

(ii) A process for employees to report, without fear of retaliation, activity inconsistent with the zero-tolerance policy.

(iii) A recruitment and wage plan that only permits the use of recruitment companies with trained employees, prohibits charging recruitment fees to the employee, and ensures that wages meet applicable host-country legal requirements or explains any variance.

(iv) A housing plan, if the Contractor or subcontractor intends to provide or arrange housing, that ensures that the housing meets host-country housing and safety standards or explains any variance.

(v) Procedures to prevent agents and subcontractors at any tier and at any dollar value from engaging in trafficking in persons (including activities in paragraph (b)) and to monitor, detect, and terminate any agents, subcontracts, or subcontractor employees that have engaged in such activities.

(4) *Posting.* (i) The Contractor shall post the relevant contents of the compliance plan, no later than the initiation of contract performance, at the workplace and on the Contractor's Web site (if one is maintained).

(ii) The Contractor shall provide the compliance plan to the Contracting Officer upon request.

(5) *Certification.* Annually after receiving an award, the Contractor shall submit a certification to the Contracting Officer that—

(i) It has implemented a compliance plan to prevent any prohibited activities identified at paragraph (b) of this clause and to monitor, detect, and terminate any agent, subcontract or subcontractor employee engaging in prohibited activities; and

(ii) After having conducted due diligence, either—

(A) To the best of the Contractor's knowledge and belief, neither it nor any of its agents, subcontractors, or their agents is engaged in any such activities; or

(B) If abuses have been found, the Contractor or subcontractor has taken the appropriate remedial and referral actions.

(i) *Subcontracts.* (1) The Contractor shall include the substance of this clause, including this paragraph (i), in all subcontracts and in all contracts with agents. The requirements in paragraph (h) apply only to the portion of the subcontract that is required to be performed outside the United States, for which the estimated value exceeds \$500,000 and is for supplies acquired, other than commercially available off-the-shelf items or services performed, outside the United States.

(2) If applicable, the Contractor shall require subcontractors to submit a subcontract compliance plan and certification to the prime Contractor prior to the award of the subcontract and annually thereafter. The certification shall cover the items in paragraph (h)(5).

(End of clause)

*Alternate I (DATE).* As prescribed in 22.1705(a)(2), substitute the following paragraph in place of paragraph (c)(1)(i) of the basic clause:

\* \* \* \* \*

■ 15. Add section 52.222-XX to read as follows:

#### 52.222-XX Certification Regarding Trafficking in Persons Compliance Plan.

As prescribed in 22.1705(b), insert the following provision:

#### CERTIFICATION REGARDING TRAFFICKING IN PERSONS COMPLIANCE PLAN (DATE)

The apparent successful offeror shall submit, prior to award, for the portion of the contract where the estimated value of the supplies to be acquired, or services required to be performed, outside the United States exceeds \$500,000, a certification that—

(a) It has implemented a compliance plan to prevent any prohibited activities and to monitor, detect, and terminate the contract with a subcontractor engaging in prohibited activities identified at paragraph (b) of the clause at 52.222-50, Combating Trafficking in Persons; and

(b) After having conducted due diligence, either—

(1) To the best of the Contractor's knowledge and belief, neither it nor any of its agents, subcontractors, or their agents is engaged in any such activities; or

(2) If abuses have been found, the Contractor or subcontractor has taken the appropriate remedial and referral actions.

(End of Provision)

■ 16. Amend section 52.244-6 by—  
■ a. Revising the date of the provision and paragraph (c)(1)(viii) to read as follows:

#### 52.244-6 Subcontracts for Commercial Items.

\* \* \* \* \*

SUBCONTRACTS FOR COMMERCIAL ITEMS (DATE)

\* \* \* \* \*

(c)(1) \* \* \*

(viii) 52.222-50, Combating Trafficking in Persons (DATE) (22 U.S.C. chapter 78 and Executive Order 13627) (use with its Alternate I, if used in the prime contract).

