

252.247-7009 [Removed and Reserved]

■ 4. Remove and reserve section 252.247-7009.

252.247-7010 [Removed and Reserved]

■ 5. Remove and reserve section 252.247-7010.

252.247-7011 [Removed and Reserved]

■ 6. Remove and reserve section 252.247-7011.

252.247-7013 [Removed and Reserved]

■ 7. Remove and reserve section 252.247-7013.

252.247-7014 [Amended]

■ 8. Amend section 252.247-7014 introductory text by removing "247.271-3(h)" and adding "247.271-3(c)" in its place.

252.247-7016 [Amended]

■ 9. Amend section 252.247-7016 introductory text by removing "247.271-3(i)" and adding "247.271-3(d)" in its place.

252.247-7017 [Removed and Reserved]

■ 10. Remove and reserve section 252.247-7017.

252.247-7018 [Removed and Reserved]

■ 11. Remove and reserve section 252.247-7018.

252.247-7019 [Removed and Reserved]

■ 12. Remove and reserve 252.247-7019.

■ 13. Amend section 252.247-7022 by—

■ a. In the clause heading, removing the date "(AUG 1992)" and adding "(JUN 2019)" in its place; and

■ b. Revising paragraph (c).

The revision reads as follows:

252.247-7022 Representation of extent of transportation by sea.

\* \* \* \* \*

(c) Any contract resulting from this solicitation will include the Transportation of Supplies by Sea clause.

\* \* \* \* \*

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 247 and 252

[Docket DARS-2019-0032]

RIN 0750-AK08

Defense Federal Acquisition Regulation Supplement: Repeal of DFARS Clause "Price Adjustment" (DFARS Case 2018-D048)

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 remove a clause that is no longer necessary.

DATES: Effective June 28, 2019.

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

SUPPLEMENTARY INFORMATION:

I. Background

DoD is amending the DFARS to remove DFARS clause 252.247-7001, Price Adjustment, and the associated clause prescription at DFARS 247.270-4. Included in solicitations and contracts for stevedoring services when using sealed bidding, this clause: Requires a contractor to warrant that the prices in the contract apply to, based upon, and exclude certain criteria; requires a contractor to notify the Government of any changes to collective bargaining agreements that apply to its direct labor employees and will impact the contractor's cost to perform; limits the upward adjustment of prices to a stated percentage and clarifies the terms and process for making such adjustments; and, requires a contractor to provide a statement pertaining to rates of pay for labor with its final invoice under the contract.

DoD subject matter experts on the acquisition of stevedoring services across DoD advise that sealed bidding is not used to procure such services and, as such, this clause is not included in stevedoring contracts. Federal Acquisition Regulation (FAR) clauses 52.222-41, Service Contract Labor Standards; 52.222-43, Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (Multiple Year and Option Contracts); and 52.222-44, Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment; as well as DFARS clause 252.247-7002, Revision

of Prices, adequately address price adjustments resulting from changes in wage rates or benefits and are currently included in stevedoring contracts, as applicable.

Since DFARS clause 252.247-7001 is not used and other FAR and DFARS clauses can be used to provide the necessary information to contractors performing on stevedoring contracts, this DFARS clause is no longer necessary and can be removed. The removal 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 this clause. The DoD Task Force reviewed the requirements of DFARS clause 252.247-7001, Pricing Adjustments, and determined that the DFARS coverage was unnecessary and recommended removal.

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

This rule only removes obsolete DFARS clause 252.247-7001, Pricing Adjustments. Therefore, the rule does not impose any new requirements on contracts at or below the simplified acquisition threshold and for commercial items, including commercially available off-the-shelf items

III. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the FAR is Office of Federal Procurement Policy statute (codified at title 41 of the United States Code). Specifically, 41 U.S.C. 1707(a)(1) requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a

significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because DoD is not issuing a new regulation; rather, this rule is merely removing an obsolete clause from the DFARS.

#### IV. 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.

#### V. Executive Order 13771

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

#### VI. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see section III. of this preamble), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

#### VII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) applies. This rule affects the information collection requirements in DFARS clause 252.241-7001, Price Adjustment, currently approved under OMB Control Number 0704-0245, entitled "Defense Federal Acquisition Regulation Supplement (DFARS) Part 247, Transportation, and associated clauses at DFARS 252.247." However, the reduction in burden and savings is negligible.

#### List of Subjects in 48 CFR Parts 247 and 252

Government procurement.

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

Therefore, 48 CFR parts 247 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 247 and 252 continues to read as follows:

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

#### PART 247—TRANSPORTATION

■ 2. Revise section 247.270-4 to read as follows:

##### 247.270-4 Contract clauses.

Use the following clauses in solicitations and contracts for stevedoring services as indicated:

- (a) 252.247-7000, Hardship Conditions.
- (b) 252.247-7002, Revision of Prices, when using negotiation.
- (c) 252.247-7007, Liability and Insurance.

#### PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.247-7001 [Removed and Reserved]

■ 3. Remove and reserve section 252.247-7001.

##### 252.247-7002 [Amended]

■ 4. Amend section 252.247-7002 introductory text by removing "247.270-4(c)" and adding "247.270-4(b)" in its place.

##### 252.247-7007 [Amended]

■ 5. Amend section 252.247-7007 introductory text by removing "247.270-4(d)" and adding "247.270-4(c)" in its place.

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#### DEPARTMENT OF DEFENSE

#### Defense Acquisition Regulations System

#### 48 CFR Part 249

[Docket DARS-2019-0001]

#### Defense Federal Acquisition Regulation Supplement: Technical Amendment

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

**ACTION:** Final rule.

**SUMMARY:** DoD is making a technical amendment to the Defense Federal Acquisition Regulation Supplement (DFARS) to provide a needed editorial change.

**DATES:** Effective June 28, 2019.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jennifer L. Hawes, Defense Acquisition Regulations System, OUSD (A&S) DPC (DARS), Room 3B941, 3060 Defense Pentagon, Washington, DC 20301-3060. Telephone 571-372-6115; facsimile 571-372-6094.

**SUPPLEMENTARY INFORMATION:** This final rule amends the DFARS to provide direction to contracting officers at DFARS 249.109-70 to see DFARS Procedures, Guidance, and Information (PGI) 249.109-70 for additional information and guidance for limitation on pricing of the terminated effort for settlement agreements.

#### List of Subjects in 48 CFR Part 249

Government procurement.

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

Therefore, 48 CFR part 249 is amended as follows:

#### PART 249—TERMINATION OF CONTRACTS

■ 1. The authority citations for 48 CFR part 249 continue to read as follows:

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

■ 2. Section 249.109-70 is added to read as follows:

##### 249.109-70 Limitation on pricing of the terminated effort.

When there is a termination for convenience (partial or whole) or a change that reduces scope, follow the procedures at PGI 249.109-70 for limitation on pricing of the terminated or reduced effort.

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