

(b)(2)(ii) Unless the contract is for the acquisition of a commercial item or will be performed entirely outside the United States, if the contract exceeds \$5 million, use the clause at 252.203-7004, Display of Fraud Hotline Poster(s), in lieu of the clause at FAR 52.203-14, Display of Hotline Poster(s). If the Department of Homeland Security (DHS) provides disaster relief funds for the contract, DHS will provide information on how to obtain and display the DHS fraud hotline poster.

[73 FR 46815, Aug. 12, 2008, as amended at 74 FR 53413, Oct. 19, 2009; 75 FR 59101, Sept. 27, 2010, as amended at 76 FR 32840, June 6, 2011; 76 FR 57674, Sept. 16, 2011; 78 FR 37983, June 25, 2013]

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

SOURCE: 56 FR 36289, July 31, 1991, unless otherwise noted.

### Subpart 204.1—Contract Execution

#### 204.101 Contracting officer's signature.

Follow the procedures at PGI 204.101 for signature of contract documents.

[71 FR 9268, Feb. 23, 2006]

### Subpart 204.2—Contract Distribution

#### 204.201 Procedures.

Follow the procedures at PGI 204.201 for the distribution of contracts and modifications.

[70 FR 58982, Oct. 11, 2005]

#### 204.203 Taxpayer identification information.

(b) The procedure at FAR 4.203(b) does not apply to contracts that include the provision at FAR 52.204-7, System for Award Management. The payment office obtains the taxpayer identification number and the type of organization from the System for Award Management database.

[78 FR 28757, May 16, 2013]

#### 204.270 Electronic Document Access.

Follow the procedures at PGI 204.270 relating to obtaining an account in the Electronic Document Access system.

[75 FR 59102, Sept. 27, 2010]

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### Subpart 204.4—Safeguarding Classified Information Within Industry

#### 204.402 General.

DoD employees or members of the Armed Forces who are assigned to or visiting a contractor facility and are engaged in oversight of an acquisition program will retain control of their work products, both classified and unclassified (see PGI 204.402).

[71 FR 9268, Feb. 23, 2006, as amended at 76 FR 76319, Dec. 7, 2011]

#### 204.403 Responsibilities of contracting officers.

(1) Contracting officers shall ensure that solicitations comply with PGI 204.403(1).

(2) For additional guidance on determining a project to be fundamental research in accordance with 252.204-7000(a)(3), see PGI 204.403(2).

[79 FR 56278, Sept. 19, 2014]

#### 204.404 Contract clause.

#### 204.404-70 Additional contract clauses.

(a) Use the clause at 252.204-7000, Disclosure of Information, in solicitations and contracts when the contractor will have access to or generate unclassified information that may be sensitive and inappropriate for release to the public.

(b) Use the clause at 252.204-7003, Control of Government Personnel Work Product, in all solicitations and contracts.

(c) Use the clause at 252.204-7005, Oral Attestation of Security Responsibilities, in solicitations and contracts that include the clause at FAR 52.204-2, Security Requirements.

[57 FR 14992, Apr. 23, 1992, as amended at 64 FR 45197, Aug. 19, 1999]

#### 204.470 U.S.-International Atomic Energy Agency Additional Protocol.

##### 204.470-1 General.

Under the U.S.-International Atomic Energy Agency Additional Protocol (U.S.-IAEA AP), the United States is

required to declare a wide range of public and private nuclear-related activities to the IAEA and potentially provide access to IAEA inspectors for verification purposes.

[74 FR 2412, Jan. 15, 2009]

**204.470-2 National security exclusion.**

(a) The U.S.-IAEA AP permits the United States unilaterally to declare exclusions from inspection requirements for activities, or locations or information associated with such activities, with direct national security significance.

(b) In order to ensure that all relevant activities are reviewed for direct national security significance, both current and former activities, and associated locations or information, are to be considered for applicability for a national security exclusion.

(c) If a DoD program manager receives notification from a contractor that the contractor is required to report any of its activities in accordance with the U.S.-IAEA AP, the program manager will—

(1) Conduct a security assessment to determine if, and by what means, access may be granted to the IAEA; or

(2) Provide written justification to the component or agency treaty office for application of the national security exclusion at that location to exclude access by the IAEA, in accordance with DoD Instruction 2060.03, Application of the National Security Exclusion to the Agreements Between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America.

[74 FR 2412, Jan. 15, 2009]

**204.470-3 Contract clause.**

Use the clause at 252.204-7010, Requirement for Contractor to Notify DoD if the Contractor's Activities are Subject to Reporting Under the U.S.-International Atomic Energy Agency Additional Protocol, in solicitations and contracts for research and development or major defense acquisition programs involving—

(a) Any fissionable materials (e.g., uranium, plutonium, neptunium, thorium, americium);

(b) Other radiological source materials; or

(c) Technologies directly related to nuclear power production, including nuclear or radiological waste materials.

[74 FR 2412, Jan. 15, 2009]

**Subpart 204.6—Contract Reporting**

**204.602 General.**

See PGI 204.602 for additional information on the Federal Procurement Data System (FPDS) and procedures for resolving technical or policy issues relating to FPDS.

[74 FR 37644, July 29, 2009]

**204.604 Responsibilities.**

(1) The process for reporting contract actions to FPDS should, where possible, be automated by incorporating it into contract writing systems.

(2) Data in FPDS is stored indefinitely and is electronically retrievable. Therefore, the contracting officer may reference the contract action report (CAR) approval date in the associated Government contract file instead of including a paper copy of the electronically submitted CAR in the file. Such reference satisfies contract file documentation requirements of FAR 4.803(a).

(3) By December 15th of each year, the chief acquisition officer of each DoD component required to report its contract actions shall submit to the Director, Defense Procurement and Acquisition Policy, its annual certification and data validation results for the preceding fiscal year in accordance with the DoD Data Improvement Plan requirements at <http://www.acq.osd.mil/dpap/pdi/eb>. The Director, Defense Procurement and Acquisition Policy, will submit a consolidated DoD annual certification to the Office of Management and Budget by January 5th of each year.

[74 FR 37644, July 29, 2009]

**204.606 Reporting data.**

In addition to FAR 4.606, follow the procedures at PGI 204.606 for reporting data to FPDS.

[74 FR 37644, July 29, 2009]

**Subpart 204.8—Contract Files****204.802 Contract files.**

Official contract files shall consist of—

(1) Only original, authenticated or conformed copies of contractual instruments—

(i) *Authenticated copies* means copies that are shown to be genuine in one of two ways—

(A) Certification as true copy by signature of an authorized person; or

(B) Official seal.

(ii) *Conformed copies* means copies that are complete and accurate, including the date signed and the names and titles of the parties who signed them.

(2) Signed or official record copies of correspondence, memoranda, and other documents.

**204.804 Closeout of contract files.**

(1) Contracting officers shall close out contracts in accordance with the procedures at PGI 204.804. The closeout date for file purposes shall be determined and documented by the procuring contracting officer.

