

**DEPARTMENT OF DEFENSE****32 CFR Chs. I, V, VI, and VII****33 CFR Ch. II****36 CFR Ch. III****48 CFR Ch. II****Improving Government Regulations; Unified Agenda of Federal Regulatory and Deregulatory Actions****AGENCY:** Department of Defense (DoD).**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** The Department of Defense (DoD) is publishing this semiannual agenda of regulatory documents, including those that are procurement-related, for public information and comments under Executive Order 12866, "Regulatory Planning and Review." This agenda incorporates the objective and criteria, when applicable, of the regulatory reform program under the Executive Order and other regulatory guidance. It contains DoD issuances initiated by DoD components that may have economic and environmental impact on State, local, or tribal interests under the criteria of Executive Order 12866. Although most DoD issuances listed in the agenda are of negligible public impact, their nature may be of public interest and, therefore, are published to provide notice of rulemaking and an opportunity for public participation in the internal DoD rulemaking process. Members of the public may submit comments on individual proposed and interim final rulemakings at <http://www.regulations.gov> during the comment period that follows publication in the **Federal Register**.

This agenda updates the report published on December 20, 2010, and includes regulations expected to be issued and under review over the next 12 months. The next agenda and regulatory plan are scheduled to be published in the fall of 2011. In addition to this agenda, DoD components also publish rulemaking notices pertaining to their specific statutory administration requirements as required.

Starting with the fall 2007 edition, the Internet became the basic means for disseminating the Unified Agenda. The complete Unified Agenda will be available online at [www.reginfo.gov](http://www.reginfo.gov), in a format that offers users the ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the

Regulatory Flexibility Act (5 U.S.C. 602), the Department of Defense's printed agenda entries include only:

(1) Rules that are in the Agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Any rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's agenda requirements. Additional information on these entries is in the Unified Agenda available online.

**FOR FURTHER INFORMATION CONTACT:** For information concerning the overall DoD regulatory improvement program and for general semiannual agenda information, contact Mr. Robert Cushing, telephone 703-696-5282, or write to Executive Services Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155, or e-mail [robert.cushing@whs.mil](mailto:robert.cushing@whs.mil).

For questions of a legal nature concerning the agenda and its statutory requirements or obligations, write to Office of the General Counsel, 1600 Defense Pentagon, Washington, DC 20301-1600, or call 703-697-2714.

For general information on Office of the Secretary regulations, other than those which are procurement-related, contact Ms. Patricia Toppings, telephone 703-696-5284, or write to Executive Services Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155, or e-mail [patricia.toppings@whs.mil](mailto:patricia.toppings@whs.mil).

For general information on Office of the Secretary agenda items, which are procurement-related, contact Ms. Ynette Shelkin, telephone 703-602-8384 or write to Defense Acquisition Regulations Directorate, 3060 Defense Pentagon, Room 3B855, Washington, DC 20301-3060, or e-mail [ynette.shelkin@osd.mil](mailto:ynette.shelkin@osd.mil).

For general information on Department of the Army regulations, contact Ms. Brenda Bowen, telephone 703-428-6173, or write to the U.S. Army Records Management and Declassification Agency, ATTN: AAHS-RDR-C, Casey Building, Room 102, 7701 Telegraph Road, Alexandria, Virginia 22315-3860, or e-mail [brenda.bowen@conus.army.mil](mailto:brenda.bowen@conus.army.mil).

For general information on the U.S. Army Corps of Engineers regulations,

contact Mr. Chip Smith, telephone 703-693-3644, or write to Office of the Deputy Assistant Secretary of the Army (Policy and Legislation), 108 Army Pentagon, Room 2E569, Washington, DC 20310-0108, or e-mail [chip.smith@hqda.army.mil](mailto:chip.smith@hqda.army.mil).

For general information on Department of the Navy regulations, contact LCDR Daniel Werner, telephone 703-614-7408, or write to Department of the Navy, Office of the Judge Advocate General, Administrative Law Division (Code 13), Washington Navy Yard, 1322 Patterson Avenue SE., Suite 3000, Washington, DC 20374-5066, or e-mail: [daniel.werner@navy.mil](mailto:daniel.werner@navy.mil).

