

**PART 242—CONTRACT ADMINISTRATION AND AUDIT SERVICES**

2. Section 242.002 is amended by revising paragraph (S-70)(iii) to read as follows:

**242.002 Interagency agreements.**

\* \* \* \* \*

(S-70) \* \* \*

(iii) Other foreign governments (including Canadian government organizations other than SSC) and international organizations send their requests for contract administration services to the DoD Central Control Point (CCP) at the Headquarters, Defense Contract Management Agency, International and Federal Business Team. Contract administration offices provide services only upon request from the CCP. The CCP shall follow the procedures at PGI 242.002 (S-70)(iii).

3. Section 242.202 is amended by revising paragraph (a)(i)(D) to read as follows:

**242.202 Assignment of contract administration.**

(a)(i) \* \* \*

(D) Management and professional support services;

\* \* \* \* \*

**Subpart 242.4—[Removed]**

4. Subpart 242.4 is removed.

5. Section 242.503-2 is revised to read as follows:

**242.503-2 Postaward conference procedure.**

DD Form 1484, Post-Award Conference Record, may be used in conducting the conference and in preparing the conference report.

**242.503-3, 242.570, and 242.704 [Removed]**

6. Sections 242.503-3, 242.570, and 242.704 are removed.

7. Section 242.705-1 is revised to read as follows:

**242.705-1 Contracting officer determination procedure.**

(a) *Applicability and responsibility.*

(1) The corporate administrative contracting officer (CACO) and individual administrative contracting officers (ACOs) shall jointly decide how to conduct negotiations. Follow the procedures at PGI 242.705-1(a)(1) when negotiations are conducted on a coordinated basis.

**242.705-2 [Amended]**

8. Section 242.705-2 is amended in paragraph (b)(2)(iii) by removing the last sentence.

**242.705-3, 242.801, and 242.1202 [Removed]**

9. Sections 242.705-3, 242.801, and 242.1202 are removed.

10. Section 242.1203 is revised to read as follows:

**242.1203 Processing agreements.**

The responsible contracting officer shall process and execute novation and change-of-name agreements in accordance with the procedures at PGI 242.1203.

**Subpart 242.15—[Removed]**

11. Subpart 242.15 is removed.

12. Section 242.7100 is revised to read as follows:

**242.7100 General.**

A voluntary refund is a payment or credit (adjustment under one or more contracts or subcontracts) to the Government from a contractor or subcontractor that is not required by any contractual or other legal obligation. Follow the procedures at PGI 242.7100 for voluntary refunds.

**242.7101 and 242.7102 [Removed]**

13. Sections 242.7101 and 242.7102 are removed.

14. Sections 242.7400 and 242.7401 are revised to read as follows:

**242.7400 General.**

(a) Program managers may conclude that they need technical representation in contractor facilities to perform non-contract administration service (CAS) technical duties and to provide liaison, guidance, and assistance on systems and programs. In these cases, the program manager may assign technical representatives under the procedures in 242.7401.

(b) A technical representative is a representative of a DoD program, project, or system office performing non-CAS technical duties at or near a contractor facility. A technical representative is not—

(1) A representative of a contract administration or contract audit component; or

(2) A contracting officer's representative (*see* 201.602).

**242.7401 Procedures.**

When the program, project, or system manager determines that a technical representative is required, follow the procedures at PGI 242.7401.

**242.7500 and 242.7501 [Removed]**

15. Sections 242.7500 and 242.7501 are removed.

**242.7502 and 242.7503 [Redesignated]**

16. Sections 242.7502 and 242.7503 are redesignated as sections 242.7501 and 242.7502, respectively.

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

**252.242-7000 [Removed and Reserved]**

17. Section 252.242-7000 is removed and reserved.

18. Section 252.242-7004 is amended by revising the clause date and adding paragraph (d)(4) to read as follows:

**252.242-7004 Material Management and Accounting System.**

\* \* \* \* \*

**MATERIAL MANAGEMENT AND ACCOUNTING SYSTEM (XXX 2005)**

\* \* \* \* \*

(d) \* \* \*

(4) If the contractor fails to make adequate progress, the ACO must take further action. The ACO may—

(i) Elevate the issue to higher level management;

(ii) Further reduce progress payments and/or disallow costs on vouchers;

(iii) Notify the contractor of the inadequacy of the contractor's cost estimating system and/or cost accounting system; and

(iv) Issue cautions to contracting activities regarding the award of future contracts.

