

**§ 73.202 [Amended]**

■ 2. Section 73.202(b), the Table of FM Allotments, under Colorado, is amended by removing Channel 247C1 and by adding Channel 266C1 at Dinosaur; by removing Channel 257C1 and by adding Channel 295C1 at Rangely.

■ 3. Section 73.202(b), the Table of FM Allotments under Idaho, is amended by removing Channel 248C1 and by adding Channel 255C3 at Franklin, and by removing Preston, Channel 244C1.

■ 4. Section 73.202(b), the Table of FM Allotments under Utah, is amended by removing Channel 246A and adding Channel 259A at Beaver; by adding Channel 248C at Coalville; by adding Elsinore, Channel 249C; by adding Manila, Channel 228A; by removing Channel 257C2 and by adding Channel 264C2 at Monroe; by removing Channel 280C1 and adding Channel 256C at Nephi; by removing Channel 248C at Richfield; by removing Channel 280A and by adding Channel 244C1 at Smithfield, and by removing Tremonton, Channel 285C0.

■ 5. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by removing Channel 256C1 and by adding Channel 280C at Fort Bridger; by removing Channel 259C1 and adding Channel 250C2 at Green River; by adding Lyman, Channel 284C; by removing Channel 283C and adding Channel 259C at Rock Springs; by removing Channel 259A and adding Channel 258A at Saratoga; by removing Channel 266A and Channel 261C and by adding Channel 234A and Channel 282C at Wamsutter.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

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**DEPARTMENT OF DEFENSE****48 CFR Parts 212 and 237**

[DFARS Case 2003-D111]

**Defense Federal Acquisition Regulation Supplement; Use of FAR Part 12 for Performance-Based Contracting for Services**

**AGENCY:** Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove obsolete text pertaining to the use of FAR Part 12

(Acquisition of Commercial Items) procedures for performance-based contracting for services. The statutory authority upon which this text was based has expired.

**EFFECTIVE DATE:** June 25, 2004.

**FOR FURTHER INFORMATION CONTACT:** Ms. Teresa Brooks, Defense Acquisition Regulations Council, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0326; facsimile (703) 602-0350. Please cite DFARS Case 2003-D111.

**SUPPLEMENTARY INFORMATION:****A. Background**

This final rule removes DFARS 212.102 and 237.601, which implemented Section 821 of the National Defense Authorization Act for Fiscal Year 2001 (Pub. L. 106-398). Section 821 permitted DoD to treat certain performance-based service contracts and task orders as contracts for the procurement of commercial items. The authority provided by section 821 expired on October 30, 2003, and has been superseded by the authority provided in section 1431 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108-136). Section 1431 provides broader, governmentwide authority for the treatment of performance-based service contracts and task orders as contracts for the procurement of commercial items. An interim FAR rule implementing section 1431 was published in Federal Acquisition Circular 2001-24 on June 18, 2004 (69 FR 34226).

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 rule will not have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Therefore, publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2003-D111.

**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 212 and 237**

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

■ Therefore, 48 CFR parts 212 and 237 are amended as follows:

■ 1. The authority citation for 48 CFR parts 212 and 237 continues to read as follows:

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

**PART 212—ACQUISITION OF COMMERCIAL ITEMS****Subpart 212.1—[Removed]**

■ 2. Subpart 212.1 is removed.

**PART 237—SERVICE CONTRACTING****Subpart 237.6—[Removed]**

■ 3. Subpart 237.6 is removed.

[FR Doc. 04-14336 Filed 6-24-04; 8:45 am]

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**DEPARTMENT OF DEFENSE****48 CFR Part 237**

[DFARS Case 2003-D107]

**Defense Federal Acquisition Regulation Supplement; Firefighting Services Contracts**

**AGENCY:** Department of Defense (DoD).

**ACTION:** Interim rule with request for comments.

**SUMMARY:** DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 331 of the National Defense Authorization Act for Fiscal Year 2004. Section 331 provides authority for contractor performance of firefighting functions at military installations or facilities for periods of one year or less, if the functions would otherwise have to be performed by members of the armed forces who are not readily available by reason of a deployment.

