

DEPARTMENT OF DEFENSE**Defense Acquisition Regulations System**

48 CFR Parts 203, 204, 205, 207, 208, 211, 212, 213, 215, 216, 217, 219, 222, 223, 225, 226, 227, 232, 234, 237, 239, 242, 243, 244, 245, 246, 247, and 252

[Docket DARS–2022–0004]

RIN 0750–AK31

Defense Federal Acquisition Regulation Supplement: Revision of Definition of “Commercial Item” (DFARS Case 2018–D066)

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 implement the revised definition of “commercial item” in accordance with two sections of the John S. McCain National Defense Authorization Act for Fiscal Year 2019.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before May 17, 2022, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2018–D066, using any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Search for “DFARS Case 2018–D066.” Select “Comment” and follow the instructions to submit a comment. Please include “DFARS Case 2018–D066” on any attached documents.

- *Email:* osd.dfars@mail.mil. Include DFARS Case 2018–D066 in the subject line of the message.

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

FOR FURTHER INFORMATION CONTACT: Ms. Jeanette Snyder, telephone 571–372–6106.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to revise the DFARS to implement section 836 and section 837(b) of the John S. McCain National Defense Authorization Act (NDAA) for

Fiscal Year (FY) 2019 (Pub. L. 115–232). Section 836 modified 41 U.S.C. 103 by bifurcating the definition of “commercial item” into “commercial product” and “commercial service” at 41 U.S.C. 103 and 41 U.S.C. 103a, respectively, and made conforming changes to other sections in Title 41. In addition, section 836 made conforming changes to several sections in Title 10, including 10 U.S.C. 2302 and 2375. Section 837(b) implements this revision at 10 U.S.C. 2533a and 2533b. This rule proposes to align the DFARS with the revised definition of “commercial item”.

These statutory changes implement a recommendation made by the Advisory Panel on Streamlining and Codifying Acquisition Regulations (Section 809 Panel), an independent commission Congress chartered to streamline the Defense Acquisition System. See the recommendation on pages 29–30 of Volume 1 of 3 dated January 2018 of the Report of the Advisory Plan on Streamlining and Codifying Acquisition Regulations at https://section809panel.org/wp-content/uploads/2018/04/Sec809Panel_Vol1-Report_Jan18_REVISED_2018-03-14.pdf. The new definitions were effective January 1, 2020.

II. Discussion and Analysis

DoD is proposing to amend the DFARS to replace all instances of “commercial item(s)” with “commercial product(s)”, “commercial service(s)”, or “commercial product(s) and/or commercial service(s)”, as appropriate within the context of the DFARS text, and to conform with the final rule for Federal Acquisition Regulation (FAR) Case 2018–018, published at 86 FR 61017 on November 4, 2021.

The following summarizes the proposed changes to the DFARS:

1. Replace all instances of “commercial item(s)” with “commercial product(s)” and/or “commercial service(s)”, as appropriate within the context of the DFARS text.

2. Replace all instances of “non-commercial item” and “noncommercial item” with “other than commercial product and/or commercial service”, as appropriate within the context of the DFARS text.

3. Several subpart headings are updated to accommodate the revised nomenclature: DFARS subparts 212.1, 212.2, 212.3, 212.5, 212.6, 212.70, 213.5, 232.1, 232.2, 232.4, 234.70, and 244.4.

4. Other minor editorial changes are made to conform to DFARS drafting conventions, such as revising references to “task and delivery orders” to read “task orders and delivery orders”.

III. Applicability to Contract at or Below the Simplified Acquisition Threshold (SAT), for Commercial Products Including Commercially Available Off-the-Shelf (COTS) Items, and for Commercial Services

This rule does not create any new solicitation provisions or contract clauses. It does not impact any existing solicitation provisions, contract clauses, or prescriptions for provisions or clauses or their applicability to contracts valued at or below the simplified acquisition threshold, for commercial products including COTS items, or for commercial services.

IV. Expected Impact of the Rule

This proposed rule does not create new requirements or modify any existing requirements. This rule merely proposes to replace the term “commercial item” with “commercial product,” “commercial service,” “commercial product or commercial service,” or “commercial product and commercial service.” In addition, the proposed rule replaces all instances of “noncommercial item” and “non-commercial item” with “other than commercial product and/or commercial service” as appropriate within the context of DFARS text, including existing solicitation provisions or contract clauses, as appropriate. These revisions do not modify commercial acquisition procedures, nor do they modify Government or industry operations; therefore, the proposed rule does not add any new burdens. This proposed rule is expected to resolve the issue the Section 809 Panel cited, which is that the acquisition workforce has faced issues with inconsistent interpretations of policy and confusion over how to identify eligible commercial products and commercial services. Bifurcating the definition of “commercial item” into “commercial product” and “commercial service” is a way to provide clarity for the acquisition workforce, which may result in greater engagement with the commercial marketplace.

V. 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.

VI. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801–808) before an interim or final rule takes effect, DoD will submit a copy of the interim or final rule with the form, Submission of Federal Rules under the Congressional Review Act, to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule under the Congressional Review Act cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not anticipated to be a major rule under 5 U.S.C. 804.

VII. 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.*, as it merely replaces all instances of the terms “commercial item,” “noncommercial item,” and “non-commercial item” within the DFARS with updated terms. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

The purpose of this proposed rule is to implement section 836 and section 837(b) of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115–232). Section 836 replaces the definition of commercial item at 41 U.S.C. 103 with a definition of commercial product at 41 U.S.C. 103 and a definition of commercial service at 41 U.S.C. 103a. Section 837(b) implements this revision at 10 U.S.C. 2533a and 2533b. This rule proposes to amend the DFARS to conform with the revision of the definition of commercial item by replacing all instances of “commercial item” with “commercial product” and/or “commercial service”, as appropriate within the context of the DFARS text. In addition, this rule proposes to replace all instances of “noncommercial item” and “non-commercial item” with “other than commercial product and/or commercial service”, as appropriate within the context of the DFARS text.

The objective of this proposed rule is to implement sections 836 and 837(b) of the John S. McCain NDAA for FY 2019 to align the text of the DFARS with the new statutory definitions of commercial product and commercial service. The

legal basis for this rule is section 836 and section 837(b) of the John S. McCain NDAA for FY 2019.

The proposed rule impacts all entities that do business with DoD, including the over 327,458 small business registrants in the System for Award Management. However, DoD does not expect this proposed rule to have a significant impact, because the rule is not implementing any requirements with which small entities must comply. This proposed rule provides clarity for the acquisition workforce by replacing all instances of “commercial item” with “commercial product” and/or “commercial service”, as appropriate within the context of the DFARS text.

This proposed rule does not impose any new reporting, recordkeeping, or other compliance requirements for small entities.

This proposed rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known alternatives that would accomplish the stated objectives of the applicable statute.

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–D066), in correspondence.

VIII. Paperwork Reduction Act

This proposed 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 203, 204, 205, 207, 208, 211, 212, 213, 215, 216, 217, 219, 222, 223, 225, 226, 227, 232, 234, 237, 239, 242, 243, 244, 245, 246, 247, and 252

Government procurement.

Jennifer D. Johnson,
Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 203, 204, 205, 207, 208, 211, 212, 213, 215, 216, 217, 219, 222, 223, 225, 226, 227, 232, 234, 237, 239, 242, 243, 244, 245, 246, 247, and 252 are proposed to be amended as follows:

PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

■ 1. The authority citation for part 203 is revised to read as follows:

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

203.171–4 [Amended]

- 2. Amend section 203.171–4 by—
- a. In paragraph (a), removing “commercial items” and adding “commercial products and commercial services” in its place; and
 - b. In paragraph (b), removing “commercial items” and “task and delivery orders” and adding “commercial products and commercial services” and “task orders and delivery orders” in their places, respectively.
- 3. Revise section 203.570 to read as follows:

203.570 Prohibition on persons convicted of fraud or other defense-contract-related felonies.

203.570–3 [Amended]

- 4. Amend section 203.570–3 by removing “commercial items” and adding “commercial products or commercial services” in its place.

