

required under this section with other reporting requirements, such as the title V monitoring report required by 40 CFR 70.6(a)(3)(iii)(A), but at no point shall the duration of a semiannual period exceed six months.

(i) The owner/operator shall submit a report that lists the monthly rolling 12-month emission rates for NO<sub>x</sub>.

(ii) The owner/operator shall submit excess emissions reports for NO<sub>x</sub> limits. Excess emissions means emissions that exceed the emissions limits specified in paragraph (k)(3) of this section. The reports shall include the magnitude, date(s), and duration of each period of excess emissions, specific identification of each period of excess emissions that occurs during startups, shutdowns, and malfunctions of the unit, the nature and cause of any malfunction (if known), and the corrective action taken or preventative measures adopted.

(iii) The owner/operator shall submit CEMS performance reports, to include dates and duration of each period during which the CEMS was inoperative (except for zero and span adjustments and calibration checks), reason(s) why the CEMS was inoperative and steps taken to prevent recurrence, and any CEMS repairs or adjustments.

(iv) The owner/operator shall also submit results of any CEMS performance tests specified by 40 CFR part 60, Appendix F, Procedure 1 (Relative Accuracy Test Audits, Relative Accuracy Audits, and Cylinder Gas Audits).

(v) When no excess emissions have occurred or the CEMS has not been inoperative, repaired, or adjusted during the reporting period, the owner/operator shall state such information in the reports required by paragraph (k)(9)(ii) of this section.

(13) *Notifications.* (i) The owner/operator shall submit notification of commencement of construction of any equipment which is being constructed to comply with the NO<sub>x</sub> emission limits in paragraph (k)(3) of this section.

(ii) The owner/operator shall submit semiannual progress reports on construction of any such equipment.

(iii) The owner/operator shall submit notification of initial startup of any such equipment.

(iv) By June 30, 2018, the owner/operator of the Clarkdale Plant shall notify EPA Region 9 by letter whether it will comply with the emission limits in paragraph (k)(3)(i) of this section or whether it will comply with the emission limits in paragraph (k)(4) of this section. In the event that the owner/operator does not submit timely and proper notification by June 30, 2018, the owner/operator of the Clarkdale Plant

may not choose to comply with the alternative emission limits in paragraph (k)(4) of this section and shall comply with the emission limits in paragraph (k)(3)(i) of this section.

(14) *Equipment operation.* (i) At all times, including periods of startup, shutdown, and malfunction, the owner or operator shall, to the extent practicable, maintain and operate the unit including associated air pollution control equipment in a manner consistent with good air pollution control practices for minimizing emissions. Pollution control equipment shall be designed and capable of operating properly to minimize emissions during all expected operating conditions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Regional Administrator which may include, but is not limited to, monitoring results, review of operating and maintenance procedures, and inspection of the unit.

(ii) After completion of installation of ammonia injection on a unit, the owner or operator shall inject sufficient ammonia to achieve compliance with NO<sub>x</sub> emission limits set forth in paragraph (k)(3) of this section for that unit while preventing excessive ammonia emissions.

(15) *Enforcement.* Notwithstanding any other provision in this implementation plan, any credible evidence or information relevant as to whether the unit would have been in compliance with applicable requirements if the appropriate performance or compliance test had been performed, can be used to establish whether or not the owner or operator has violated or is in violation of any standard or applicable emission limit in the plan.

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Part 232

[Docket DARS-2016-0009]

RIN 0750-AI90

#### Defense Federal Acquisition Regulation Supplement: Contract Financing (DFARS Case 2015-D026)

**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) regarding the use of customary contract financing, other than loan guarantees and advance payments, on certain fixed-price contracts.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before August 29, 2016, to be considered in the formation of a final rule.

**ADDRESSES:** Submit comments identified by DFARS Case 2015-D026, using any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by entering "DFARS Case 2015-D026" under the heading "Enter keyword or ID" and selecting "Search." Select the link "Submit a Comment" that corresponds with "DFARS Case 2015-D026." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "DFARS Case 2015-D026" on your attached document.

- *Email:* [osd.dfars@mail.mil](mailto:osd.dfars@mail.mil). Include DFARS Case 2015-D026 in the subject line of the message.

- *Fax:* 571-372-6094.

