receipt and Acceptance electronic form satisfies the distribution requirements of this section.

\* \* \* \* \*

6. Appendix F to Chapter 2 is amended by revising Part 7 to read as follows:

## PART 7—DISTRIBUTION OF THE DD FORM 250-1

### F-701 Distribution.

Follow the procedures at PGI F-701 for distribution of DD Form 250-1.

### F-702 Corrected DD Form 250-1.

Follow the procedures at PGI F-702 when corrections to DD Form 250-1 are needed.

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BILLING CODE 5001-08-P

## DEPARTMENT OF DEFENSE

## 48 CFR Parts 204, 235, and 252

[DFARS Case 2004-D010]

## Defense Federal Acquisition Regulation Supplement; Export-Controlled Information and Technology

**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 address requirements for preventing unauthorized disclosure of export-controlled information and technology under DoD contracts.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before September 12, 2005, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2004-D010, 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 2004-D010 in the subject line of the message.

- Fax: (703) 602-0350.

- Mail: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, 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. Amy Williams, (703) 602-0328.

## SUPPLEMENTARY INFORMATION:

## A. Background

This proposed rule contains a new DFARS Subpart 204.73, Export-Controlled Information and Technology at Contractor, University, and Federally Funded Research and Development Center Facilities, and an associated contract clause. The proposed subpart provides general information on export control laws and regulations and requires contracting officers to ensure that contracts identify any export-controlled information and technology. The proposed clause is prescribed for use in solicitations and contracts for research and development or for services or supplies that may involve the use or generation of export-controlled information or technology. The clause requires the contractor to—

- Comply with all applicable laws and regulations regarding export-controlled information and technology;
- Maintain an effective export compliance program;
- Conduct initial and periodic training on export compliance controls; and
- Perform periodic assessments.

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

## B. Regulatory Flexibility Act

The proposed rule is not expected 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 all contractors, including small entities, are already subject to export-control laws and regulations. The requirements in this proposed rule are clarifications of existing responsibilities. 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 2004–D010.

## 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 204, 235, and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

Therefore, DoD proposes to amend 48 CFR parts 204, 235, and 252 as follows:

1. The authority citation for 48 CFR parts 204, 235, and 252 continues to read as follows:

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

## PART 204—ADMINISTRATIVE MATTERS

2. Subpart 204.73 is added to read as follows:

**Subpart 204.73—Export-Controlled Information and Technology at Contractor, University, and Federally Funded Research and Development Center Facilities**

Sec.

204.7301 Definition.

204.7302 General.

204.7303 Policy.

204.7304 Contract clause.

## 204.7301 Definition.

*Export-controlled information and technology*, as used in this subpart, is defined in the clause at 252.204–70XX.

## 204.7302 General.

Export control laws and regulations restrict the transfer, by any means, of certain types of information and technology. Any access to export-controlled information or technology by a foreign national or a foreign person anywhere in the world, including the United States, is considered an export to the home country of the foreign national or foreign person. For additional information relating to restrictions on export-controlled information and technology, see PGI 204.7302.

## 204.7303 Policy.

The contracting officer shall ensure that contracts identify any export-controlled information and technology, as determined by the requiring activity.

## 204.7304 Contract clause.

Use the clause at 252.204–70XX, Requirements Regarding Access to Export-Controlled Information and Technology, in solicitations and contracts for—

- (a) Research and development; or
- (b) Services or supplies that may involve the use or generation of export-controlled information or technology.

## PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

## 235.071 [Redesignated]

3. Section 235.071 is redesignated as section 235.072.

4. A new section 235.071 is added to read as follows:

**235.071 Export-controlled information and technology at contractor, university, and Federally Funded Research and Development Center facilities.**

For requirements relating to restrictions on export-controlled information and technology, see Subpart 204.73.

## PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Section 252.204–70XX is added to read as follows:

**252.204–70XX Requirements Regarding Access to Export-Controlled Information and Technology.**

As prescribed in 204.7304, use the following clause:

**Requirements Regarding Access to Export-Controlled Information and Technology (XXX 2005)**

(a) *Definition. Export-controlled information and technology*, as used in this clause, means information and technology that may only be released to foreign nationals or foreign persons in accordance with the Export Administration Regulations (15 CFR parts 730–774) and the International Traffic in Arms Regulations (22 CFR parts 120–130), respectively.

(b) In performing this contract, the Contractor may gain access to export-controlled information or technology.