203.1004 [Amended]

- 5. Amend section 203.1004 by—
- a. In paragraph (a), removing “commercial items” and adding “commercial products and commercial services” in its place; and
 - b. In paragraph (b)(2)(ii), removing “commercial item” and adding “commercial product or commercial service” in its place.

PART 204—ADMINISTRATIVE AND INFORMATION MATTERS

■ 6. The authority citation for part 204 continues to read as follows:

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

204.804–70 [Amended]

- 7. Amend section 204.804–70 by removing “commercial items” and adding “commercial products and commercial services” in its place.
- 8. Revise the heading for subpart 204.21 to read as follows:

Subpart 204.21—Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment

204.2105 [Amended]

- 9. Amend section 204.2105 by removing from paragraphs (a), (b), and (c) “commercial items” and “task and delivery orders” and adding

“commercial products and commercial services” and “task orders and delivery orders” in their places, respectively.

204.7103–1 [Amended]

■ 10. Amend section 204.7103–1 by removing from paragraph (g) “commercial items” and adding “commercial products” in its place.

204.7203 [Amended]

■ 11. Amend section 204.7203 by removing “commercial items” and adding “commercial products and commercial services” in its place.

204.7301 [Amended]

■ 12. Amend section 204.7301 in the definition of “Technical information” by removing “Non Commercial Items” and adding “Other Than Commercial Products and Commercial Services” in its place.

204.7304 [Amended]

■ 13. Amend section 204.7304 by removing from paragraphs (a), (b), (c), (d), and (e) “commercial items” and adding “commercial products and commercial services” in its place.

204.7403 [Amended]

■ 14. Amend section 204.7403 by removing from paragraphs (a) and (b) “commercial items” and adding “commercial products and commercial services” in its place.

■ 15. Amend section 204.7503 by—
 ■ a. Revising the introductory text; and
 ■ b. In paragraphs (a) and (b), removing “commercial items” and adding “commercial products and commercial services” in its place.

The revision reads as follows:

204.7503 Contract clause.

Use the clause at 252.204–7021, Contractor Compliance with the Cybersecurity Maturity Model Certification Level Requirements, as follows:

* * * * *

PART 205—PUBLICIZING CONTRACT ACTIONS

■ 16. The authority citation for part 205 continues to read as follows:

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

205.470 [Amended]

■ 17. Amend section 205.470 by removing “commercial items” and adding “commercial products and commercial services” in its place.

PART 207—ACQUISITION PLANNING

■ 18. The authority citation for part 207 continues to read as follows:

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

207.102 [Amended]

■ 19. Amend section 207.102 by removing from paragraph (a)(1) “commercial item” and “Part 12” and adding “commercial product or commercial service” and “part 12” in their places, respectively.

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

■ 20. The authority citation for part 208 continues to read as follows:

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

208.7401 [Amended]

■ 21. Amend section 208.7401 in the definition of “Enterprise software agreement” by removing “related services” and adding “commercial software services” in its place.

208.7402 [Amended]

■ 22. Amend section 208.7402 by removing in paragraph (1) “related services” wherever it appears and “website at <http://www.don-imit.navy.mil/esi>” and adding “commercial software services” and “<https://www.esi.mil/>” in their places, respectively.

208.7403 [Amended]

■ 23. Amend section 208.7403 by removing “related services” and adding “commercial software services” in its place.

PART 211—DESCRIBING AGENCY NEEDS

■ 24. The authority citation for part 211 continues to read as follows:

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

211.104 [Amended]

■ 25. Amend section 211.104 by removing from paragraph (2) “commercial items” and adding “commercial products and commercial services” in its place.

211.170 [Amended]

■ 26. Amend section 211.170 by—
 ■ a. In paragraph (1), removing “or,” and adding “or” in its place; and
 ■ b. In paragraph (2), removing “commercial items” and adding “commercial products or commercial services” in its place.

211.274–2 [Amended]

■ 27. Amend section 211.274–2 by removing from paragraph (b)(2) “commercial item” and “part 12 or part 8” and adding “commercial product or

commercial service” and “part 12 or 8” in their places, respectively.

211.274–6 [Amended]

■ 28. Amend section 211.274–6 by removing from paragraphs (a)(1) and (c) introductory text “commercial items” and adding “commercial products and commercial services” in its place.

211.275–3 [Amended]

■ 29. Amend section 211.275–3 by removing “252.211–7006”, “commercial items”, and “211.275–2” and adding “252.211–7006”, “commercial products and commercial services”, and “211.275–2” in their places, respectively.

PART 212—ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

■ 30. The authority citation for part 212 continues to read as follows:

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

■ 31. Revise the heading for part 212 to read as set forth above.

■ 32. Revise the heading for subpart 212.1 to read as follows:

Subpart 212.1—Acquisition of Commercial Products and Commercial Services

■ 33. Amend section 212.102 by—
 ■ a. In paragraph (a)(i) heading, removing “*Commercial item*” and adding “*Commercial product or commercial service*” in its place;
 ■ b. In paragraph (a)(i)(A), removing “commercial item” and adding “commercial product or commercial service” in its place;
 ■ c. In paragraph (a)(i)(C), removing “commercial item”, “subsections”, and ““commercial item”” and adding “commercial product or commercial service”, “paragraph”, and ““commercial product or commercial service”” in their places, respectively;
 ■ d. In paragraph (a)(i)(D), removing “commercial item” and adding “commercial product or commercial service” in its place;
 ■ e. In paragraph (a)(ii) heading, removing “*commercial item*” and adding “*commercial product or commercial service*” in its place;
 ■ f. In paragraph (a)(ii)(A), removing “commercial item”, “the Department”, and “noncommercial items” and adding “commercial product or commercial service”, “DoD”, and “other than commercial products or commercial services” in their places, respectively;
 ■ g. In paragraph (a)(ii)(B), removing “commercial item” wherever it appears

and adding “commercial product or commercial service” in its place;

- h. Revising paragraph (a)(iii)(A);
- i. In paragraph (a)(iii)(B), removing “commercial items” and adding “commercial services” in its place; and
- j. In paragraph (a)(iii)(C), removing “commercial items” and adding “commercial products or commercial services” in its place.

The revision reads as follows:

212.102 Applicability.

(a) * * *

(iii) * * *

(A) Except as provided in paragraph (a)(iii)(B) of this section, may treat supplies and services provided by nontraditional defense contractors as commercial products or commercial services. This permissive authority is intended to enhance defense innovation and investment, enable DoD to acquire products or services that otherwise might not have been available, and create incentives for nontraditional defense contractors to do business with DoD. It is not intended to recategorize current other than commercial products or commercial services; however, when appropriate, contracting officers may consider applying commercial product or commercial service procedures to the procurement of supplies and services from business segments that meet the definition of “nontraditional defense contractor” (see 202.101) even though they have been established under traditional defense contractors. The decision to apply commercial product or commercial service procedures to the procurement of supplies and services from nontraditional defense contractors does not require a commercial product or commercial service determination and does not mean the product or service is commercial;

* * * * *

■ 34. Revise the heading for subpart 212.2 to read as follows:

Subpart 212.2—Special Requirements for the Acquisition of Commercial Products and Commercial Services

212.203 [Amended]

■ 35. Amend section 212.203 by removing from paragraph (1) “commercial items” and adding “commercial products and commercial services” in its place.

■ 36. Amend section 212.207 by—

- a. In paragraph (b) introductory text, removing “commercial items” and adding “commercial products and commercial services” in its place;
- b. In paragraph (b)(i), removing “commercial item”, “paragraph (5)”, “commercial item”, and “(41 U.S.C.

103” and adding “commercial product”, “paragraph (1)”, “commercial service” and “(41 U.S.C. 103a)” in their places, respectively; and

- c. In paragraph (b)(iii)(A), removing “paragraph (6)”, “commercial item”, and “(41 U.S.C. 103)” and adding “paragraph (1)”, “commercial service”, and “(41 U.S.C. 103a)” in their places, respectively.