For general information on Department of the Air Force regulations, contact Bao-Anh Trinh, telephone 703-696-6515, or write to Department of the Air Force, SAF/XCPP, 1800 Air Force Pentagon, Washington, DC 20330-1800, or e-mail: [bao-anh.trinh@pentagon.af.mil](mailto:bao-anh.trinh@pentagon.af.mil).

For specific agenda items, contact the appropriate individual indicated in each DoD component report.

**SUPPLEMENTARY INFORMATION:** This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions is composed of the regulatory status reports, including procurement-related regulatory status reports, from the Office of the Secretary of Defense (OSD) and the Departments of the Army, Navy, and Air Force. Included also is the regulatory status report from the U.S. Army Corps of Engineers, whose civil works functions fall under the reporting requirements of Executive Order 12866 and involve water resource projects and regulation of activities in waters of the United States.

DoD issuances range from DoD directives (reflecting departmental policy) to implementing instructions and regulations (largely internal and used to implement directives). The OSD agenda section contains the primary directives under which DoD components promulgate their implementing regulations.

In addition, this agenda, although published under the reporting requirements of Executive Order 12866, continues to be the DoD single-source reporting vehicle, which identifies issuances that are currently applicable under the various regulatory reform programs in progress. Therefore, DoD components will identify those rules which come under the criteria of the:

- a. Regulatory Flexibility Act;
- b. Paperwork Reduction Act of 1995;
- c. Unfunded Mandates Reform Act of 1995.

Those DoD issuances, which are directly applicable under these statutes,

will be identified in the agenda and their action status indicated. Generally, the regulatory status reports in this agenda will contain five sections: (1) Prerule stage; (2) proposed rule stage; (3) final rule stage; (4) completed actions; and (5) long-term actions. Where certain regulatory actions indicate that small entities are affected, the effect on these entities may not necessarily have significant economic impact on a substantial number of these entities as

defined in the Regulatory Flexibility Act (5 U.S.C. 601(6)).

Although not a regulatory agency, DoD will continue to participate in regulatory initiatives designed to reduce economic costs and unnecessary burdens upon the public. Comments and recommendations are invited on the rules reported and should be addressed to the DoD component representatives identified in the regulatory status reports. Although sensitive to the needs of the public, as well as regulatory

reform, DoD reserves the right to exercise the exemptions and flexibility permitted in its rulemaking process in order to proceed with its overall defense-oriented mission. The publishing of this agenda does not waive the applicability of the military affairs exemption in section 553 of title 5 U.S.C. and section 3 of Executive Order 12866.

Dated: February 4, 2011.

**Michael L. Rhodes,**  
*Director, Administration and Management.*

**DEFENSE ACQUISITION REGULATIONS COUNCIL—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
124 .....	Construction and Architect-Engineer Services Performance Evaluation (DFARS Case 2010–D024) .....	0750–AG91
125 .....	Representation Regarding Compensation of Former DoD Officials (DFARS Case 2010–D020) .....	0750–AG99
126 .....	Accelerated Payments to Small Business (DFARS Case 2011–D008) .....	0750–AH19

**DEFENSE ACQUISITION REGULATIONS COUNCIL—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
127 .....	Business Systems—Definition and Administration (DFARS Case 2009–D038) .....	0750–AG58
128 .....	Warranty Tracking of Serialized Items (DFARS Case 2009–D018) .....	0750–AG74
129 .....	Prohibition on Interrogation of Detainees by Contractor Personnel (DFARS Case 2010–D027) .....	0750–AG88
130 .....	Responsibility and Liability for Government Property (DFARS Case 2010–D018) .....	0750–AG94
131 .....	Government Support Contractor Access to Technical Data (DFARS Case 2009–D031) .....	0750–AG95
132 .....	Electronic Ordering Procedures (DFARS Case 2009–D037) .....	0750–AH20

**DEFENSE ACQUISITION REGULATIONS COUNCIL—COMPLETED ACTIONS**

Sequence No.	Title	Regulation Identifier No.
133 .....	Restriction on Ball and Roller Bearings (DFARS Case 2006–D029) .....	0750–AG57
134 .....	Safety of Facilities, Infrastructure, and Equipment for Military Operations (DFARS Case 2009–D029) .....	0750–AG73