(2) The head of the contracting activity shall assign the highest priority to closeout of contracts awarded for performance in a contingency area. Heads of contracting activities must monitor and assess on a regular basis the progress of contingency contract closeout activities and take appropriate steps if a backlog occurs. For guidance on the planning and execution of closing out such contracts, see PGI 207.105(b)(20)(C)(8) and PGI 225.7404(e).

[77 FR 30367, May 22, 2012]

**204.805 Disposal of contract files.**

(1) The sources of the period for which official contract files must be retained are General Records Schedule 3 (Procurement, Supply, and Grant Records) and General Records Schedule 6 (Accountable Officers' Accounts Records). Copies of the General Records Schedule may be obtained from the National Archives and Records Administration, Washington, DC 20408.

(2) Deviations from the periods cannot be granted by the Defense Acquisition Regulatory Council. Forward re-

quests for deviations to both the Government Accountability Office and the National Archives and Records Administration.

(3) Hold completed contract files in the office responsible for maintaining them for a period of 12 months after completion. After the initial 12 month period, send the records to the local records holding or staging area until they are eligible for destruction. If no space is available locally, transfer the files to the General Services Administration Federal Records Center that services the area.

(4) Duplicate or working contract files should contain no originals of materials that properly belong in the official files. Destroy working files as soon as practicable once they are no longer needed.

(5) Retain pricing review files, containing documents related to reviews of the contractor's price proposals, subject to certified cost or pricing data (see FAR 15.403-4), for six years. If it is impossible to determine the final payment date in order to measure the six year period, retain the files for nine years.

[56 FR 36289, July 31, 1991, as amended at 62 FR 40472, July 29, 1997; 63 FR 11528, Mar. 9, 1998; 71 FR 53044, Sept. 8, 2006; 77 FR 76939, Dec. 31, 2012]

**Subpart 204.9—Taxpayer Identification Number Information**

SOURCE: 64 FR 43099, Aug. 9, 1999, unless otherwise noted.

**204.902 General.**

(b) DoD uses the Federal Procurement Data System (FPDS) to meet these reporting requirements.

[74 FR 37645, July 29, 2009]

**Subpart 204.11—System For Award Management**

SOURCE: 68 FR 64558, Nov. 14, 2003, unless otherwise noted.

**204.1103 Procedures.**

See PGI 204.1103 for helpful information on navigation and data entry in the System for Award Management (SAM) database.

(1) On contract award documents, use the contractor's legal or "doing business as" name and physical address information as recorded in the (SAM) database at the time of award.

(2) When making a determination to exercise an option, or at any other time before issuing a modification other than a unilateral modification making an administrative change, ensure that—

(i) The contractor's record is active in the SAM database; and

(ii) The contractor's Data Universal Numbering System (DUNS) number, Commercial and Government Entity (CAGE) code, name, and physical address are accurately reflected in the contract document.

(3) At any time, if the DUNS number, CAGE code, contractor name, or physical address on a contract no longer matches the information on the contractor's record in the SAM database, the contracting officer shall process a novation or change-of-name agreement, or an address change, as appropriate.

(4) See PGI 204.1103 for additional requirements relating to use of information in the SAM database.

(5) On contractual documents transmitted to the payment office, provide the CAGE code, instead of the DUNS number or DUNS+4 number, in accordance with agency procedures.

[74 FR 37643, July 29, 2009, as amended at 78 FR 28757, May 16, 2013]

**204.1105 Solicitation provision and contract provisions.**

When using the provision at FAR 52.204-7, System for Award Management, use the provision with 252.204-7004, Alternate A, System for Award Management.

[78 FR 28757, May 16, 2013, as amended at 78 FR 30232, May 22, 2013; 79 FR 11342, Feb. 28, 2014]

**Subpart 204.12—Annual Representations and Certifications**

SOURCE: 73 FR 1823, Jan. 10, 2008, unless otherwise noted.

**204.1202 Solicitation provision.**

(1) When using the provision at FAR 52.204-8, Annual Representations and Certifications, use the provision with 252.204-7007, Alternate A, Annual Representations and Certifications; and

(2) When the provision at FAR 52.204-7, System for Award Management, is included in the solicitation, do not include separately in the solicitation the following provisions, which are included in DFARS 252.204-7007:

(i) 252.209-7001, Disclosure of Ownership or Control by the Government of a Terrorist Country.

(ii) 252.209-7002, Disclosure of Ownership or Control by a Foreign Government.

(iii) 252.209-7003, Reserve Officer Training Corps and Military Recruiting on Campus—Representation.

(iv) 252.216-7008, Economic Price Adjustment—Wage Rates or Material Prices Controlled by a Foreign Government—Representation.

(v) 252.225-7000, Buy American—Balance of Payments Program Certificate.

(vi) 252.225-7020, Trade Agreements Certificate.

(vii) 252.225-7031, Secondary Arab Boycott of Israel.

(viii) 252.225-7035, Buy American—Free Trade Agreements—Balance of Payments Program Certificate.

(ix) 252.225-7042, Authorization to Perform.

(x) 252.225-7049, Prohibition on Acquisition of Commercial Satellite Services from Certain Foreign Entities—Representations.

(xi) 252.229-7012, Tax Exemptions (Italy)—Representation.

(xii) 252.229-7013, Tax Exemptions (Spain)—Representation.

(xiii) 252.247-7022, Representation of Extent of Transportation by Sea.

[76 FR 58141, Sept. 20, 2011, as amended at 77 FR 19129, Mar. 30, 2012; 77 FR 35879, June 15, 2012; 78 FR 37983, June 25, 2013; 78 FR 40043, July 3, 2013; 79 FR 45664, Aug. 5, 2014; 79 FR 51264, Aug. 28, 2014]

**Subpart 204.70—Uniform Procurement Instrument Identification Numbers**

**204.7000 Scope.**

This subpart—

## 204.7001

(a) Prescribes policies and procedures for assigning numbers to all solicitations, contracts, and related instruments; and

(b) Does not apply to solicitations or orders for communication service authorizations issued by the Defense Information Technology Contracting Organization of the Defense Information Systems Agency in accordance with 239.7407-2.

[68 FR 64556, Nov. 14, 2003]

### 204.7001 Policy.

(a) Use the uniform procurement instrument identification (PII) numbering system prescribed by this subpart for the solicitation/contract instruments described in 204.7003 and 204.7004.

(b) Retain the basic PII number unchanged for the life of the instrument unless the conditions in paragraph (c) of this section exist.

(c)(1) If continued performance under a contract number is not possible or is not in the Government's best interest solely for administrative reasons (*e.g.*, when the supplementary PII serial numbering system is exhausted or for lengthy major systems contracts with multiple options), the contracting officer may assign an additional PII number by issuing a separate continued contract to permit continued contract performance.

