

List of Subjects in 48 CFR Part 215

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 215 is amended as follows:

1. The authority citation for 48 CFR Part 215 continues to read as follows:

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

PART 215—CONTRACTING BY NEGOTIATION**215.305 [Amended]**

2. Section 215.305 is amended by removing paragraph (a)(1).

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DEPARTMENT OF DEFENSE**48 CFR Part 232**

[DFARS Case 2000-D009]

Defense Federal Acquisition Regulation Supplement; Progress Payments for Foreign Military Sales Contracts

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to clarify that DoD applies progress payments to contracts containing foreign military sales (FMS) requirements in the same manner that it applies progress payments to contracts containing DoD requirements.

EFFECTIVE DATE: June 27, 2000.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Haberlin, Defense Acquisition Regulations Council, OUSD (AT&L) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0289; telefax (703) 602-0350. Please cite DFARS Case 2000-D009.

SUPPLEMENTARY INFORMATION:**A. Background**

This final rule amends DFARS Subpart 232.5, Progress Payments Based on Costs, to clarify that the application of customary progress payments is the same for both DoD and FMS contract requirements. The rule also makes editorial changes to update and simplify the text.

This rule was not subject to Office of Management and Budget review under

Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98-577 and publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2000-D009.

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 232

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 232 is amended as follows:

1. The authority citation for 48 CFR Part 232 continues to read as follows:

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

PART 232—CONTRACT FINANCING

2. Sections 232.501—1 and 232.501—2 are revised to read as follows:

232.501-1 Customary progress payment rates.

(a) The customary uniform progress payment rates for DoD contracts, including contracts that contain foreign military sales (FMS) requirements, are 75 percent for large businesses, 90 percent for small businesses, and 95 percent for small disadvantaged businesses.

232.501-2 Unusual progress payemnts.

(a) Unusual progress payment arrangements require the advance approval of the Director of Defense Procurement, Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics) (OUSD (AT&L) DP). Contracting officers must submit all unusual progress payment requests to the department or agency contract financing office for approval, coordination with the Contract Finance Committee (see 232.071), and submission to OUSD (AT&L) DP.

232.501-3 [Amended]

3. Section 232.501-3 is amended in paragraph (b) introductory text in the

second sentence by removing the word "shall" and adding in its place the word "must".

232.502-1-70 [Removed]

4. Section 232.502-1-70 is removed.

5. Section 232.502-4-70 is amended by revising paragraph (a) to read as follows:

232.502-4-70 Additional clauses.

(a) Use the clause at 252.232-7002, Progress Payments for Foreign Military Sales Acquisitions, in solicitations and contracts that—

- (i) Contain FMS requirements; and
- (ii) Provide for progress payments.

* * * * *

232.503-6 [Amended]

6. Section 232.503-6 is amended in paragraph (g)(i) by removing the word "shall" and adding in its place the word "must".

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DEPARTMENT OF DEFENSE**48 CFR Parts 242 and 253**

[DFARS Case 99-D026]

Defense Federal Acquisition Regulation Supplement; Production Surveillance and Reporting

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to revise the criteria for determining the degree of production surveillance needed for DoD contracts and to delete obsolete forms. The rule requires contract administration offices to conduct a risk assessment of each contractor to determine the degree of production surveillance needed for contracts awarded to that contractor.

EFFECTIVE DATE: June 27, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Layser, Defense Acquisition Regulations Council, OUSD (AT&L) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0293; telefax (703) 602-0350. Please cite DFARS Case 99-D026.

SUPPLEMENTARY INFORMATION:**A. Background**

This final rule makes the following changes to the DFARS:

1. Revises the production surveillance requirements at 242.1104, to require

contract administration offices to conduct a risk assessment of each contractor to determine the degree of production surveillance needed for contracts awarded to that contractor.

2. Deletes an obsolete reference to cost/schedule control system requirements at 242.1106(a).

3. Deletes the following obsolete forms: DD Form 375, Production Progress Report; DD Form 375c, Production Progress Report (Continuation); and DD Form 375-2, Delay in Delivery.

DoD published a proposed rule on January 13, 2000 (65 FR 2109). Six sources submitted comments on the proposed rule. DoD considered all comments in the development of the final rule.

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 certifies that this final rule will not 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 DFARS changes in this rule primarily affect the allocation of Government resources to production surveillance functions.

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 Parts 242 and 253

Government procurement.

Michele P. Peterson,
Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 242 and 253 are amended as follows:

1. The authority citation for 48 CFR Parts 242 and 253 continues to read as follows:

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

PART 242—CONTRACT ADMINISTRATION AND AUDIT SERVICES

2. Section 242.1104 is revised to read as follows:

242.1104 Surveillance requirements.

- (a) The cognizant contract administration office (CAO) must—
- (i) Conduct a periodic risk assessment of each contractor to determine the degree of production surveillance needed for contracts awarded to that contractor. The risk assessment must consider information provided by the contractor and the contracting officer;
 - (ii) Develop a production surveillance plan based on the risk level determined during the risk assessment;
 - (iii) Modify the production surveillance plan to incorporate any special surveillance requirements for individual contracts, including any

requirements identified by the contracting officer; and

(iv) Monitor contract progress and identify potential contract delinquencies in accordance with the production surveillance plan.

3. Section 242.1106 is revised to read as follows:

242.1106 Reporting requirements.

(a) See DoD 5000.2-R, Mandatory Procedures for Major Defense Acquisition Programs (MDAPs) and Major Automated Information System (MAIS) Acquisition Programs.

(b)(i) Within four working days after receipt of the contractor's report, the CAO must provide the report and any required comments to the contracting officer and, unless otherwise specified in the contract, the inventory control manager.

(ii) If the contractor's report indicates that the contract is on schedule and the CAO agrees, the CAO does not need to add further comments. In all other cases, the CAO must add comments and recommend a course of action.

PART 253—FORMS

4. The note at the end of Part 253 is amended by removing the following entries:

“253.303-375 Production Progress Report.

“253.303-375c Production Progress Report (Continuation).

“253.303-375-2 Delay in Delivery.”

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