212.209 [Amended]

■ 37. Amend section 212.209 by—

- a. In paragraph (a) introductory text, removing “commercial items” and adding “commercial products and commercial services” in its place;

- b. In paragraph (a)(1), removing “systems items” and “commercial items” and adding “systems” and “commercial products” in their places, respectively; and

- c. In paragraph (b), removing “section,” and “commercial items” and adding “section” and “commercial products or commercial services” in their places, respectively.

212.211 [Amended]

■ 38. Amend 212.211 by removing “commercial items” and adding “commercial products or commercial services” in its place.

■ 39. Revise section 212.270 to read as follows:

212.270 Major weapon systems as commercial products.

The DoD policy for acquiring major weapon systems as commercial products is in subpart 234.70.

■ 40. Revise the heading for section 212.272 to read as follows:

212.272 Preference for certain commercial products and commercial services.

212.301 [Amended]

■ 41. Amend section 212.301 by—

- a. In the section heading and paragraph (f) introductory text, removing “commercial items” and adding “commercial products and commercial services” in its place;

- b. In paragraph (f)(xi)(A), removing “Noncommercial Items” and adding “Other Than Commercial Products and Commercial Services” in its place;

- c. In paragraph (f)(xi)(B), removing “Commercial Items” and adding “Commercial Products and Commercial Services” in its place; and

- d. In paragraph (f)(xvi), removing “Commercial Items” and adding “Commercial Products and Commercial Services” in its place.

■ 42. Revise the heading for subpart 212.5 to read as follows:

Subpart 212.5—Applicability of Certain Laws to the Acquisition of Commercial Products, Commercial Services, and Commercially Available Off-the-Shelf Items

212.503 [Amended]

■ 43. Amend section 212.503 by—

- a. In the section heading, removing “executive” and “commercial items” and adding “Executive” and “commercial products and commercial services” in their places, respectively; and

- b. In paragraphs (a) introductory text, (a)(x), and (c) introductory text, removing “commercial items” and adding “commercial products or commercial services” in their places, respectively.

212.504 [Amended]

■ 44. Amend section 212.504 by—

- a. In the section heading, removing “commercial items” and adding “commercial products and commercial services” in its place;

- b. In paragraph (a) introductory text, removing “commercial items or commercial components” and adding “commercial products or commercial services” in its place;

- c. In paragraph (a)(xvi), removing “commercial items” and adding “commercial products and commercial services” in its place; and

- d. In paragraph (b) introductory text, removing “commercial items or commercial components” and adding “commercial products or commercial services” in its place.

■ 45. Revise the heading for subpart 12.6 to read as follows:

Subpart 212.6—Streamlined Procedures for Evaluation and Solicitation for Commercial Products and Commercial Services

■ 46. Revise the heading for subpart 212.70 to read as follows:

Subpart 212.70—Limitation on Conversion of Procurement From Commercial Product and Commercial Service Acquisition Procedures

212.7001 [Amended]

■ 47. Amend section 212.7001 by—

- a. In paragraph (a)(1) introductory text, removing “commercial item” and “commercial acquisition procedures to noncommercial acquisition procedures” and adding “commercial product or commercial service” and “commercial product and commercial service acquisition procedures to other than commercial product and commercial service acquisition procedures” in their places, respectively;

- b. In paragraph (a)(1)(i), removing “commercial acquisition procedures” and adding “commercial product and commercial service acquisition procedures” in its place;
- c. In paragraph (a)(1)(ii), removing “item or service using commercial acquisition procedures” and adding “product or service using commercial product and commercial service acquisition procedures” in its place; and
- d. In paragraph (b)(2), removing “noncommercial acquisition procedures” and adding “other than commercial product or commercial service acquisition procedures” in its place.

PART 213—SIMPLIFIED ACQUISITION PROCEDURES

- 48. The authority citation for part 213 continues to read as follows:

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

213.106–2–70 [Amended]

- 49. Amend section 213.106–2–70 by removing “commercial items” and adding “commercial products and commercial services” in its place.

213.301 [Amended]

- 50. Amend section 213.301 by removing from paragraph (2)(i)(B) “commercial item” and adding “commercial product or commercial service” in its place.

213.402 [Amended]

- 51. Amend section 213.402 by removing from paragraph (a)(i) “Brand-name” and adding “Brand-name commercial product” in its place.
- 52. Revise the heading for subpart 213.5 to read as follows:

Subpart 213.5—Simplified Procedures for Certain Commercial Products and Commercial Services

PART 215—CONTRACTING BY NEGOTIATION

- 53. The authority citation for part 215 continues to read as follows:

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

215.371–6 [Amended]

- 54. Amend section 215.371–6 by removing “commercial items” and adding “commercial products and commercial services” in its place.

215.402 [Amended]

- 55. Amend section 215.402 by removing from paragraph (a)(ii) “commercial items” and adding “commercial products or commercial services” in its place.

- 56. Amend section 215.403–1 by—
- a. Revising paragraph (c)(3) heading;
- b. In paragraph (c)(3)(A), removing “commercial items” and adding “commercial products or commercial services” in its place; and
- c. In paragraph (c)(3)(B), removing “commercial item” wherever it appears and adding “commercial product or commercial service” in its place.

The revision reads as follows:

215.403–1 Prohibition on obtaining certified cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. chapter 35).

* * * * *

(c) * * *

(3) *Commercial products or commercial services.* * * *

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- 57. Amend section 215.403–3(c) by—
- a. Revising the heading; and
- b. Removing “commercial items” and adding “commercial products” in its place.

The revision reads as follows:

215.403–3 Requiring data other than certified cost or pricing data.

* * * * *

(c) *Commercial products or commercial services.* * * *

215.404–1 [Amended]

- 58. Amend section 215.404–1 by—
- a. In paragraph (b) heading, removing “for commercial and noncommercial items”;
- b. In paragraph (b)(ii), removing “commercial items” and adding “commercial products or commercial services” in its place; and
- c. In paragraph (b)(vii), removing “commercial item” and adding “commercial product or commercial service determinations” in its place.

215.404–71–4 [Amended]

- 59. Amend section 215.404–71–4 by removing from paragraph (g)(3)(i)(A) “commercial item lines” and adding “commercial product lines” in its place.

215.404–71–5 [Amended]

- 60. Amend section 215.404–71–5 by removing from paragraph (b)(7) “commercial items” and adding “commercial products or commercial services” in its place.

215.408 [Amended]

- 61. Amend section 215.408 by—
- a. In paragraphs (2)(i)(A)(1) introductory text and (2)(i)(A)(2), removing “DFARS 252.215–7010” and “commercial items” and adding “252.215–7010” and “commercial products and commercial services” in their places, respectively;
- b. In paragraph (2)(i)(B), removing “DFARS”; and

- c. In paragraphs (2)(ii)(A)(1) introductory text, (2)(ii)(A)(2), (2)(ii)(A)(3)(i), (3), and (5)(i) introductory text, removing “commercial items” and adding “commercial products and commercial services” in its place.

PART 216—TYPES OF CONTRACTS

- 62. The authority citation for part 216 continues to read as follows:

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

216.601 [Amended]

- 63. Amend section 216.601 by—
- a. In paragraph (d)(i)(B)(3), removing “noncommercial items” and adding “other than commercial products or commercial services” in its place; and
- b. In paragraph (e), removing “Non-Commercial Item” and “non-commercial items” and adding “Other Than Commercial” and “other than commercial products or commercial services” in their places, respectively.

PART 217—SPECIAL CONTRACTING METHODS

- 64. The authority citation for part 217 continues to read as follows:

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

217.7302 [Amended]

- 65. Amend section 217.7302 by removing from paragraph (b)(1) “commercial items” and adding “commercial products” in its place.

PART 219—SMALL BUSINESS PROGRAMS

- 66. The authority citation for part 219 is revised to read as follows:

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

219.270–3 [Amended]

- 67. Amend section 219.270–3 by removing “commercial items” and adding “commercial services” in its place.

219.309 [Amended]

- 68. Amend section 219.309 by removing from paragraph (1) introductory text “commercial items” and adding “commercial products and commercial services” in its place.

