

contracts using FAR part 12 procedures for the acquisition of commercial items, that—

(A) Have a total estimated value, including options, that exceeds \$3 million; and

(B) Are for services in the following service acquisition portfolio groups—

- (1) Logistics management services;
- (2) Equipment related services;
- (3) Knowledge-based services; or
- (4) Electronics and communications services.

(i) Use the basic clause in solicitations and contracts, except solicitations and resultant awards of indefinite-delivery contracts, and orders placed under non-DoD contracts that meet the criteria in paragraph (a)(i) of this section; or

(iii) Use the alternate I clause in solicitations and resultant awards of indefinite-delivery contracts, basic ordering agreements, and blanket purchase agreements, when one or more of the orders under the contract or agreement are expected to meet the criteria in paragraph (a)(i) of this section.

## PART 212—ACQUISITION OF COMMERCIAL ITEMS

■ 3. Amend section 212.301 by adding paragraph (f)(ii)(j) to read as follows:

### 212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

\* \* \* \* \*

(f) \* \* \*

(ii) \* \* \*

(j) Use the clause at 252.204–70XX, Reporting Requirements for Contracted Services, to comply with 10 U.S.C. 2330a.

(1) Use the basic clause as prescribed in 204.1705(a)(i) and (ii); and

(2) Use the alternate I clause as prescribed in 204.1705 (a)(i) and (iii).

\* \* \* \* \*

## PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Add section 252.204–70XX to read as follows:

### 252.204–70XX Reporting Requirements for Contracted Services.

*Basic.* As prescribed in 204.1705(a)(i) and (ii), use the following clause:

#### Reporting Requirements for Contracted Services-Basic (DATE)

(a) The contractor shall report annually, by October 31, at [www.sam.gov](http://www.sam.gov), on the services performed under this contract or order, including any subcontracts, during the preceding Government fiscal year (October 1–September 30).

(b) The Contractor shall report the following information for the contract or order:

(1) The total dollar amount invoiced for services performed during the preceding Government fiscal year under the contract or order.

(2) The number of Contractor direct labor hours, to include subcontractor direct labor hours, as applicable, expended on the services performed under the order or contract during the previous Government fiscal year.

(c) The Government will review Contractor reported information for reasonableness and consistency with available contract information. In the event the Government believes that revisions to the Contractor reported information are warranted, the Government will notify the Contractor. Upon notification, the Contractor shall revise the reported information or provide the Government with a supporting rationale for the information.

(End of clause)

*Alternate I.* As prescribed in 204.1705(a)(i) and (iii), use the following clause, which substitutes “contract or agreement for each order” in lieu of “contract or order” in paragraph (a) and “order” in lieu of “contract or order” in paragraphs (b) and (b)(1) and (2), and identifies the dollar threshold and service acquisition portfolio groups for which orders under the contract or agreement require service contract reporting.

#### Reporting Requirements for Contracted Services-Alternate I (DATE)

(a) The contractor shall report annually, by October 31, at [www.sam.gov](http://www.sam.gov), on services performed during the preceding Government fiscal year (October 1–September 30) under this contract or agreement for each order, including any subcontract, which exceeds \$3 million for services in the following service acquisition portfolio groups:

(1) Logistics management services.

(2) Equipment related services.

(3) Knowledge-based services.

(4) Electronics and communications services.

(b) The Contractor shall report the following information for the order:

(1) The total dollar amount invoiced for services performed during the preceding Government fiscal year under the order.

(2) The number of Contractor direct labor hours, to include subcontractor direct labor hours, as applicable, expended on the services performed under the order during the previous Government fiscal year.

(c) The Government will review Contractor reported information for reasonableness and consistency with available contract information. In the event the Government believes that revisions to the Contractor reported information are warranted, the Government will notify the Contractor. Upon notification, the Contractor shall revise the reported information or provide the Government with a supporting rationale for the information.

(End of clause)

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Parts 239 and 252

[Docket DARS–2019–0031]

RIN 0750–AK07

### Defense Federal Acquisition Regulation Supplement: Repeal of DFARS Clause “Tariff Information” (DFARS Case 2018–D044)

**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 remove a clause that is no longer necessary.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before August 4, 2020, to be considered in the formation of a final rule.

