

In establishing the ECIP, the Commission requires applicants seeking to participate in the program to submit certain information that shows the transaction qualifies for ECIP inclusion. The Commission found that the ECIP builds on Congressional goals in the MOBILE NOW Act to incentivize beneficial transactions in the public interest that will promote greater competition in the provision of wireless services, facilitate increased availability of advanced wireless services in rural areas, facilitate new opportunities for small carriers and Tribal Nations to increase access to spectrum, and bring more advanced wireless service including 5G to underserved communities. Specifically, in the ECIP Report and Order, the Commission revised its rules to allow any covered geographic licenses in included services to be leased to eligible entities through a long-term leasing arrangement.

Specifically, in the ECIP Report and Order, the Commission revised its rules to allow any covered geographic licenses in included services to be leased to eligible entities through a long-term leasing arrangement, to designate a Qualifying Transaction identified in the application as seeking consideration under the ECIP. Two new questions are being added to the FCC Form 608 as a result. Respondents are required to indicate by yes or no answer whether the application is seeking consideration under ECIP. Respondents are also required to select the applicable ECIP prong to its Qualifying Transaction, pursuant to either § 1.60003 or § 1.60004. A certification is also included via attachment to FCC Form 608 for the purpose of certifying compliance with § 1.60002 of the Commission's rules, which requires simply a check box of yes by the applicant. This has been approved by non-substantive change request.

Finally, a new Schedule J is being added to FCC Form 608 and will be used by Spectrum Manager Lessors (*i.e.*, the Licensee) to file either the Initial Operation Requirement Notifications (IORN) or the Final Operation Requirement Notifications (FORN), as required by 47 CFR 1.60004, 1.60006, on behalf of the Lessee.

Federal Communications Commission.

**Marlene Dortch,**

Secretary.

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Part 212, 237, and 252

[Docket DARS-2023-0016]

RIN 0750-AL07

#### Defense Federal Acquisition Regulation Supplement: Transfer and Adoption of Military Animals (DFARS Case 2020-D021)

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

**ACTION:** Final rule.

**SUMMARY:** DoD is issuing a final rule to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2020.

**DATES:** Effective February 15, 2024.

**FOR FURTHER INFORMATION CONTACT:** Kimberly R. Ziegler, telephone 703-901-3176.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

DoD published a proposed rule in the **Federal Register** at 88 FR 25606 on April 27, 2023, to implement section 372(f) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2020 (Pub. L. 116-92). Section 372(f), as implemented at 10 U.S.C. 2387 (previously 10 U.S.C. 2410r), requires DoD contracting officers to include a clause in contracts when contract working dogs are provided under the contract. 10 U.S.C. 2387 requires the transfer of a contract working dog, after the service life of the dog has terminated, to the United States Air Force, 341st Training Squadron. The preamble to the proposed rule contained a detailed description of the treatment and care to be provided for a contract working dog whose service life has terminated and the conditions under which that determination may be made.

Three respondents submitted comments on the proposed rule.

##### II. Discussion and Analysis.

DoD reviewed the public comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments is provided, as follows:

##### A. Summary of Significant Changes from the Proposed Rule.

There are no significant changes from the proposed rule.

##### B. Analysis of Public Comments

##### 1. Support for the Rule

*Comment:* Some respondents support the rule.

*Response:* The support is noted.

##### 2. Application to All Contracts for Military Working Dogs

*Comment:* Some respondents voiced concerns that the rule will only apply to contracts at or below the simplified acquisition threshold (SAT).

*Response:* The rule applies to all contracts for contract working dogs, as defined in 10 U.S.C. 2387(c), including those valued at or below the SAT. Section III of the preamble for the proposed rule provides the legal basis for applying the rule to contracts valued at or below the SAT and for commercial services and products, including commercially available off-the-shelf (COTS) items.

##### 3. Replacement vs. Termination of Contract Working Dogs

*Comment:* Some respondents were concerned that a contract working dog would be replaced instead of retired under a service contract, avoiding the termination and transfer of the dog.

*Response:* DoD generally contracts for a team consisting of the working dog and handler under a service contract. Service contracts include standards of performance for the team. If the team cannot perform to the standard, the contractor is generally expected to replace the team with a team that can perform to the standard. The statute recognizes that the inability to perform to the standard in an individual DoD contract does not mean that a dog has met the conditions for retirement or termination. Specifically, the contract working dog service life would continue if the dog could be utilized on another Federal Government contract, which could have different standards than a DoD contract.

*Comment:* A respondent expressed concerns that the proposed rule explanation of the impact characterized the need for a contracting officer to make a determination as "rare" because it may be assumed that a dog's service life would never be terminated.

