

produce more useful past performance information for source selection officials than that contained in the overall contract evaluation (e.g., when the scope of the basic contract is very broad and the nature of individual orders could be significantly different).

(b) Interim evaluations should be prepared as specified by the agencies to provide current information for source selection purposes, for contracts or orders with a period of performance, including options, exceeding one year.

(c) The evaluation of contractor performance is generally for the entity, division, or unit that performed the contract or order. The content and format of performance evaluations shall be established in accordance with agency procedures and should be tailored to the size, content, and complexity of the contractual requirements. These procedures shall require an assessment of contractor performance against, and efforts to achieve, the goals identified in the small business subcontracting plan when the contract includes the clause at 52.219-9, Small Business Subcontracting Plan.

(d) Agencies shall not evaluate performance for contracts awarded under Subpart 8.7. Agencies shall evaluate construction contractor performance and architect/engineer contractor performance in accordance with 36.201 and 36.604, respectively.

4. Amend section 42.1503 by revising paragraph (a); and removing from paragraph (e) the word "contract". The revised text reads as follows:

#### 42.1503 Procedures.

(a) Agency procedures for past performance evaluations will generally include input from the technical office, contracting office and, where appropriate, end users of the product or service.

\* \* \* \* \*

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## DEPARTMENT OF DEFENSE

### 48 CFR Parts 211 and 252

[DFARS Case 2003-D073]

#### Defense Federal Acquisition Regulation Supplement; Describing Agency Needs

**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 on the use of specifications, standards, and data item descriptions in solicitations and 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 August 22, 2005, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2003-D073, 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-D073 in the subject line of the message.

- Fax: (703) 602-0350.

- Mail: Defense Acquisition Regulations Council, Attn: Ms. Robin Schulze, 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. Robin Schulze, (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—

- Update references to the DoD 5000 series publications and the DoD

database for specifications, standards, and data item descriptions; and

- Delete procedures for use of specifications, standards, and data item descriptions and for use of Single Process Initiative processes instead of military or Federal specifications and standards. Text on these subjects will be relocated to the new DFARS companion resource, Procedures, Guidance, and Information, 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 the use of requirements documents in solicitations and contracts. 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-D073.

##### 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 211 and 252

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

Therefore, DoD proposes to amend 48 CFR Parts 211 and 252 as follows:

##### PART 211—DESCRIBING AGENCY NEEDS

1. The authority citation for 48 CFR Parts 211 and 252 continues to read as follows:

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

2. Section 211.002 is revised to read as follows:

##### 211.002 Policy.

All defense technology and acquisition programs in DoD are subject

to the policies and procedures in DoDD 5000.1, The Defense Acquisition System, and DoDI 5000.2, Operation of the Defense Acquisition System.

3. Sections 211.201 and 211.204 are revised to read as follows:

**211.201 Identification and availability of specifications.**

Follow the procedures at PGI 211.201 for use of specifications, standards, and data item descriptions.

**211.204 Solicitation provisions and contract clauses.**

(c) When contract performance requires use of specifications, standards, and data item descriptions that are not listed in the Acquisition Streamlining and Standardization Information System database, use provisions, as appropriate, substantially the same as those at—

(i) 252.211-7001, Availability of Specifications, Standards, and Data Item Descriptions Not Listed in the Acquisition Streamlining and Standardization Information System (ASSIST), and Plans, Drawings, and Other Pertinent Documents; and

(ii) 252.211-7002, Availability for Examination of Specifications, Standards, Plans, Drawings, Data Item Descriptions, and Other Pertinent Documents.

**211.273-2 [Amended]**

4. Section 211.273-2 is amended in paragraph (c) by removing “(see 211.273-3(c))”.

5. Section 211.273-3 is revised to read as follows:

**211.273-3 Procedures.**

Follow the procedures at PGI 211.273-3 for encouraging the use of SPI processes instead of military or Federal specifications and standards.

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

6. Section 252.211-7001 is amended by revising the section heading, clause title, and clause date to read as follows:

**252.211-7001 Availability of Specifications, Standards, and Data Item Descriptions Not Listed in the Acquisition Streamlining and Standardization Information System (ASSIST), and Plans, Drawings, and Other Pertinent Documents.**

\* \* \* \* \*

**Availability of Specifications, Standards, and Data Item Descriptions Not Listed in the Acquisition Streamlining and Standardization Information System (Assist), and Plans, Drawings, and Other Pertinent Documents (XXX 2005)**

\* \* \* \* \*

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**DEPARTMENT OF DEFENSE**

**48 CFR Parts 212, 225, and 252**

**[DFARS Case 2004-D017]**

**Defense Federal Acquisition Regulation Supplement; Combating Trafficking in Persons**

**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 implement policy prohibiting activities on the part of DoD contractor employees that support or promote trafficking in persons.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before August 22, 2005, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2004-D017, 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-D017 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**

A memorandum issued by the Deputy Secretary of Defense on January 30, 2004, states as an objective that, consistent with U.S. and host-nation law, provisions should be incorporated in overseas service contracts that prohibit any activities on the part of contractor employees that support or promote trafficking in persons and that impose suitable penalties on contractors who fail to monitor the conduct of their employees. The memorandum cites National Security Presidential Directive/NPSD-22, which decrees that all departments of the U.S. Government will take a “zero tolerance” approach to trafficking in persons. NSPD-22 utilizes the definitions in Public Law 106-386, Victims of Trafficking and Violence Protection Act of 2000, codified at 22 U.S.C. 7102. This proposed DFARS rule contains an implementing clause for use in contracts that require performance outside the United States. The proposed clause requires contractors to establish policy and procedures for combating trafficking in persons and to notify the contracting officer of any violations and the corrective action taken. The clause also requires the contractor to effectively manage its subcontractors and to take remedial action against any subcontractor that violates policy regarding trafficking in persons.

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 proposed 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 clause applies only to contracts that require performance outside the United States. 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-D017.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act (44 U.S.C. Chapter 35) applies, because the proposed rule contains information collection requirements. These requirements will increase the burden hours currently approved by the Office of Management and Budget (OMB)