

J. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this final rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This final rule is categorically excluded under section 2.B.2, figure 2-1, paragraph (34)(d) of the Instruction. Exclusion under paragraph (34)(d) applies because this final rule pertains to regulations

concerning documentation and admeasurement of vessels. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 46 CFR Part 126

Cargo vessels, Marine safety, Reporting and recordkeeping requirements.

PART 126—INSPECTION AND CERTIFICATION

Accordingly, the interim rule amending 46 CFR part 126, which was published at 76 FR 77128 on December 12, 2011, is adopted as a final rule without change.

Dated: May 24, 2012.

F. J. Sturm,

Acting Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2012-15976 Filed 6-28-12; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 218, 232 and 252

RIN Number 0750-AH40

Defense Federal Acquisition Regulation Supplement: Updates to Wide Area WorkFlow (DFARS Case 2011-D027)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update policies on the submission of payment requests and receiving reports in electronic format.

DATES: *Effective date:* June 29, 2012.

FOR FURTHER INFORMATION CONTACT: Ms. Veronica Fallon, 571-372-6087.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule at 76 FR 71928 on November 21, 2011, to update DFARS policies and procedures for electronic submission of payment requests and receiving reports through Wide Area WorkFlow (WAWF) and TRICARE Encounter Data System (TEDS). WAWF, which electronically interfaces with the primary DoD payment systems, is the accepted DoD

system for generating invoices and receiving reports. TEDS is an accepted system for processing payment requests for rendered TRICARE health care services.

The capabilities of WAWF have expanded to enable use in additional environments by a wider variety of users. As such, this rule expands the use of WAWF for submission of payment requests and receiving reports and standardizes processes and instructions on the use of WAWF. The public comment period closed January 20, 2011. Six respondents submitted comments on the proposed rule.

II. Discussion and Analysis

DoD reviewed the public comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Summary of Significant Changes

Changes to the proposed rule to clarify language were made at 232.7002 Policy, 232.7004 Prescription, and the Payment Clause at 252.232-7003, Electronic Submission of Payment Requests and Receiving Reports. The new payment instruction clause at 252.232-7006, Wide Area WorkFlow Payment Instructions, was changed to more clearly identify WAWF as DoD's method to receive payment requests and receiving reports and clarify language and to clarify instructions for completion of clause fill-ins.

B. Analysis of Public Comments

1. Policies and Procedures

Comment: Several respondents identified an apparent inconsistency with use of the term “Senior Procurement Executive” in the Supplementary and Background information and the use of the term “Service Procurement Executive” in the proposed change to 232.7002(a)(6).

Response: The correct term is “Senior Procurement Executive,” which is incorporated into the final rule.

Comment: A respondent observed that language is confusing to the reader, in both the proposed change to policy at 232.7002(a)(1) and the existing clause at 252.232-7003, Electronic Submission of Payment Requests and Receiving Reports, paragraph (c)(4). Specifically, according to the respondent, the language is unclear that describes what is and is not required to be submitted in electronic form for payment requests and receiving reports when purchases are paid for using a Governmentwide purchase card.

Response: The language of the final rule in both instances noted is revised to reflect clarifying language as suggested by the respondent.

Comment: One respondent requested adding to the rule additional procedures at 232.7003 to allow use of an existing Navy system, PayWeb, for submitting and processing payment requests by universities and nonprofits administered by Office of Naval Research Regional Office.

Response: Consideration of the respondent's comment resulted in no change to the final rule. However, the Department of the Navy plans to issue supplementary guidance to address PayWeb, a front-end system that feeds Electronic Data Interchange to WAWF.

2. Wide Area WorkFlow Payment Instructions Clause

Comment: Three comments addressed paragraph (f)(1) of the clause. One respondent identified that a listed document type is not an allowable document for their office, and that there is a possible conflict in language between this paragraph and the note that follows. Another respondent provided two comments. First, issues were noted with regard to possible scenarios resulting from ambiguous terminology and a lack of identified procedures to address said scenarios. Second, the respondent is unsure the reader will understand the intended use of the note following the paragraph, and requested the note be clarified as to its purpose and intended use.

Response: Regarding the concern of allowable document types, applicable instructions to preclude possible conflicts have been incorporated into the WAWF Web site. A link to the Web site is included in the DFARS clause and in the Procedures Guidance and Information (PGI) text. In addition, since it is the contracting officer who inserts the document type into the clause, there should be no resultant issue. Therefore, no change is made to the language of the rule as a result of this comment.