(2) A continued contract—

(i) Does not constitute a new procurement;

(ii) Incorporates all prices, terms, and conditions of the predecessor contract effective at the time of issuance of the continued contract;

(iii) Operates as a separate contract independent of the predecessor contract once issued; and

(iv) Shall not evade competition, expand the scope of work, or extend the period of performance beyond that of the predecessor contract.

(3) When issuing a continued contract, the contracting officer shall—

(i) Issue an administrative modification to the predecessor contract to clearly state that—

(A) Any future awards provided for under the terms of the predecessor contract (*e.g.*, issuance of orders or exer-

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cise of options) will be accomplished under the continued contract; and

(B) Supplies and services already acquired under the predecessor contract shall remain solely under that contract for purposes of Government inspection, acceptance, payment, and closeout; and

(ii) Follow the procedures at PGI 204.7001(c).

[71 FR 27640, May 12, 2006]

### 204.7002 Procedures.

(a) In assigning PII numbers—

(1) Use only the alpha-numeric characters, as prescribed in this subpart; and

(2) Do not use the letter “I” or “O”.

(b) If department/agency procedures require other identification on the solicitation, contract, or other related instrument forms, enter it in such a location so as to separate it clearly from the PII number.

(c) Enter the basic PII number, including Federal supply contract numbers and any supplementary numbers, in the spaces provided on the solicitation, contract, or related instrument forms. Separate the major elements by dashes, *e.g.*, N00023-90-D-0009 (not necessary in electronic transmission). If there is no space provided on the form, enter the number in the upper right corner of the form and identify what it is (*e.g.*, Supplementary Number N00023-90-F-0120).

[56 FR 36289, July 31, 1991, as amended at 65 FR 14398, Mar. 16, 2000; 68 FR 64556, Nov. 14, 2003]

### 204.7003 Basic PII number.

(a) *Elements of a number.* The number consists of 13 alpha-numeric characters grouped to convey certain information.

(1) *Positions 1 through 6.* The first six positions identify the department/agency and office issuing the instrument. Use the DoD Activity Address Code (DoDAAC) assigned to the issuing office. DoDAACs can be found at <https://www2.transactionservices.dla.mil/edaasinq/>.

(2) *Positions 7 through 8.* The seventh and eighth positions are the last two digits of the fiscal year in which the procurement instrument is issued or awarded.

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(3) *Position 9.* Indicate the type of instrument by entering one of the following upper case letters in position nine—

- (i) Blanket purchase agreements—A
- (ii) Invitations for bids—B
- (iii) Contracts of all types except indefinite-delivery contracts, sales contracts, and short form research contracts. Do not use this code for contracts or agreements with provisions for orders or calls.—C
- (iv) Indefinite delivery contracts—D
- (v) Reserved—E
- (vi) Calls against blanket purchase agreements and orders under contracts (including Federal Supply Schedules, Governmentwide acquisition contracts, and multi-agency contracts) and basic ordering agreements issued by departments or agencies outside DoD. Do not use the 'F' designation on DoD-issued purchase orders, contracts, agreements, or orders placed under DoD-issued contracts or agreements.—F
- (vii) Basic ordering agreements—G
- (viii) Agreements, including basic agreements and loan agreements, but excluding blanket purchase agreements, basic ordering agreements, and leases. Do not use this code for contracts or agreements with provisions for orders or calls—H
- (ix) Do not use—I
- (x) Reserved—J
- (xi) Short form research contract—K
- (xii) Lease agreement—L

- (xiii) Purchase orders—manual (assign W when numbering capacity of M is exhausted during the fiscal year)—M
- (xiv) Notice of intent to purchase—N
- (xv) Do not use—O
- (xvi) Purchase order—automated (assign V when numbering capacity of P is exhausted during a fiscal year)—P
- (xvii) Request for quotation—manual—Q
- (xviii) Request for proposal—R
- (xix) Sales contract—S
- (xx) Request for quotation—automated (assign U when numbering capacity of T is exhausted during a fiscal year)—T
- (xxi) See T—U
- (xxii) See P—V
- (xxiii) See M—W
- (xxiv) Reserved for departmental use—X
- (xxv) Imprest fund—Y
- (xxvi) Reserved for departmental use—Z

(4) *Position 10 through 13.* Enter the serial number of the instrument in these positions. A separate series of serial numbers may be used for any type of instrument listed in paragraph (a)(3) of this section. Activities shall assign such series of PII numbers sequentially. An activity may reserve blocks of numbers or alpha-numeric numbers for use by its various components.

(b) *Illustration of PII number.* The following illustrates a properly configured PII number:

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Position	Contents	N00062	09	C	0001
1-6	Identification of department/agency office				
7-8	Last two digits of the fiscal year in which the procurement instrument is issued or awarded				
9	Type of instrument				
10-13	Four position serial number				

[56 FR 36289, July 31, 1991, as amended at 56 FR 67212, Dec. 30, 1991; 59 FR 27668, May 27, 1994; 60 FR 61592, Nov. 30, 1995; 61 FR 50451, Sept. 26, 1996; 62 FR 34121, June 24, 1997; 64 FR 51075, Sept. 21, 1999; 65 FR 14398, Mar. 16, 2000; 65 FR 39704, June 27, 2000; 68 FR 7439, Feb. 14, 2003; 68 FR 64557, Nov. 14, 2003; 69 FR 63327, Nov. 1, 2004; 74 FR 37643, 37646, July 29, 2009; 77 FR 35879, June 15, 2012; 78 FR 30232, May 22, 2013; 79 FR 13568, Mar. 11, 2014]

**204.7004 Supplementary PII numbers.**

(a) *Uses of the supplementary number.* Use supplementary numbers with the basic PII number, to identify—

- (1) Amendments to solicitations;
- (2) Modifications to contracts and agreements, including provisioned item orders; and
- (3) Calls or orders under contracts, basic ordering agreements, or blanket purchase agreements, issued by the contracting office or by a DoD activity other than the contracting office, including DoD orders against Federal supply schedules.

(b) *Amendments to solicitations.* Number amendments to solicitations sequentially using a four position numeric serial number added to the basic PII number and beginning with 0001, e.g., N00062-91-R-1234-0001.

(c) *Modifications to contracts and agreements.* (1) Number modifications to contracts and agreements using a six position alpha-numeric added to the basic PII number.

(2) *Position 1.* Identify the office issuing the modification—

- (i) Contract administration office—A
- (ii) Contracting office—P

(3) *Positions 2 through 3.* These are the first two digits in a serial number. They may be either alpha or numeric. Use the letters K, L, M, N, P, Q, S, T, U, V, W, X, Y, or Z only in the second position and only in the following circumstances—

(i) Use K, L, M, N, P, and Q in the second position only if the modification is issued by the Air Force and is a provisioned item order.

(ii) Use S, and only S, in the second position to identify modifications issued to provide initial or amended shipping instructions when—

(A) The contract has either FOB origin or destination delivery terms; and

(B) The price changes.