**ADDRESSES:** Submit comments identified by DFARS Case 2018–D044, using any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Search for “DFARS Case 2018–D044”. Select “Submit a Comment Now” and follow the instructions provided to submit a comment. Please include “DFARS Case 2018–D044” on any attached document.
- *Email:* [osd.dfars@mail.mil](mailto:osd.dfars@mail.mil). Include DFARS Case 2018–D044 in the subject line of the message.
- *Fax:* 571–372–6094.
- *Mail:* Defense Acquisition Regulations System, Attn: Ms. Carrie Moore, OUSD(A&S)DPC/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**

DoD is proposing to amend the DFARS to remove the DFARS clause 252.239–7006, Tariff Information, and the associated clause prescription at DFARS 239.7411(a). This clause is prescribed for use in solicitations, contracts, and basic agreements for telecommunications services. The clause requires the contractor to provide the contracting officer with the following information:

- Upon request, a copy of the contractor’s existing tariffs.
- Before filing, a copy of any application to be made to a regulatory agency that requests new or changes to rates, charges, services, or regulations related to any tariff or to any of the facilities or services furnished primarily to the Government.
- Upon request, all supporting documentation prepared in connection with any application to a regulatory agency.
- Notice of any application that anyone other than the contractor files with a regulatory body which affects or will affect the rate or conditions of services under the agreement or contract.

This clause was added to the DFARS to implement a standardized approach across DoD for addressing critical issues associated with the acquisition of telecommunication services. Since its implementation, technological advances, and the passage of additional telecommunication regulations at 47 CFR 42.10, have made this DFARS

clause unnecessary. Pursuant to 47 CFR 42.10, telecommunications carriers are now required to make tariff and non-tariff information available to the public online at the carrier’s internet website and to update the information regularly. Additionally, online databases and tools have been created to track and monitor changes in telecommunications tariffs, prices, and services. Since contracting officers are now able review carriers’ websites and access online tariff tools and databases as needed, it is unnecessary and burdensome to require the contractor to provide this information separately to the contracting officer in accordance with the clause. As such, this DFARS clause 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. Public notification 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 28041 on June 20, 2017 (see also 82 FR 35741 (August 1, 2017)), and requested public input. No public comments were received on

this clause. Subsequently, the DoD Task Force reviewed the requirements of DFARS clause 252.239–7006, Tariff Information, 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 252.239–7006, Tariff Information. 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. Expected Cost Savings**

This rule impacts only telecommunication service providers who do business, or want to do business, with DoD. DFARS clause 252.239–7006, Tariff Information, requires telecommunications service contractors to submit certain tariff and non-tariff information to DoD when requested by the contracting officer or as specified in the clause. Removal of this DFARS clause is expected to result in savings for both DoD and DoD contractors that provide telecommunications services.

The following is a summary of the estimated public and Government cost savings:

Summary	Public	Government	Total
Present Value .....	–\$1,624,014	–\$406,000	–\$2,030,014
Annualized Costs .....	– 113,681	– 28,420	– 142,101

To access the full Regulatory Cost Analysis for this rule, go to the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov), search for “DFARS Case 2018–D044,” click “Open Docket,” and view “Supporting Documents.”

**IV. Executive Orders 12866 and 13563**

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 expected to be an E.O. 13771 deregulatory action. We estimate that this rule generates \$2.03 million in annualized cost savings, discounted at 7 percent relative to year 2016, over a perpetual time horizon. Details on the estimated cost savings can be found in section III. of this preamble.

**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 only applies to major weapon system acquisition programs. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a recommendation from the DoD Regulatory Task Force established pursuant to Executive Order 13777, Enforcing the Regulatory Reform Agenda, to repeal the clause at DFARS 252.239–7006, Tariff Information, and the associated clause prescription at DFARS 239.7411(a).

The objective of this rule is to remove the requirement for contractors to report

tariff information under the DFARS clause. The legal basis for this change is 41 U.S.C. 1303.

