



DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 239 and 252

[Docket DARS-2019-0031]

RIN 0750-AK07

Defense Federal Acquisition Regulation Supplement: Repeal of

DFARS Clause "Tariff Information" (DFARS Case 2018-D044)

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 remove a clause that is no longer necessary.

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 published a proposed rule in the *Federal Register* at 85 FR 34576 on June 5, 2020, to remove the DFARS clause 252.239-7006, Tariff Information, from the DFARS as the clause is no longer necessary. No public comments were received in response to the proposed rule. No changes were made to the rule, as proposed.

II. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, including Commercially Available Off-The-Shelf Items

This rule only removes the obsolete contract clause at DFARS 252.239-7006, Tariff Information. This rule does not impose any new requirements on contracts at or below the simplified acquisition threshold or for commercial items, including commercially available off-the-shelf items.

III. Expected Cost Savings

This rule impacts only telecommunication service providers who do business, or want to do business, with DoD. DFARS clause 252.239-7006, Tariff Information, requires telecommunications service contractors to submit certain tariff and non-tariff information to DoD when requested by the contracting officer or as specified in the clause. Removal of this DFARS clause is expected to result in savings for both DoD and DoD contractors that provide telecommunications services.

The following is a summary of the estimated public and Government cost savings calculated in perpetuity in 2016 dollars at a 7-percent discount rate:

SUMMARY	Public	Government	Total
Present Value	-\$1,624,014	-\$406,000	-\$2,030,014
Annualized Costs	-\$113,681	-\$28,420	-\$142,101

To access the full Regulatory Cost Analysis for this rule, go to the Federal eRulemaking Portal at www.regulations.gov, search

for "DFARS Case 2018-D044," click "Open Docket," and view "Supporting Documents."

IV. 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.

V. Executive Order 13771

This final rule is an E.O. 13771 deregulatory action. DoD estimates that this rule generates \$2.03 million in annualized cost savings, discounted at 7 percent relative to year 2016, over a perpetual time horizon. Details on the estimated cost savings can be found in section III of this preamble.

VI. Regulatory Flexibility Act

A final regulatory flexibility analysis (FRFA) has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. The FRFA is summarized as follows:

DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a recommendation from the DoD Regulatory Reform Task Force established pursuant to Executive Order 13777, Enforcing the Regulatory Agenda, to repeal DFARS clause 252.239-7006, Tariff Information, and the associated clause prescription at DFARS 239.7411(a). The objective of this rule is to remove the requirement for contractors to report tariff information under the DFARS clause. The legal basis for this change is 41 U.S.C. 1303.

No public comments were received in response to the initial regulatory flexibility analysis.

According to the Electronic Document Access system, DoD awards approximately 855 contracts to 83 unique contractors each year that include DFARS clause 252.239-7006. It is estimated that 171 of those contracts are awarded to small entities. Based on the information available, DoD does not anticipate that this rule will significantly impact small business entities.

This rule does not include any new reporting, recordkeeping, or other compliance requirements for small entities. Rather, this rule reduces the information collection requirements approved under OMB Control Number 0704-0341. Small entities will no longer be required to provide the tariff information to the contracting officer in accordance with 252.239-7006. Removal of this clause and its reporting requirement serves to reduce the burden on small entities.

VII. Paperwork Reduction Act

This rule removes the burden associated with DFARS clause 252.239-7006, Tariff Information, from the information collection requirement currently approved under OMB Control Number 0704-0341, entitled "Defense Federal Acquisition Regulation Supplement (DFARS) Part 239, Acquisition of Information Technology, and associated clause at 252.239-7000." Accordingly, DoD submitted, and OMB approved, the following reduction of the annual reporting burden and OMB inventory of hours under OMB Control Number 0704-0341 as follows:

Respondents: 83.

Responses per respondent: Approximately 10.3.

Total annual responses: 855.

Hours per response: 2 hours.

Total response Burden Hours: 1,710.

List of Subjects in 48 CFR Parts 239 and 252

Government procurement.

Jennifer D. Johnson,

Regulatory Control Officer, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 239 and 252 are amended as follows:

1. The authority citation for 48 CFR parts 239 and 252 continues to read as follows:

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

PART 239-ACQUISITION OF INFORMATION TECHNOLOGY

239.7411 [Amended]

2. Amend section 239.7411 by removing paragraph (a) (3) and redesignating paragraph (a) (4) as paragraph (a) (3).

PART 252-SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.239-7006 [Removed and Reserved]

3. Remove and reserve section 252.239-7006.

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