**OFFICE OF ASSISTANT SECRETARY FOR HEALTH AFFAIRS—PROPOSED RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
135 .....	TRICARE; Reimbursement of Sole Community Hospitals .....	0720–AB41

**DEPARTMENT OF DEFENSE (DOD)**

*Defense Acquisition Regulations Council (DARC)*

Proposed Rule Stage

**124. • Construction and Architect-Engineer Services Performance Evaluation (DFARS Case 2010–D024)**

*Legal Authority:* 41 U.S.C. 421

*Abstract:* This rule amends the Defense Federal Acquisition Regulation Supplement (DFARS) to remove the requirement to prepare contractor performance evaluations for construction and architect-engineer services by using DoD-unique forms. In 2010, consistent with the Office of

Federal Procurement Policy memorandum dated July 29, 2008, Improving the Use of Contractor Performance Information, the Contractor Performance Assessment Reporting System (CPARS) was named as the sole system for collecting past-performance information. As such, CPARS will support Governmentwide data collection requirements for contractor past performance reporting, to include construction and A&E contracts, and DFARS is being updated to delete the outdated procedures and references to the obsolete DoD forms. The clarifications proposed require no additional effort by contractors as the changes simply update the DFARS to

reflect the current automated process being used. CPARS is already being used by DoD personnel to report construction and A&E services contractor past performance, and the DFARS is merely being updated to remove references to obsolete forms and procedures and reflect the current process. No start-up costs are expected as only Internet access is required should small entities elect to comment on their past performance rating in CPARS. Accordingly, any economic impact is expected to be minimal.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/11	

*Regulatory Flexibility Analysis*

Required: Yes.

Agency Contact: Ynette R. Shelkin, Editor, Defense Acquisition Regulations System, Department of Defense, Defense Acquisition Regulations Council, 3060 Defense Pentagon, Room 3B855, Washington, DC 20301-3060, Phone: 703 602-8384, E-mail: ynette.shelkin@osd.mil.  
RIN: 0750-AG91

**125. • Representation Regarding Compensation of Former DOD Officials (DFARS Case 2010-D020)**

Legal Authority: 41 U.S.C. 421; 18 U.S.C. 207; 41 U.S.C. 423; Pub. L. 110-181

Abstract: This rule amends the Defense Federal Acquisition Regulation Supplement (DFARS) to require that offerors represent whether former DoD officials employed by the offeror are in compliance with post-employment restrictions concerning post-government employment for DoD and other Federal employees after leaving Government employment. The proposed rule will require offerors to submit representations at the time of contract award that all former DoD officials that are covered by the Procurement Integrity Act are in compliance with post-employment restrictions set forth in DFARS 203.171-3 and DFARS 252.203-7000. The representation goes further in also requiring a representation that former DoD employees employed by the contractor are also in compliance with additional post-employment restrictions. This representation will be required in contracts for commercial items.

There is no impact on the offeror unless the former DoD officials covered by the Procurement Integrity Act are not in compliance with the post-employment restrictions. In order to submit an offer, small entities that hire a former DoD official covered by the Procurement Integrity Act will have to check the compliance of such employees with various applicable post-employment restrictions.

DFARS 252.203-7000, Requirements Relating to Compensation of Former DoD Officials, already requires contractors to determine that a covered DoD official has sought and received, or has not received after 30 days of seeking, a written opinion from the appropriate DoD ethics counselor, regarding the applicability of post-employment restrictions to the activities that the official is expected to undertake

on behalf of the contractor. Therefore, this representation of compliance does not impose an additional burden on the offeror. Any economic impact is expected to be minimal.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/11	

*Regulatory Flexibility Analysis*

Required: Yes.

