



5001-06-P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 204, 211, 212, 217, 218, 219, 222, 225, 227, 237, 239, 242, 243, 245, and 252

[Docket DARS-2017-0022]

Defense Federal Acquisition Regulation Supplement: Technical Amendments

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

ACTION: Final rule.

SUMMARY: DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement (DFARS) to provide needed editorial changes.

DATES: Effective **[Insert date of publication in the Federal Register]**.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer L. Hawes, Defense Acquisition Regulations System, OUSD(AT&L)DPAP(DARS), Room 3B941, 3060 Defense Pentagon, Washington, DC 20301-3060. Telephone 571-372-6115; facsimile 571-372-6094.

SUPPLEMENTARY INFORMATION: This final rule amends the DFARS as follows—

1. Corrects the title of DFARS clause 252.204-7009 at 204.7304(b) and 212.301(f)(ii)(B) to add the missing words

"Reported Cyber Incident" to the clause title.

2. Revises the following DFARS sections to reflect updated references and cite the applicable volumes of DoD Manual 4140.01, which replaced DoD 4140.1-R. The updated references are cited at: DFARS 211.275-2(a)(1), 217.7001(b), 217.7002(b), 217.7003(a), 217.7506, 217.7601(b), 239.7001, 242.1105(1)(i), and 252.211-7006(b)(1)(i).

3. Corrects cross references at DFARS 218.271(d), 225.7501(a)(2)(i), 227.7103-10(a)(1), 237.102-75, and 252.247-7020 introductory text.

4. Provides guidance at DFARS 219.705-4(d) that contracting officers may use the checklist at DFARS Procedures, Guidance, and Information (PGI) 219.705-4 when reviewing subcontracting plans, and to see PGI 219.705-6(f) for guidance on reviewing subcontracting reports.

5. Revises DFARS 222.406-9(c)(3) to state that the Department of Labor will retain withheld funds pending completion of an investigation or other administrative proceedings in lieu of the Comptroller General. On November 25, 2014, Federal Acquisition Regulation (FAR) final rule 2014-011 was published in the Federal Register (79 FR 70342) to implement the Streamlining Claims Processing for Federal Contractor Employees Act, which transferred certain functions from the Government Accountability Office to the Department of Labor. This update aligns DFARS

222.406-9(c) (3) with FAR 22.406-9(c) (3).

6. Corrects, at DFARS 225.870-4(c) (3), the titles of DFARS clauses 252.215-7003 and 252.215-7004 by adding the missing words "Submission of" to each clause title.

7. Corrects a reference at DFARS 242.7301(b).

8. Makes a minor editorial change to DFARS 242.7503 by adding "or" after the semicolon in paragraph (a).

9. Corrects a typographical error at DFARS 243.204-70-3(b) by correcting the spelling of "contracting".

10. Renumbers DFARS section 245.103-73 as 245.103-74. Provides new guidance at DFARS 245.103-73 for contracting officers to see DFARS Procedures, Guidance, and Information (PGI) 245.103-73 for information on reporting Government property under sustainment contracts.

11. Makes an editorial correction to DFARS clause 252.246-7008, by adding a comma in paragraph (e).

12. Provide updated internet links at DFARS 252.245-7002 (b) (1) and 252.245-7004(b) and (b) (1) (iv).

List of Subjects in 48 CFR Parts 204, 211, 212, 217, 218, 219, 222, 225, 227, 237, 239, 242, 243, 245, and 252

Government procurement.

Jennifer L. Hawes,

Regulatory Control Officer

Defense Acquisition Regulations System.

Therefore, 48 CFR parts 204, 211, 212, 217, 218, 219, 222, 225, 227, 237, 239, 242, 243, 245, and 252 are amended as follows:

1. The authority citation for 48 CFR parts 204, 211, 212, 217, 218, 219, 222, 225, 227, 237, 239, 242, 243, 245, and 252 continues to read as follows:

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

PART 204—ADMINISTRATIVE MATTERS

204.7304 [Amended]

2. Amend section 204.7304(b) by removing "Limitations on the Use or Disclosure of Third-Party Contractor Information" and adding "Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information" in its place.

