This proposed rule contains a new information collection requirement. In compliance with 44 U.S.C. Chapter 35, DoD invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

**Title:** Defense Federal Acquisition Regulation Supplement (DFARS); U.S.-International Atomic Energy Agency Additional Protocol.

**Type of Request:** New requirement.

**Number of Respondents:** 300.

**Responses per Respondent:** 1.

**Annual Responses:** 300.

**Average Burden per Response:** 1 hour.

**Annual Burden Hours:** 300.

**Needs and Uses:** DoD needs this information to provide for protection of information or activities with national security significance. DoD program managers will use the information to determine if IAEA inspectors may be granted access to a contractor’s facility, or if a national security exclusion should be applied.

**Affected Public:** Businesses or other for-profit and not-for-profit institutions.

**Frequency:** On occasion.

**Respondent’s Obligation:** Required to obtain or retain benefits.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget (OMB), Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503, with a copy to the Defense Acquisition Regulations System, Attn: Ms. Michele Peterson, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Comments can be received from 30 to 60 days after the date of this notice, but comments to OMB will be most useful if received by OMB within 30 days after the date of this notice.
List of Subjects in 48 CFR Parts 204 and 252

Government procurement.

Michele P. Peterson,
Editor, Defense Acquisition Regulations System.

Therefore, DoD proposes to amend 48 CFR parts 204 and 252 as follows:

1. The authority citation for 48 CFR parts 204 and 252 continues to read as follows:


PART 204—ADMINISTRATIVE MATTERS

2. Sections 204.470 through 204.470–3 are added to read as follows:


204.470–1 General.

Under the U.S.-International Atomic Energy Agency Additional Protocol (U.S.-IAEA AP), the United States is required to declare a wide range of public and private nuclear-related activities to the IAEA and potentially provide access to IAEA inspectors for verification purposes.

204.470–2 National security exclusion.

(a) The U.S.-IAEA AP permits the United States unilaterally to declare exclusions from inspection requirements for activities, or locations or information associated with such activities, with direct national security significance.

(b) In order to ensure that all relevant activities are reviewed for direct national security significance, both current and former activities, and associated locations or information, are to be considered for applicability for a national security exclusion.

(c) If a DoD program manager receives notification from a contractor that the contractor is required to report its activities in accordance with the U.S.-IAEA AP, the program manager will—

(1) Conduct a security assessment to determine if, and by what means access may be granted to the IAEA; or

(2) Provide written justification to the component or agency treaty office for a national security exclusion, in accordance with DoD Instruction 2060 XX, Application of the National Security Exclusion to U.S.-IAEA Safeguards. DoD will notify the Contractor if a national security exclusion is applied.

(d) If the DoD Program Manager determines that a security assessment is required—

(1) DoD will, at a minimum—

(i) Notify the Contractor that DoD officials intend to conduct an assessment of vulnerabilities to IAEA inspections or visits;

(ii) Notify the Contractor of the time at which the assessment will be conducted, at least 30 days prior to the assessment; and

(iii) Provide the Contractor with advance notice of the credentials of the DoD officials who will conduct the assessment; and

(iv) To the maximum extent practicable, conduct the assessment in a manner that does not impede or delay operations at the Contractor’s facility; and

(2) The Contractor shall provide access to the site and shall cooperate with DoD officials in the assessment of vulnerabilities to IAEA inspections or visits.

(e) Following a security assessment of the Contractor’s facility, DoD officials will notify the Contractor as to—

(1) Whether the Contractor’s facility has any vulnerabilities where potentially declarable activities under the U.S.-IAEA AP are taking place;

(2) Whether additional security measures are needed; and

(3) Whether DoD will apply a national security exclusion.

(f) If DoD applies a national security exclusion, the Contractor shall not grant access to IAEA inspectors.

(g) If DoD does not apply a national security exclusion, the Contractor shall apply managed access to prevent disclosure of program activities, locations, or information in the U.S. declaration.

(h) The Contractor shall incorporate the substance of this clause, including this paragraph (g), in all subcontracts that are subject to the provisions of the U.S.-IAEA AP.

(End of clause)

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