**DATES:** *Effective date:* June 25, 2004.

*Comment date:* Comments on the interim rule should be submitted to the address shown below on or before August 24, 2004, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2003-D107, 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–D107 in the subject line of the message.

• Fax: (703) 602–0350.

• Mail: Defense Acquisition Regulations Council, Attn: Ms. Teresa Brooks, 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. Teresa Brooks, (703) 602–0326.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

10 U.S.C. 2465 prohibits DoD from entering into contracts for the performance of firefighting or security-guard functions at military installations or facilities, unless an exception applies. Section 331 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136) added a new exception to the prohibition at 10 U.S.C. 2465. The new exception permits award of a contract for the performance of firefighting functions at a military installation or facility, if the contract is for a period of one year or less and the functions would otherwise have to be performed by members of the armed forces who are not readily available due to a deployment. This interim rule amends DFARS 237.102–70 to reflect the new exception.

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 application of the rule is limited to firefighting functions at military installations or facilities for periods of one year or less, when members of the armed forces are not readily available due to a deployment. 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–D107.

**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.*

**D. Determination To Issue an Interim Rule**

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. This interim rule implements Section 331 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136). Section 331 provides authority for contractor performance of firefighting functions at military installations or facilities for periods of one year or less, if the functions would otherwise have to be performed by members of the armed forces who are not readily available due to a deployment. Section 331 became effective upon enactment on November 24, 2003. Comments received in response to this interim rule will be considered in the formation of the final rule.

**List of Subjects in 48 CFR Part 237**

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

■ Therefore, 48 CFR Part 237 is amended as follows:

■ 1. The authority citation for 48 CFR Part 237 continues to read as follows:

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

**PART 237—SERVICE CONTRACTING**

■ 2. Section 237.102–70 is amended as follows:

■ a. In paragraph (a)(2) by removing “or”;

■ b. In paragraph (a)(3) by removing the period and adding in its place “; or”; and

■ c. By adding paragraph (a)(4) to read as follows:

**237.102–70 Prohibition on contracting for firefighting or security-guard functions.**

(a) \* \* \*

(4) The contract—

(i) Is for the performance of firefighting functions;

(ii) Is for a period of 1 year or less; and

(iii) Covers only the performance of firefighting functions that, in the absence of the contract, would have to be performed by members of the armed forces who are not readily available to perform such functions by reason of a deployment.

\* \* \* \* \*

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BILLING CODE 5001–08–P

**DEPARTMENT OF DEFENSE**

**48 CFR Parts 239 and 252**

[DFARS Case 2002–D020]

**Defense Federal Acquisition Regulation Supplement; Information Assurance**

**AGENCY:** Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to address requirements for information assurance in the acquisition of information technology. The rule implements policy issued by the National Security Telecommunications and Information Systems Security Committee.

**EFFECTIVE DATE:** June 25, 2004.

**FOR FURTHER INFORMATION CONTACT:** Mr. Thaddeus Godlewski, Defense Acquisition Regulations Council, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–2022; facsimile (703) 602–0350. Please cite DFARS Case 2002–D020.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

In July 1990, the National Security Telecommunications and Information Systems Security Committee (NSTISSC) was established for the purpose of developing and promulgating national policies applicable to the security of national security telecommunications and information systems. In January 2000, NSTISSC issued Policy No. 11, which addresses the national policy governing the acquisition of information assurance and information assurance-enabled information technology products. Policy No. 11 states that information assurance shall be considered as a requirement for all systems used to enter, process, store, display, or transmit national security information. DoD issued DoD Directive 8500.1, Information Assurance, and DoD Instruction 8500.2, Information Assurance Implementation, to