

8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a "significant regulatory action" as defined under Executive Order 12866.

9. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Pub. L. 104-113, 12(d) (15 U.S.C. 272), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) that are developed or adopted by voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This rule does not involve "technical standards" as defined by the NTTAA. Therefore, EPA is not considering the use of any voluntary consensus standards.

10. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low Income Populations

To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency must make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health and environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands. Because this rule proposes authorization of pre-existing State rules and imposes no additional requirements beyond those imposed by State law and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information,

Hazardous materials transportation, Hazardous waste, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This proposed action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: October 18, 2006.

Ronald A. Kreizenbeck,

Acting Regional Administrator, EPA Region 10.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 235

RIN 0750-AF45

Defense Federal Acquisition Regulation Supplement; Contracting Methods and Contract Type (DFARS Case 2006-D018)

AGENCY: Defense Acquisition Regulations System, 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 add an exception to the requirement for a written determination before using a fixed-price type contract for a development program effort. The exception would apply to contracts for systems integration of commercial off-the-shelf information technology products under the DoD Enterprise Software Initiative.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before January 8, 2007, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2006-D018, using any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: dfars@osd.mil. Include DFARS Case 2006-D018 in the subject line of the message.
- Fax: (703) 602-0350.
- Mail: Defense Acquisition Regulations System, Attn: Mr. Mark Gomersall, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062.

- Hand Delivery/Courier: Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202-3402.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gomersall, (703) 602-0302.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule amends DFARS 235.006 to add an exception to the requirement for a written determination before using a fixed-price type contract for a development program effort. The exception would apply to contracts for systems integration of commercial off-the-shelf information technology products under the DoD Enterprise Software Initiative. The Enterprise Software Initiative, addressed in DFARS Subpart 208.74, promotes the use of enterprise software agreements with contractors that allow DoD to obtain favorable terms and pricing for commercial software and related services.

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 relates to requirements for a written determination that is prepared and executed by the Government. The rule makes no significant change to DoD policy regarding the use of fixed-price contracts for development effort. 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 subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2006-D018.

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 235

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

Therefore, DoD proposes to amend 48 CFR part 235 as follows:

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

1. The authority citation for 48 CFR part 235 continues to read as follows:

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

2. Section 235.006 is amended as follows:

- a. By revising paragraph (b)(i)(C) introductory text;
- b. By redesignating paragraphs (b)(ii) and (iii) as paragraphs (b)(iii) and (iv) respectively; and
- c. By adding a new paragraph (b)(ii) to read as follows:

235.006 Contracting methods and contract type.

(b)(i) * * *

(C) Except as provided in paragraph (b)(ii) of this section, a written determination that the criteria of paragraphs (b)(i)(A) and (B) of this section have been met is executed—
(ii) The written determination specified in paragraph (b)(i)(C) of this section is not required for the acquisition of systems integration of commercial off-the-shelf information technology products under the Enterprise Software Initiative (see Subpart 208.74).

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DEPARTMENT OF DEFENSE**Defense Acquisition Regulations System****48 CFR Part 252 and Chapter 2**

RIN 0750-AF53

Defense Federal Acquisition Regulation Supplement; Receiving Reports for Shipments (DFARS Case 2006-D024)

AGENCY: Defense Acquisition Regulations System, 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

address requirements for the distribution of material inspection and receiving reports under DoD contracts. The proposed rule clarifies that copies of the Wide Area WorkFlow-Receipt and Acceptance (WAWF-RA) report must be distributed with a shipment, when WAWF-RA is used to satisfy material inspection and receiving report requirements.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before January 8, 2007, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2006-D024, using any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: dfars@osd.mil. Include DFARS Case 2006-D024 in the subject line of the message.
- Fax: (703) 602-0350.
- Mail: Defense Acquisition Regulations System, Attn: Ms. Robin Schulze, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062.
- Hand Delivery/Courier: Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202-3402.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Schulze, (703) 602-0326.

SUPPLEMENTARY INFORMATION:**A. Background**

The clause at DFARS 252.246-7000, Material Inspection and Receiving Report, contains requirements for preparing and furnishing material inspection and receiving reports to the Government. Contractors can satisfy material inspection and receiving report requirements by using DD Form 250, in a manner and to the extent required by DFARS Appendix F, or by using the Wide Area WorkFlow-Receipt and Acceptance (WAWF-RA) electronic form. This proposed rule clarifies that, when WAWF-RA is used, two copies of the WAWF-RA report must be distributed with the shipment in accordance with DFARS Appendix F. Such clarification is needed to ensure proper identification of all shipments.

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 policy for preparation and use of material inspection and receiving reports. 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 2006-D024.

C. Paperwork Reduction Act

The information collection requirements for DoD material inspection and receiving reports have been approved by the Office of Management and Budget, under Control Number 0704-0248, for use through March 31, 2008.

List of Subjects in 48 CFR Part 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

Therefore, DoD proposes to amend 48 CFR part 252 and Appendix F to chapter 2 as follows:

1. The authority citation for 48 CFR part 252 and Appendix F to subchapter I continues to read as follows:

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

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

2. Section 252.246-7000 is revised to read as follows:

252.246-7000 Material Inspection and Receiving Report.

As prescribed in 246.370, use the following clause:

Material Inspection and Receiving Report (XXX 2006)

(a) At the time of each delivery of supplies or services under this contract, the Contractor shall prepare and furnish to the Government a material inspection and receiving report in the manner and to the extent required by Appendix F, Material Inspection and Receiving Report, of the Defense FAR Supplement.

(b) Contractor submission of the material inspection and receiving information required by Appendix F of the Defense FAR Supplement by using the Wide Area