

certain non-abusive arrangements, while encouraging beneficial and innocuous arrangements” (56 FR 35952, July 29, 1991). Health care providers and others may voluntarily seek to comply with these provisions so that they have the assurance that their business practices will not be subject to any enforcement action under the anti-kickback statute or related administrative authorities.

To date, OIG has developed and codified in 42 CFR 1001.952 a total of 22 final safe harbors that describe practices that are sheltered from liability.

### *B. OIG Special Fraud Alerts*

OIG has also periodically issued Special Fraud Alerts to give continuing guidance to health care providers with respect to practices OIG finds potentially fraudulent or abusive. The Special Fraud Alerts encourage industry compliance by giving providers guidance that can be applied to their own practices. OIG Special Fraud Alerts are intended for extensive distribution directly to the health care provider community, as well as to those charged with administering the Federal health care programs.

In developing these Special Fraud Alerts, OIG has relied on a number of sources and has consulted directly with experts in the subject field, including those within OIG, other agencies of the Department, other Federal and State agencies, and those in the health care industry. To date, OIG has issued 12 individual Special Fraud Alerts.

### *C. Section 205 of Public Law 104–191*

Section 205 of Public Law 104–191 requires the Department to develop and publish an annual notice in the **Federal Register** formally soliciting proposals for modifying existing safe harbors to the anti-kickback statute and for developing new safe harbors and Special Fraud Alerts.

In developing safe harbors for a criminal statute, OIG is required to engage in a thorough review of the range of factual circumstances that may fall within the proposed safe harbor subject area so as to uncover potential opportunities for fraud and abuse. Only then can OIG determine, in consultation with the Department of Justice, whether it can effectively develop regulatory limitations and controls that will permit beneficial and innocuous arrangements within a subject area while, at the same time, protecting the Federal health care programs and their beneficiaries from abusive practices.

## **II. Solicitation of Additional New Recommendations and Proposals**

In accordance with the requirements of section 205 of Public Law 104–191, OIG last published a **Federal Register** solicitation notice for developing new safe harbors and Special Fraud Alerts on December 10, 2004 (69 FR 71766). As required under section 205, a status report of the public comments received in response to that notice is set forth in Appendix F to the OIG’s Semiannual Report covering the period April 1, 2005, through September 30, 2005.<sup>1</sup> OIG is not seeking additional public comment on the proposals listed in Appendix F at this time. Rather, this notice seeks additional recommendations regarding the development of proposed or modified safe harbor regulations and new Special Fraud Alerts beyond those summarized in Appendix F to the OIG Semiannual Report referenced above.

### *A. Criteria for Modifying and Establishing Safe Harbor Provisions*

In accordance with section 205 of HIPAA, we will consider a number of factors in reviewing proposals for new or modified safe harbor provisions, such as the extent to which the proposals would affect an increase or decrease in:

- Access to health care services,
- The quality of services,
- Patient freedom of choice among health care providers,
- Competition among health care providers,
- The cost to Federal health care programs,
- The potential overutilization of the health care services, and
- The ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

In addition, we will also take into consideration other factors, including, for example, the existence (or nonexistence) of any potential financial benefit to health care professionals or providers that may take into account their decisions whether to (1) order a health care item or service or (2) arrange for a referral of health care items or services to a particular practitioner or provider.

### *B. Criteria for Developing Special Fraud Alerts*

In determining whether to issue additional Special Fraud Alerts, we will also consider whether, and to what extent, the practices that would be

identified in a new Special Fraud Alert may result in any of the consequences set forth above, as well as the volume and frequency of the conduct that would be identified in the Special Fraud Alert.

A detailed explanation of justifications for, or empirical data supporting, a suggestion for a safe harbor or Special Fraud Alert would be helpful and should, if possible, be included in any response to this solicitation.

Dated: November 30, 2005.