(iii) Use T, U, V, W, X, or Y, and only those characters, in the second position to identify modifications issued to provide initial or amended shipping instructions when—

(A) The contract has FOB origin delivery terms; and

(B) The price does not change.

(iv) Only use Z in the second position to identify a modification which defines a letter contract.

(4) *Positions 4 through 6.* These positions are always numeric. Use a separate series of serial numbers for each type of modification listed in paragraph (c)(3) of this section. Examples of proper numbering for positions 2-6 (the first position will be either "A" or "P") are as follows:

Normal modification	Provisioned items order (reserved for exclusive use by the Air Force only)	Shipping instructions
00001-99999 .....	K0001-K9999	S0001-S9999
then .....	KA001-KZ999	SA001-SZ999
A0001-A9999 .....	L0001-L9999	T0001-T9999
B0001-B9999 .....	LA001-LZ999	TA001-TZ999
and so on to .....	M0001-M9999	U0001-U9999
H0001-H9999 .....	MA001-MZ999	UA001-UZ999
then .....	N0001-N9999	V0001-V9999
J0001-J9999 .....	NA001-NZ999	VA001-VZ999
then .....	P0001-P9999	W0001-W9999
R0001-R9999 .....	PA001-PZ999	WA001-WZ999
then .....	Q0001-Q9999	X0001-X9999
AA001-AZ999 .....	QA001-QZ999	XA001-XZ999
then .....		Y0001-Y9999
JA001-JZ999 .....		YA001-YZ999
RA001-RZ999 .....		

(5) If the contract administration office is changing the contract administration or disbursement office for the first time and is using computer generated modifications to notify many offices, it uses the six position supplementary number ARZ999. If either office has to be changed again during the life of the contract, the supplementary number will be ARZ998, and on down as needed.

(6) Each office authorized to issue modifications shall assign the supplementary identification numbers in sequence. Do not assign the numbers until it has been determined that a modification is to be issued.

(d) *Delivery orders under indefinite delivery contracts, orders under basic ordering agreements, and calls under blanket purchase agreements.* (1) Calls or orders issued by the office issuing the contract or agreement. Use a four position alpha-numeric call or order serial number added to the basic PII number. These shall be identified by using serial numbers beginning 0001 through 9999. When the numeric identifiers run out, use alpha characters in the third and fourth positions. Never use alpha

characters in the first and second positions.

(2) Orders placed against another activity's contract or agreement.

(i) If the office placing the order or call is different from the office identified in the basic PII number, assign a serial number to the order or call. The first and second positions contain the call/order code assigned to the ordering office in accordance with 204.7005. Do not use the letters A or P in the first position. The third and fourth positions are a two position serial number assigned by the ordering office. The series will begin with 01. When the numbers exceed 99, the office will assign a uniform series of identifiers containing alpha and/or numeric characters, e.g., Basic #: N00383-91-D-0001 serial #: TU01.

(ii) If an office is placing calls against non-DoD blanket purchase agreements or orders under non-DoD issued contracts (including Federal Supply Schedules, Governmentwide acquisition contracts, and multi-agency contracts), or basic ordering agreements, the office shall identify the instrument with a 13 position supplementary PII number using an F in the 9th position. Do not use the same supplementary PII number with an F in the 9th position on more than one order. Modifications to these calls or orders shall be numbered in accordance with paragraph (c) of this section.

(e) *Modifications to calls or orders.* Use a two position alpha-numeric suffix, known as a call or order modification indicator, to identify a modification to a call or order.

(1) Modifications to a call or order issued by a purchasing office begin with 01, 02, and so on through 99, then B1 through B9, BA through BZ, C1 through C9, and so on through ZZ.

(2) Modifications to a call or order issued by a contract administration office begin with 1A, 1B, and so on through 9Z, followed by A1, A2, and so on to A9, then AA, AB, and so on through AZ.

[64 FR 43099, Aug. 9, 1999, as amended at 68 FR 64557, Nov. 14, 2003; 78 FR 30232, May 22, 2013]

## 204.7005

### 204.7005 Assignment of order codes.

(a) Defense Procurement and Acquisition Policy, Program Development and Implementation, maintains the order code assignments for use in the first two positions of an order number when an activity places an order against another activity's contract or agreement (see 204.7004(d)(2)).

(b) Contracting activities shall follow the procedures at PGI 204.7005 for requests for assignment of or changes in two-character order codes.

[76 FR 38047, June 29, 2011]

### 204.7006 Cross reference to Federal Procurement Data System.

Detailed guidance on mapping PII and supplementary PII numbers stored in the Electronic Document Access system to data elements reported in the Federal Procurement Data System can be found in PGI 204.7006.

[75 FR 59102, Sept. 27, 2010]

### 204.7007 Order of application for modifications.

(a) Circumstances may exist in which the numeric order of the modifications to a contract is not the order in which the changes to the contract actually take effect.

(b) In order to determine the sequence of modifications to a contract or order, the modifications will be applied in the following order:

(1) Modifications will be applied in order of the effective date on the modification;

(2) In the event of two or more modifications with the same effective date, modifications will be applied in signature date order;

(3) In the event of two or more modifications with the same effective date and the same signature date, procuring contracting office modifications will be applied in numeric order, followed by contract administration office modifications in numeric order.

[77 FR 30368, May 22, 2012]

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### Subpart 204.71—Uniform Contract Line Item Numbering System

#### 204.7100 Scope.

This subpart prescribes policies and procedures for assigning contract line item numbers.

#### 204.7101 Definitions.

*Accounting classification reference number (ACRN)* means any combination of a two position alpha/numeric code used as a method of relating the accounting classification citation to detailed line item information contained in the schedule.

*Attachment* means any documentation, appended to a contract or incorporated by reference, which does not establish a requirement for deliverables.

*Definitized item*, as used in this subpart, means an item for which a firm price has been established in the basic contract or by modification.

*Exhibit* means a document, referred to in a contract, which is attached and establishes requirements for deliverables. The term shall not be used to refer to any other kind of attachment to a contract. The DD Form 1423, Contract Data Requirements List, is always an exhibit, rather than an attachment.

*Nonseverable deliverable*, as used in this subpart, means a deliverable item that is a single end product or undertaking, entire in nature, that cannot be feasibly subdivided into discrete elements or phases without losing its identity.

*Undefinitized item*, as used in this subpart, means an item for which a price has not been established in the basic contract or by modification.

[56 FR 36289, July 31, 1991, as amended at 60 FR 34468, July 3, 1995; 70 FR 58982, Oct. 11, 2005]

#### 204.7102 Policy.

(a) The numbering procedures of this subpart shall apply to all—

(1) Solicitations;

(2) Solicitation line and subline item numbers;

(3) Contracts as defined in FAR Subpart 2.1;

(4) Contract line and subline item numbers;

(5) Exhibits;

(6) Exhibit line items; and

(7) Any other document expected to become part of the contract.

