

## 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/dfars/transf.htm>.

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

- Deletion of unnecessary text at DFARS 214.201–1, 214.407–3(h), and 214.5.
- Redesignation of DFARS 214.202–5(d) as 214.202–5(c) for consistency with the corresponding FAR text.
- Addition of the Defense Contract Management Agency General Counsel to the list of agency officials authorized to permit correction of mistakes in bid before award.

DoD published a proposed rule at 69 FR 8152 on February 23, 2004. DoD received no comments on the proposed rule. Therefore, DoD has adopted the proposed rule as a final rule without change.

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 final 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 deletes unnecessary text and updates administrative information, but makes no significant change to contracting policy.

## 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 Part 214

Government procurement.

**Michele P. Peterson,**  
*Executive Editor, Defense Acquisition Regulations Council.*

■ Therefore, 48 CFR part 214 is amended as follows:

■ 1. The authority citation for 48 CFR part 214 continues to read as follows:

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

## PART 214—SEALED BIDDING

### 214.201–1 [Removed]

■ 2. Section 214.201–1 is removed.

### 214.202–5 [Amended]

■ 3. Section 214.202–5 is amended by redesignating paragraph (d) as paragraph (c).

■ 4. Section 214.407–3 is amended as follows:

- a. By adding paragraph (e)(ix); and
- b. By removing paragraph (h). The added text reads as follows:

### 214.407–3 Other mistakes disclosed before award.

(e) \* \* \*

(ix) Defense Contract Management Agency: General Counsel, DCMA.

### Subpart 214.5—[Removed]

■ 5. Subpart 214.5 is removed.

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## DEPARTMENT OF DEFENSE

### 48 CFR Part 228

[DFARS Case 2003–D037]

### Defense Federal Acquisition Regulation Supplement; Insurance

**AGENCY:** Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to insurance requirements. This rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

**EFFECTIVE DATE:** November 10, 2004.

**FOR FURTHER INFORMATION CONTACT:** Mr. Thaddeus Godlewski, Defense Acquisition Regulations Council, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–2022; facsimile (703) 602–0350. Please cite DFARS Case 2003–D037.

## 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/dfars/transf.htm>.

This final rule is a result of the DFARS Transformation initiative. The rule deletes DFARS text in the areas addressed below. This text has been relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI), available at <http://www.acq.osd.mil/dpap/dars/pgi>.

- *DFARS 228.304, Risk-pooling arrangements.* In the early 1950's, DoD teamed with the insurance industry to develop a program that would minimize the cost of workers' compensation and contractor liability charged to Government contracts. The objective was to provide an optional insurance plan to be used if it provided a better deal than what could be purchased on the open market. The team's solution was the National Defense Projects Rating Plan (NDPRP). The NDPRP defined premiums via a formula based upon average workers' compensation rates throughout the country and adjusted for experience pooled from Defense contractors. This produced premiums without loadings, *e.g.*, commissions, and eliminated the burden of negotiating premiums every year with insurance carriers. Today, there is little cost difference between the NDPRP and the states' workers' compensation program, because the states have adopted the same premium algorithm as the NDPRP and many contractors have adopted self-insurance. The text at DFARS 228.304 may be beneficial in the event of a prolonged surge in Defense contract activity, and should be retained as guidance. Accordingly, DoD has removed this text from the DFARS and relocated it to the new DFARS companion resource, PGI.
- *DFARS 228.305, Overseas workers' compensation and war-hazard insurance.* The Defense Base Act (42

U.S.C. 1651 *et seq.*) extends the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901) to various classes of employees working outside the United States. When the agency head recommends a waiver to the Secretary of Labor, the Secretary may waive the applicability of the Defense Base Act to any contract, subcontract, work location, or classification of employees. DFARS 228.305 provides the procedures within DoD for submitting such requests for waiver. DoD has removed this procedural text from the DFARS and relocated it to the new DFARS companion resource, PGI.

DoD published a proposed rule at 69 FR 8153 on February 23, 2004. DoD received no comments on the proposed rule. Therefore, DoD has adopted the proposed rule as a final rule without change.

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 final 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 deletes DFARS text addressing procedural matters, but makes no significant change to contracting policy.

#### 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 Part 228

Government procurement.

Michele P. Peterson,

*Executive Editor, Defense Acquisition Regulations Council.*

■ Therefore, 48 CFR part 228 is amended as follows:

■ 1. The authority citation for 48 CFR part 228 continues to read as follows:

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

#### PART 228—BONDS AND INSURANCE

■ 2. Sections 228.304 and 228.305 are revised to read as follows:

##### 228.304 Risk-pooling arrangements.

DoD has established the National Defense Projects Rating Plan, also known as the Special Casualty Insurance Rating Plan, as a risk-pooling

arrangement to minimize the cost to the Government of purchasing the liability insurance listed in FAR 28.307–2. Use the plan in accordance with the procedures at PGI 228.304 when it provides the necessary coverage more advantageously than commercially available coverage.

##### 228.305 Overseas workers' compensation and war-hazard insurance.

(d) When submitting requests for waiver, follow the procedures at PGI 228.305(d).

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#### DEPARTMENT OF DEFENSE

#### 48 CFR Parts 235 and 252

[DFARS Case 2003–D067]

#### Defense Federal Acquisition Regulation Supplement; Research and Development Contracting

**AGENCY:** Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to research and development contracting. This rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

**EFFECTIVE DATE:** November 10, 2004.

**FOR FURTHER INFORMATION CONTACT:** Ms. Robin Schulze, Defense Acquisition Regulations Council, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0326; facsimile (703) 602–0350. Please cite DFARS Case 2003–D067.

#### 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/dfars/transf.htm>.

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

- Updating of a statutory reference at DFARS 235.006–70.

- Deletion of unnecessary text at DFARS 235.007 and 235.015.

- Deletion of text at DFARS 235.010 regarding DoD maintenance of scientific and technical reports. Text on this subject has been relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI), available at <http://www.acq.osd.mil/dpap/dars/pgi>.

- Updating of administrative information at DFARS 235.017–1 and 252.235–7011.

DoD published a proposed rule at 69 FR 8158 on February 23, 2004. DoD received no comments on the proposed rule. Therefore, DoD has adopted the proposed rule as a final rule without change.

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 final 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 updates administrative information, and deletes DFARS text that is unnecessary or procedural, but makes no significant change to contracting policy.

#### 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 235 and 252

Government procurement.

Michele P. Peterson,

*Executive Editor, Defense Acquisition Regulations Council.*

■ Therefore, 48 CFR Parts 235 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR Parts 235 and 252 continues to read as follows:

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