Agency Contact: Ynette R. Shelkin, Editor, Defense Acquisition Regulations System, Department of Defense, Defense Acquisition Regulations Council, 3060 Defense Pentagon, Room 3B855, Washington, DC 20301-3060, Phone: 703 602-8384, E-mail: ynette.shelkin@osd.mil.  
RIN: 0750-AG99

**126. • Accelerated Payments to Small Business (DFARS Case 2011-D008)**

Legal Authority: 41 U.S.C. 421

Abstract: This rule amends the Defense Federal Acquisition Regulation Supplement (DFARS) to accelerate payments to all small business concerns. Currently, DoD assists small disadvantaged business concerns by paying them as quickly as possible after invoices are received and before normal payment due dates established in the contract. This rule proposes removal of the term “disadvantaged” from the language at DFARS 232.903 and DFARS 232.906(a)(ii) extending this assistance to all small business concerns. This will align the DFARS with the statutory language at 5 CFR 1315.5 and FAR 32.903, which allows agencies to authorize accelerated payment procedures for small businesses. Because the rule proposes to extend accelerated payment assistance to all small business concerns, a positive economic impact on small business is expected.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/11	

*Regulatory Flexibility Analysis*

Required: Yes.

Agency Contact: Ynette R. Shelkin, Editor, Defense Acquisition Regulations System, Department of Defense, Defense Acquisition Regulations Council, 3060 Defense Pentagon, Room 3B855, Washington, DC 20301-3060, Phone: 703 602-8384, E-mail: ynette.shelkin@osd.mil.  
RIN: 0750-AH19

**DEPARTMENT OF DEFENSE (DOD)**

*Defense Acquisition Regulations Council (DARC)*

Final Rule Stage

**127. Business Systems—Definition and Administration (DFARS Case 2009-D038)**

Legal Authority: 41 U.S.C. 421

Abstract: This interim rule implements the statutory requirements of section 893 of the FY 2011 National Defense Authorization Act (NDAA) and improves the effectiveness of DoD oversight of contractor business systems. Section 893 set forth statutory requirements for the improvement of contractor business systems to ensure that such systems provide timely, reliable information for the management of DoD programs. This interim rule also addresses comments received under the initial proposed rule (published in the **Federal Register** on January 15, 2010 (75 FR 2457)) and a second proposed rule (published on December 3, 2010 (75 FR 75550)). Based on the comments received, the requirements of the NDAA, and subsequent revisions to the proposed rule, DoD is publishing this interim rule with request for comments.

To improve the effectiveness of Defense Contract Management Agency (DCMA) and Defense Contract Audit Agency (DCAA) oversight of contractor business systems, DoD is clarifying the definition and administration of contractor business systems, including accounting systems, estimating systems, purchasing systems, earned value management systems (EVMS), material management and accounting systems (MMAS), and property management systems, and implementing compliance enforcement mechanisms. The need to mitigate the Government’s risk when contractors fail to comply with the terms and conditions of their contracts by failing to maintain adequate business systems necessitates this rule.

The requirements of the rule will apply to solicitations and contracts that are subject to the Cost Accounting Standards under 41 U.S.C. chapter 15. Since contracts and subcontracts with small business are exempt from CAS requirements, DoD estimates that this rule will have no impact on small business. However, DoD is inviting comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

*Timetable:*

Action	Date	FR Cite
NPRM .....	01/15/10	75 FR 2457
NPRM Comment Period End.	03/16/10	
Second NPRM ....	12/03/10	75 FR 75549
Comment Period Extended.	12/09/10	75 FR 76692
Second NPRM Comment Period End.	01/10/11	
Final Action .....	06/00/11	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Ynette R. Shelkin, Editor, Defense Acquisition Regulations System, Department of Defense, Defense Acquisition Regulations Council, 3060 Defense Pentagon, Room 3B855, Washington, DC 20301-3060, Phone: 703 602-8384, E-mail: [ynette.shelkin@osd.mil](mailto:ynette.shelkin@osd.mil).

RIN: 0750-AG58

**128. Warranty Tracking of Serialized Items (DFARS Case 2009-D018)**

*Legal Authority:* 41 U.S.C. 401

*Abstract:* This rule amends the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a policy memorandum of the Undersecretary of Defense for Acquisition, Technology and Logistics dated February 6, 2007, that required definition of the requirements to track warranties for Item Unique Identification-required items in the Item Unique Identification registry. This proposed rule stresses that the enforcement of warranties is essential to the effectiveness and efficiency of DoD's material readiness. The capability to track warranties will significantly enhance the ability of DoD to—(1) Identify and enforce warranties; (2) Ensure sufficient durations of warranties for specific goods; and (3) Realize improved material readiness. The rule is structured to reduce burden to contractors and to facilitate data capture. DoD anticipates that there will be limited, if any, additional costs imposed on small businesses.

