

military listings of "off-limits" local establishments.

(g) The Contractor shall inform the Contracting Officer of any information it receives from any source (including host country law enforcement) that alleges a contractor employee or subcontractor has engaged in conduct that violates United States Government policy concerning trafficking in persons.

(h)(1) In accordance with its own operating procedures and applicable policies, laws, regulations, and directives, the Contractor shall take appropriate employment action, including removal from the host nation or dismissal, against any of its employees who engage in sex trafficking, or any other activity that may support trafficking in persons, or who otherwise violate a policy, law, regulation, or directive described in paragraph (f) of this clause.

(2) The Contractor shall inform the Contracting Officer of any such action.

(3) Upon direction of the Contracting Officer, the Contractor shall replace any such employee.

(i)(1) The Contractor shall ensure that its subcontractors comply with the mandates of this clause, as included in subcontracts pursuant to paragraph (k) of this clause. The Contractor shall take appropriate action, including termination of the subcontract, when the Contractor obtains sufficient evidence to determine that the subcontractor is in non-compliance with its contractual obligations regarding trafficking in persons.

(2) The Contractor shall inform the Contracting Officer of any such action.

(j) In addition to other remedies available to the Government, the Contractor's failure to comply with paragraph (g), (h), or (i) of this clause may render the Contractor subject to—

(1) Suspension of contract payments;

(2) Loss of award fee, consistent with the award fee plan, for the performance period in which the Government determined that the Contractor is in non-compliance;

(3) Termination of the contract for default or cause; and

(4) Suspension or debarment.

(k) The Contractor shall include the substance of this clause, including this paragraph (k), in all subcontracts that require performance outside the United States.

(End of clause)

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## DEPARTMENT OF DEFENSE

### 48 CFR Part 236

[DFARS Case 2003-D034]

#### Defense Federal Acquisition Regulation Supplement; Construction Contracting

**AGENCY:** 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 update policy on contracting for construction services. This proposed rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before August 22, 2005, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2003-D034, using any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Defense Acquisition Regulations Web Site: <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. Follow the instructions for submitting comments.

- E-mail: [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2003-D034 in the subject line of the message.

- Fax: (703) 602-0350.

- Mail: Defense Acquisition Regulations Council, Attn: Mr. Euclides Barrera, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062.

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

All comments received will be posted to <http://emissary.acq.osd.mil/dar/dfars.nsf>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Euclides Barrera, (703) 602-0296.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at <http://www.acq.osd.mil/dpap/dfars/transf.htm>.

This proposed rule is a result of the DFARS Transformation initiative. The proposed DFARS changes—

- Delete text defining and addressing use of network analysis systems, as this

subject is addressed in the United Facilities Guide Specifications used by the military departments in specifying construction requirements.

- Delete text on distribution and use of contractor performance reports, handling of Government estimates of construction costs, use of bid schedules with additive or deductive items, and technical working agreements with foreign governments. Text on these subjects will be relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI), available at <http://www.acq.osd.mil/dpap/dars/pgi>.

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 proposed rule deletes and relocates DFARS text on construction contracting, but makes no significant change to DoD contracting policy. 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 2003-D034.

##### 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 236

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

Therefore, DoD proposes to amend 48 CFR Part 236 as follows:

#### PART 236—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

1. The authority citation for 48 CFR Part 236 continues to read as follows:

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

##### 236.102 [Amended]

2. Section 236.102 is amended by removing paragraph (4) and

redesignating paragraph (5) as paragraph (4).

3. Section 236.201 is amended by revising paragraph (c) to read as follows:

**236.201 Evaluation of contractor performance.**

\* \* \* \* \*

(c) Follow the procedures at PGI 236.201(c) for distribution and use of performance reports.

4. Section 236.203 is revised to read as follows:

**236.203 Government estimate of construction costs.**

Follow the procedures at PGI 236.203 for handling the Government estimate of construction costs.

5. Section 236.213 is revised to read as follows:

**236.213 Special procedures for sealed bidding in construction contracting.**

If it appears that sufficient funds may not be available for all the desired construction features, consider using a bid schedule with additive or deductive items in accordance with PGI 236.213.

**236.213–70 and 236.273 [Removed]**

6. Sections 236.213–70 and 236.273 are removed.

**236.274 [Redesignated]**

7. Section 236.274 is redesignated as section 236.273.

8. Newly designated section 236.273 is amended by revising paragraph (b) to read as follows:

**236.273 Construction in foreign countries.**

\* \* \* \* \*

(b) See PGI 236.273(b) for guidance on technical working agreements with foreign governments.

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**DEPARTMENT OF DEFENSE**

**48 CFR Part 242**

[DFARS Case 2003–D050]

**Defense Federal Acquisition Regulation Supplement; Contractor Insurance/Pension Reviews**

**AGENCY:** 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 update text on Government review of contractor insurance programs, pension plans, and other deferred compensation plans. This proposed rule is a result of

a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before August 22, 2005, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2003–D050, using any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Defense Acquisition Regulations Web Site: <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. Follow the instructions for submitting comments.
- E-mail: [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2003–D050 in the subject line of the message.

- Fax: (703) 602–0350.
- Mail: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

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

All comments received will be posted to <http://emissary.acq.osd.mil/dar/dfars.nsf>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, (703) 602–0328.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at <http://www.acq.osd.mil/dpap/dfars/transf.htm>.

This proposed rule is a result of the DFARS Transformation initiative. The proposed DFARS changes—

- Update and clarify requirements and responsibilities for Government review of a contractor's insurance programs, pension plans, and other deferred compensation plans; and
- Delete text addressing procedural matters relating to these reviews. This

text will be relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI), available at <http://www.acq.osd.mil/dpap/dars/pgi>.

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 contractor insurance/pension review requirements apply primarily to large business concerns. 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 2003–D050.

**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 242**

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

Therefore, DoD proposes to amend 48 CFR Part 242 as follows:

**PART 242—CONTRACT ADMINISTRATION AND AUDIT SERVICES**

1. The authority citation for 48 CFR Part 242 continues to read as follows:

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

**242.7300 [Removed]**

2. Section 242.7300 is removed.
3. Sections 242.7301 through 242.7303 are revised to read as follows:

**242.7301 General.**

(a) The administrative contracting officer (ACO) is responsible for determining the allowability of insurance/pension costs in Government contracts and for determining the need for a Contractor/Insurance Pension Review (CIPR). Defense Contract Management Agency (DCMA)