

relocating the facilities or equipment in lieu of paying any termination or cancellation charge under this clause. The basic cancellation liability or basic termination liability applicable to the facilities or equipment in their former location shall continue to apply to the facilities and equipment in their new location. Monthly recurring charges shall continue to be paid during the period.

(e) When there is another requirement or foreseeable reuse in place of cancelled or terminated facilities or equipment, no charge shall apply and the basic cancellation liability or basic termination liability shall be appropriately reduced. When feasible, the Contractor shall promptly reuse discontinued channels or facilities, including equipment for which the Government is obligated to pay a minimum service charge.

(f) The amount of the Government's liability upon cancellation or termination of any of the services ordered under this agreement/contract will be determined under applicable tariffs governing cancellation and termination charges that—

(1) Are filed by the Contractor with a governmental regulatory body, as defined in the Orders For Facilities and Services clause of this agreement/contract;

(2) Are in effect on the date of termination; and

(3) Provide specific cancellation or termination charges for the facilities and equipment involved or show how to determine the charges.

(g) The amount of the Government's liability upon cancellation or termination of any of the services ordered under this agreement/contract that are not subject to a governmental regulatory body will be determined under a mutually agreed schedule in the communication services authorization (CSA) or other contractual document.

(h) If no applicable tariffs are in effect on the date of cancellation or termination or set forth in the applicable CSA or other contractual document, the Government's liability will be determined under the following settlement procedures—

(1) The Contractor agrees to provide the Contracting Officer, in such reasonable detail as the Contracting Officer may require, inventory schedules covering all items of property or facilities in the Contractor's possession, the cost of which is included in the Basic Cancellation or Termination Liability for which the Contractor has no foreseeable reuse.

(2) The Contractor shall use its best efforts to sell property or facilities when the Contractor has no foreseeable reuse or when the Government has not exercised its option to take title under the Title to Telecommunications Facilities and Equipment clause of this agreement/contract. The Contractor shall apply any proceeds of the sale to reduce any payments by the Government to the Contractor under a cancellation or termination settlement.

(3) The Contractor shall record actual nonrecoverable costs under established accounting procedures prescribed by the cognizant governmental regulatory authority or, if no such procedures have been

prescribed, under generally accepted accounting procedures applicable to the provision of telecommunication services for public use.

(4) The net salvage value shall be deducted from the Contractor's installed cost. In determining net salvage value the Contractor shall consider the foreseeable reuse of the facilities and equipment by the Contractor. The Contractor shall make allowance for the cost of dismantling, removal, reconditioning, and disposal of the facilities and equipment when necessary either for the sale of facilities or their reuse by the Contractor in another location.

(5) Upon termination of services, the Government will reimburse the Contractor for the nonrecoverable cost less such costs amortized to the date services are terminated and establish the liability period as mutually agreed to but not to exceed ten years. In the case of either a cancellation or a termination, the Government's presumed maximum liability will be capped by the unpaid nonrecurring charges and the monthly recurring charges (MRCs) set out in the contract/agreement. The presumed maximum liability for MRCs will be capped at MRCs for the minimum service period and any required notice period.

(6) When the basic cancellation liability or basic termination liability established by the CSA or other contractual document is based on estimated costs, the Contractor agrees to settle on the basis of actual cost at the time of cancellation or termination.

(7) The Contractor agrees that, if after settlement but within the termination liability period of the services, should the Contractor make reuse of equipment or facilities which were treated as nonreusable or nonsalvageable in the settlement, the Contractor shall reimburse the Government for the value of the equipment or facilities.

(8) The Contractor agrees to exclude—

(i) Any costs that are not included in determining cancellation and termination charges under the Contractor's standard practices or procedures; and

(ii) Charges not ordinarily made by the Contractor for similar facilities or equipment, furnished under similar circumstances.

