

(ii) An economic downturn, the occurrence of a natural disaster, or similar events in the service area that severely restrict or reduce sources of local funding support; or

(iii) The unexpected discontinuation of local support from one or more sources that a project has relied on for a period of years.

\* \* \* \* \*

Dated: August 13, 2010.

**Tom Bryant,**

*Associate General Counsel.*

[FR Doc. 2010-20525 Filed 8-19-10; 8:45 am]

**BILLING CODE 6050-28-P**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Parts 202, 212, and 234

[DFARS Case 2008-D011]

#### Defense Federal Acquisition Regulation Supplement; Acquisition of Commercial Items

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

**ACTION:** Final rule.

**SUMMARY:** DoD is adopting as final, without change, the interim rule that amended the Defense Federal Acquisition Regulation Supplement (DFARS) to implement sections 805 and 815 of the National Defense Authorization Act for Fiscal Year 2008. This rule specified when time-and-materials or labor-hour contracts may be used for the acquisition of commercial items, and revised the language to address the conditions under which major weapon systems or subsystems may be treated as commercial items.

**DATES:** *Effective Date:* August 20, 2010.

**FOR FURTHER INFORMATION CONTACT:** Ms. Cassandra R. Freeman, Defense Acquisition Regulations System, OUSD (AT&L) DPAP/DARS, 3060 Defense Pentagon, Room 3B855, Washington, DC 20301-3060. Telephone 703-602-8383; facsimile 703-602-0350. Please cite DFARS Case 2008-D011.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

DoD published an interim rule at 74 FR 34263 on July 15, 2009, to implement sections 805 and 815 of the National Defense Authorization Act (NDAA) for Fiscal Year 2008 (Pub. L. 110-181). A correction to the interim rule was published at 74 FR 35825 on

July 21, 2009, to clarify the types of services to which this rule applies, consistent with subsections (c)(1)(A) and (c)(1)(C)(i) of section 805 of the NDAA for Fiscal Year 2008. Section 805 specified when time-and-materials or labor-hour contracts may be used for commercial item acquisitions. Section 815 of the NDAA for Fiscal Year 2008 provided clarification regarding situations under which the procurement of a major weapon system, subsystems of major weapon systems, and components and spare parts for major weapon systems, may be acquired using procedures established for the acquisition of commercial items. Section 815 also clarified that the terms "general public" and "non-governmental entities" with regard to sales of commercial items, do not include the Federal Government or a State, local, or foreign government.

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 certifies that this rule will not 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 reinforces existing requirements for the appropriate use of commercial acquisition procedures and for ensuring that contract prices are fair and reasonable.

#### 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 202, 212, and 234

Government procurement.

**Ynette R. Shelkin,**

*Editor, Defense Acquisition Regulations System.*

#### Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule published at 74 FR 34263 on July 15, 2009, as corrected at 75 FR 35825 on July 21, 2009, is adopted as final without change.

[FR Doc. 2010-20436 Filed 8-19-10; 8:45 am]

**BILLING CODE 5001-08-P**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Parts 247 and 252

#### Defense Federal Acquisition Regulation Supplement; Transportation (DFARS Case 2003-D028)

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

**ACTION:** Final rule.

**SUMMARY:** DoD is issuing a final rule, with changes, amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update text on transportation matters relating to DoD contracts.

**DATES:** *Effective Date:* August 20, 2010.

**FOR FURTHER INFORMATION CONTACT:** Ms. Mary Overstreet, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), 3060 Defense Pentagon, Room 3B855, Washington, DC 20301-3060. Telephone 703-602-0311; facsimile 703-602-0350. Please cite DFARS Case 2003-D028.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

In keeping with the DFARS Transformation initiative objective of improving the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate, DoD issued a proposed rule at 70 FR 43109 on July 26, 2005, to update text on transportation matters relating to DoD contracts, including clarifying certain shipping procedures and offering additional guidance on their use.

This final rule is a result of the DFARS Transformation initiative. The changes to the final rule—

- Delete text on transportation matters that are sufficiently addressed in the Federal Acquisition Regulation or in DoD transportation regulations;
- Clarify requirements for inclusion of shipping instructions in solicitations and contracts; and
- Delete procedures for contracting for the preparation of property for shipment or storage; and for preparation of consignment instructions. Text on these subjects will be relocated to the DFARS companion resource, Procedures, Guidance, and Information (PGI). Additional information on PGI is available at <http://www.acq.osd.mil/dpap/dars/pgi>.