219.708 [Amended]

- 69. Amend section 219.708 by removing from paragraphs (b)(1)(A) introductory text and (b)(1)(B) “commercial items” and adding “commercial products and commercial services” in its place.

PART 222—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

■ 70. The authority citation for part 222 continues to read as follows:

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

222.7403 [Amended]

■ 71. Amend section 222.7403 by removing “commercial items” and adding “commercial products or commercial services” in its place.

222.7405 [Amended]

■ 72. Amend section 222.7405 by removing “task or delivery orders” and “commercial items” and adding “task orders or delivery orders” and “commercial products or commercial services” in their places, respectively.

PART 223—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

■ 73. The authority citation for part 223 continues to read as follows:

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

223.570–2 [Amended]

■ 74. Amend section 223.570–2 by removing from paragraph (b)(1) “commercial items” and adding “commercial products and commercial services” in its place.

223.7201 [Amended]

■ 75. Amend section 223.7201 by removing from paragraph (b)(1) “commercial item” and adding “commercial product” in its place.

223.7306 [Amended]

■ 76. Amend section 223.7306 by removing “commercial items” and adding “commercial products and commercial services” in its place.

PART 225—FOREIGN ACQUISITION

■ 77. The authority citation for part 225 continues to read as follows:

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

225.302–6 [Amended]

■ 78. Amend section 225.302–6 by removing from the introductory text “commercial items” and adding “commercial products and commercial services” in its place.

225.371–5 [Amended]

■ 79. Amend section 225.371–5 by removing from paragraph (a)

introductory text “commercial items” and adding “commercial products and commercial services” in its place.

225.372–2 [Amended]

■ 80. Amend section 225.372–2 introductory text by removing “commercial items” and adding “commercial products and commercial services” in its place.

225.771–5 [Amended]

■ 81. Amend section 225.771–5 by removing “commercial items” and adding “commercial products and commercial services” in its place.

225.772–5 [Amended]

■ 82. Amend section 225.772–5 by removing from paragraph (b) “including solicitation” and “commercial items” and adding “including solicitations” and “commercial products and commercial services” in their places, respectively.

225.1101 [Amended]

■ 83. Amend section 225.1101 by—
 ■ a. In paragraphs (1) introductory text, (2)(i) introductory text, (5) introductory text, (6) introductory text, (9) introductory text, and (10)(i) introductory text, removing “commercial items” and adding “commercial products and commercial services” in its place; and
 ■ b. In paragraph (10)(ii)(B), removing “commercial item” and “Section” and adding “commercial product” and “section” in their places, respectively.

225.7002–3 [Amended]

■ 84. Amend section 225.7002–3 by removing from paragraphs (a), (b), and (c) “commercial items” and adding “commercial products and commercial services” in its place.

225.7003–3 [Amended]

■ 85. Amend section 225.7003–3 by—
 ■ a. In paragraph (b)(2)(i)(D)(2), removing “commercial item” and “subsection” and adding “commercial product” and “section” in their places, respectively; and
 ■ b. In paragraph (b)(3), removing “commercial items” and adding “commercial products” in its place.

225.7003–5 [Amended]

■ 86. Amend section 225.7003–5 by—
 ■ a. In paragraph (a) introductory text, removing “subsection” and adding “section” in its place; and
 ■ b. In paragraphs (a)(1) introductory text, (a)(2) introductory text, and (b) introductory text, removing “commercial items” and adding “commercial products and commercial services” in its place.

225.7006–4 [Amended]

■ 87. Amend section 225.7006–4 by removing from paragraphs (a) introductory text and (b) introductory text “commercial items” and adding “commercial products and commercial services” in its place.

225.7009–3 [Amended]

■ 88. Amend section 225.7009–3 by removing “commercial items” and adding “commercial products” in its place.

225.7009–5 [Amended]

■ 89. Amend section 225.7009–5 by—
 ■ a. In the introductory text, removing “commercial items” and adding “commercial products and commercial services” in its place; and
 ■ b. In paragraph (a), removing “commercial items” and adding “commercial products” in its place.

225.7017–4 [Amended]

■ 90. Amend section 225.7017–4 by removing from paragraphs (a)(1) and (2) and (b) “commercial items” and adding “commercial products and commercial services” in its place.

225.7018–5 [Amended]

■ 91. Amend section 225.7018–5 by removing “commercial items” and adding “commercial products and commercial services” in its place.

225.7202 [Amended]

■ 92. Amend section 225.7202 by removing “commercial items” and adding “commercial products, commercial services” in its place.

225.7307 [Amended]

■ 93. Amend section 225.7307 by removing from paragraphs (a) and (b) “commercial items” and adding “commercial products and commercial services” in its place.

225.7501 [Amended]

■ 94. Amend section 225.7501 by removing from paragraph (a)(2)(vi) “commercial item” and “Section” and adding “commercial product” and “section” in their places, respectively.

225.7503 [Amended]

■ 95. Amend section 225.7503 by removing from paragraphs (a) introductory text and (b) introductory text “commercial items or components” and adding “commercial products, including commercial components” in its place.

225.7605 [Amended]

■ 96. Amend section 225.7605 by removing “commercial items” and adding “commercial products and commercial services” in its place.

225.7703-4 [Amended]

■ 97. Amend section 225.7703-4 by removing from paragraphs (a), (b), (c) introductory text, and (d) “commercial items” and adding “commercial products and commercial services” in its place.

PART 226—OTHER SOCIOECONOMIC PROGRAMS

■ 98. The authority citation for part 226 continues to read as follows:

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

226.104 [Amended]

■ 99. Amend section 226.104 by removing “commercial items” and adding “commercial products and commercial services” in its place.

226.7203 [Amended]

■ 100. Amend section 226.7203 by removing “commercial items” and adding “commercial products and commercial services” in its place.

PART 227—PATENTS, DATA, AND COPYRIGHTS

■ 101. The authority citation for part 227 continues to read as follows:

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

227.7101 [Amended]

■ 102. Amend section 227.7101 by removing from paragraph (b) “Noncommercial Items” and adding “Other Than Commercial Products and Commercial Services” in its place.

■ 103. Revise section 227.7102 to read as follows:

227.7102 Commercial products, including components, commercial services, or commercial processes.

227.7102-1 [Amended]

■ 104. Amend section 227.7102-1 by—

■ a. In paragraph (a) introductory text, removing “commercial item or process” and adding “commercial product, commercial service, or commercial process” in its place;

■ b. In paragraph (a)(2), removing “commercial items or processes” and “commercial item” and adding “commercial products or commercial processes” and “commercial product” in their places, respectively;

■ c. In paragraph (b) introductory text, removing “subsection” and adding “section” in its place; and

■ d. In paragraphs (b)(1) and (2), removing “commercial items or processes” and adding “commercial products, commercial services, or commercial processes” in its place.

227.7102-2 [Amended]

■ 105. Amend section 227.7102-2 by removing from paragraph (a) “Commercial Items”, “commercial items or processes”, and “commercial items” and adding “Commercial Products and Commercial Services”, “commercial products, commercial services, or commercial processes” and “commercial products” in their places, respectively.

227.7102-3 [Amended]

■ 106. Amend section 227.7102-3 by—

■ a. In the section heading, removing “challenge” and adding “challenge,” in its place; and

■ b. Removing “commercial items” and adding “commercial products or commercial services” in its place.

■ 107. Amend section 227.7102-4 by—

■ a. Revising paragraph (a)(1);

■ b. In paragraph (a)(2), removing “commercial items” and adding “commercial products and commercial services” in its place;

■ c. In paragraph (b), removing “Noncommercial Items” and “commercial item” wherever it appears and adding “Other Than Commercial Products and Commercial Services” and “commercial product or commercial service” in their places, respectively; and

■ d. In paragraph (c), removing “commercial items” and adding “commercial products and commercial services” in its place.

The revision reads as follows:

227.7102-4 Contract clauses.