According to the Electronic Document Access database, DoD awards approximately 855 contracts to 83 unique contractors each year that include DFARS clause 252.239–7006. It is estimated that 171 of those contracts are awarded to small entities.

This proposed rule does not include any new reporting or recordkeeping requirements for small entities. Rather this rule reduces the information collection requirements approved under OMB Control Number 0704–0341. Small entities will no longer be required to provide tariff information to the contracting officer in accordance with DFARS clause 252.239–7006.

The 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 policy objective of the rule.

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–D044), in correspondence.

## VII. Paperwork Reduction Act

This rule affects the information collection requirements in the DFARS provision 252.239–7006, Tariff Information, currently approved under OMB Control Number 0704–0341, entitled “Defense Federal Acquisition Regulation Supplement (DFARS) Part 239, Acquisition of Information Technology and associated clauses at DFARS 252.239–7000 and 252.239–7006.” The rule revises an information collection requirement, which requires the approval of OMB under the Paperwork Reduction Act (44 U.S.C. chapter 35). Accordingly, DoD has submitted a request to OMB for approval of a revised information collection.

### A. Public Reporting Burden

Public reporting burden for this previously approved collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This rule proposes to

eliminate DFARS 252.239–7006, Tariff Information, thereby reducing the associated current annual reporting burden and OMB inventory of hours as follows:

*Respondents:* 83.

*Responses per respondent:* Approximately 10.3.

*Total annual responses:* 855.

*Hours per response:* 2 hours.

*Total response Burden Hours:* 1,710.

Request for Comments Regarding Paperwork Burden Reduction. Written comments and recommendations on the proposed reduction of this information collection should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503, or email [Susan\\_M\\_Minson@omb.eop.gov](mailto:Susan_M_Minson@omb.eop.gov), with a copy to the Defense Acquisition Regulations System, Attn: Carrie Moore; OUSD(A&S)DPC/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060. Comments can be received from 30 to 60 days after the date of this notification, but comments to OMB will be most useful if received by OMB within 30 days after the date of this notification.

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Acquisition Regulations System, Attn: Carrie Moore, OUSD(A&S)DPC/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060, or email [osd.dfars@mail.mil](mailto:osd.dfars@mail.mil). Include DFARS Case 2018–D044 in the subject line of the message.

### 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 parts 239 and 252 are proposed to be amended as follows:

■ 1. The authority citation for 48 CFR 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

### 239.7411 [Amended]

■ 2. Amend section 239.7411 by removing paragraph (a)(3) and redesignating paragraph (a)(4) as paragraph (a)(3).

## PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

### 252.239–7006 [Removed and Reserved]

■ 3. Remove and reserve section 252.239–7006.

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 21

[Docket No. FWS–HQ–MB–2019–0103; FF09M29000–201–FXMB1232090000]

RIN 1018–BE67

### Migratory Bird Permits; Management of Conflicts Associated With Double-Crested Cormorants (*Phalacrocorax auritus*) Throughout the United States

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

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) proposes to establish a new permit for State and federally recognized Tribal (hereafter “Tribe” or “Tribal”) wildlife agencies for the management of double-crested cormorants (*Phalacrocorax auritus*; hereafter “cormorants”). The new permit would authorize specific take activities that are normally prohibited and are intended to relieve or prevent impacts from cormorants on lands within State or Tribal jurisdictions to address conflicts related to the following issues: wild and publicly stocked fish stocked by State agencies or Tribes; Tribal- and State-owned or operated aquaculture facilities (including hatcheries); human health and safety; State- or Tribal-owned property and assets; and threatened and endangered species (listed under the Endangered Species Act of 1973, as amended, or identified in State- or Tribal-specific legislation as threatened or endangered). The Service would retain ultimate authority for regulating the take of cormorants. States and Tribes would have the discretion to determine whether, when, where, and for which of the above purposes they would conduct lethal take within limits and allocations set by the Service.

**DATES:** You must submit written comments on this proposed rule by July 20, 2020.

*Information Collection Requirements:* If you wish to comment on the information collection requirements in