(b) The numbering procedures are mandatory for all contracts where separate contract line item numbers are assigned, unless—

(1) The contract is an indefinite-delivery type for petroleum products against which posts, camps, and stations issue delivery orders for products to be consumed by them; or

(2) The contract is a communications service authorization issued by the Defense Information Systems Agency's Defense Information Technology Contracting Organization.

[71 FR 9269, Feb. 23, 2006, as amended at 77 FR 76937, Dec. 31, 2012]

**204.7103 Contract line items.**

Follow the procedures at PGI 204.7103 for establishing contract line items.

[56 FR 36284, July 31, 1991, as amended at 79 FR 51264, Aug. 28, 2014]

**204.7103-1 Criteria for establishing.**

Contracts shall identify the items or services to be acquired as separate contract line items unless it is not feasible to do so.

(a) Contract line items shall have all four of the following characteristics; however, there are exceptions within the characteristics, which may make establishing a separate contract line item appropriate even though one of the characteristics appears to be missing—

(1) *Single unit price.* The item shall have a single unit price or a single total price, except—

(i) If the item is not separately priced (NSP) but the price is included in the unit price of another contract line item, enter NSP instead of the unit price;

(ii) When there are associated subline items, established for other than informational reasons, and those subline items are priced in accordance with 204.7104;

(iii) When the items or services are being acquired on a cost-reimbursement contract;

(iv) When the contract is for maintenance and repair services (e.g., a labor hour contract) and firm prices have been established for elements of the total price of an item but the actual number and quantity of the elements are not known until performance. The contracting officer may structure these contracts to reflect a firm or estimated total amount for each line item;

(v) When the contract line item is established to refer to an exhibit or an attachment (if management needs dictate that a unit price be entered, the price shall be set forth in the item description block and enclosed in parentheses); or

(vi) When the contract is an indefinite delivery type contract and provides that the price of an item shall be determined at the time a delivery order is placed and the price is influenced by such factors as the quantity ordered (e.g., 10-99 @ \$1.00, 100-249 @ \$.98, 250+ @ \$.95), the destination, the FOB point, or the type of packaging required.

(2) *Separately identifiable.* A contract line item must be identified separately from any other items or services on the contract.

(i) Supplies are separately identifiable if they have no more than one—

(A) National stock number (NSN);

(B) Item description; or

(C) Manufacturer's part number.

(ii) Services are separately identifiable if they have no more than one—

(A) Scope of work; or

(B) Description of services.

(iii) This requirement does not apply if there are associated subline items, established for other than informational reasons, and those subline items include the actual detailed identification in accordance with 204.7104. Where this exception applies, use a general narrative description instead of the contract item description.

(3) *Separate delivery schedule.* Each contract line item or service shall have its own delivery schedule, period of performance, or completion date expressly stated ("as required" constitutes an expressly stated delivery term).

(i) The fact that there is more than one delivery date, destination, performance date, or performance point

may be a determining factor in the decision as to whether to establish more than one contract line item.

(ii) If a contract line item has more than one destination or delivery date, the contracting officer may create individual contract line items for the different destinations or delivery dates, or may specify the different delivery dates for the units by destination in the delivery schedule.

(4) *Single accounting classification citation.* (i) Each contract line item shall reference a single accounting classification citation except as provided in paragraph (a)(4)(ii) of this subsection.

(ii) The use of multiple accounting classification citations for a contract line item is authorized in the following situations:

(A) A single, nonseverable deliverable to be paid for with R&D or other funds properly incrementally obligated over several fiscal years in accordance with DoD policy;

(B) A single, nonseverable deliverable to be paid for with different authorizations or appropriations, such as in the acquisition of a satellite or the modification of production tooling used to produce items being acquired by several activities; or

(C) A modification to an existing contract line item for a nonseverable deliverable that results in the delivery of a modified item(s) where the item(s) and modification are to be paid for with different accounting classification citations.

(iii) When the use of multiple accounting classification citations is authorized for a single contract line item, establish informational subline items for each accounting classification citation in accordance with 204.7104-1(a).

(b) All subline items and exhibit line items under one contract line item shall be the same contract type as the contract line item.

(c) For a contract that contains a combination of fixed-price line items, time-and-materials/labor-hour line items, and/or cost-reimbursement line items, identify the contract type for each contract line item in Section B, Supplies or Services and Prices/Costs, to facilitate appropriate payment.

(d) Exhibits may be used as an alternative to putting a long list of contract

line items in the schedule. If exhibits are used, create a contract line item citing the exhibit's identifier. See 204.7105.

(e) If the contract involves a test model or a first article which must be approved, establish a separate contract line item or subline item for each item of supply or service which must be approved. If the test model or first article consists of a lot composed of a mixture of items, a single line item or subline item may be used for the lot.

(f) If a supply or service involves ancillary functions, like packaging and handling, transportation, payment of state or local taxes, or use of reusable containers, and these functions are normally performed by the contractor and the contractor is normally entitled to reimbursement for performing these functions, do not establish a separate contract line item solely to account for these functions. However, do identify the functions in the contract schedule. If the offeror separately prices these functions, contracting officers may establish separate contract line items for the functions; however, the separate line items must conform to the requirements of paragraph (a) of this subsection.

(g) Certain commercial items and initial provisioning spares for weapons systems are requested and subsequently solicited using units of measure such as kit, set, or lot. However, there are times when individual items within that kit, set, or lot are not grouped and delivered in a single shipment. This creates potential contract administration issues with inspection, acceptance, and payment. In such cases, solicitations should be structured to allow offerors to provide information about products that may not have been known to the Government prior to solicitation and propose an alternate line item structure as long as the alternate is consistent with the requirements of 204.71, which provides explicit guidance on the use of contract line items and subline items, and with PGI 204.71.

[56 FR 36289, July 31, 1991, as amended at 60 FR 34468, July 3, 1995; 60 FR 43191, Aug. 18, 1995; 70 FR 58982, Oct. 11, 2005; 76 FR 58139, Sept. 20, 2011; 79 FR 11342, Feb. 28, 2014]

**204.7103-2 Numbering procedures.**

Follow the procedures at PGI 204.7103-2 for numbering contract line items.

[70 FR 58983, Oct. 11, 2005]

**204.7104 Contract subline items.**

**204.7104-1 Criteria for establishing.**

Contract subline items provide flexibility to further identify elements within a contract line item for tracking performance or simplifying administration. There are only two kinds of subline items: those which are informational in nature and those which consist of more than one item that requires separate identification.

(a) *Informational subline items.* (1) This type of subline item identifies information that relates directly to the contract line item and is an integral part of it (e.g., parts of an assembly or parts of a kit). These subline items shall not be scheduled separately for delivery, identified separately for shipment or performance, or priced separately for payment purposes.

(2) The informational subline item may include quantities, prices, or amounts, if necessary to satisfy management requirements. However, these elements shall be included within the item description in the supplies/services column and enclosed in parentheses to prevent confusing them with quantities, prices, or amounts that have contractual significance. Do not enter these elements in the quantity and price columns.