(c) The Contractor shall comply with all applicable laws and regulations regarding export-controlled information and technology, including registration in accordance with the International Traffic in Arms Regulations.

(d) The Contractor shall maintain an effective export compliance program. The program must include adequate controls over physical, visual, and electronic access to export-controlled information and technology to ensure that access by foreign firms and individuals is restricted as required by applicable Federal laws, Executive orders, and regulations.

(1) The access control plan shall include unique badging requirements for foreign nationals and foreign persons and segregated work areas for export-controlled information and technology.

(2) The Contractor shall not allow access by foreign nationals or foreign persons to export-controlled information and technology without obtaining an export license, other authorization, or exemption.

(e) The Contractor shall—

(1) Conduct initial and periodic training on export compliance controls for those employees who have access to export-controlled information and technology; and

(2) Perform periodic assessments to ensure full compliance with Federal export laws and regulations.

(f) Nothing in the terms of this contract is intended to change, supersede, or waive any of the requirements of applicable Federal laws, Executive orders, and regulations, including but not limited to—

(1) The Export Administration Act of 1979 (50 U.S.C. App. 2401 as extended by Executive Order 13222);

(2) The Arms Export Control Act of 1976 (22 U.S.C. 2751);

(3) The Export Administration Regulations (15 CFR parts 730–774);

(4) The International Traffic in Arms Regulations (22 CFR parts 120–130);

(5) DoD Directive 2040.2, International Transfers of Technology, Goods, Services, and Munitions; and

(6) DoD Industrial Security Regulation (DoD 5220.22–R).

(g) The Contractor shall include the substance of this clause, including this paragraph (g), in all subcontracts for—

(1) Research and development; or  
(2) Services or supplies that may involve the use or generation of export-controlled information or technology.

(End of clause)

#### **252.235–7002, 252.235–7003, 252.235–7010, and 252.235–7011 [Amended]**

6. Sections 252.235–7002, 252.235–7003, 252.235–7010, and 252.235–7011 are amended in the introductory text by removing “235.071” and adding in its place “235.072”.

[FR Doc. 05–13305 Filed 7–11–05; 8:45 am]

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## **DEPARTMENT OF DEFENSE**

### **48 CFR Part 222**

[DFARS Case 2003–D019]

#### **Defense Federal Acquisition Regulation Supplement; Labor Laws**

**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 text regarding the application of labor laws to Government contracts. 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 September 12, 2005, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2003-D019, 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–D019 in the subject line of the message.

- Fax: (703) 602–0350.

- Mail: Defense Acquisition Regulations Council, Attn: Mr. Euclides Barrera, 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:** Mr. Euclides Barrera, (703) 602–0326.

#### **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—

- Relocation of text from DFARS 222.101–1, 222.101–3–70, and 222.101–4(a)(ii) to the new DFARS companion resource, Procedures, Guidance, and Information (PGI), available at <http://www.acq.osd.mil/dpap/dars/pgi>. The relocated text contains internal procedures for contracting officers to follow when dealing with labor relations matters and preparing reports on labor disputes.

- Deletion of DFARS 222.404–2 because it is no longer applicable.

- Deletion of DFARS 222.404–3 and 222.404–11 because the coverage in these sections is already provided by the FAR or internal agency procedures.

- Partial relocation of DFARS 222.406–8 to PGI. The relocated text prescribes internal procedures that contracting officers must follow in conducting labor investigations and preparing respective reports.

- Deletion of unnecessary text at DFARS 222.407.

- Deletion of DFARS 222.804–2 and 222.805 because the FAR provides sufficient coverage.

- Relocation of DoD internal procedures from DFARS 222.807 to PGI.

- Deletion of unnecessary text at DFARS 222.1003–7.

- Relocation of DoD internal procedures from DFARS 222.1008–2 and 222.1014 to PGI.

- Revision of DFARS Subpart 222.13 to update section headings and references for consistency with the corresponding FAR subpart; and relocation of DoD internal procedures to PGI.

- Deletion of DFARS 222.1406(1) because adequate coverage is provided in the FAR.

- Deletion of unnecessary text at DFARS 222.7100 and 222.7200.

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 deletes redundant or obsolete language, removes procedural or DoD internal guidance, and relocates to the new DFARS companion resource, Procedures, Guidance, and Information (PGI), information and internal DoD procedures that do not have a significant impact on the public. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD will also 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–D019.

##### **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.*