In response to the concern regarding possible scenarios resulting from ambiguous terminology of the text, the language in question is deleted, leaving a clear statement. Likewise, deletion of this text served to resolve the comment concerning the intended use of the note following the paragraph.

Comment: Two respondents expressed concern with the Routing Data Table at paragraph (f)(3). The respondents indicated that the table may increase the workload of contracting personnel and increase the opportunity for error and inconsistency.

Also, the table may not account for all circumstances.

Response: The Routing Data Table along with the instructions for the contracting officer to complete the table is retained in the final rule; however, several of the respondents' suggestions, which clarified a number of table elements, are incorporated into the final rule. DoD retained the Routing Data Table and instructions after considering the following: (1) The possible variation in contract formats and types; (2) the absence of a more acceptable place to identify the local processing office in existing contracts; and (3) in order to increase the ease of use and facilitate contractor compliance.

Comment: One respondent recommended revised language for paragraph (f)(4) to strengthen the rule in consideration of future audits.

Response: The data requirements for documentation to be submitted with specific actions are well defined elsewhere in the regulations (e.g. DFARS Appendix F). Repeating those requirements again in the clause would create redundancy and introduce the possibility of conflict between updates to Appendix F and the clause language.

Comment: Two respondents observed that the clause language for paragraph (g), Payment request follow-up, is not compatible with current systems and does not provide complete information regarding availability of invoice status.

Response: The paragraph (g) clause text is deleted since the capability discussed is now provided for in WAWF. Therefore, inclusion of the paragraph (g) text is not necessary.

Comment: Two respondents noted that paragraph (h), WAWF point of contact, may not be appropriately included; or if included, a better point of contact could be provided.

Response: Former paragraph (h), which is now paragraph (g) in the final rule, is updated to include subparagraphs so that an additional point of contact for technical issues, the WAWF helpdesk, is also listed.

Comment: One respondent identified a disparity between language in the existing clause at 252.232.7003, Electronic Submission of Payment Requests and Receiving Reports, paragraph (b), and the proposed clause paragraph (b) regarding "preferred method" versus "contractor shall".

Response: WAWF is the DoD system to electronically process payment requests and receiving reports, therefore the word "preferred" was deleted in the final rule. Further, in this same paragraph (b); language regarding alternate invoicing methods as agreed to by the parties is also deleted. The

remaining language demonstrates DoD's effort to meet the intent of the E-Government Act and the Paperwork Reduction Act in minimizing the number of ways contractors must interact with the Government.

3. Definitions

Comment: The value of the definitions at paragraph (a) of the proposed new clause at 252.232-70XX was questioned. The respondent suggests deleting definitions from the clause as definitions are provided as part of the referenced WAWF training.

Response: Definitions are customarily included in the DFARS clause to ensure immediate understanding of the terminology of the clause. As suggested, the definition of "local processing office" has been edited to convey a generic application.

4. Prescription

Comment: Several comments addressed the proposed change to the prescription at 232.7004(a) and following paragraphs (1) through (6). The respondents expressed that paragraphs (1) through (6) as a whole may be confusing to the reader regarding whether and when use of WAWF is required or an exception applies.

Response: To alleviate potential confusion in the prescription at 232.7004(a), the proposed references to subparagraphs are deleted.

5. Web Site Links

Comment: A respondent stated that the Web site links provided were not working for the new proposed clause at 252.232-70XX.

Response: The Web site links included for this final rule are active and accurate.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD expects that this rule may 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.* Therefore, a Final Regulatory Flexibility Analysis has been prepared and is summarized as follows:

The rule incorporates WAWF's new capability of capturing receiving reports for contracts paid with a Governmentwide commercial purchase card and clarifies exceptions to the use of WAWF. The rule also consolidates and standardizes instructions to contractors on how to use the WAWF application. Furthermore, it eliminates locally defined methods that, in some cases, cause confusion and inefficiencies. It also incorporates the use of TEDS for medical services requiring Health Insurance Portability and Accountability Act data not handled by WAWF.

DoD made small business awards to 47,000 companies in Fiscal Year 2011. With the exception of less than 7,000 companies that only received awards paid with a purchase card, this rule will simplify procedures by allowing contractors to use the same payment process and systems for all DoD shipments.

This rule does not impose any new reporting or record keeping requirements.

The rule does not duplicate, overlap, or conflict with any other Federal rules. No significant alternatives have been identified that would accomplish the stated objectives of this rule.

V. Paperwork Reduction Act

This rule does not impose any new information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 218, 232 and 252

Government procurement.