- *Mail:* Defense Acquisition Regulations System, Attn: Mr. Mark Gomersall, OUSD (AT&L) DPAP/DARS, Room 3B941, 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:** Mr. Mark Gomersall, telephone 571-372-6099.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

DoD is proposing to revise the DFARS regarding the use of customary contract financing, other than loan guarantees and advance payments identified in FAR part 32, on fixed-price contracts with a period of performance in excess of one year that meet the dollar thresholds established in FAR 32.104(d). DoD has determined that the use of such customary contract financing provides improved cash flow as an incentive for commercial companies to do business with DoD, is in DoD's best interest, and requires no further justification of its use.

## II. Discussion and Analysis

The proposed rule amends DFARS 232.104 to state that DoD has made the determination that the use of customary contract financing (see FAR 32.113), other than loan guarantees and advance payments, is in DoD's best interest, and further justification of its use is unnecessary on fixed-price contracts that meet the dollar thresholds established in FAR 32.104(d), with a period of performance in excess of a year, and in solicitations expected to result in such contracts.

## 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 not a significant regulatory action and, therefore, was not 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:

DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to state that DoD has made the determination that the use of customary contract financing (see FAR 32.113), other than loan guarantees and advance payments, is in DoD's best interest, and further justification of its use is unnecessary on fixed-price contracts that meet the dollar thresholds established in FAR 32.104(d), with a period of performance in excess of a year, and in solicitations expected to result in such contracts.

The objective of the proposed rule is to clarify that the use of certain customary contract financing does not require further justification, as it has been determined to be in DoD's best interest, and the use of the specified contract financing is an incentive for

commercial companies to do business with DoD.

This rule will apply to DoD contractors, including small entities, where a fixed-price contract with a period of performance in excess of one year and meeting the thresholds in FAR 32.104(d) is contemplated.

There is no change to reporting or recordkeeping as a result of this rule. This rule changes processes that are internal to the Government and does not have any impact on small entities for reporting or recordkeeping.

The rule does not duplicate, overlap, or conflict with any other Federal rules. There are no known significant alternative approaches to the rule that would meet the requirements.

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 2015–D026), in correspondence.

## V. Paperwork Reduction Act

The rule does not contain any 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 Part 232

Government procurement.

**Jennifer L. Hawes,**

*Editor, Defense Acquisition Regulations System.*

Therefore, 48 CFR part 232 is proposed to be amended as follows:

### PART 232—CONTRACT FINANCING

■ 1. The authority citation for part 232 continues to read as follows:

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

■ 2. Add section 232.104 to subpart 232.1 to read as follows:

#### 232.104 Providing contract financing.

For fixed-price contracts with a period of performance in excess of a year that meet the dollar thresholds established in FAR 32.104(d), and for solicitations expected to result in such contracts, in lieu of the requirement at FAR 32.104(d)(1)(ii) for the contractor to demonstrate actual financial need or the unavailability of private financing, DoD has determined that—

(1) The use of customary contract financing (see FAR 32.113), other than loan guarantees and advance payments, is in DoD's best interest; and

(2) Further justification of its use in individual acquisitions is unnecessary.

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Part 252

[Docket DARS–2016–0020]

RIN 0750–AI96

#### Defense Federal Acquisition Regulation Supplement: Administrative Cost To Issue and Administer a Contract (DFARS Case 2016–D020)

**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 revise the estimated administrative cost to award and administer a contract, for the purpose of evaluating bids for multiple awards.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before August 29, 2016, to be considered in the formation of a final rule.

**ADDRESSES:** Submit comments identified by DFARS Case 2016–D020, using any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by entering “DFARS Case 2016–D020” under the heading “Enter keyword or ID” and selecting “Search.” Select the link “Submit a Comment” that corresponds with “DFARS Case 2016–D020.” Follow the instructions provided at the “Submit a Comment” screen. Please include your name, company name (if any), and “DFARS Case 2016–D020” on your attached document.

- *Email:* [osd.dfars@mail.mil](mailto:osd.dfars@mail.mil). Include DFARS Case 2016–D020 in the subject line of the message.

- *Fax:* 571–372–6094.

- *Mail:* Defense Acquisition Regulations System, Attn: Mr. Christopher Stiller, OUSD (AT&L) DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.