\* \* \* \* \*

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**DEPARTMENT OF DEFENSE**

**48 CFR Parts 244 and 252**

[DFARS Case 2003-D025]

**Defense Federal Acquisition Regulation Supplement; Subcontracting Policies and Procedures**

**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 pertaining to subcontracts awarded under DoD contracts. 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 June 13, 2005, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2003–D025, 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–D025 in the subject line of the message.

- Fax: (703) 602–0350.

- Mail: Defense Acquisition Regulations Council, Attn: Ms. Debbie Tronic, 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. Debbie Tronic, (703) 602–0289.

**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 proposed rule is a result of the DFARS Transformation initiative. The proposed changes—

- Revise DFARS 244.301 to clarify Government responsibilities for conducting reviews of contractor purchasing systems.
- Delete text at DFARS 244.304 containing examples of weaknesses in a contractor's purchasing system that may indicate the need for a review. This text will be relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI), available at <http://www.acq.osd.mil/dpap/dars/pgi>.

- Update the clause at DFARS 252.244–7000 to reflect the current title

of the clause at FAR 52.244–6, Subcontracts for Commercial Items.

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 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–D025.

**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 244 and 252**

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

Therefore, DoD proposes to amend 48 CFR Parts 244 and 252 as follows:

1. The authority citation for 48 CFR Parts 244 and 252 continues to read as follows:

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

**PART 244—SUBCONTRACTING POLICIES AND PROCEDURES**

2. Section 244.301 is revised to read as follows:

**244.301 Objective.**

The administrative contracting officer (ACO) is solely responsible for initiating reviews of the contractor's purchasing systems, but other organizations may request that the ACO initiate such reviews.

3. Section 244.304 is revised to read as follows:

**244.304 Surveillance.**

(b) The ACO, or the purchasing system analyst (PSA) with the concurrence of the ACO, may initiate a special review of specific weaknesses in

the contractor's purchasing system. See PGI 244.304(b) for examples of weaknesses.

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

**252.244–7000 [Amended]**

4. Section 252.244–7000 is amended as follows:

- a. By revising the clause date to read “(XXX 2005)”; and

- b. In the introductory text of the clause by removing the phrase “and Commercial Components”.

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**GENERAL SERVICES ADMINISTRATION**

**48 CFR Parts 538 and 552**

[GSAR 2005–G501]

RIN 3090–A106

**General Services Acquisition Regulation; Federal Agency Retail Pharmacy Program**

**AGENCY:** Office of the Chief Acquisition Officer, General Services Administration (GSA).

**ACTION:** Proposed rule.

**SUMMARY:** The General Services Administration (GSA) is proposing to amend the General Services Acquisition Regulation (GSAR) to add a new subpart and clause required by the Department of Veterans Affairs (VA), consistent with Congressional intent under Section 603 of the Veterans Health Care Act of 1992 (VHCA) that certain Federal agencies (*i.e.*, VA, Department of Defense (DoD), Public Health Service (including the Indian Health Service), and the Coast Guard) have access to Federal pricing for pharmaceuticals purchased for their beneficiaries.

GSA is responsible for the schedules program and rules related to its operation. Under GSA's delegation of authority, the VA procures medical supplies under the VA Federal Supply Schedule program. VA and DoD seek this amendment. This new subpart adds a clause unique to the virtual depot system established by a Federal Agency Retail Pharmacy Program utilizing contracted retail pharmacies as part of a centralized pharmaceutical commodity management program. At this time, only DoD has a program in place, and the rule would facilitate DoD's access to Federal pricing offered on Federal Supply Schedule (FSS) pharmaceutical