PART 211—DESCRIBING AGENCY NEEDS

211.275-2 [Amended]

3. Amend section 211.275-2(a)(1) introductory text by removing "DoD 4140.1-R, DoD Supply Chain Materiel Management Regulation, AP1.1.11" and adding "DoD Manual 4140.01, Volume 6, DoD Supply Chain Materiel Management Procedures: Materiel Returns, Retention, and Disposition" in its place.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

212.301 [Amended]

4. Amend section 212.301(f)(ii)(B) by removing "Limitations on the Use or Disclosure of Third-Party Contractor Information" and

adding "Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information" in its place.

PART 217—SPECIAL CONTRACTING METHODS

217.7001 [Amended]

5. Amend section 217.7001(b) by removing "DoD 4140.1-R, DoD Materiel Management Regulation, Chapter 9.5, Exchange or Sale of Nonexcess Personal Property" and adding "DoD Manual 4140.01, Volume 9, DoD Supply Chain Materiel Management Procedures: Materiel Programs" in its place.

217.7002 [Amended]

6. Amend section 217.7002(b) by removing "DoD 4140.1-R, Chapter 9.5" and adding "DoD Manual 4140.01, Volume 9, DoD Supply Chain Materiel Management Procedures: Materiel Programs" in its place.

217.7003 [Amended]

7. Amend section 217.7003(a) by removing "DoD 4140.1-R, Chapter 9.5" and adding "DoD Manual 4140.01, Volume 9, DoD Supply Chain Materiel Management Procedures: Materiel Programs" in its place.

217.7506 [Amended]

8. Amend section 217.7506 by removing "DoD 4140.1-R, DoD Supply Chain Materiel Management Regulation, Chapter 8, Section C8.3" and adding "DoD Manual 4140.01, Volume 9, DoD Supply Chain Materiel Management Procedures: Materiel Programs" in its place.

217.7601 [Amended]

9. Amend section 217.7601(b) by removing "DoD 4140.1-R, DoD Supply Chain Materiel Management Regulation, Chapter 2, Section C2.2" and adding "DoD Manual 4140.01, Volume 2, DoD Supply Chain Materiel Management Procedures: Demand and Supply Planning" in its place.

PART 218—EMERGENCY ACQUISITIONS

218.271 [Amended]

10. Amend 218.271(d) by removing "FAR 13.500(e)" and adding "FAR 13.500(c)(1)" in its place.

PART 219—SMALL BUSINESS PROGRAMS

11. Revise section 219.705-4 to read as follows:

219.705-4 Reviewing the subcontracting plan.

(d)(i) Challenge any subcontracting plan that does not contain positive goals. A small disadvantaged business goal of less than five percent must be approved one level above the contracting officer.

(ii) The contracting officer may use the checklist at PGI 219.705-4 when reviewing subcontracting plans in accordance with FAR 19.705-4.

12. Add section 219.705-6 to read as follows:

219.705-6 Postaward responsibilities of the contracting officer.

(f) See PGI 219.705-6(f) for guidance on reviewing subcontracting reports.

PART 222—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

222.406-9 [Amended]

13. Amend section 222.406-9(c) (3) by removing "Department of Labor has given blanket approval to forward withheld funds to the Comptroller General" and adding "Department of Labor will retain withheld funds" in its place.

PART 225—FOREIGN ACQUISITION

14. Revise section 225.870-4(c) (3) to read as follows:

225.870-4 Contracting procedures.

* * * * *

(c) * * *

(3) The contracting officer shall use the provision at 252.215-7003, Requirement for Submission of Data Other Than Certified Cost or Pricing Data—Canadian Commercial Corporation, and the clause at 252.215-7004, Requirement for Submission of Data Other Than Certified Cost or Pricing Data—Modifications—Canadian Commercial Corporation, as prescribed at 215.408 (3) (i) and (ii), respectively.