*Timetable:*

Action	Date	FR Cite
NPRM .....	08/30/10	75 FR 52917
NPRM Comment Period End.	10/29/10	
Final Action .....	06/00/11	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Ynette R. Shelkin, Editor, Defense Acquisition Regulations System, Department of Defense, Defense Acquisition Regulations Council, 3060

Defense Pentagon, Room 3B855, Washington, DC 20301-3060, Phone: 703 602-8384, E-mail: [ynette.shelkin@osd.mil](mailto:ynette.shelkin@osd.mil). RIN: 0750-AG74

**129. • Prohibition on Interrogation of Detainees by Contractor Personnel (DFARS Case 2010-D027)**

*Legal Authority:* 41 U.S.C. 421; Pub. L. 111-84

*Abstract:* This rule implements section 1038 of the Fiscal Year 2010 National Defense Implements Authorization Act (Pub. L. 111-84). Section 1038 prohibits contractor personnel from interrogating detainees under the control of the Department of Defense. It also allows the Secretary of Defense to waive the prohibition for a limited period of time, if determined necessary to the national security interests of the United States. The interim rule added coverage at Defense Federal Acquisition Regulation Supplement (DFARS) 237.173 and a new clause at DFARS 252.237-7010 that prescribes policies prohibiting interrogation of detainees by contractor personnel as required by the statute. The interim rule also addressed permissible support roles for contractors by providing that contractor personnel with proper training and security clearances may be used as linguists, interpreters, report writers, information technology technicians, and other employees filling ancillary positions, including as trainers of, and advisors to, interrogations, if the contractor personnel meet the criteria provided by DoD Instruction 1100.22, Policy and Procedures for Determining Workforce Mix; DoD Directive 2310.01E, The Department of Defense Detainee Program; and DoD Directive 3115.09, DoD Intelligence Interrogations, Detainee Debriefings, and Tactical Questioning. This rule only prescribed policies that prohibit interrogation of detainees by contractor personnel. DoD anticipates that there will be no additional costs imposed on small businesses.

*Timetable:*

Action	Date	FR Cite
Interim Final Rule	11/03/10	75 FR 67632
Interim Final Rule Effective.	11/03/10	
Interim Final Rule Comment Period End.	01/03/11	
Final Action .....	06/00/11	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Ynette R. Shelkin, Editor, Defense Acquisition Regulations

System, Department of Defense, Defense Acquisition Regulations Council, 3060 Defense Pentagon, Room 3B855, Washington, DC 20301-3060, Phone: 703 602-8384, E-mail: [ynette.shelkin@osd.mil](mailto:ynette.shelkin@osd.mil). RIN: 0750-AG88

**130. • Responsibility and Liability for Government Property (DFARS Case 2010-D018)**

*Legal Authority:* 41 U.S.C. 421

*Abstract:* This rule amends the Defense Federal Acquisition Regulation Supplement (DFARS) to extend the Government self-insurance policy for Government property provided under negotiated fixed-price contracts that are awarded on a basis other than submission of certified cost or pricing data. This rule proposes that DoD contractors not be held liable for loss of Government property under such contracts, and eliminates the use of Alternate I of the FAR clause at 52.245-1, Government Property. Use of Alternate I requires contractors to assume the risk and be responsible for loss of Government property. The basic premise of this case, that the Government should be self-insuring under contracts that provide Government property, is supported by the Government Accountability Office (GAO) policy contained in GAO publication, GAO-04-261SP Appropriations Law, and its decisions. Any impact of this rule on small entities is expected to be beneficial. The Government assuming the liability for loss of Government property under negotiated fixed-price contracts awarded on a basis other than submission of certified cost or pricing data should provide some relief for the small entities concerning costs to acquire insurance against risk of loss.

*Timetable:*

Action	Date	FR Cite
Interim Final Rule	06/00/11	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Ynette R. Shelkin, Editor, Defense Acquisition Regulations System, Department of Defense, Defense Acquisition Regulations Council, 3060 Defense Pentagon, Room 3B855, Washington, DC 20301-3060, Phone: 703 602-8384, E-mail: [ynette.shelkin@osd.mil](mailto:ynette.shelkin@osd.mil). RIN: 0750-AG94

**131. • Government Support Contractor Access to Technical Data (DFARS Case 2009-D031)**

*Legal Authority:* Pub. L. 111-84

*Abstract:* This rule amends the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 821 of the National Defense Authorization Act for Fiscal Year 2010. Section 821 provides authority for certain types of Government support contractors to have access to proprietary technical data belonging to prime contractors and other third parties, provided that the technical data owner may require the support contractor to execute a non-disclosure agreement having certain restrictions and remedies.