(i) The Government may, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the cancelled or terminated portion of this agreement/contract. The Government may make these payments if the Contracting Officer determines that the total of the payments is within the amount the Contractor is entitled. If the total of the payments is in excess of the amount finally agreed or determined to be due under this clause, the Contractor shall pay the excess to the Government upon demand.

(j) Failure to agree shall be a dispute concerning a question of fact within the meaning of the Disputes clause.

(End of clause)

## 252.239–7008 [Removed and Reserved]

■ 4. Remove and reserve section 252.239–7008.

[FR Doc. 2019–08483 Filed 4–29–19; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Parts 239 and 252

[Docket DARS–2019–0017]

RIN 0750–AK10

### Defense Federal Acquisition Regulation Supplement: Modification of DFARS Clause “Orders for Facilities and Services” (DFARS Case 2018–D045)

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

**ACTION:** Proposed rule.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to modify the text of an existing DFARS clause to include the text of another DFARS clause on the same subject in an effort to streamline contract terms and conditions for contractors, pursuant to action taken by the DoD Regulatory Reform Task Force.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before July 1, 2019, to be considered in the formation of a final rule.

**ADDRESSES:** Submit comments identified by DFARS Case 2018–D045, using any of the following methods:

○ *Regulations.gov:* <http://www.regulations.gov>. Search for “DFARS Case 2018–D045.” Select “Comment Now” and follow the instructions provided to submit a comment. Please include “DFARS Case 2018–D045” on any attached documents.

○ *Email:* [osd.dfars@mail.mil](mailto:osd.dfars@mail.mil). Include DFARS Case 2018–D045 in the subject line of the message.

○ *Fax:* 571–372–6094.

○ *Mail:* Defense Acquisition Regulations System, Attn: Carrie Moore, OUSD(AT&L)DPAP/DARS, Room 3B941, 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](http://www.regulations.gov),

approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

**FOR FURTHER INFORMATION CONTACT:** Ms. Carrie Moore, telephone 571-372-6093.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

This rule proposes to modify the DFARS clause 252.239-7004, Orders for Facilities and Services, to incorporate the information currently included in DFARS clause 252.239-7005, Rates, Charges, and Services, and make minor changes to simplify the clause text. Combining these clauses will result in 252.239-7005 being removed from the DFARS.

**II. Discussion and Analysis**

The clauses at DFARS 252.239-7004 and 252.239-7005 are both included in all solicitations, contracts, and basic agreements for telecommunications services. The clause at 252.239-7004 specifies how contractors shall acknowledge the receipt orders under the contract or agreement, while the clause at 252.239-7005 provides contractors with terms and conditions regarding charges for facilities and services being provided in accordance with the contract or agreement. Since both clauses are included in all of the same contracts as DFARS clause 252.239-7004 and both clauses provide terms and conditions pertaining to telecommunications services, the text of the two clauses can be combined, without changing the intent of either one of the clauses. This will help minimize the number of clauses in the contract and streamline contract terms and conditions for contractors.

The modification of this DFARS text supports a recommendation from the DoD Regulatory Reform Task Force. On February 24, 2017, the President signed Executive Order (E.O.) 13777, "Enforcing the Regulatory Reform Agenda," which established a Federal policy "to alleviate unnecessary regulatory burdens" on the American people. In accordance with E.O. 13777, DoD established a Regulatory Reform Task Force to review and validate DoD regulations, including the DFARS. A public notice of the establishment of the DFARS Subgroup to the DoD Regulatory Reform Task Force, for the purpose of reviewing DFARS provisions and clauses, was published in the **Federal Register** at 82 FR 35741 on August 1, 2017, and requested public input. No public comments were received on these clauses. Subsequently, the DoD Task Force reviewed the requirements

of DFARS clause 252.239-7004 and 252.239-7005 and determined that the clauses could be combined.