(3) Informational subline items shall be used to identify each accounting classification citation assigned to a single contract line item number when use of multiple citations is authorized (see 204.7103-1(a)(4)(ii)).

(b) *Separately identified subline items.*

(1) Subline items will be used instead of contract line items to facilitate payment, delivery tracking, contract funds accounting, or other management purposes. Such subline items shall be used when items bought under one contract line item number—

(i) Are to be paid for from more than one accounting classification. A subline item shall be established for the quantity associated with the single

accounting classification citation. Establish a line item rather than a subline item if it is likely that a subline item may be assigned additional accounting classification citations at a later date. Identify the funding as described in 204.7104-1(a)(3);

(ii) Are to be packaged in different sizes, each represented by its own NSN;

(iii) Have collateral costs, such as packaging costs, but those costs are not a part of the unit price of the contract line item;

(iv) Have different delivery dates or destinations or requisitions, or a combination of the three; or

(v) Identify parts of an assembly or kit which—

(A) Have to be separately identified at the time of shipment or performance; and

(B) Are separately priced.

(2) Each separately identified contract subline item shall have its own—

(i) Delivery schedule, period of performance, or completion date;

(ii) Unit price or single total price or amount (not separately priced (NSP) is acceptable as an entry for price or amount if the price is included in another subline item or a different contract line item). This requirement does not apply—

(A) If the subline item was created to refer to an exhibit or an attachment. If management needs dictate that a unit price be entered, the price shall be set forth in the item description block of the schedule and enclosed in parentheses; or

(B) In the case of indefinite delivery contracts described at 204.7103-1(a)(1)(vi).

(iii) Identification (e.g., NSN, item description, manufacturer's part number, scope of work, description of services).

(3) Unit prices and extended amounts.

(i) The unit price and total amount for all subline items may be entered at the contract line item number level if the unit price for the subline items is identical. If there is any variation, the subline item unit prices shall be entered at the subline item level only.

(ii) The unit price and extended amounts may be entered at the subline items level.

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(iii) The two methods in paragraphs (b)(3) (i) and (ii) of this subsection shall not be combined in a contract line item.

(iv) When the price for items not separately priced is included in the price of another subline item or contract line item, it may be necessary to withhold payment on the priced subline item until all the related subline items that are not separately priced have been delivered. In those cases, use the clause at 252.204-7002, Payment for Subline Items Not Separately Priced.

[56 FR 36289, July 31, 1991, as amended at 60 FR 34468, July 3, 1995; 68 FR 75200, Dec. 30, 2003]

### 204.7104-2 Numbering procedures.

Follow the procedures at PGI 204.7104-2 for numbering contract subline items.

[70 FR 58983, Oct. 11, 2005]

### 204.7105 Contract exhibits and attachments.

Follow the procedures at PGI 204.7105 for use and numbering of contract exhibits and attachments.

[71 FR 9269, Feb. 23, 2006]

### 204.7106 Contract modifications.

(a) If new items are added, assign new contract line or subline item numbers or exhibit line item numbers, in accordance with the procedures established at 204.7103, 204.7104, and 204.7105.

(b) Modifications to existing contract line items or exhibit line items. (1) If the modification relates to existing contract line items or exhibit line items, the modification shall refer to those item numbers.

(2) If the contracting officer decides to assign new identifications to existing contract or exhibit line items, the following rules apply—

(i) *Definitized and undefinitized items.* (A) The original line item or subline item number may be used if the modification applies to the total quantity of the original line item or subline.

(B) The original line item or subline item number may be used if the modification makes only minor changes in the specifications of some of the items ordered on the original line item or subline item and the resulting changes

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in unit price can be averaged to provide a new single unit price for the total quantity. If the changes in the specifications make the item significantly distinguishable from the original item or the resulting changes in unit price cannot be averaged, create a new line item.

(C) If the modification affects only a partial quantity of an existing contract line item or subline item or exhibit line item and the change does not involve either the delivery date or the ship-to/mark-for data, the original contract line item or subline item or exhibit line item number shall remain with the unchanged quantity. Assign the changed quantity the next available number.

(ii) *Undefinitized items.* In addition to the rules in paragraph (b)(2)(i), the following additional rules apply to undefinitized items—

(A) If the modification is undefinitized and increases the quantity of an existing definitized item, assign the undefinitized quantity the next available number.

(B) If the modification increases the quantity of an existing undefinitized item, the original contract line item or subline item or exhibit line item may be used if the unit price for the new quantity is expected to be the same as the price for the original quantity. If the unit prices of the two quantities will be different, assign the new quantity the next available number.

(C) If the modification both affects only a partial quantity of the existing contract line item or subline item or exhibit line item and definitizes the price for the affected portion, the definitized portion shall retain the original item number. If there is any undefinitized portion of the item, assign it the next available number. However, if the modification definitizes the price for the whole quantity of the line item, and price impact of the changed work can be apportioned equally over the whole to arrive at a new unit price, the quantity with the changes can be added into the quantity of the existing item.

(D) If the modification affects only a partial quantity of an existing contract line item or subline item or exhibit

line item but does not change the delivery schedule or definitize price, the unchanged portion shall retain the original contract line item or subline item or exhibit line item number. Assign the changed portion the next available number.

(3) If the modification will decrease the amount obligated—

(i) There shall be coordination between the administrative and procuring contracting offices before issuance of the modification; and

(ii) The contracting officer shall not issue the modification unless sufficient unliquidated obligation exists or the purpose is to recover monies owed to the Government.

[56 FR 36289, July 31, 1991, as amended at 70 FR 58983, Oct. 11, 2005; 77 FR 76937, Dec. 31, 2012; 78 FR 13543, Feb. 28, 2013]

**204.7107 Contract accounting classification reference number (ACRN) and agency accounting identifier (AAD).**

Traceability of funds from accounting systems to contract actions is accomplished using ACRNs and AAIs. Follow the procedures at PGI 204.7107 for use of ACRNs and AAIs.

[74 FR 52895, Oct. 15, 2009]

**204.7108 Payment instructions.**

Follow the procedures at PGI 204.7108 for inclusion of payment instructions in contracts.

[70 FR 58983, Oct. 11, 2005]

**204.7109 Solicitation provision and contract clause.**

(a) Use the clause at 252.204-7006, Billing Instructions, in solicitations and contracts if Section G includes—

(1) Any of the standard payment instructions at PGI 204.7108(d)(1) through (6); or

(2) Other payment instructions, in accordance with PGI 204.7108(d)(12), that require contractor identification of the contract line item(s) on the payment request.

(b) Use the provision at 252.204-7011, Alternative Line Item Structure, in solicitations using FAR part 12 proce-

dures for the acquisition of commercial items or for initial provisioning spares.