Additionally, this rule amends the DFARS to provide needed editorial changes. The rule implements a new third statutory exception to the prohibition on release of privately developed data outside the Government, allowing a covered Government support contractor access to, and use of, any technical data delivered under a contract for the sole purpose of furnishing independent and impartial advice or technical assistance directly to the Government in support of the Government's management and oversight of the program or effort to which such technical data relates.

The rule also provides a definition of "covered Government support contractor" as contractor under a contract, whose primary purpose is to furnish independent and impartial advice or technical assistance directly to the Government in support of the Government's management and oversight of a program or effort. A "covered Government support contractor" must meet certain criteria identified in the rule and provide certain assurances to the Government to protect the proprietary and nonpublic nature of the technical data furnished to the covered Government support contractor, to include signing a non-disclosure agreement.

The rule affects small businesses that are Government support contractors that need access to proprietary technical data belonging to prime contractors and other third parties. There are no known significant alternatives to the rule that would meet the requirements of the statute and minimize any significant economic impact of the rule on small entities. The impact of this rule on small business is not expected to be significant because the execution of a non-disclosure agreement is not likely to have a significant cost or administrative impact.

*Timetable:*

Action	Date	FR Cite
Interim Final Rule	03/02/11	76 FR 11363

Action	Date	FR Cite
Interim Final Rule Effective Date.	03/02/11	
Interim Final Rule Comment Period End.	05/02/11	
Final Action .....	08/00/11	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Ynette R. Shelkin, Editor, Defense Acquisition Regulations System, Department of Defense, Defense Acquisition Regulations Council, 3060 Defense Pentagon, Room 3B855, Washington, DC 20301-3060, Phone: 703 602-8384, E-mail: [ynette.shelkin@osd.mil](mailto:ynette.shelkin@osd.mil).  
RIN: 0750-AG95

**132. • Electronic Ordering Procedures (DFARS Case 2009-D037)**

*Legal Authority:* 41 U.S.C. 421; Pub. L. 107-347

*Abstract:* This rule addresses electronic business procedures for placing orders. This rule adds a new clause in the Defense Federal Acquisition Regulation Supplement (DFARS) to clarify this process and standardize issuance of orders via electronic means DoD currently has the capability to distribute orders electronically on a routine basis, and can post to a website that any contractor can access. In order to make this possible, the DFARS needs to provide language that will make those procedures a routine part of contract issuance. This will enable DoD to further the goals of the E-Government Act of 2002 (Pub. L. 107-347). The benefit of this rule to small business is that it will make electronic distribution procedures a routine part of order issuance. This change will ultimately help improve the management and promotion of electronic Government services and processes, and will establish a framework to improve public access to Government information, and services.

*Timetable:*

Action	Date	FR Cite
Interim Final Rule	06/00/11	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Ynette R. Shelkin, Editor, Defense Acquisition Regulations System, Department of Defense, Defense Acquisition Regulations Council, 3060 Defense Pentagon, Room 3B855, Washington, DC 20301-3060, Phone: 703 602-8384, E-mail: [ynette.shelkin@osd.mil](mailto:ynette.shelkin@osd.mil).  
RIN: 0750-AH20