\* \* \* \* \*

[FR Doc. 2013-23311 Filed 9-24-13; 11:15 am]

BILLING CODE 6820-EP-P

### DEPARTMENT OF DEFENSE

#### Defense Acquisition Regulations System

#### 48 CFR Parts 203, 204, 212, 222, and 252

[DFARS Case 2013-D007]

RIN 0750-AH93

#### Defense Federal Acquisition Regulation Supplement: Further Implementation of Trafficking in Persons Policy

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Proposed rule.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to further implement DoD trafficking in persons policy and to supplement Governmentwide changes proposed in connection with the Executive Order entitled Strengthening Protections Against Trafficking in Persons in Federal Contracts, to improve awareness, compliance, and enforcement.

**DATES:** *Comment Date:* Comments on the proposed rule should be submitted in writing to the address shown below on or before November 25, 2013, to be considered in the formation of a final rule.

**ADDRESSES:** Submit comments identified by DFARS Case 2013-D007, using any of the following methods:

○ *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by inserting "DFARS Case 2013-D007" under the heading "Enter keyword or ID" and selecting "Search." Select the link "Submit a Comment" that corresponds with "DFARS Case 2013-D007." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "DFARS Case 2013-D007" on your attached document.

○ *Email:* [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2013-D007 in the subject line of the message.

○ *Fax:* 571-372-6094.

○ *Mail:* Defense Acquisition Regulations System, Attn: Meredith Murphy, OUSD(AT&L)DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301-3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check [www.regulations.gov](http://www.regulations.gov), approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

**FOR FURTHER INFORMATION CONTACT:** Meredith Murphy, telephone 571-372-6098.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The United States Government has a longstanding zero-tolerance policy against human trafficking in Federal supply chains, codified in Governmentwide acquisition regulations at Federal Acquisition Regulation (FAR) subpart 22.17. DFARS Procedures, Guidance, and Information 22.1703 (referencing DoD Instruction

2200.01) supplements the policy, and DFARS 242.302 imposes additional monitoring requirements upon contractors. Despite these protections, recent reports on Federal contracting—including findings from the Commission on Wartime Contracting and agency Inspector General offices—and testimony presented at congressional hearings indicated that the Government needs to strengthen its policies and practices to ensure that no taxpayer resources are used to support such egregious labor violations.

On September 25, 2012, President Obama signed Executive Order 13627, *Strengthening Protections Against Trafficking in Persons in Federal Contracts*, to address these needs and reinforced the Government's commitment to a zero-tolerance. On January 2, 2013, the Congress passed its own measure in Title VXII of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239), known as the End Trafficking in Government Contracting Act. Both authorities create a stronger framework for agency prevention of trafficking by, among other things, (i) Clarifying what constitutes trafficking or trafficking-related activities in the Federal supply chain, (ii) requiring contractors in certain circumstances to maintain compliance plans to help ensure their employees do not engage in, or become complicit to, human trafficking in their supply chain, and (iii) establishing requirements for training the Federal acquisition workforce.

In addition to working with members of the Federal Acquisition Regulatory Council to implement the Executive Order and the statute in the Federal Acquisition Regulation, DoD has identified a number of important supplementary actions to help eradicate trafficking in its own supply chain. Accordingly, DoD is proposing changes to the DFARS coverage on trafficking to supplement the proposed new FAR coverage. The DFARS coverage would include ensuring that employees of DoD contractors are fully aware of their labor rights and that they have a means of reporting suspected labor violations directly to the DoD Inspector General's office. These added protections will further improve stability, productivity, and certainty in the contingency operations that DoD supports, and they will ensure that DoD contractors do not benefit from the use of coerced labor.

## II. Discussion and Analysis

This DFARS case proposes to amend DFARS parts 203, 204, 212, 222, and 252 of title 48, to increase contractor and employee awareness of trafficking

in persons and improve compliance and enforcement by the Government, contractors, and subcontractors.

Significant changes are as follows:

- Revise the title of DFARS clause 252.203–7004, now titled “Display of Fraud Hotline Poster(s),” to “Display of Hotline Poster(s)” and add the requirements for posting of additional types of hotline posters (regarding trafficking in persons and whistleblowing). The revised clause would retain the \$5 million threshold and the exclusion for commercial items, but require contractors to post these new posters when performing either inside or outside the United States. If a substantial portion of the workforce does not speak English, then contractors must also post the posters in the language(s) spoken by a substantial portion of the workforce.