Mary Overstreet,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 218, 232, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 218, 232, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 218—EMERGENCY ACQUISITIONS

■ 2. Section 218.170(j) is revised to read as follows:

218.170 Additional acquisition flexibilities.

* * * * *

(j) *Electronic submission and processing of payment requests.*

Exceptions to the use of Wide Area WorkFlow are at 232.7002(a).

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PART 232—CONTRACT FINANCING

■ 3. Section 232.7002(a) is revised to read as follows:

232.7002 Policy.

(a)(1) Contractors shall submit payment requests and receiving reports in electronic form, except for—

(i) Classified contracts or purchases when electronic submission and processing of payment requests could compromise the safeguarding of classified information or national security;

(ii) Contracts awarded by deployed contracting officers in the course of military operations, including, but not limited to, contingency operations as defined in 10 U.S.C. 101(a)(13) or humanitarian or peacekeeping operations as defined in 10 U.S.C. 2302(8), or contracts awarded by contracting officers in the conduct of emergency operations, such as responses to natural disasters or national or civil emergencies, when access to Wide Area WorkFlow by those contractors is not feasible;

(iii) Purchases to support unusual or compelling needs of the type described in FAR 6.302–2, when access to Wide Area WorkFlow by those contractors is not feasible;

(iv) Cases in which DoD is unable to receive payment requests or possible acceptance in electronic form;

(v) Cases in which the contracting officer administering the contract for payment has determined, in writing, that electronic submission would be unduly burdensome to the contractor. In those cases, the contracting officer administering the contract shall furnish a copy of the determination to their Senior Procurement Executive; and

(2) When the Governmentwide commercial purchase card is used as the method of payment, only submission of the receiving report in electronic form is required.

* * * * *

■ 4. Section 232.7003 is amended by revising paragraphs (b) and (c) to read as follows:

232.7003 Procedures.

* * * * *

(b) For payment of commercial transportation services provided under a Government rate tender or a contract for transportation services, the use of a DoD-approved electronic third party payment system or other exempted vendor payment/invoicing system (e.g., PowerTrack, Transportation Financial Management System, and Cargo and Billing System) is permitted.

(c) For submitting and processing payment requests and receiving reports for rendered health care services, use of TRICARE Encounter Data System as the electronic format is permitted.

■ 5. Section 232.7004 is revised to read as follows:

232.7004 Contract clauses.

(a) Except as provided in 232.7002(a), use the clause at 252.232–7003, Electronic Submission of Payment Requests and Receiving Reports, in solicitations and contracts.

(b) Use the clause at 252.232–7006, Wide Area WorkFlow Payment Instructions, when 252.232–7003 is used and neither 232.7003 (b) nor (c) apply. See PGI 232.7004 for instructions on completing the clause.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 6. Section 252.232–7003 is amended—

■ a. In the introductory text by removing the reference “232.7004” and adding in its place “232.7004(a)”;

■ b. By removing the clause date “(MAR 2008)” and adding in its place “(JUN 2012)”;

■ c. By adding paragraph (a)(4);

■ d. By removing paragraphs (c)(1) and (2);

■ e. By redesignating paragraphs (c)(3) and (4) as paragraphs (c)(1) and (2), respectively;

■ f. By removing the word “or” at the end of newly redesignated paragraph (c)(1);

■ g. By removing the period at the end of newly redesignated paragraph (c)(2) and adding a semicolon in its place; and

■ h. By adding new paragraphs (c)(3) and (4).

The additions read as follows:

252.232–7003 Electronic Submission of Payment Requests and Receiving Reports.

* * * * *

(a) * * *

(4) “Receiving report” means the data required by the clause at 252.246–7000, Material Inspection and Receiving Report.

* * * * *

(c) * * *
 (3) DoD makes payment for rendered health care services using the TRICARE Encounter Data System (TEDS) as the electronic format; or

(4) When the Governmentwide commercial purchase card is used as the method of payment, only submission of the receiving report in electronic form is required.

* * * * *

■ 7. Section 252.232–7006 is added to read as follows:

252.232–7006 Wide Area WorkFlow Payment Instructions.

As prescribed in 232.7004(b), use the following clause:

WIDE AREA WORKFLOW PAYMENT INSTRUCTIONS (JUN 2012)

(a) *Definitions.* As used in this clause—
Department of Defense Activity Address Code (DoDAAC) is a six position code that uniquely identifies a unit, activity, or organization.

Document type means the type of payment request or receiving report available for creation in Wide Area WorkFlow (WAWF).

Local processing office (LPO) is the office responsible for payment certification when payment certification is done external to the entitlement system.