*Response:* As noted in section IV of the preamble for the proposed rule, DoD does not expect the impact of the rule to be significant because the number of acquisitions that include contract working dogs and handlers are few in number. If the contracting officer's representative or requiring activity identifies a non-performing working dog and handler, an assessment will be conducted by Government experts to

determine if the conditions at 10 U.S.C. 2387(b) are met before a recommendation is provided to the contracting officer.

#### 4. DoD Handlers

*Comment:* Some respondents asserted that contract working dogs are paired with military and DoD civilian handlers and that DoD's statement to the contrary, provided in the preamble for the proposed rule, is inaccurate. The respondents refer to DoD Inspector General (DoDIG) report 2018–081, entitled "The Army's Tactical Explosive Detection Dog Disposition Process from 2011 to 2014."

*Response:* This rule addresses contract working dogs that are not Government-owned property (see 10 U.S.C. 2387(c)). Contract working dogs addressed by this rule are not paired with military personnel or DoD civilian employee handlers. The respondent's references to DoDIG report 2018–081 seem to indicate a misunderstanding of the difference between a contract working dog and those working dogs procured as Government property under the military working dog and Tactical Explosive Detection Dog (TEDD) programs. The TEDD program authorized the procurement of a working dog and provided that a contractor, rather than the Government, train, house, and care for the dog through certification under the military working dog standards. The Government owned these military working dogs and was responsible for their disposition in accordance with 10 U.S.C. 2583.

#### 5. Penalty for Noncompliance

*Comment:* Some respondents requested that the final rule include a penalty for noncompliance.

*Response:* The statute does not provide a specific penalty for contractor noncompliance; however, contracting officers may use existing contracting regulations to enforce the terms of the contract.

#### C. Other Changes

Text at DFARS contract clause 252.237–7027, Transfer and Adoption of Military Animals, is revised for clarity. At DFARS 237.7804, the prescription for the clause is also revised for clarity.

### III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Services and Commercial Products, Including Commercially Available Off-the-Shelf (COTS) Items

The contract clause at DFARS 252.237–7027, Transfer and Adoption of

Military Animals, is prescribed at DFARS 237.7804 for use in solicitations and contracts, including solicitations and contracts using Federal Acquisition Regulation (FAR) part 12 procedures for commercial products and commercial services, that require the services of a contract working dog. Consistent with the analysis that DoD provided in the proposed rule with regard to the application of the requirements of section 372(f) of the NDAA for FY 2020, DoD has made the determination to apply the statute, as implemented in the clause at DFARS 252.237–7027, to contracts at or below the SAT and to the acquisition of commercial services, as defined at FAR 2.101.

#### IV. Expected Impact of the Rule

DoD does not expect the rule to have a significant impact on the public, because the need for a contracting officer to make a determination that a contract working dog has reached the end of its service life will be rare. Such acquisitions are few in number, and service contractors who provide contract working dogs and handlers are expected to replace dogs and handlers who are unable to perform to DoD standards. A contracting officer's representative (COR) would be responsible for monitoring contract performance and coordinating any replacement dog and handler requirements. If the COR or requiring activity identifies a non-performing working dog and handler, an assessment will be conducted by Government experts to determine if the conditions at 10 U.S.C. 2387(b) are met before a recommendation is provided to the contracting officer for action.

#### V. 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, as amended.

#### VI. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801–808) before an interim or final rule takes effect, DoD

will submit a copy of the interim or final rule with the form, Submission of Federal Rules Under the Congressional Review Act, to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule under the Congressional Review Act cannot take effect until 60 days after it is published in the **Federal Register**. The Office of Information and Regulatory Affairs has determined that this rule is not a major rule as defined by 5 U.S.C. 804.

#### VII. Regulatory Flexibility Act

A final regulatory flexibility analysis has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* and is summarized as follows:

This final rule amends the Defense Federal Acquisition Regulation Supplement (DFARS) to implement 10 U.S.C. 2387, as amended by section 372(f) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2020 (Pub. L. 116–92). Under 10 U.S.C. 2387, DoD contracting officers are required to include a clause in contracts for contract working dog services.

The objective of the rule is to implement the statutory requirements for terminating the service life of a contract working dog, when certain circumstances apply, and transferring the animal to the Department of the Air Force, 341st Training Squadron.

There were no significant issues raised by the public in response to the initial regulatory flexibility analysis.

This rule will apply to small entities providing contract working dog and handler services to DoD. The contract clause is prescribed for use in solicitations and contracts for such services, including those conducted under FAR part 12 procedures for the acquisition of commercial products and commercial services.