**Daniel R. Levinson,**  
*Inspector General.*

[FR Doc. 05–23624 Filed 12–8–05; 8:45 am]

BILLING CODE 4150–04–P

## **DEPARTMENT OF DEFENSE**

### **48 CFR Parts 208, 252, and 253 and Appendix B to Chapter 2**

[DFARS Case 2003–D072]

### **Defense Federal Acquisition Regulation Supplement; Required Sources of Supply**

**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 addressing acquisitions made through Government supply sources. 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 February 7, 2006, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2003–D072, 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–D072 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.

<sup>1</sup> The OIG Semiannual Report can be accessed through the OIG Web site at <http://oig.hhs.gov/publications/semiannual.html>.

• *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/dars/dfars/transformation/index.htm>.

This proposed rule is a result of the DFARS Transformation initiative. The proposed DFARS changes:

- Delete informational text on GSA Federal Supply Schedules that is unnecessary for inclusion in the DFARS.
- Delete text on the Defense National Stockpile and the acquisition of helium. These issues are adequately addressed in the Federal Acquisition Regulation at 8.003 and subpart 8.5.
- Delete obsolete text on the DoD Industrial Preparedness Production Planning Program. There is no longer a DoD-wide Program.
- Delete procedures for ordering from central nonprofit agencies; for acquisition of items under the DoD Coordinated Acquisition Program; for contracting or performing field service functions for NASA; for use of the DoD Precious Metals Recovery Program; and for use of enterprise software agreements for acquiring commercial software and related services. Text on these subjects will be relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI). Additional information on PGI is 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 deletes unnecessary, obsolete, or procedural DFARS text, but makes no significant change to DoD contracting policy. 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-D072.

**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 208, 252, and 253**

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

Therefore, DoD proposes to amend 48 CFR parts 208, 252, and 253 and Appendix B to Chapter 2 as follows:

1. The authority citation for 48 CFR parts 208, 252, and 253 and Appendix B to subchapter I continues to read as follows:

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

**PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES**

2. Section 208.002 is revised to read as follows:

**208.002 Priorities for use of Government supply sources.**

(a)(1)(v) See subpart 208.70, Coordinated Acquisition, and subpart 208.74, Enterprise Software Agreements.

**208.003 [Removed]**

3. Section 208.003 is removed.

4. Section 208.705 is revised to read as follows:

**208.705 Procedures.**

Follow the procedures at PGI 208.705 when placing orders with central nonprofit agencies.

**208.7000 [Amended]**

5. Section 208.7000 is amended in paragraph (a), in the parenthetical, by removing “appendix B” and adding in its place “PGI 208.7006”.

6. Sections 208.7002-1 and 208.7002-2 are revised to read as follows:

**208.7002-1 Acquiring department responsibilities.**

See PGI 208.7002-1 for the acquiring department’s responsibilities.

**208.7002-2 Requiring department responsibilities.**

See PGI 208.7002-2 for the requiring department’s responsibilities.

7. Section 208.7003-1 is amended by revising paragraph (a) introductory text and paragraph (b) to read as follows:

**208.7003-1 Assignments under integrated materiel management (IMM).**

(a) Acquire all items assigned for IMM from the IMM manager except—

\* \* \* \* \*

(b) Follow the procedures at PGI 208.7003-1(b) when an item assigned for IMM is to be acquired by the requiring department in accordance with paragraph (a)(3) of this subsection.

8. Section 208.7004 is revised to read as follows:

**208.7004 Procedures.**

Follow the procedures at PGI 208.7004 for processing coordinated acquisition requirements.

**208.7004-1 through 208.7004-10 [Removed]**

9. Sections 208.7004-1 through 208.7004-10 are removed.

10. Sections 208.7005 and 208.7006 are revised to read as follows:

**208.7005 Military Interdepartmental Purchase Requests.**

Follow the procedures at:

(a) PGI 253.208-1 when using DD Form 448, Military Interdepartmental Purchase Request; and

(b) PGI 253.208-2 when using DD Form 448-2, Acceptance of MIPR.

**208.7006 Coordinated acquisition assignments.**

See PGI 208.7006 for coordinated acquisition assignments.

11. Sections 208.7101 and 208.7102 are revised to read as follows:

**208.7101 Policy.**

Departments and agencies shall cooperate fully with NASA in making acquisition services, equipment, personnel, and facilities available on the basis of mutual agreement.

