

## A. Background

DoD published an interim rule at 70 FR 43074 on July 26, 2005, to implement section 819 of the National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108-375). Section 819 amended 10 U.S.C. 2325(a)(2) to permit the Director of the Defense Contract Management Agency to make determinations of savings related to contractor restructuring costs that are expected to be less than \$25 million over a 5-year period. In addition, the DFARS rule removed unnecessary references to requirements for certifications for business combinations that occurred before November 1997; and clarified requirements for projected restructuring costs and savings to be computed on a present value basis.

DoD received no comments on the interim rule. Therefore, DoD has adopted the interim 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 cost principle addressed in this rule applies only to DoD contractors that incur restructuring costs for external restructuring activities.

## 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 231

Government procurement.

#### Michele P. Peterson,

*Editor, Defense Acquisition Regulations System.*

### Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule amending 48 CFR part 231, which was published at 70 FR 43074 on July 26, 2005, is adopted as a final rule without change.

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Part 236

[DFARS Case 2003-D034]

### Defense Federal Acquisition Regulation Supplement; Construction Contracting

**AGENCY:** Defense Acquisition Regulations System, 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 contracting for construction. This rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

**DATES:** *Effective Date:* February 23, 2006.

**FOR FURTHER INFORMATION CONTACT:** Mr. Euclides Barrera, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0296; facsimile (703) 602-0350. Please cite DFARS Case 2003-D034.

#### 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 final rule is a result of the DFARS Transformation initiative. The rule—

- Deletes DFARS text defining and addressing the use of network analysis systems, as this subject is addressed in the United Facilities Guide Specifications used by the military departments in specifying construction requirements; and

- Deletes DFARS text on distribution and use of contractor performance reports, handling of Government estimates of construction costs, use of bid schedules with additive or deductive items, and technical working agreements with foreign governments. Text on these subjects has been relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI), available at <http://www.acq.osd.mil/dpap/dars/pgi>.

DoD published a proposed rule at 70 FR 35605 on June 21, 2005. 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 and streamlines DFARS text, but makes no significant change to DoD 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 236

Government procurement.

#### Michele P. Peterson,

*Editor, Defense Acquisition Regulations System.*

■ Therefore, 48 CFR part 236 is amended as follows:

■ 1. The authority citation for 48 CFR part 236 continues to read as follows:

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

## PART 236—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

### 236.102 [Amended]

■ 2. Section 236.102 is amended by removing paragraph (4) and redesignating paragraph (5) as paragraph (4).

■ 3. Section 236.201 is amended by revising paragraph (c) to read as follows:

### 236.201 Evaluation of contractor performance.

\* \* \* \* \*

(c) Follow the procedures at PGI 236.201(c) for distribution and use of performance reports.

■ 4. Section 236.203 is revised to read as follows:

**236.203 Government estimate of construction costs.**

Follow the procedures at PGI 236.203 for handling the Government estimate of construction costs.

■ 5. Section 236.213 is revised to read as follows:

**236.213 Special procedures for sealed bidding in construction contracting.**

If it appears that sufficient funds may not be available for all the desired construction features, consider using a bid schedule with additive or deductive items in accordance with PGI 236.213.

**236.213–70 and 236.273 [Removed]**

■ 6. Sections 236.213–70 and 236.273 are removed.

**236.274 [Redesignated]**

■ 7. Section 236.274 is redesignated as section 236.273.

■ 8. Newly designated section 236.273 is amended by revising paragraph (b) to read as follows:

**236.273 Construction in foreign countries.**

\* \* \* \* \*

(b) See PGI 236.273(b) for guidance on technical working agreements with foreign governments.

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Part 242

[DFARS Case 2003–D050]

#### Defense Federal Acquisition Regulation Supplement; Contractor Insurance/Pension Reviews

**AGENCY:** Defense Acquisition Regulations System, 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 Government review of contractor insurance programs, pension plans, and other deferred compensation plans. This rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

**DATES:** *Effective Date:* February 23, 2006.

**FOR FURTHER INFORMATION CONTACT:** Ms. Debra Overstreet, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0310; facsimile (703) 602–0350. Please cite DFARS Case 2003–D050.

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

- Update and clarify requirements and responsibilities for Government review of a contractor's insurance programs, pension plans, and other deferred compensation plans; and
- Delete text addressing procedural matters relating to these reviews. 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>.

DoD published a proposed rule at 70 FR 35606 on June 21, 2005. 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 contractor insurance/pension review requirements apply primarily to large business concerns.

#### 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 242

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

■ Therefore, 48 CFR part 242 is amended as follows:

■ 1. The authority citation for 48 CFR part 242 continues to read as follows:

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

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

##### 242.7300 [Removed]

■ 2. Section 242.7300 is removed.

■ 3. Sections 242.7301 through 242.7303 are revised to read as follows:

##### 242.7301 General.

(a) The administrative contracting officer (ACO) is responsible for determining the allowability of insurance/pension costs in Government contracts and for determining the need for a Contractor/Insurance Pension Review (CIPR). Defense Contract Management Agency (DCMA) insurance/pension specialists and Defense Contract Audit Agency (DCAA) auditors assist ACOs in making these determinations, conduct CIPRs when needed, and perform other routine audits as authorized under FAR 42.705 and 52.215–2. A CIPR is a DCMA/DCAA joint review that—

(1) Provides an in-depth evaluation of a contractor's—

- (i) Insurance programs;
- (ii) Pension plans;
- (iii) Other deferred compensation plans; and

(iv) Related policies, procedures, practices, and costs; or

(2) Concentrates on specific areas of the contractor's insurance programs, pension plans, or other deferred compensation plans.

(b) DCMA is the DoD Executive Agency for the performance of all CIPRs.

(c) DCAA is the DoD agency designated for the performance of contract audit responsibilities related to Cost Accounting Standards administration as described in FAR Subparts 30.2 and 30.6 as they relate to a contractor's insurance programs,