



5001-06-P

**DEPARTMENT OF DEFENSE**

**Defense Acquisition Regulations System**

**48 CFR Parts 203 and 252**

**[Docket DARS-2019-0042]**

**RIN 0750-AK48**

**Defense Federal Acquisition Regulation Supplement: Modification of DFARS Clauses Related to the Display of Hotline Posters (DFARS Case 2019-D011)**

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

**ACTION:** Final rule.

**SUMMARY:** DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update contact information in two DFARS clauses that address the display of hotline posters.

**DATES:** Effective **[Insert date of publication in the FEDERAL REGISTER]**.

**FOR FURTHER INFORMATION CONTACT:** Ms. Carrie Moore, telephone 571-372-6093.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

DoD is amending the DFARS to update the DoD hotline poster online address included in DFARS clause 252.203-7004, Display of

Hotline Posters, and to update the DoD Office of the Inspector General (OIG) contact information in DFARS clause 252.203-7003, Agency Office of the Inspector General.

DFARS clause 252.203-7004 is included in noncommercial solicitations and contracts with an estimated value exceeding \$5 million, in lieu of the clause at Federal Acquisition Regulation (FAR) 52.203-14, Display of Hotline Posters. The DFARS clause requires contractors to display DoD hotline posters when contract performance is in the United States or overseas and provides contractors with an online address to use to obtain the current DoD hotline poster. This rule updates the DoD hotline poster online address in the clause, which is no longer accurate.

Additionally, DoD is amending the DFARS to update the DoD OIG contact information in DFARS clause 252.203-7003 and subpart 203.1003. This rule updates the mailing address to correct the suite number and provides a website for the DoD OIG.

## **II. Discussion and Analysis**

The modification of DFARS clause 252.203-7004 supports a recommendation from the DoD Regulatory Reform Task Force. On February 24, 2017, the President signed Executive Order (E.O.) 13777, "Enforcing the Regulatory Reform Agenda," which established a Federal policy "to alleviate unnecessary regulatory burdens" on the American people. In accordance with

E.O. 13777, DoD established a Regulatory Reform Task Force to review and validate DoD regulations, including the DFARS. A public notice of the establishment of the DFARS Subgroup to the DoD Regulatory Reform Task Force, for the purpose of reviewing DFARS provisions and clauses, was published in the *Federal Register* at 82 FR 35741 on August 1, 2017, and requested public input. Two respondents submitted public comments on DFARS clause 252.203-7004, which are summarized below:

*Comment:* The respondents advised that the DFARS clause should be eliminated; or, at a minimum, revised to either allow the electronic poster to suffice, or to allow the contractor's internal anonymous reporting channels to substitute for the DoD hotline poster. The respondents expressed that it is burdensome and costly to hang the posters and translate them into the local language, when necessary. The respondents noted that contractors are required under FAR 52.203-13, Contractor Code of Business Ethics and Conduct, to have robust ethics and compliance programs, reporting channels for misconduct, and to disclose evidence of certain types of misconduct to the Inspector General's office. The respondents state that requiring the distribution and translation of posters does not add benefits that outweigh the costs of the requirement.

*Response:* In support of the requirements of Executive Order 13627, Strengthening Protections Against Trafficking in Persons

in Federal Contracts, it is a DoD initiative to ensure that no taxpayer resources are used to support human trafficking.

DFARS clause 252.203-7004 is used in lieu of the FAR clause and requires the display of hotline posters for applicable contracts being performed overseas, as well within the United States. DoD requires posters to be displayed to ensure that contractor employees who do not have access to the internet are aware of their labor rights and have a means of reporting suspected labor violations directly to the DoD OIG. It is also necessary that the posters be translated into the local language so that contractor employees understand the content of the posters.

The DoD Task Force reviewed the requirements of DFARS clause 252.203-7004, and determined that the DFARS clause was out of date and recommended its modification to update the contact information. No change is made to the clause as a result of the public comments received.

### **III. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items**

This rule only updates contact information in two existing clauses. The rule does not impose any new requirements on contracts at or below the simplified acquisition threshold and for commercial items, including commercially available off-the-shelf items.

#### **IV. Publication of This Final Rule for Public Comment Is Not Required by Statute**

The statute that applies to the publication of the FAR is Office of Federal Procurement Policy statute (codified at title 41 of the United States Code). Specifically, 41 U.S.C. 1707(a)(1) requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because DoD is not issuing a new regulation; rather, this rule is merely updating contact information already provided for in existing clauses.

#### **V. Executive Orders 12866 and 13563**

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, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

#### **VI. Executive Order 13771**

This final rule is not subject to E.O. 13771, because this rule is not a significant regulatory action under E.O. 12866.

#### **VII. Regulatory Flexibility Act**

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see section IV. of this preamble), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

#### **VIII. Paperwork Reduction Act**

The 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 Parts 203 and 252**

Government procurement.

**Jennifer Lee Hawes,**

*Regulatory Control Officer, Defense Acquisition Regulations System.*

Therefore, 48 CFR parts 203 and 252 are amended as follows:

1. The authority citation for 48 CFR parts 203 and 252 continues to read as follows:

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

**PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST**

2. Amend section 203.1003(b) by-

a. Removing "Investigative Policy and Oversight" and adding "Administrative Investigations" in its place;

b. Removing "Suite 11H25" and adding "Suite 14L25" in its place; and

b. Removing "866-429-8011." and adding "866-429-8011. Website: [https://www.dodig.mil/Programs/Contractor-Disclosure-Program/.](https://www.dodig.mil/Programs/Contractor-Disclosure-Program/)" in its place.

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

**252.203-7003 [Amended]**

3. Amend section 252.203-7003 by-

a. Removing the clause date "(DEC 2012)" and adding "(AUG 2019)" in its place;

a. Removing "Investigative Policy and Oversight" and adding "Administrative Investigations" in its place;

b. Removing "Suite 11H25" and adding "Suite 14L25" in its place; and

b. Removing "866-429-8011." and adding "866-429-8011. Website: [https://www.dodig.mil/Programs/Contractor-Disclosure-Program/.](https://www.dodig.mil/Programs/Contractor-Disclosure-Program/)" in its place.

**252.203-7004 [Amended]**

4. Amend section 252.203-7004 by-

a. Removing the clause date "(MAY 2019)" and adding "(AUG 2019)" in its place; and

c. In paragraph (c) (1), removing "[http://www.dodig.mil/hotline/hotline\\_posters.htm](http://www.dodig.mil/hotline/hotline_posters.htm)" and adding, "<https://www.dodig.mil/Resources/Posters-and-Brochures/>" in its place.

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