[76 FR 58139, Sept. 20, 2011, as amended at 78 FR 37983, June 25, 2013]

**Subpart 204.72—Contractor Identification**

**204.7200 Scope of subpart.**

This subpart prescribes uniform policies and procedures for identification of commercial and Government entities when it is necessary to—

(a) Exchange data with another contracting activity, including contract administration activities and contract payment activities, or comply with the reporting requirements of subpart 204.6; or

(b) Identify contractors for the purpose of developing computerized acquisition systems or solicitation mailing lists.

[64 FR 43099, Aug. 9, 1999]

**204.7201 Definitions.**

(a) *Commercial and Government Entity (CAGE) code* means—

(1) A code assigned by the DLA Logistics Information Service to identify a commercial or Government entity; or

(2) A code assigned by a member of the North Atlantic Treaty Organization (NATO) that DLA Logistics Information Service records and maintains in the CAGE master file. This type of code is known as an “NCAGE code.”

(b) *Contractor identification code* means a code that the contracting office uses to identify an offeror. The three types of contractor identification codes are CAGE codes, Data Universal Numbering System (DUNS) numbers, and Taxpayer Identification Numbers (TINs).

[64 FR 43099, Aug. 9, 1999, as amended at 76 FR 21809, Apr. 19, 2011]

**204.7202 General.**

**204.7202-1 CAGE codes.**

(a) DLA Logistics Information Service assigns or records and maintains CAGE codes to identify commercial and Government entities. DoD 4000.25-5-M, Military Standard Contract Administration Procedures (MILSCAP), and Volume 7 of DoD 4100.39-M, Federal

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Logistics Information System (FLIS) Procedures Manual, prescribe use of CAGE codes.

(b)(1) If a prospective contractor located in the United States must register in the System for Award Management (SAM) database (see FAR subpart 4.11) and does not have a CAGE code, DLA Logistics Information Service will assign a CAGE code when the prospective contractor submits its request for registration in the SAM database. Foreign registrants must obtain a North Atlantic Treaty Organization CAGE (NCAGE) code in order to register in the SAM database. NCAGE codes may be obtained from the Codification Bureau in the foreign registrant's country. Additional information on obtaining NCAGE codes is available at [http://www.dlis.dla.mil/Forms/Form\\_AC135.asp](http://www.dlis.dla.mil/Forms/Form_AC135.asp).

(2) If registration in the SAM database is not required, the prospective contractor's CAGE code is not already available in the contracting office, and the prospective contractor does not respond to the provision at 252.204-7001, Commercial and Government Entity (CAGE) Code Reporting, use the following procedures:

(i) To identify the prospective contractor's CAGE code, use—

(A) The monthly H-series CD-ROM that contains the H-4/H-8 CAGE master file issued by DLA Logistics Information Service. (Their address is: Customer Service, Federal Center, 74 Washington Avenue, North, Battle Creek, MI 49017-3084. Their telephone number is: Toll-free 888-352-9333);

(B) The on-line access to the CAGE file through the DLA Logistics Information System [Service];

(C) The on-line access to the Defense Logistics Agency (DLA) CAGE file through the DLA Network or dial-up capability; or

(D) The Internet to access the CAGE Lookup Server at [http://www.dlis.dla.mil/cage\\_welcome.asp](http://www.dlis.dla.mil/cage_welcome.asp).

(ii) If no CAGE code is identified through use of the procedures in paragraph (b)(2)(i) of this subsection, ask DLA Logistics Information Service to assign a CAGE code. Submit a DD Form 2051, Request for Assignment of a Commercial and Government Entity (CAGE) Code, (or electronic equivalent)

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to the address in paragraph (b)(2)(i)(A) of this subsection, ATTN: DLIS-SBB. The contracting office completes Section A of the DD Form 2051, and the contractor completes Section B. The contracting office must verify Section B before submitting the form.

(c) Direct questions on obtaining computer tapes, electronic updates, or code assignments to DLA Logistics Information Service Customer Service: Toll-free 888-227-2423 or 888-352-9333; DSN 932-4725; or commercial 616-961-4725.

[64 FR 43100, Aug. 9, 1999, as amended at 65 FR 63804, Oct. 25, 2000; 67 FR 49252, July 30, 2002; 68 FR 15380, Mar. 31, 2003; 68 FR 64558, Nov. 14, 2003; 76 FR 21809, Apr. 19, 2011; 78 FR 28757, May 16, 2013]

### 204.7202-2 DUNS numbers.

Requirements for use of DUNS numbers are in FAR 4.605(b) and 4.607(a).

[74 FR 34265, July 15, 2009]

### 204.7202-3 TINs.

Requirements for use of TINs are in FAR subpart 4.9.

[64 FR 43100, Aug. 9, 1999]

### 204.7203 Responsibilities of contracting officers.

(a) Assist offerors in obtaining the required CAGE codes.

(b) Do not deny a potential offeror a solicitation package because the offeror does not have a contractor identification code.

[64 FR 43100, Aug. 9, 1999, as amended at 74 FR 37645, July 29, 2009]

### 204.7204 Maintenance of the CAGE file.

(a) DLA Logistics Information Service will accept written requests for changes to CAGE files, other than name changes, from the following entities:

(1) The entity identified by the code. The entity must use company letterhead to forward the request.

(2) The contracting office.

(3) The contract administration office.

(b) Submit requests for changes to CAGE files on DD Form 2051, or electronic equivalent, to—

DLA Logistics Information Service, DLIS-SBB, Federal Center, 74 Washington Avenue, North, Battle Creek, MI 49017-3084. Telephone Numbers: toll-free 888-352-9333, DSN 932-4725, commercial 616-961-4725. Facsimile: 616-961-4388, -4485.

(c) The contracting officer responsible for execution of a change-of-name agreement (see FAR subpart 42.12) must submit the agreement to DLIS-SBB. If there are no current contracts, each contracting and contract administration office receiving notification of changes from the commercial entity must forward a copy of the change notice annotated with the CAGE code to DLIS-SBB unless the change notice indicates that DLIS-SBB already has been notified.

(d) Additional guidance for maintaining CAGE codes is in Volume 7 of DoD 4100.39-M, Federal Logistics Information System (FLIS) Procedures Manual.

[64 FR 43100, Aug. 9, 1999; 64 FR 46474, Aug. 25, 1999, as amended at 65 FR 63804, Oct. 25, 2000; 76 FR 21809, Apr. 19, 2011]

**204.7205 Novation agreements, mergers and sales of assets.**

Contracting officers shall process and execute novation agreements in accordance with FAR Subpart 42.12, Novation and Change-of-Name Agreements. These actions are independent of code and name assignments made as a result of the occasion which created the need for the novation agreement. The maintenance activity will determine which entity(s) will retain the existing code(s) and which entities will be assigned new codes. The contracting officer responsible for processing the novation agreement shall provide the maintenance activity with the following information:

(a) Name(s), address(es), and code(s) of the contractor(s) transferring the original contractual rights and obligations (transferor).

(b) Name(s), address(es), and code(s) (if any) of the entity who is the successor in interest (transferee).