(a)(1) Except as provided in paragraph (b) of this section, use the clause at 252.227-7015, Technical Data—Commercial Products and Commercial Services, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services, when the contractor will be required to deliver technical data pertaining to commercial products including commercial components, commercial services, or commercial processes.

* * * * *

■ 108. Revise section 227.7103 to read as follows:

227.7103 Other than commercial products, commercial services, or commercial processes.

227.7103-3 [Amended]

■ 109. Amend section 227.7103-3 by—

■ a. In the section heading, removing “reproduction” and adding “reproduction,” in its place; and

■ b. In paragraph (b), removing “Noncommercial Items” and adding

“Other Than Commercial Products and Commercial Services” in its place.

227.7103-5

■ 110. Amend section 227.7103-5 by removing from the introductory text “Noncommercial Items” and “subsection” and adding “Other Than Commercial Products and Commercial Services” and “section” in their places, respectively.

■ 111. Amend section 227.7103-6 by—

■ a. Revising paragraph (a); and

■ b. In paragraphs (b)(1) introductory text and (b)(2), removing “commercial items” and adding “commercial products and commercial services” in its place.

The revision reads as follows:

227.7103-6 Contract clauses.

(a) Use the clause at 252.227-7013, Rights in Technical Data—Other Than Commercial Products and Commercial Services, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services, when the successful offeror(s) will be required to deliver to the Government technical data pertaining to other than commercial products or commercial services, or pertaining to commercial products or commercial services for which the Government will have paid for any portion of the development costs (in which case the clause at 252.227-7013 will govern the technical data pertaining to any portion of a commercial product or commercial service that was developed in any part at Government expense, and the clause at 252.227-7015 will govern the technical data pertaining to any portion of a commercial product or commercial service that was developed exclusively at private expense). Do not use the clause when the only deliverable items are computer software or computer software documentation (see 227.72), commercial products or commercial services developed exclusively at private expense (see 227.7102-4), existing works (see 227.7105), special works (see 227.7106), or when contracting under the Small Business Innovation Research Program (see 227.7104). Except as provided in 227.7107-2, do not use the clause in architect-engineer and construction contracts.

* * * * *

227.7103-9 [Amended]

■ 112. Amend section 227.7103-9 by removing from paragraph (a)(1) “Noncommercial Items” and adding “Other Than Commercial Products and Commercial Services” in its place.

227.7103–10 [Amended]

■ 113. Amend section 227.7103–10 by removing from paragraphs (a)(3) and (b) introductory text “Noncommercial Items” and adding “Other Than Commercial Products and Commercial Services” in its place.

227.7103–11 [Amended]

■ 114. Amend section 227.7103–11 in paragraph (a) by removing “Noncommercial Items” and adding “Other Than Commercial Products and Commercial Services” in its place.

227.7103–12 [Amended]

■ 115. Amend section 227.7103–12 by removing from paragraph (a)(1) “Noncommercial Items” and adding “Other Than Commercial Products and Commercial Services” in its place.

■ 116. Amend section 227.7103–13 by—

■ a. In paragraph (c)(1), removing “commercial item” and adding “commercial product or commercial service” in its place;

■ b. In paragraph (c)(2) introductory text, removing “commercial items” and adding “commercial products or commercial services” in its place;

■ c. In paragraph (c)(2)(i):

■ i. Revising the heading; and

■ ii. Removing “commercial item” and adding “commercial product or commercial service” in its place; and

■ d. In paragraphs (c)(2)(ii)(A)(1) and (2), removing “commercial item” and adding “commercial product” in its place.

The revision reads as follows:

227.7103–13 Government right to review, verify, challenge, and validate asserted restrictions.

* * * * *

(c) * * *

(2) * * *

(i) *Commercial products and commercial services.* * * *

* * * * *

227.7103–15 [Amended]

■ 117. Amend 227.7103–15 by—

■ a. In paragraph (a), removing “Noncommercial Items” and adding “Other Than Commercial Products and Commercial Services” in its place;

■ b. In paragraph (c) introductory text, removing “non-commercial items” and adding “other than commercial products or commercial services” in its place; and

■ c. In paragraphs (c)(1) and (d), removing “Noncommercial Items” and adding “Other Than Commercial Products and Commercial Services” in its place.

227.7103–16 [Amended]

■ 118. Amend section 227.7103–16 by removing from paragraph (b)

“Noncommercial Items” and adding “Other Than Commercial Products and Commercial Services” in its place.

227.7103–17 [Amended]

■ 119. Amend section 227.7103–17 by removing from paragraph (a) “Noncommercial Items” and “release or” and adding “Other Than Commercial Products and Commercial Services” and “release, or” in their places, respectively.

227.7104 [Amended]

■ 120. Amend section 227.7104 by removing from paragraph (a) “Noncommercial Technical” and adding “Other Than Commercial Technical” in its place.

227.7106 [Amended]

■ 121. Amend section 227.7106 by removing from paragraph (a)(1) “Noncommercial Items” and adding “Other Than Commercial Products and Commercial Services” in its place.

227.7201 [Amended]

■ 122. Amend section 227.7201 by removing from paragraph (b) “Noncommercial” wherever it appears and adding “Other Than Commercial” in its place.

■ 123. Revise the heading for section 227.7203 to read as follows:

227.7203 Other than commercial computer software and other than commercial computer software documentation.

* * * * *

227.7203–2 [Amended]

■ 124. Amend section 227.7203–2 by removing from the section heading “noncommercial” and adding “other than commercial” in its place.

227.7203–3 [Amended]

■ 125. Amend section 227.7203–3 by—

■ a. In the section heading, removing “reproduction” and adding “reproduction,” in its place; and

■ b. In paragraph (a), removing “Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation” and adding “Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation” in its place.

227.7203–4 [Amended]

■ 126. Amend section 227.7203–4 by removing from paragraph (b) “Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation” and adding “Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation” in its place.

227.7203–5 [Amended]

■ 127. Amend section 227.7203–5 by—

■ a. In the introductory text, removing “Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation” and “subsection” and adding “Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation” and “section” in their places, respectively; and

■ b. In paragraph (c)(1), removing “noncommercial” and adding “other than commercial” in its place.

227.7203–6 [Amended]

■ 128. Amend section 227.7203–6 by—

■ a. In paragraph (a)(1), removing “Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation”, “commercial items”, and “(see 227.7104),” and adding “Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation”, “commercial products and commercial services” and “(see 227.7104).” in their places, respectively; and

■ b. In paragraph (f), removing “noncommercial” and adding “other than commercial” in its place.

227.7203–9 [Amended]

■ 129. Amend section 227.7203–9 by—

■ a. In paragraph (a)(1), removing “Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation” and adding “Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation” in its place; and

■ b. In paragraph (a)(2), removing “Noncommercial Items” and adding “Other Than Commercial Products and Commercial Services” in its place.

227.7203–10 [Amended]

■ 130. Amend section 227.7203–10 by removing from paragraphs (a)(3) and (b) introductory text “Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation” and adding “Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation” in its place.

227.7203–11 [Amended]

■ 131. Amend section 227.7203–11 by removing from paragraph (a) “Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation” and adding “Rights in Other Than Commercial Computer Software and Other Than Commercial

Computer Software Documentation” in its place.

227.7203–12 [Amended]

■ 132. Amend section 227.7203–12 by removing from paragraph (a)(1) “Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation” and adding “Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation” in its place.

227.7203–15 [Amended]

■ 133. Amend section 227.7203–15 by removing from paragraphs (c)(1) and (d) “Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation” and adding “Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation” in its place.

227.7203–16 [Amended]

■ 134. Amend section 227.7203–16 by removing from paragraph (b) “Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation” and adding “Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation” in its place.

227.7203–17 [Amended]

■ 135. Amend section 227.7203–17 by removing from paragraph (a) “Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation” and adding “Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation” in its place.

227.7205 [Amended]

■ 136. Amend section 227.7205 by removing from paragraph (a)(1) “Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation” and adding “Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation” in its place.