- Add a new representation that the offerors' hiring practices address Combating Trafficking in Persons and that their companies are complying with these requirements (252.222–70XX). This representation would be applicable to all solicitations that exceed the simplified acquisition threshold, including contracts for acquisition of commercial items. This representation would also add requirements to notify employees and subcontractors regarding their obligation to report trafficking in persons violations and that they will be afforded whistleblower protection (see the clause at DFARS 252.203–7002, Requirement to Inform Employees of Whistleblower Rights).

- Integrate a contractor employee bill of rights (developed in 2009 by the Army Air Force Exchange Service as a Concessionaire Bill of Rights) into DFARS clause 252.225–7040, Contractor Personnel Authorized to Accompany the U.S. Armed Forces outside the United States, with a requirement that contractor employees be made aware of it, that their employers enforce it, and that it is posted in employee workspaces in English and any foreign languages spoken by a significant portion of the workforce.

## III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting

flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, *Regulatory Planning and Review*, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

## IV. 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.* However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

This rule proposes to amend the Defense Federal Acquisition Regulation Supplement to improve awareness, compliance, and enforcement of DoD policies on combating trafficking in persons. This rule proposes the display of hotline posters on combating trafficking in persons and whistleblower protection for contracts that exceed \$5 million (for performance both inside and outside the United States), display of a contractor employee bill of rights when the contract includes the DFARS clause 252.225–7040, Contractor Personnel Authorized to Accompany the U.S. Armed Forces Deployed Outside the United States, and a representation with regard to hiring policies that goes in all DoD solicitations and contracts that exceed the simplified acquisition threshold.

The legal basis for the rule is 41 U.S.C. 1303.

In total, there are about 57,760 small entities that do business with DoD. The mandatory disclosure requirements and the hotline poster requirements only apply to small business concerns with DoD contracts or subcontracts that exceed \$5 million (except for commercial items). The representation regarding hiring practices applies to all small business concerns that respond to solicitations with an estimated value exceeding the simplified acquisition threshold. The requirement to display the contractor employee bill of rights only applies to contracts that authorize contractor personnel to accompany the U.S. Armed Forces deployed outside the United States in contingency operations, humanitarian or peacekeeping operations, or other military operations or exercises, when designated by the combatant commander. None of these requirements is expected to impose a significant economic burden on small business concerns.

There are no requirements in this proposed rule that represent an information collection requirement.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

There were no alternatives to be adopted that could further decrease the impact on small entities.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 610 (DFARS Case 2013–D007), in correspondence.

#### V. Paperwork Reduction Act

The rule does not contain information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C chapter 35.)

#### List of Subjects in 48 CFR Parts 203, 204, 212, 222, and 252

Government procurement.

#### Manuel Quinones,

*Editor, Defense Acquisition Regulations System.*

Therefore, 48 CFR parts 203, 204, 212, 222, and 252 are proposed to be amended as follows:

■ 1. The authority citation for parts 203, 204, 212, 222, and 252 continues to read as follows:

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

#### PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

■ 2. In section 203.1004, paragraph (b)(2)(ii) is revised to read as follows:

##### 203.1004 Contact clauses.

(a) \* \* \*

(b)(2)(ii) Unless the contract is for the acquisition of a commercial item, if the contract exceeds \$5 million, use the clause at 252.203–7004, Display of 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 (see FAR 3.1003).

#### PART 204—ADMINISTRATIVE MATTERS

■ 3. In section 204.1202, paragraph (2) is amended by redesignating paragraphs (2)(v) through (xiii) as (2)(vi) through

(xiv) and adding a new paragraph (2)(v) as follows:

##### 204.1202 Solicitation provision.

\* \* \* \* \*

(2) \* \* \*

(v) 252.222–7007, Representation with Regard to Combating Trafficking in Persons.