Research conducted in the Contract Opportunities section of *SAM.gov* indicates that contract working dog and handler services are generally procured under North American Industry Classification System codes and product and service codes that provide for certain physical security and law enforcement services. Data obtained from the Federal Procurement Data System (FPDS) for FYs 2019, 2020, and 2021 indicate that DoD awards an average of 227 contract actions annually for these physical security and law enforcement services, which may include a requirement for a contract working dog and handler. Of the estimated 227 awards, an average of approximately 72 awards are made annually to an estimated 52 unique

small entities. Neither FPDS nor SAM.gov provide data for the number of awards that are specific to the contract working dog and handler services; however, this analysis assumes all of the estimated awards and unique small entities may be impacted.

The rule does not impose any new reporting, recordkeeping, or compliance requirements.

There are no practical alternatives that will accomplish the objectives of the statute.

### VIII. Paperwork Reduction Act

This final 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 212, 237, and 252

Government procurement.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 212, 237, and 252 are amended as follows:

■ 1. The authority citation for parts 212, 237, and 252 continues to read as follows:

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

#### PART 212—ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

■ 2. Amend section 212.301 by adding paragraph (f)(xv)(E) to read as follows:

**212.301 Solicitation provisions and contract clauses for the acquisition of commercial products and commercial services.**

\* \* \* \* \*

(f) \* \* \*

(xv) \* \* \*

(E) Use the clause at 252.237–7027, Transfer and Adoption of Military Animals, as prescribed in 237.7804 to comply with 10 U.S.C. 2387.

\* \* \* \* \*

#### PART 237—SERVICE CONTRACTING

■ 3. Add subpart 237.78 to read as follows:

##### Subpart 237.78—Transfer and Adoption of Military Animals

Sec.  
237.7800 Scope of subpart.  
237.7801 Definition.  
237.7802 Policy.  
237.7803 Procedures.  
237.7804 Contract clause.

##### Subpart 237.78—Transfer and Adoption of Military Animals

###### 237.7800 Scope of subpart.

This subpart implements 10 U.S.C. 2387, which requires, under certain circumstances, the transfer of a contract working dog to the Department of Air Force, 341st Training Squadron, for veterinary screening and care in accordance with 10 U.S.C. 2583.

###### 237.7801 Definition.

As used in this subpart—  
*Contract working dog* means a dog that—

- (1) Performs a service for DoD pursuant to a contract; and
- (2) Is trained and kenneled by an entity that provides such a dog pursuant to such a contract.

###### 237.7802 Policy.

(a) In accordance with 10 U.S.C. 2387, DoD will transfer a contract working dog to the Department of the Air Force, 341st Training Squadron, for veterinary screening and care after the service life of the dog has terminated.

(b) The service life of a contract working dog may be terminated if—

(1) The final contractual obligation of the dog preceding transfer is with DoD; and

(2) The dog cannot be used by another department or agency of the Federal Government due to age, injury, or performance.

(c) A contract working dog that has reached the end of its service life will be transferred for care, reclassification as a military animal, and placement for adoption in accordance with 10 U.S.C. 2583.

###### 237.7803 Procedures.

Contracting officers, at the request of the requiring activity, may issue a determination that the service life of a contract working dog has terminated if the conditions in 237.7802(b) have been documented by the requiring activity.

###### 237.7804 Contract clause.

Use the clause at 252.237–7027, Transfer and Adoption of Military Animals, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services, that require the services of a contract working dog.

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

■ 4. Add section 252.237–7027 to read as follows:

##### 252.237–7027 Transfer and Adoption of Military Animals.

As prescribed in 237.7804, use the following clause:

##### Transfer and Adoption of Military Animals (Feb 2024)

(a) *Definition.* As used in this clause—  
*Contract working dog* means a dog that—

(1) Performs a service for DoD pursuant to a contract; and

(2) Is trained and kenneled by an entity that provides such a dog pursuant to such a contract.

(b) In accordance with 10 U.S.C. 2387, if the Contracting Officer determines that the service life of a contract working dog has terminated, the dog will be transferred to the Department of the Air Force, 341st Training Squadron, for veterinary screening and care, reclassification as a military animal, and placement for adoption in accordance with 10 U.S.C. 2583.

(c) The service life of a contract working dog may be terminated if the Contracting Officer determines that—

(1) The final contractual obligation of the dog preceding transfer is with DoD; and

(2) The dog cannot be used by another department or agency of the Federal Government due to age, injury, or performance.

(End of clause)

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Part 213

[Docket DARS–2024–0001]

#### Defense Federal Acquisition Regulation Supplement; Technical Amendments

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

**ACTION:** Final rule; technical amendment.

**SUMMARY:** DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to make needed editorial changes.

**DATES:** Effective February 15, 2024.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jennifer D. Johnson, Defense Acquisition Regulations System, telephone 703–717–8226.

**SUPPLEMENTARY INFORMATION:** This final rule amends the DFARS to make needed editorial changes to add a pointer to DFARS Procedures, Guidance, and Information.