**DEPARTMENT OF DEFENSE (DOD)**

*Defense Acquisition Regulations Council (DARC)*

Completed Actions

**133. Restriction on Ball and Roller Bearings (DFARS Case 2006-D029)**

*Legal Authority:* 41 U.S.C. 421

*Abstract:* Revised the domestic source restriction on acquisition of ball and roller bearings. The current Defense Federal Acquisition Regulation Supplement (DFARS) restriction on ball and roller bearings requires that the bearings and the main bearing components be wholly manufactured in the United States or Canada. This requirement was based on a restriction that expired on October 1, 2005. The final rule, which implemented the DoD annual appropriations act domestic source restrictions, required that each ball or roller bearing be manufactured in the United States, its outlying areas, or Canada, and that the cost of the bearing components manufactured in the United States, its outlying areas, or Canada, shall exceed 50 percent of the total cost of the bearing components of the ball or roller bearing. This restriction does not apply to the acquisition of commercial items, either as components or end products, unless the commercial bearings themselves are purchased as the end products. Generally, the economic impact is considered to be positive because the rule allows more flexibility to domestic bearings manufacturers in the acquisition of nondomestic components. Many of the bearing components that are being outsourced are no longer readily available from domestic sources. If this rule were not implemented, there would be no requirement to manufacture such bearings in the United States or Canada, or provide predominantly domestic components.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/07/10	75 FR 25167
NPRM Comment Period End.	07/06/10	
Final Action .....	12/08/10	75 FR 76297

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Ynette Shelkin, Department of Defense, Defense Acquisition Regulations Council, 3060 Defense Pentagon, Washington, DC 20301, Phone: 703 602-8384, E-mail: [ynette.shelkin@osd.mil](mailto:ynette.shelkin@osd.mil).

RIN: 0750-AG57

**134. Safety of Facilities, Infrastructure, and Equipment for Military Operations (DFARS Case 2009–D029)**

*Legal Authority:* Pub. L. 111–84

*Abstract:* This rule implemented section 807 of the National Defense Authorization Act of 2010 requires that facilities, infrastructure, and equipment intended for use by DoD military or civilian personnel in current or future military operations should be inspected for safety and habitability prior to use. It also required that such facilities should be brought into compliance with generally accepted standards for the safety and health of personnel to the maximum extent practicable consistent with the requirements of military operations and the best interests of DoD to minimize the safety and health risk posed to such personnel. The rule encouraged contracting officers to include this rule in solicitations issued before the date of publication, provided award occurs after the publication date. Contracting Officers are also encouraged to apply this rule to the maximum extent practicable to existing contracts. The rule affected contractors with contracts, including task and delivery orders, in support of current and future military operations for construction, installation, repair, maintenance, or operation of facilities. This includes contracts for facilities, infrastructure, and equipment configured for occupancy, including but not limited to, existing host nation facilities, new construction, and re-locatable buildings. There are high costs associated with a company being able to perform in the

geographic regions where most military operations are currently taking place. This makes it unlikely that a small business could afford to sustain the infrastructure required to perform these types of services in locations such as Iraq and Afghanistan. Based on the above factors, the number of small business firms to which the rule would apply is expected to be minimal.

*Timetable:*

Action	Date	FR Cite
Interim Final Rule	10/29/10	75 FR 66683
Interim Final Rule Effective.	10/29/10	
Interim Final Rule Comment Period End.	12/28/10	
Final Action .....	03/17/11	76 FR 14590
Final Action Effective.	03/17/11	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Ynette R. Shelkin, Editor, Defense Acquisition Regulations System, Department of Defense, Defense Acquisition Regulations Council, 3060 Defense Pentagon, Room 3B855, Washington, DC 20301–3060, Phone: 703 602–8384, E-mail: [ynette.shelkin@osd.mil](mailto:ynette.shelkin@osd.mil).

*RIN:* 0750–AG73

**DEPARTMENT OF DEFENSE (DOD)**

*Office of Assistant Secretary for Health Affairs (DODOASHA)*

Proposed Rule Stage

**135. TRICARE; Reimbursement of Sole Community Hospitals**

*Legal Authority:* 5 U.S.C. 301; 10 U.S.C. ch 55

*Abstract:* This proposed rule is to implement the statutory provision at 10 U.S.C. 1079(j)(2) that TRICARE payment methods for institutional care be determined, to the extent practicable, in accordance with the same reimbursement rules as those that apply to payments to providers of services of the same type under Medicare. This proposed rule implements a reimbursement methodology similar to that furnished to Medicare beneficiaries for inpatient services provided by Sole Community Hospitals (SCHs). It will be phased in over a several-year period.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/00/11	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Marty Maxey, Department of Defense, Office of Assistant Secretary for Health Affairs, 1200 Defense Pentagon, Washington, DC 20301, Phone: 303 676–3627.

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