\* \* \* \* \*

#### PART 212—ACQUISITION OF COMMERCIAL ITEMS

■ 4. In section 212.301, paragraph (f) is amended by redesignating paragraphs (f)(xiv) through (lxii) as (f)(xv) through (lxiii) and adding a new paragraph (f)(xiv) as follows:

212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(f) \* \* \*

(xiv) Use the provision at 252.222–7007, Representation with Regard to Combating Trafficking in Persons, as prescribed in 222.1771.

\* \* \* \* \*

#### PART 222—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

■ 5. Subpart 222.17 is amended by adding sections 222.1770 and 222.1771 as follows:

##### 222.1770 Procedures.

For a sample checklist for auditing compliance with Combating Trafficking in Persons policy, see the Defense Contract Management Agency checklist, Afghanistan Universal Examination Record Combating Trafficking in Persons, available at DFARS Procedures Guidance and Information 222.17 under the Supplemental Information tab.

##### 222.1771 Solicitation provision.

Unless the solicitation includes the provision at 252.204–7007, use the provision at 252.222–70XX, Representation with Regard to Combating Trafficking in Persons, in all solicitations and contracts that exceed the simplified acquisition threshold, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items.

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

■ 6. Section 252.203–7004 is amended by—

■ a. Removing the word “Fraud” from the section heading;

■ b. Removing the word “Fraud” from the clause title;

■ c. Removing the clause date “(DEC 2012)” and adding in its place “(DATE)”;

■ d. Redesignating paragraph (c) as paragraph (e) and adding new paragraphs (c) and (d); and

■ e. Revising newly designated paragraph (e).

The additions and revision read as follows:

##### 252.203–7004 Display of Hotline Poster(s)

\* \* \* \* \*

(c) *Display of Combating Trafficking in Persons and Whistleblower Protection hotline posters.* The Contractor shall display prominently in common work areas within business segments performing work under DoD contracts DoD Combating Trafficking in Persons and Whistleblower Protection hotline posters prepared by the DoD Office of the Inspector General.

(d)(1) These DoD hotline posters may be obtained from: Defense Hotline, The Pentagon, Washington, DC 20301–1900, or are also available online at [http://www.dodig.mil/hotline/hotline\\_posters.htm](http://www.dodig.mil/hotline/hotline_posters.htm).

(2) If a significant portion of the employee workforce does not speak English, then the posters are to be displayed in the foreign languages that a significant portion of the employees speak. Contact the DoD Inspector General at the address provided in paragraph (d)(1) of this clause if there is a requirement for employees to be notified of this clause and assistance with translation is required.

(3) Additionally, if the Contractor maintains a company Web site as a method of providing information to employees, the Contractor shall display an electronic version of these poster(s) at the Web site.

(e) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (e), in all subcontracts that exceed \$5 million except when the subcontract is for the acquisition of a commercial item.

(End of clause)

■ 7. Section 252.204–7007 is amended by—

■ a. Removing the provision date “(MAY 2013)” and adding in its place “(DATE)”;

■ b. Amending paragraph (d)(1) by redesignating paragraphs (d)(1)(iv) through (vii) as (d)(1)(v) through (viii) and adding new paragraph (d)(1)(iv) to read as follows:

##### 252.204–7007 Alternate A, Annual Representations and Certifications.

\* \* \* \* \*

(d)(1) \* \* \*

(iv) 252.222–7007, Representation with Regard to Combating Trafficking in Persons, as prescribed in 222.1771.

Applies to solicitations with a value expected to exceed the simplified acquisition threshold.

\* \* \* \* \*

■ 8. Section 252.222–70XX is added as follows:

**252.222–70XX Representation with Regard to Combating Trafficking in Persons.**

As prescribed in 222.1771, use the following provision:

## REPRESENTATION WITH REGARD TO COMBATING TRAFFICKING IN PERSONS

(DATE)

By submission of its offer, the Offeror represents that it—

(a) Will not engage in any trafficking in persons or related activities, including but not limited to the use forced labor, in the performance of this contract;

(b) Has hiring and subcontracting policies to protect the rights of its employees and the rights of subcontractor employees and will comply with those policies in the performance of this contract;

(c) Has notified its employees and subcontractors of—

(1) The responsibility to report trafficking in persons violations by the Contractor or subcontractor employees, at any tier; and

(2) Employee protection under 10 U.S.C. 2409, as implemented in FAR subpart 3.9, from retribution for whistleblowing on trafficking in persons violations.