PART 232—CONTRACT FINANCING

■ 137. The authority citation for part 232 continues to read as follows:

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

232.009–2 [Amended]

■ 138. Amend section 232.009–2 by removing “commercial items” and adding “commercial products and commercial services” in its place.

■ 139. Revise the heading for subpart 232.1 to read as follows:

Subpart 232.1—Financing for Other Than a Commercial Purchase

■ 140. Revise the heading for subpart 232.2 to read as follows:

Subpart 232.2—Commercial Product and Commercial Service Purchase Financing

232.206 [Amended]

■ 141. Amend section 232.206 by removing from the paragraph (g) heading “*commercial items*” and adding “*commercial products and commercial services*” in its place.

■ 142. Revise the heading for subpart 232.4 to read as follows:

Subpart 232.4—Advance Payments for Other Than Commercial Acquisitions

232.908 [Amended]

■ 143. Amend section 232.908 by removing “commercial items” and “Commercial Items” and adding “commercial products and commercial services” and “Commercial Products and Commercial Services” in their places, respectively.

232.1110 [Amended]

■ 144. Amend section 232.1110 by removing from the introductory text “commercial items” and adding “commercial products and commercial services” in its place.

232.7004 [Amended]

■ 145. Amend section 232.7004 by—
 ■ a. In paragraph (a), removing “contract or task or delivery order” and “commercial items” and adding “contract, task order, or delivery order” and “commercial products and commercial services” in their places, respectively; and
 ■ b. In paragraph (b), removing “contracts or task or delivery orders” and “commercial items” and adding “contracts, task orders, or delivery orders” and “commercial products and commercial services” in their places, respectively.

232.7102 [Amended]

■ 146. Amend section 232.7102 by removing “commercial items” and adding “commercial products and commercial services” in its place.

232.7202 [Amended]

■ 147. Amend section 232.7202 by removing “commercial items” and adding “commercial products and commercial services” in its place.

PART 234—MAJOR SYSTEM ACQUISITION

■ 148. The authority citation for part 234 continues to read as follows:

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

■ 149. Revise the heading for subpart 234.70 to read as follows:

Subpart 234.70—Acquisition of Major Weapon Systems as Commercial Products

234.7000 [Amended]

■ 150. Amend section 234.7000 in paragraph (b) by removing “commercial item” and adding “commercial product” in its place.

234.7002 [Amended]

■ 151. Amend section 234.7002 by—
 ■ a. In paragraph (a)(1) introductory text, removing “commercial item” and “commercial items” and adding “commercial product” and “commercial products and commercial services” in their places, respectively;
 ■ b. In paragraph (a)(1)(i)(A), removing “commercial item” and adding “commercial product” in its place;
 ■ c. In paragraph (b) introductory text, removing “commercial item” and “commercial items” and adding “commercial product” and “commercial products and commercial services” in their places, respectively;
 ■ d. In paragraph (b)(1), removing “commercial items” and adding “commercial products and commercial services” in its place;
 ■ e. In paragraph (b)(2), removing “commercial item” and adding “commercial product” in its place;
 ■ f. In paragraph (c)(1) introductory text, removing “commercial item” and adding “commercial product” in its place;
 ■ g. In paragraphs (c)(1)(i)(A) and (B) introductory text, removing “commercial items” and adding “commercial products and commercial services” in its place;
 ■ h. In paragraph (c)(1)(ii), removing “commercial item” and adding “commercial product” in its place;
 ■ i. In paragraph (d)(1), removing “commercial items” and adding “commercial products” in its place; and
 ■ j. In paragraph (d)(5), removing “commercial item” and adding “commercial product” in its place.

PART 237—SERVICE CONTRACTING

■ 152. The authority citation for part 237 continues to read as follows:

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

237.171–4 [Amended]

■ 153. Amend section 237.171–4 by removing from the introductory text “commercial items” and adding “commercial products and commercial services” in its place.

237.173–5 [Amended]

■ 154. Amend section 237.173–5 by removing “commercial items” and adding “commercial products and commercial services” in its place.

PART 239—ACQUISITION OF INFORMATION TECHNOLOGY

■ 155. The authority citation for part 239 continues to read as follows:

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

239.101 [Amended]

■ 156. Amend section 239.101 by removing from paragraph (1) “commercial items” wherever it appears and adding “commercial products or commercial services” in its place.

239.7306 [Amended]

■ 157. Amend section 239.7306 by removing from paragraphs (a) and (b) “commercial items” and adding “commercial products and commercial services” in its place.

239.7604 [Amended]

■ 158. Amend section 239.7604 by removing from paragraphs (a) and (b) “commercial item” and adding “commercial products and commercial services” in its place.

PART 242—CONTRACT ADMINISTRATION AND AUDIT SERVICES

■ 159. The authority citation for part 242 continues to read as follows:

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

242.7200 [Amended]

■ 160. Amend section 242.7200 by removing from paragraph (b)(1) introductory text “commercial items” and adding “commercial products or commercial services” in its place.

242.7204 [Amended]

■ 161. Amend section 242.7204 by removing from the introductory text “commercial items” and adding “commercial products or commercial services” in its place.

PART 243—CONTRACT MODIFICATIONS

■ 162. The authority citation for part 243 continues to read as follows:

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

243.205–71 [Amended]

■ 163. Amend section 242.205–71 by removing “commercial items” and adding “commercial products and commercial services” in its place.

PART 244—SUBCONTRACTING POLICIES AND PROCEDURES

■ 164. The authority citation for part 244 continues to read as follows:

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

244.303 [Amended]

■ 165. Amend section 244.303 by removing from paragraph (a) “commercial item” and “definition of “commercial item” in FAR 2.101” and adding “commercial product or commercial service” and “definition of “commercial product” or “commercial service” in FAR 2.101” in their places, respectively.

■ 166. Revise the heading for subpart 244.4 to read as follows:

Subpart 244.4—Subcontracts for Commercial Products and Commercial Services**244.402 [Amended]**

■ 167. Amend section 244.402 by—

- a. In paragraph (a), removing “commercial item” and adding “commercial product or commercial service” in its place; and
- b. In paragraph (S–70), removing “commercial items”, “definition of “commercial item” at FAR 2.101”, and “commercial item” and adding “commercial products or commercial services”, “definition of “commercial product” or “commercial service” at FAR 2.101”, and “commercial product or commercial service” in their places, respectively.

244.403 [Amended]

■ 168. Amend section 244.403 by removing “Commercial Items” and “commercial items” and adding “Commercial Products and Commercial Services” and “commercial products and commercial services” in their places, respectively.

PART 245—GOVERNMENT PROPERTY

■ 169. The authority citation for part 245 continues to read as follows:

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

■ 170. Amend section 245.102 by—

- a. Revising the introductory text; and
- b. In paragraph (4)(ii)(C) introductory text, removing “commercial item” and

adding “commercial product” in its place.

The revision reads as follows:

245.102 Policy.

See the policy guidance at PGI 245.102–70.

* * * * *

PART 246—QUALITY ASSURANCE

■ 171. The authority citation for part 246 continues to read as follows:

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

246.270–4 [Amended]

■ 172. Amend section 246.270–4 by removing “commercial items” and adding “commercial products and commercial services” in its place.

246.370 [Amended]

■ 173. Amend section 246.370 by removing from paragraph (a) introductory text “commercial items” and adding “commercial products and commercial services” in its place.

246.704 [Amended]

■ 174. Amend section 246.704 by removing from paragraph (1)(i) “Commercial items” and adding “Commercial products or commercial services” in its place.

246.706 [Amended]

■ 175. Amend section 246.706 by removing from paragraph (b)(5) “non-commercial items” and adding “other than commercial products” in its place.

246.870–3 [Amended]

■ 176. Amend section 246.870–3 by removing from paragraph (b) introductory text “commercial items” and adding “commercial products and commercial services” in its place.