**III. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-The-Shelf Items**

This proposed rule does not create any new provisions or clauses. The rule combines two clauses on the same topic into a single clause and makes minor modifications to simplify clause text. This rule does not change the applicability of the affected clauses, which are included in solicitations and contracts for telecommunications services, including those valued at or below the SAT or for commercial services.

**IV. Executive Orders 12866 and 13563**

Executive Order (E.O.) 12866, Regulatory Planning and Review; and E.O. 13563, Improving Regulation and Regulatory Review, 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. The Office of Management and Budget, Office of Information and Regulatory Affairs, has determined that this is not a significant regulatory action as defined under section 3(f) of E.O. 12866 and, therefore, was not subject to review under section 6(b). This rule is not a major rule as defined at 5 U.S.C. 804(2).

**V. Executive Order 13771**

This rule is not subject to Executive Order (E.O.) 13771, because this rule is not a significant regulatory action under E.O. 12866.

**VI. Regulatory Flexibility Act**

DoD does not expect this proposed 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 is not creating any new requirements or changing any existing requirements for contractors. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

The Department of Defense is proposing to amend the Defense Federal Acquisition Regulation Supplement

(DFARS) to modify the text of DFARS clause 252.239-7004, Orders for Facilities and Services, to include the text of DFARS clause 252.239-7005, Rates, Charges, and Services. Combining the requirements of these two clauses permits DFARS 252.239-7005 to be removed from the DFARS.

The objective of this proposed rule is to streamline contract terms and conditions pertaining to telecommunications services. The modification of these DFARS clauses supports a recommendation from the DoD Regulatory Reform Task Force.

This rule is not expected 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 it is simply combining two existing clauses that address the same topic into a single comprehensive clause.

Based on fiscal year (FY) 2018 data from the Federal Procurement Data System, the Government awarded approximately 8,670 contracts and orders for services under the Product and Supply Code (PSC) D3—Information Technology and Telecommunications. Of the 8,670 contracts and orders awarded, approximately 28% of the awards were made to 1,050 unique small businesses entities. The PSC D3 does not break down further into information technology services and telecommunications services; therefore, the number of contracts and orders awarded in FY 2018 exclusively for telecommunications services is estimated to be fewer than the number awarded in FY 2018 under PSC D3 in its entirety.

This proposed rule does not include any new reporting, recordkeeping, or other compliance requirements for small businesses. This rule does not duplicate, overlap, or conflict with any other Federal rules. There are no known significant alternative approaches to the proposed rule that would meet the proposed objectives.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities. DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2018-D035) in correspondence.

## VI. Paperwork Reduction Act

The rule does not contain any 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 239 and 252

Government procurement.

**Jennifer Lee Hawes,**  
*Regulatory Control Officer, Defense Acquisition Regulations System.*

Therefore, 48 CFR part 239 and 252 are proposed to be amended as follows:

■ 1. The authority citation for parts 239 and 252 continues to read as follows:

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

### PART 239—ACQUISITION OF INFORMATION TECHNOLOGY

■ 2. Amend section 239.7411 by—

■ a. In paragraph (a) introductory text, removing the em dash and replacing it with a period;

■ b. In paragraphs (a)(1) and (2), removing the semicolons and adding periods in their places;

■ c. Removing paragraph (a)(3);

■ d. Redesignating paragraphs (a)(4) through (6) as paragraphs (a)(3) through (5), respectively; and

■ e. In redesignated paragraphs (a)(3) and (4), removing the semicolons and adding periods in their places.

### PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Revise section 252.239–7004 to read as follows:

#### 252.239–7004 Orders for Facilities and Services.

As prescribed in 239.7411(a), use the following clause:

#### Orders for Facilities and Services (Date)

(a) Definitions: As used in this clause—  
*Governmental regulatory body* means the Federal Communications Commission, any statewide regulatory body, or any body with less than statewide jurisdiction when operating under the state authority. Regulatory bodies whose decisions are not subject to judicial appeal, and regulatory bodies that regulate a company owned by the same entity that creates the regulatory body are not governmental regulatory bodies.