(End of provision)

■ 9. Section 252.225–7040 is amended by—

■ a. Removing the clause date “(FEB 2013)” and adding in its place “(DATE)”; and

■ b. Adding paragraph (d)(8) to read as follows:

**252.225–7040 Contractor Personnel Authorized To Accompany U.S. Armed Forces Deployed Outside the United States.**

\* \* \* \*

(d) \* \* \*

(8)(i) The Contractor shall ensure that Contractor employees accompanying the U.S. Armed Forces are aware of their rights to—

(A) Hold their own identity or immigration documents, such as passport or driver's license;

(B) Receive agreed upon wages on time;

(C) Take lunch and work-breaks;

(D) Elect to terminate employment at any time;

(E) Identify grievances without fear of reprisal;

(F) Have a copy of their employment contract in a language they understand;

(G) Receive wages that are not below the legal in-country minimum wage;

(H) Be notified of their rights, wages, and prohibited activities prior to signing their employment contract; and

(I) If housing is provided, live in housing that meets host-country housing and safety standards.

(ii) The Contractor shall post these rights in employee work spaces in English and in any foreign language(s) spoken by a significant portion of the workforce.

(iii) The Contractor shall enforce the rights of Contractor personnel accompanying the U.S. Armed Forces.

\* \* \* \*

[FR Doc. 2013–23501 Filed 9–25–13; 8:45 am]

BILLING CODE 5001–06–P

**DEPARTMENT OF TRANSPORTATION****Federal Motor Carrier Safety Administration****49 CFR Parts 383**

[Docket No. FMCSA–2013–0140]

RIN 2126–AB61

**Commercial Driver's License Standards: Definition of Tank Vehicle Used for Determining the License Endorsement Requirement**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM), request for comments.

**SUMMARY:** FMCSA proposes to revise its definition of “tank vehicle.” Commercial driver's license (CDL) holders who operate such vehicles are required to obtain a tank vehicle endorsement. On May 9, 2011, FMCSA published a final rule on “Commercial Driver's License Testing and Commercial Learner's Permit Standards” that included a new definition of tank vehicle which required additional drivers to obtain tank vehicle endorsements on their commercial learners' permits (CLPs) and CDLs. FMCSA received numerous petitions regarding the new definition. On May 24, 2012, the Agency published guidance in the **Federal Register** to clarify the “tank vehicle” definition. This NPRM would revise the definition by incorporating the 2012 regulatory guidance. FMCSA seeks comment on the proposal and information on the impact that the revised definition would have on the industry.

**DATES:** Comments must be received on or before November 25, 2013.

**ADDRESSES:** You may submit comments identified by Docket Number FMCSA–2013–0140 using any of the following methods:

• **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the online instructions for submitting comments.

• **Mail:** Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

• **Hand Delivery or Courier:** West Building, Ground Floor, Room W12–

140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.  
• **Fax:** 202–493–2251.

To avoid duplication, please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments. Comments received after the comment closing date will be included in the docket, and we will consider late comments to the extent practicable. FMCSA may, however, issue a final rule at any time after the close of the comment period.

**FOR FURTHER INFORMATION CONTACT:**

Robert Redmond, Office of Safety Programs, Commercial Driver's License Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, by telephone at (202) 366–5014 or via email at [robert.redmond@dot.gov](mailto:robert.redmond@dot.gov). Office hours are from 8 a.m. to 4:30 p.m. ET, Monday through Friday, except Federal holidays. If you have questions on viewing or submitting material to the docket, contact Docket Operations, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:****Table of Contents for Preamble**

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**I. Public Participation and Request for Comments**

FMCSA encourages you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you provide.

**A. Submitting Comments**

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.