PART 247—TRANSPORTATION

■ 177. The authority citation for part 247 continues to read as follows:

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

247.574 [Amended]

■ 178. Amend section 247.574 by—

- a. In paragraphs (a)(1) introductory text and (b) introductory text, removing “commercial items” and adding “commercial products and commercial services” in its place;
- b. In paragraphs (b)(1) introductory text and (b)(2) and (3), removing “commercial items” and adding “commercial products” in its place; and
- c. In paragraphs (c), (d), and (e), removing “commercial items” and adding “commercial products and commercial services” in its place.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 179. The authority citation for part 252 continues to read as follows:

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

■ 180. Amend section 252.203–7001 by—

■ a. Revising the section heading and date of the clause; and

■ b. In paragraph (g):

■ i. Adding a heading; and

■ ii. Removing “commercial items or components” and adding “commercial products or commercial services” in its place.

The revisions and addition read as follows:

252.203–7001 Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies.

* * * * *

Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies (DATE)

* * * * *

(g) *Subcontracts.* * * *

* * * * *

■ 181. Amend section 252.203–7004 by—

■ a. Revising the date of the clause; and

■ b. In paragraph (d), removing “commercial item” and adding “commercial product or commercial service” in its place.

The revision reads as follows:

252.203–7004 Display of Hotline Posters.

* * * * *

Display of Hotline Posters (DATE)

* * * * *

■ 182. Amend section 252.204–7004 by—

■ a. Revising the clause heading and the date of the clause; and

■ b. In paragraph (d), removing “commercial items” and adding “commercial products and commercial services” in its place.

The revisions read as follows:

252.204–7004 Antiterrorism Awareness Training for Contractors.

* * * * *

Antiterrorism Awareness Training for Contractors (DATE)

* * * * *

■ 183. Amend section 252.204–7009 by—

■ a. Revising the section heading and date of the clause;

■ b. In paragraph (a), in the definition of “Technical information”, removing “Noncommercial Items” and adding

“Other Than Commercial Products and Commercial Services” in its place; and

■ c. In paragraph (c), removing “commercial items” and adding “commercial products and commercial services” in its place.

The revision reads as follows:

252.204–7009 Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information.

* * * * *

Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information (DATE)

* * * * *

■ 184. Amend section 252.204–7012 by—

■ a. Revising the section heading;

■ b. In the introductory text, removing “204.7304c” and adding “204.7304(c)” in its place;

■ c. Revising the date of the clause;

■ d. In paragraph (a), in the definition of “Technical information”, removing “Noncommercial Items” and adding “Other Than Commercial Products and Commercial Services” in its place; and

■ e. In paragraph (m)(1), removing “commercial items” and adding “commercial products or commercial services” in its place.

The revision reads as follows:

252.204–7012 Safeguarding Covered Defense Information and Cyber Incident Reporting.

* * * * *

Safeguarding Covered Defense Information and Cyber Incident Reporting (DATE)

* * * * *

■ 185. Amend section 252.204–7014 by—

■ a. Revising the date of the clause; and

■ b. In paragraph (f):

■ i. Revising the heading; and

■ ii. Removing “commercial items” and adding “commercial products or commercial services” in its place.

The revisions read as follows:

252.204–7014 Limitations on the Use or Disclosure of Information by Litigation Support Contractors.

* * * * *

Limitations on the Use or Disclosure of Information by Litigation Support Contractors (DATE)

* * * * *

(f) *Subcontracts.* * * *

* * * * *

■ 186. Amend section 252.204–7015 by—

■ a. Revising the date of the clause; and

■ b. In paragraph (c):

■ i. Revising the heading; and

■ ii. Removing “commercial items” and adding “commercial products or commercial services” in its place.

The revisions read as follows:

252.204–7015 Notice of Authorized Disclosure of Information for Litigation Support.

* * * * *

Notice of Authorized Disclosure of Information for Litigation Support (DATE)

* * * * *

(c) *Subcontracts.* * * *

* * * * *

■ 187. Amend section 252.204–7018 by—

■ a. Revising the date of the clause; and

■ b. In paragraph (e), removing “commercial items” and adding “commercial products or commercial services” in its place.

The revision reads as follows:

252.204–7018 Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services.

* * * * *

Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services (DATE)

* * * * *

■ 188. Amend section 252.204–7020 by—

■ a. Revising the date of the clause; and

■ b. In paragraph (g)(1), removing “commercial items” and adding “commercial products or commercial services” in its place.

The revision reads as follows:

252.204–7020 NIST SP 800–171 DoD Assessment Requirements.

* * * * *

NIST SP 800–171 DOD Assessment Requirements (DATE)

* * * * *

■ 189. Amend section 252.204–7021 by—

■ a. Revising the date of the clause; and

■ b. In paragraph (c)(1), removing “commercial items” and adding “commercial products or commercial services” in its place.

The revision reads as follows:

252.204–7021 Contractor Compliance with the Cybersecurity Maturity Model Certification Level Requirement.

* * * * *

Contractor Compliance With the Cybersecurity Maturity Model Certification Level Requirement (DATE)

* * * * *

■ 190. Amend section 252.211–7003 by—

- a. Revising the section heading and date of the clause; and
- b. In paragraph (g), removing “by contract any items” and “commercial items” and adding “by subcontract any item(s)” and “commercial products or commercial services” in their places, respectively.

The revisions read as follows:

252.211–7003 Item Unique Identification and Valuation.

* * * * *

Item Unique Identification and Valuation (DATE)

* * * * *

- 191. Amend section 252.215–7009 by revising the section heading, the date of

the provision, and item 18 of the table to read as follows:

252.215–7009 Proposal Adequacy Checklist.

* * * * *

Proposal Adequacy Checklist (DATE)

* * * * *

PROPOSAL ADEQUACY CHECKLIST

References	Submission item	Proposal page No.	If not provided EX-PLAIN (may use continuation pages)
* * * * *	* * * * *	* * * * *	* * * * *
18. FAR 52.215–20 FAR 2.101, “commercial product or commercial service”.	Has the offeror submitted an exception to the submission of certified cost or pricing data for commercial products proposed either at the prime or subcontractor level, in accordance with provision 52.215–20? a. Has the offeror specifically identified the type of commercial product claim (FAR 2.101 commercial product definition, and the basis on which the commercial product meets the definition? b. For modified commercial products (FAR 2.101 commercial product or commercial service definition; did the offeror classify the modification(s) as either— i. A modification of a type customarily available in the commercial marketplace (paragraph (3)(i)); or ii. A minor modification (paragraph (3)(ii)) of a type not customarily available in the commercial marketplace made to meet Federal Government requirements not exceeding the thresholds in FAR 15.403–1(c)(3)(iii)(B)? c. For proposed commercial products “of a type”, or “evolved” or modified (FAR 2.101 commercial product definition), did the contractor provide a technical description of the differences between the proposed item and the comparison item(s)?	* * * * *	* * * * *
* * * * *	* * * * *	* * * * *	* * * * *

- 192. Amend section 252.215–7010 by—
- a. Revising the provision date;
- b. In paragraph (b)(1)(ii) introductory text, removing “Commercial item”, “commercial item”, “same item”, and “similar items” and adding “Commercial product or commercial service”, “commercial product”, “same product”, and “similar products” in their places, respectively; and
- c. In paragraph (b)(1)(ii)(A), removing “items” and adding “products” in its place.

The revision reads as follows:

252.215–7010 Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data.

* * * * *

Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data—Basic (DATE)

* * * * *

- 193. Amend section 252.215–7013 by—
- a. Revising the provision heading and date; and
- b. Removing “commercial items” and “commercial item” wherever they appear and adding “commercial products or commercial services” and “commercial product or commercial service” in their places, respectively.

The revisions read as follows:

252.215–7013 Supplies and Services Provided by Nontraditional Defense Contractors.

* * * * *

Supplies and Services Provided by Nontraditional Defense Contractors (DATE)

* * * * *

- 194. Amend section 252.216–7000 by—
- a. Revising the section heading and clause date; and
- b. In paragraph (a), in the definition of “Established price”, removing

“commercial item” and adding “commercial product” in its place.

The revisions read as follows:

252.216–7000 Economic Price Adjustment—Basic Steel, Aluminum, Brass, Bronze, or Copper Mill Products.