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225.7501 [Amended]

15. Amend section 225.7501(a) (2) (i) by removing "or 225.104(a)".

PART 227—PATENTS, DATA, AND COPYRIGHTS

227.7103-10 [Amended]

16. Amend section 227.7103-10(a) (1) by removing "15.607" and

adding "15.306" in its place.

PART 237—SERVICE CONTRACTING

237.102-75 [Amended]

17. Amend section 237.102-75 by removing "Chapter 14" and adding "Chapter 10" in its place.

PART 239—ACQUISITION OF INFORMATION TECHNOLOGY

239.7001 [Amended]

18. Amend section 239.7001 by removing "DoD 4140.1-R, DoD Supply Chain Materiel Management Regulation, Chapter 9, Section C9.5" and adding "DoD Manual 4140.01, Volume 9, DoD Supply Chain Materiel Management Procedures: Materiel Programs" in its place.

PART 242—CONTRACT ADMINISTRATION AND AUDIT SERVICES

242.1105 [Amended]

19. Amend section 242.1105(1)(i) by removing "DoD 4140.1-R, DoD Materiel Management Regulation" and adding "DoD Manual 4140.01, Volume 5, DoD Supply Chain Materiel Management Procedures: Delivery of Materiel" in its place.

242.7301 [Amended]

20. Amend section 242.7301(b) by removing "Agency" and adding "Agent" in its place.

242.7503 [Amended]

21. Amend section 242.7503 by—

a. In paragraph (a) adding "or" after the semicolon; and

b. In paragraph (b) removing "]" at the end of the sentence.

PART 243—CONTRACT MODIFICATIONS

243.204-70-3 [Amended]

22. Amend section 243.204-70-3(b) by removing "contacting" and adding "contracting" in its place.

PART 245—GOVERNMENT PROPERTY

245.103-73 [REDESIGNATED AS 245.103-74]

23. Redesignate section 245.103-73 as 245.103-74.

24. Add new section 245.103-73 to read as follows:

245.103-73 Government property under sustainment contracts.

See PGI 245.103-73 for information on the reporting requirements for Government inventory held by contractors under sustainment contracts in accordance with DoD Manual 4140.01, Volume 6, DoD Supply Chain Materiel Management Procedures: Materiel Returns, Retention, and Disposition.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.211-7006 [Amended]

25. Amend section 252.211-7006 by—

a. Removing the clause date "(JUN 2016)" and adding "(DEC 2017)" in its place; and

b. In paragraph (b)(1)(i), removing "DoD 4140.1-R, DoD Supply Chain Material Management Regulation, AP1.1.11" and adding "DoD Manual 4140.01, Volume 6, DoD Supply Chain Materiel Management Procedures: Materiel Returns, Retention, and Disposition" in its

place.

252.245-7002 [Amended]

26. Amend section 252.245-7002 by-

a. Removing the clause date "(APR 2012)" and adding "(DEC 2017)" in its place; and

b. In paragraph (b)(1), removing "<http://www.dcma.mil/aboutetools.cfm>" and adding "<http://www.dcma.mil/WBT/propertyloss/>" in its place.

252.245-7004 [Amended]

27. Amend section 252.245-7004 by-

a. Removing the clause date "(SEP 2016)" and adding "(DEC 2017)" in its place;

b. In paragraph (b), introductory text, removing "<http://www.dcma.mil/DCMAIT/cbt/PCARSS/index.cfm>" and adding "<http://www.dcma.mil/WBT/PCARSS/>" in its place; and

c. In paragraph (b)(1)(iv), removing "http://www2.dla.mil/j-6/dlms0/elibrary/manuals/dlm/dlm_pubs.asp#" and adding "<http://www.dla.mil/HQ/InformationOperations/DLMS/elibrary/manuals/MILSTRAP/>" in its place.

252.246-7008 [Amended]

28. Amend section 252.246-7008 by-

a. Removing the clause date "(OCT 2016)" and adding "(DEC 2017)" in its place; and

b. In paragraph (e), adding a comma after the word "items".

252.247-7020 [Amended]

29. Amend the section's introductory text by removing "247.270-3(o)" and adding "247.271-3(n)" in its place.

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