



DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 235 and 252

[Docket DARS-2025-0071]

RIN 0750-AM00

Defense Federal Acquisition Regulation Supplement: Disclosure of DoD Funding in Technical Publications (DFARS Case 2024-D003)

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

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the William M. Thornberry National Defense Authorization Act for Fiscal Year 2021 that provides a requirement to disclose DoD funds in public documents resulting from research or development.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2024-D003, using either of the following methods:

- o *Federal eRulemaking Portal:* <https://www.regulations.gov>. Search for DFARS Case 2024-D003. Select "Comment" and follow the instructions to submit a comment. Please include "DFARS

Case 2024-D003" on any attached documents.

o *Email: osd.dfars@mail.mil.* Include DFARS Case 2024-D003 in the subject line of the message.

Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check <https://www.regulations.gov>, approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Saleemah McMillan, telephone 202-308-5383.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to revise the DFARS to implement section 212 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2021 (Pub. L. 116-283; 10 U.S.C. 4027). Section 212 adds 10 U.S.C. 4027, which requires contractors to specify the amount of funds received from DoD under research or development contracts that result in a public document pertaining to such activities. This requirement does not apply to documents consisting of fewer than 280 characters.

II. Discussion and Analysis

This proposed rule adds a new section at DFARS 235.010-70, which informs contracting officers that public documents consisting of 280 or more characters and resulting from research and development activities, funded in whole or in part by DoD, must specify the amount of funds received from DoD. This

proposed rule also specifies that this requirement may be waived by the program manager. If the requirement is waived, the contracting officer is required to include the waiver in the contract file.

This proposed rule also includes changes to the clause at DFARS 252.235-7010, Acknowledgement of Support and Disclaimer, by providing a definition of "public document" and requiring contractors, awarded research or development contracts, to include in any public document that has 280 characters or more, the amount of DoD funding provided under such contract. The clause is also revised to align with DFARS drafting conventions.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT), for Commercial Products (Including Commercially Available Off-the-Shelf (COTS) Items), and for Commercial Services

This proposed rule includes changes to the clause at DFARS 252.235-7010, Acknowledgment of Support and Disclaimer. However, this proposed rule does not impose any new requirements on contracts at or below the SAT, for commercial products including COTS items, or for commercial services. The clause will continue to apply to acquisitions at or below the SAT.

IV. Expected Impact of the Rule

Currently, contractors are required to disclose the Government's support in the publication of any material based on or developed under certain DoD contracts. This proposed rule adds a new requirement for contractors to disclose the amount of

DoD funds provided under research and development contracts that result in a public document of 280 or more characters pertaining to such activities. As a result, taxpayers should have greater insight into certain DoD-funded research and development efforts.

V. Executive Orders 12866 and 13563

Executive Orders (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, as amended.

VI. Executive Order 14192

This proposed rule is not expected to be subject to E.O. 14192, because the proposed rule is not a significant regulatory action under E.O. 12866.

VII. Regulatory Flexibility Act

DoD does not expect this proposed rule, when finalized, 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 it only adds a requirement

for contractors to disclose in certain public documents the amount of funding received from DoD under certain contracts. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

DoD is proposing to revise the DFARS to implement section 212 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2021 (Pub. L. 116-283; 10 U.S.C. 4027). Section 212 adds 10 U.S.C. 4027, which requires contractors to disclose the amount of DoD funding provided under research or development contracts, in any public document pertaining to such activities that consists of 280 or more characters. This proposed rule includes changes to implement this requirement.

The objective of this proposed rule is to implement section 212 of the NDAA for FY 2021. Section 212 is also the legal basis for this proposed rule.

Data was obtained for contracts that include the clause at DFARS 252.235-7010, Acknowledgement of Support and Disclaimer. This DFARS clause is required to be included in solicitations and contracts for research and development. According to the Procurement Business Intelligence Service, in the last three fiscal years, DoD awarded contracts including this clause to unique small entities as follows: 2,074 in FY 2021; 2,197 in FY 2022; and 1,829 in FY 2023, for an average of approximately 2,033 per year. Therefore, DoD estimates that the number of small entities to which this proposed rule may apply is approximately 2,033.

This proposed rule does not impose any new reporting, recordkeeping, or other compliance requirements for small entities.

This proposed rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known alternatives that would accomplish the stated objectives of the applicable statute.

DoD invites comments from small business concerns and other interested parties on the expected impact of this proposed rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this proposed rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2024-D003), in correspondence.

VIII. Paperwork Reduction Act

This proposed 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 235 and 252

Government procurement.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

Therefore, the Defense Acquisition Regulations System proposes to amend 48 CFR parts 235 and 252 as follows:

1. The authority citation for 48 CFR parts 235 and 252 continues to read as follows:

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

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

2. Amend section 235.001 by—

- a. Adding introductory text; and
- b. Adding, in alphabetical order, the definition of “Public document”.

The additions read as follows:

235.001 Definitions.

As used in this subpart—

Public document means any document or other written statement made available for public reference or use, regardless of whether such document or statement is made available in hard copy or electronic format (10 U.S.C. 4027).

* * * * *

3. Add section 235.010-70 to read as follows:

235.010-70 Disclosure requirement.

(a) Public documents consisting of 280 or more characters and resulting from research and development activities, funded in whole or in part by DoD, are required to indicate the amount of funds received from DoD for such activities, unless waived by the program manager.

(b) If the disclosure requirement is waived, the contracting officer shall notify the contractor and include the waiver in the contract file.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Revise and republish section 252.235-7010 to read as follows:

252.235-7010 Acknowledgment of Support and Disclaimer.

As prescribed in 235.072(c), use the following clause:

ACKNOWLEDGMENT OF SUPPORT AND DISCLAIMER (DATE)

(a) *Definition.* As used in this clause—

Public document means any document or other written statement made available for public reference or use, regardless of whether such document or statement is made available in hard copy or electronic format (10 U.S.C. 4027).

(b) The Contractor shall include an acknowledgment of the Government's support in the publication of any material based on or developed under this contract, stated in the following terms:

This material is based upon work supported by the [Contracting Officer insert name of contracting agency] under contract number [Contracting Officer insert agency contract number].

(c) The Contractor shall include the amount of DoD funding provided under this contract in any public document consisting of 280 or more characters, stated in the following terms:

This material was funded, in whole or in part, by the Department of Defense in the amount of [\$[Contractor insert amount of funding].

(d) All material, except scientific articles or papers published in scientific journals, shall contain the following

disclaimer in addition to any notices or disclaimers by the

Contractor:

Any opinions, findings and conclusions, or recommendations expressed in this material are those of the author(s) and do not necessarily reflect the views of the [Contracting Officer insert name of contracting agency].

(End of clause)

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