(b) The Contractor shall acknowledge a communication service authorization or other type order for supplies and facilities by—

(1) Commencing performance after receipt of an order; or

(2) Written acceptance by a duly authorized representative.

(c) The Contractor shall furnish the services and facilities under this agreement/contract in accordance with all applicable tariffs, rates, charges, regulations, requirements, terms, and conditions of—

(1) Service and facilities furnished or offered by the Contractor to the general public or the Contractor's subscribers; or

(2) Service as lawfully established by a governmental regulatory body.

(d) The Government will not prepay for services.

(e) For nontariffed services, the Contractor shall charge the Government at the lowest rate and under the most favorable terms and conditions for similar service and facilities offered to any other customer.

(f) Recurring charges for services and facilities shall, in each case, start with the satisfactory beginning of service or provision of facilities or equipment and are payable monthly in arrears.

(g) Expediting charges are costs necessary to get services earlier than normal. Examples are overtime pay or special shipment. When authorized, expediting charges shall be the additional costs incurred by the Contractor and the subcontractor. The Government shall pay expediting charges only when—

(1) They are provided for in the tariff established by a governmental regulatory body; or

(2) They are authorized in a communication service authorization or other contractual document.

(h) When services normally provided are technically unacceptable and the development, fabrication, or manufacture of special equipment is required, the Government may—

(1) Provide the equipment; or

(2) Direct the Contractor to acquire the equipment or facilities. If the Contractor acquires the equipment or facilities, the acquisition shall be competitive, if practicable.

(i) If at any time the Government defers or changes its orders for any of the services but does not cancel or terminate them, the amount paid or payable to the Contractor for the services deferred or modified shall be equitably adjusted under applicable tariffs filed by the Contractor with the regulatory commission in effect at the time of deferral or change. If no tariffs are in effect, the Government and the Contractor shall equitably adjust the rates by mutual agreement. Failure to agree on any adjustment shall be a dispute concerning a question of fact within the meaning of the Disputes clause of this contract.

#### 252.239–7005 [Removed and Reserved]

■ 4. Remove and reserve section 252.239–7005.

[FR Doc. 2019–08484 Filed 4–29–19; 8:45 am]

BILLING CODE 5001–01–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Chapter I

[Docket No. FWS–HQ–LE–2018–0078; FF09L00200–FX–LE1811090000]

### Bald and Golden Eagle Protection Act and Migratory Bird Treaty Act; Religious Use of Feathers

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Petition for rulemaking; request for public comment.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), have received a petition for rulemaking, which asks the Service to revise the existing rules pertaining to the religious use of federally protected bird feathers. The petition is being published pursuant to the terms of a settlement agreement entered into in 2016 by the United States with McAllen Grace Brethren Church and the Becket Fund for Religious Liberty. Any changes to existing rules will be subject to a public comment period, and tribal consultation consistent with Executive Order 13175 and the Department of the Interior Policy on Consultation with Indian Tribes. The Service seeks comments on the petition.

**DATES:** Comments must be submitted on or before July 1, 2019.

**ADDRESSES:** *Document availability:* The petition and other materials mentioned in this document are available on the internet at <http://www.regulations.gov> in Docket No. FWS–HQ–LE–2018–0078. To review these materials in person, contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

*Comment submission:* You may submit comments by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments to Docket No. FWS–HQ–LE–2018–0078.

- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS–HQ–LE–2018–0078; Division of Policy, Performance, and Management Programs, U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: BPHC, Falls Church, VA 22041–3803.

See Public Comments below for additional information.

**FOR FURTHER INFORMATION CONTACT:** Edward Grace, Assistant Director, U.S. Fish and Wildlife Service, Office of Law Enforcement, [edward\\_grace@fws.gov](mailto:edward_grace@fws.gov), (703) 358–1949.

**SUPPLEMENTARY INFORMATION:**