(b) *Electronic invoicing.* The WAWF system is the method to electronically process vendor payment requests and receiving reports, as authorized by DFARS 252.232–7003, Electronic Submission of Payment Requests and Receiving Reports.

(c) *WAWF access.* To access WAWF, the Contractor shall—

(1) Have a designated electronic business point of contact in the Central Contractor Registration at <https://www.acquisition.gov>; and

(2) Be registered to use WAWF at <https://wawf.eb.mil/> following the step-by-step procedures for self-registration available at this Web site.

(d) *WAWF training.* The Contractor should follow the training instructions of the WAWF Web-Based Training Course and use the Practice Training Site before submitting payment requests through WAWF. Both can be accessed by selecting the “Web Based Training” link on the WAWF home page at <https://wawf.eb.mil/>.

(e) *WAWF methods of document submission.* Document submissions may be via Web entry, Electronic Data Interchange, or File Transfer Protocol.

(f) *WAWF payment instructions.* The Contractor must use the following information when submitting payment requests and receiving reports in WAWF for this contract/order:

(1) *Document type.* The Contractor shall use the following document type(s).

(Contracting Officer: Insert applicable document type(s). Note: If a “Combo” document type is identified but not supportable by the Contractor’s business systems, an “Invoice” (stand-alone) and

“Receiving Report” (stand-alone) document type may be used instead.)

(2) *Inspection/acceptance location.* The Contractor shall select the following inspection/acceptance location(s) in WAWF, as specified by the contracting officer.

(Contracting Officer: Insert inspection and acceptance locations or “Not applicable.”)

(3) *Document routing.* The Contractor shall use the information in the Routing Data Table below only to fill in applicable fields in WAWF when creating payment requests and receiving reports in the system.

ROUTING DATA TABLE*

<i>Field Name in WAWF</i>	<i>Data to be entered in WAWF</i>
Pay Official DoDAAC Issue By DoDAAC Admin DoDAAC Inspect By DoDAAC Ship To Code Ship From Code Mark For Code Service Approver (DoDAAC) Service Acceptor (DoDAAC) Accept at Other DoDAAC LPO DoDAAC DCAA Auditor DoDAAC Other DoDAAC(s)	

(Contracting Officer: Insert applicable DoDAAC information or “See schedule” if multiple ship to/acceptance locations apply, or “Not applicable.”)*

(4) *Payment request and supporting documentation.* The Contractor shall ensure a payment request includes appropriate contract line item and subline item descriptions of the work performed or supplies delivered, unit price/cost per unit, fee (if applicable), and all relevant back-up documentation, as defined in DFARS Appendix F, (e.g. timesheets) in support of each payment request.

(5) *WAWF email notifications.* The Contractor shall enter the email address identified below in the “Send Additional Email Notifications” field of WAWF once a document is submitted in the system.

(Contracting Officer: Insert applicable email addresses or “Not applicable.”)

(g) *WAWF point of contact.* (1) The Contractor may obtain clarification regarding invoicing in WAWF from the following contracting activity’s WAWF point of contact.

(Contracting Officer: Insert applicable information or “Not applicable.”)

(2) For technical WAWF help, contact the WAWF helpdesk at 866–618–5988.

(End of clause)

[FR Doc. 2012–15566 Filed 6–28–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 225 and 252

RIN 0750–AH73

Defense Federal Acquisition Regulation Supplement; Acquisition of Tents and Other Temporary Structures (DFARS Case 2012–D015)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Interim rule.

SUMMARY: DoD is issuing an interim rule to implement sections of the National Defense Authorization Act for Fiscal Year 2012 that address the acquisition of tents and other temporary structures.

DATES: *Effective date:* June 29, 2012.

Comment date: Comments are due by August 28, 2012.

ADDRESSES: Submit comments identified by DFARS Case 2012–D015, using any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by inserting “DFARS Case 2012–D015” under the heading “Enter keyword or ID” and selecting “Search.” Select the link “Submit a Comment” that corresponds with “DFARS Case 2012–D015.” Follow the instructions provided at the “Submit a Comment” screen. Please include your name, company name (if any), and “DFARS Case 2012–D015” on your attached document.

- *Email:* dfars@osd.mil. Include DFARS Case 2012–D015 in the subject line of the message.

- *Fax:* 571–372–6094.

- *Mail:* Defense Acquisition Regulations System, Attn: Amy G. Williams, OUSD(AT&L)DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check www.regulations.gov approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

SUPPLEMENTARY INFORMATION:

I. Background

This interim rule amends DFARS subpart 225.70 and the associated DFARS clauses at 252.212–7001 and