(c) Name(s), address(es), and code(s) (if any) of the entity who is retaining or receiving the rights to the technical data.

(d) Description of the circumstances surrounding the novation agreement and especially the relationship of each entity to the other.

[56 FR 36289, July 31, 1991, as amended at 66 FR 49861, Oct. 1, 2001]

**204.7206 Using CAGE codes to identify agents and brokers.**

Authorized agents and brokers are entities and, as such, may be assigned CAGE codes for identification and processing purposes.

(a) A single CAGE code will be assigned to the agent/broker establishment in addition to any codes assigned to the entities represented by the agent/broker, i.e., only one code will be assigned to a specific agent/broker entity regardless of the number of firms represented by that agent/broker.

(b) Additional codes may be assigned to an agent/broker if they meet the criteria for assigning additional codes for entities, e.g., different location.

(c) Codes will not be assigned to an agent/broker in care of the entity being represented or in any way infer that the agent/broker is a separate establishment bearing the name of the entity represented by the agent/broker.

[56 FR 36289, July 31, 1991, as amended at 61 FR 51032, Sept. 30, 1996; 62 FR 48182, Sept. 15, 1997]

**204.7207 Solicitation provision.**

Use the provision at 252.204-7001, Commercial and Government Entity (CAGE) Code Reporting, in solicitations when—

(a) The solicitation does not include the provision at FAR 52.204-7, System for Award Management; and

(b) The CAGE codes for the potential offerors are not available to the contracting office.

[66 FR 47097, Sept. 11, 2001, as amended at 68 FR 64558, Nov. 14, 2003; 78 FR 28757, May 16, 2012; 78 FR 73450, Dec. 6, 2013]

**Subpart 204.73—Safeguarding Unclassified Controlled Technical Information**

SOURCE: 78 FR 69279, Nov. 18, 2013, unless otherwise noted.

## 204.7300

### 204.7300 Scope.

(a) This subpart applies to contracts and subcontracts requiring safeguarding of unclassified controlled technical information resident on or transiting through contractor unclassified information systems.

(b) This subpart does not abrogate any existing contractor physical, personnel, or general administrative security operations governing the protection of unclassified DoD information, nor does it impact requirements of the National Industrial Security Program.

### 204.7301 Definitions.

As used in this subpart—

*Adequate security* means protective measures that are commensurate with the consequences and probability of loss, misuse, or unauthorized access to, or modification of information.

*Controlled technical information* means technical information with military or space application that is subject to controls on the access, use, reproduction, modification, performance, display, release, disclosure, or dissemination. Controlled technical information is to be marked with one of the distribution statements B through F, in accordance with DoD Instruction 5230.24, Distribution Statements on Technical Documents. The term does not include information that is lawfully publicly available without restrictions.

*Cyber incident* means actions taken through the use of computer networks that result in an actual or potentially adverse effect on an information system and/or the information residing therein.

*Technical information* means technical data or computer software, as those terms are defined in the clause at DFARS 252.227-7013, Rights in Technical Data—Non Commercial Items, regardless of whether or not the clause is incorporated in this solicitation or contract. Examples of technical information include research and engineering data, engineering drawings, and associated lists, specifications, standards, process sheets, manuals, technical reports, technical orders, catalog-item identifications, data sets, studies and analyses and related information,

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and computer software executable code and source code.

### 204.7302 Policy.

(a) DoD and its contractors and subcontractors will provide adequate security to safeguard unclassified controlled technical information on their unclassified information systems from unauthorized access and disclosure.

(b) When safeguarding is applied to controlled technical information resident on or transiting contractor unclassified information systems—

(1) Contractors must report to DoD certain cyber incidents that affect unclassified controlled technical information resident on or transiting contractor unclassified information systems. Detailed reporting criteria and requirements are set forth in the clause at 252.204-7012, Safeguarding of Unclassified Controlled Technical Information.

(2) A cyber incident that is properly reported by the contractor shall not, by itself, be interpreted under this clause as evidence that the contractor has failed to provide adequate information safeguards for unclassified controlled technical information, or has otherwise failed to meet the requirements of the clause at 252.204-7012. When a cyber incident is reported, the contracting officer shall consult with a security manager of the requiring activity prior to assessing contractor compliance. The contracting officer shall consider such cyber incidents in the context of an overall assessment of the contractor's compliance with the requirements of the clause at 252.204-7012.

### 204.7303 Contract clause.

Use the clause at 252.204-7012, Safeguarding of Unclassified Controlled Technical Information, in all solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items.

**Subpart 204.74—Disclosure of information to litigation support contractors**

SOURCE: 79 FR 11339, Feb. 28, 2014, unless otherwise noted.

**204.7400 Scope of subpart.**

This subpart prescribes policies and procedures for the release and safeguarding of information to litigation support contractors. It implements the requirements at 10 U.S.C. 129d.

**204.7401 Definitions.**

“Litigation support,” “litigation support contractor,” and “sensitive information,” as used in this subpart, are defined in the clause at 252.204-7014, Limitations on the Use or Disclosure of Information by Litigation Support Contractors.

**204.7402 Policy.**

(a) Any release or disclosure of litigation information that includes sensitive information to a litigation support contractor, and the litigation support contractor’s use and handling of such information, shall comply with the requirements of 10 U.S.C. 129d.

(b) To the maximum extent practicable, DoD will provide notice to an offeror or contractor submitting, deliv-

ering, or otherwise providing information to DoD in connection with an offer or performance of a contract that such information may be released or disclosed to litigation support contractors.

**204.7403 Solicitation provision and contract clauses.**

(a) Use the provision at 252.204-7013, Limitations on the Use or Disclosure of Information by Litigation Support Solicitation Offerors, in all solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items, that involve litigation support services.

(b) Use the clause at 252.204-7014, Limitations on the Use or Disclosure of Information by Litigation Support Contractors, in all solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, that involve litigation support services.

(c) Use the clause at 252.204-7015, Disclosure of Information to Litigation Support Contractors, in all solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items.

[79 FR 11339, Feb. 28, 2014, as amended at 79 FR 13568, Mar. 11, 2014]

**SUBCHAPTER B—ACQUISITION PLANNING**

**PART 205—PUBLICIZING CONTRACT ACTIONS**

**Subpart 205.2—Synopsis of Proposed Contract Actions**

- Sec.
- 205.203 Publicizing and response time.
- 205.205 Special situations.
- 205.207 Preparation and transmittal of synopses.

**Subpart 205.3—Synopsis of Contract Awards**

- 205.301 General.
- 205.303 Announcement of contract awards.

**Subpart 205.4—Release of Information**

- 205.470 Contract clause.

**Subpart 205.5—Paid Advertisements**

- 205.502 Authority.

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

SOURCE: 56 FR 36302, July 31, 1991, unless otherwise noted.

**Subpart 205.2—Synopsis of Proposed Contract Actions**

**205.203 Publicizing and response time.**

(b) Allow at least 45 days response time when requested by a qualifying or