**208.7102 Procedures.**

Follow the procedures at PGI 208.7102 when contracting or performing services for NASA.

**208.7103 through 208.7105 [Removed]**

12. Sections 208.7103, 208.7104, and 208.7105 are removed.

**Subpart 208.72 [Removed and Reserved]**

13. Subpart 208.72 (consisting of §§ 208.7201, 208.7202, 208.7203, and 208.7204) is removed and reserved.

**208.7301 [Amended]**

14. Section 208.7301 is amended by removing the definitions of “Dual pricing evaluation procedure” and “Precious Metals Indicator Code (PMIC)”.

**208.7302 [Amended]**

15. Section 208.7302 is amended in the first sentence by removing “(PMRP)”.

16. Sections 208.7303 and 208.7304 are revised to read as follows:

**208.7303 Procedures.**

Follow the procedures at PGI 208.7303 for use of the Precious Metals Recovery Program.

**208.7304 Refined precious metals.**

See PGI 208.7304 for a list of refined precious metals managed by DSCP.

**208.7401 [Amended]**

17. Section 208.7401 is amended by removing the definitions of “Golden Disk” and “Software product manager”.

18. Section 208.7403 is revised to read as follows:

**208.7403 Acquisition procedures.**

Follow the procedures at PGI 208.7403 when acquiring commercial software and related services.

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

19. Section 252.225–7025 is amended by revising the clause date and paragraph (a)(1) to read as follows:

**252.225–7025 Restriction on Acquisition of Forgings.**

\* \* \* \* \*

Restriction on Acquisition of Forgings (XXX 2005)

(a) \* \* \*

(1) *Domestic manufacture means:*

(i) Manufactured in the United States or its outlying areas; or  
(ii) Manufactured in Canada, if the Canadian firm normally produces similar items or is currently producing

the item in support of DoD contracts (as a contractor or a subcontractor).

\* \* \* \* \*

**PART 253—FORMS**

20. Sections 253.208–1 and 253.208–2 are revised to read as follows:

**253.208–1 DD Form 448, Military Interdepartmental Purchase Request.**

Follow the procedures at PGI 253.208–1 for use of DD Form 448.

**253.208–2 DD Form 448–2, Acceptance of MIPR.**

Follow the procedures at PGI 253.208–2 for use of DD Form 448–2.

**Appendix B to Chapter 2 [Removed and Reserved]**

21. Appendix B to Chapter 2 is removed and reserved.

[FR Doc. 05–23724 Filed 12–8–05; 8:45 am]

BILLING CODE 5001–08–P

**DEPARTMENT OF DEFENSE****48 CFR Parts 225 and 252**

[DFARS Case 2005–D002]

**Defense Federal Acquisition Regulation Supplement; Restriction on Carbon, Alloy, and Armor Steel Plate**

**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 clarify the restriction on the acquisition of foreign carbon, alloy, or armor steel plate. The restriction implements provisions of annual DoD appropriations acts.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before February 7, 2006, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2005–D002, 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 2005–D002 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**

Section 8111 of the Fiscal Year 1992 DoD Appropriations Act (Pub. L. 102–172) and similar sections in subsequent DoD Appropriations Acts (the most recent being section 8029 of Pub. L. 108–287) contain a restriction on the acquisition of carbon, alloy, or armor steel plate, that is not melted and rolled in the United States or Canada, for use in any Government-owned facility or property under the control of DoD. This restriction is implemented in the DFARS at 225.7011–1 through 225.7011–3 and in the corresponding contract clause at 252.225–7030. The wording of these DFARS sections is presently inconsistent. To clarify the restriction, this proposed rule revises DFARS 225.7011–1 and 225.7011–3 for consistency with the wording in paragraph (b) of the clause at 252.225–7030. In addition, the proposed rule separates paragraph (b) of the clause into subparagraphs to further clarify the applicability of the restriction.

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 proposed DFARS changes clarify existing policy regarding the statutory restriction on the acquisition of foreign carbon, alloy, or armor steel plate. 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 2005–D002.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the rule does not