

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 228

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR part 228 as follows:

1. The authority citation for 48 CFR part 228 continues to read as follows:

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

PART 228—BONDS AND INSURANCE

2. Section 228.105 is revised to read as follows:

228.105 Other types of bonds.

Fidelity and forgery bonds generally are not required but are authorized for use when—

- (1) Necessary for the protection of the Government or the contractor; or
- (2) The investigative and claims services of a surety company are desired.

228.106–7 [Amended]

3. Section 228.106–7 is amended in paragraph (a) by revising the parenthetical to read “(see FAR 32.112–1(b))”.

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DEPARTMENT OF DEFENSE

48 CFR Part 229

[DFARS Case 2003–D032]

Defense Federal Acquisition Regulation Supplement; Resolving Tax Problems

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 pertaining to resolution of tax problems under DoD contracts. 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 October 12, 2004, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2003–D032, 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. Include DFARS Case 2003–D032 in the subject line of the message.

• Fax: Primary: (703) 602–7887;

Alternate: (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/dp/dars/transf.htm>.

This proposed rule is a result of the DFARS Transformation initiative. The proposed changes revise DFARS 229.101 to remove text pertaining to (1) resolution of issues regarding the applicability of taxes under DoD contracts; and (2) tax relief agreements between the United States and European governments. This text will be relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI). A proposed rule describing the purpose and structure of PGI was

published at 69 FR 8145 on February 23, 2004. The draft PGI text related to this proposed rule is available at <http://www.acq.osd.mil/dpap/dfars/changes.htm>.

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 rule relocates DoD procedural information related to tax relief, with no change to 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 subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003–D032.

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Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR Part 229 as follows:

1. The authority citation for 48 CFR Part 229 continues to read as follows:

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

PART 229—TAXES

2. Subpart 229.1 is revised to read as follows:

Subpart 229.1—General

Sec.

229.101 Resolving tax problems.

229.101 Resolving tax problems.

(a) Within DoD, the agency-designated legal counsels are the defense agency General Counsels, the General Counsels of the Navy and Air Force, and for the Army, the Chief, Contract Law Division, Office of the Judge Advocate General.

(c) For guidance on directing a contractor to litigate the applicability of a particular tax, see PGI 229.101(c).

(d) For information on tax relief agreements between the United States and European foreign governments, see PGI 229.101(d).

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