* * * * *

Economic Price Adjustment—Basic Steel, Aluminum, Brass, Bronze, or Copper Mill Products (DATE)

* * * * *

- 195. Amend section 252.216–7001 by—
- a. Revising the section heading and clause date; and
- b. In paragraph (a), in the definition of “Established price”, removing from paragraph (1) “commercial item” and adding “commercial product” in its place.

The revisions read as follows:

252.216–7001 Economic Price Adjustment—Nonstandard Steel Items.

* * * * *

Economic Price Adjustment—Nonstandard Steel Items (DATE)

* * * * *

■ 196. Amend section 252.216–7002 by revising the section heading, provision heading, and date of the provision to read as follows:

252.216–7002 Alternate A, Time-and-Materials/Labor-Hour Proposal Requirements—Other Than Commercial Acquisition with Adequate Price Competition.

* * * * *

Alternate A, Time-and-Materials/Labor-Hour Proposal Requirements—Other Than Commercial Acquisition With Adequate Price Competition (DATE)

* * * * *

■ 197. Amend section 252.217–7026 by—

- a. Revising the section heading and provision date;
- b. In paragraph (b)(2), removing “list “none.”” and adding “list “none.”” in its place; and
- c. In paragraph (b)(3), removing “commercial item” and adding “commercial product or commercial service” in its place.

The revisions read as follows:

252.217–7026 Identification of Sources of Supply.

* * * * *

Identification of Sources of Supply (DATE)

* * * * *

■ 198. Amend section 252.222–7006 by—

- a. Revising the clause date; and
- b. In paragraph (a), in the definition of “Covered subcontractor”, removing “commercial items” and adding “commercial products or commercial services” in its place.

The revision reads as follows:

252.222–7006 Restrictions on the Use of Mandatory Arbitration Agreements.

* * * * *

Restrictions on the Use of Mandatory Arbitration Agreements (DATE)

* * * * *

■ 199. Amend section 252.223–7008 by—

- a. Revising the clause date; and
- b. In paragraph (d), removing “commercial items” and “supplies,” and adding “commercial products or commercial services” and “supplies,” in their places, respectively.

The revision reads as follows:

252.223–7008 Prohibition of Hexavalent Chromium.

* * * * *

Prohibition of Hexavalent Chromium (DATE)

* * * * *

■ 200. Amend section 252.225–7001 by—

- a. Revising the clause date;
- b. In paragraph (a), in the definition of “Commercially available off-the-shelf (COTS) item”, removing from paragraph (i)(A) “commercial item” and ““commercial item”” and adding “commercial product” and ““commercial product”” in their places, respectively; and
- c. In the Alternate I clause—
 - i. Revising the clause date; and
 - ii. In paragraph (a), in the definition of “Commercially available off-the-shelf (COTS) item”, removing from paragraph (i)(A) “commercial item” and ““commercial item”” and adding “commercial product” and ““commercial product”” in their places, respectively.

The revisions read as follows:

252.225–7001 Buy American and Balance of Payments Program.

* * * * *

Buy American and Balance of Payments Program—basic (DATE)

* * * * *

Buy American and Balance of Payments Program—Alternate I (DATE)

* * * * *

■ 201. Amend section 252.225–7009 by—

- a. Revising the clause date;
- b. In paragraph (a), in the definition of “Commercially available off-the-shelf item”, removing from paragraph (i)(A) “commercial item” and ““commercial item”” and adding “commercial product” and ““commercial product”” in their places, respectively;
- c. In paragraph (c)(2)(i)(D)(2), removing “commercial item” and adding “commercial product” in its place;
- d. In paragraph (c)(3), removing “commercial items” and adding “commercial products” in its place; and
- e. In paragraph (e)(2), removing “commercial items” and adding “commercial products” in its place.

The revision reads as follows:

252.225–7009 Restriction on Acquisition of Certain Articles Containing Specialty Metals.

* * * * *

Restriction on Acquisition of Certain Articles Containing Specialty Metals (DATE)

* * * * *

■ 202. Amend section 252.225–7016 by—

- a. Revising the section heading and clause date;
- b. In paragraph (c)(1), removing “a noncommercial end product” and adding “an other than commercial end product”;
- c. In paragraph (c)(2), removing “noncommercial components” and “a noncommercial end product” and adding “other than commercial components” and “an other than commercial end product” in their places, respectively;
- d. In paragraph (f) introductory text, adding a heading; and
- e. Revising paragraph (f)(1).

The revisions read as follows:

252.225–7016 Restriction on Acquisition of Ball and Roller Bearings.

* * * * *

Restriction on Acquisition of Ball and Roller Bearings (DATE)

* * * * *

(f) *Subcontracts.* * * *

(1) Commercial products; or

* * * * *

■ 203. Amend section 252.225–7021 by—

- a. Revising the section heading and clause date;
- b. In paragraph (a), in the definition of “Commercially available off-the-shelf (COTS) item”, removing from paragraph (i)(A) “commercial item” and ““commercial item”” and adding “commercial product” and ““commercial product”” in their places, respectively; and
- c. In the Alternate II clause—
 - i. Revising the clause date; and
 - ii. In paragraph (a), in the definition of “Commercially available off-the-shelf (COTS) item”, removing from paragraph (i)(A) “commercial item” and “commercial item” and adding “commercial product” and ““commercial product”” in their places, respectively.

The revisions read as follows:

252.225–7021 Trade Agreements.

* * * * *

Trade Agreements—Basic (DATE)

* * * * *

Trade Agreements—Alternate II (DATE)

* * * * *

■ 204. Amend section 252.225–7036 by—

- a. Revising the clause date;
- b. In paragraph (a), in the definition of “Commercially available off-the-shelf (COTS) item”, removing from paragraph (i)(A) “commercial item” and ““commercial item”” and adding

“commercial product” and ““commercial product”” in their places, respectively;

- c. In the Alternate I clause—
 - i. Revising the clause date; and
 - ii. In paragraph (a), in the definition of “Commercially available off-the-shelf (COTS) item”, removing from paragraph (i)(A) “commercial item” and “commercial item” and adding “commercial product” and ““commercial product”” in their places, respectively;
- d. In the Alternate II clause—
 - i. Revising the clause date; and
 - ii. In paragraph (a), in the definition of “Commercially available off-the-shelf (COTS) item”, removing from paragraph (i)(A) “commercial item” and “commercial item” and adding “commercial product” and ““commercial product”” in their places, respectively;
- e. In the Alternate III clause—
 - i. Revising the clause date; and
 - ii. In paragraph (a), in the definition of “Commercially available off-the-shelf (COTS) item”, removing from paragraph (i)(A) “commercial item” and “commercial item” and adding “commercial product” and ““commercial product”” in their places, respectively;
- f. In the Alternate IV clause—
 - i. Revising the clause date; and
 - ii. In paragraph (a), in the definition of “Commercially available off-the-shelf (COTS) item”, removing from paragraph (i)(A) “commercial item” and “commercial item” and adding “commercial product” and ““commercial product”” in their places, respectively; and
- g. In the Alternate V clause—
 - i. Revising the clause date; and
 - ii. In paragraph (a)(i)(A), in the definition of “Commercially available off-the-shelf (COTS) item”, removing from paragraph (i)(A) “commercial item” and “commercial item” and adding “commercial product” and ““commercial product”” in their places, respectively.

The revisions read as follows:

252.225–7036 Buy American—Free Trade Agreements—Balance of Payments Program.

* * * * *

Buy American—Free Trade Agreements—Balance of Payments Program—Basic (DATE)

* * * * *

Buy American—Free Trade Agreements—Balance of Payments Program—Alternate I (DATE)

* * * * *

Buy American—Free Trade Agreements—Balance of Payments Program—Alternate II (DATE)

* * * * *

Buy American—Free Trade Agreements—Balance of Payments Program—Alternate III (DATE)

* * * * *

Buy American—Free Trade Agreements—Balance of Payments Program—Alternate IV (DATE)

* * * * *

Buy American—Free Trade Agreements—Balance of Payments Program—Alternate V (DATE)

* * * * *

■ 205. Amend section 252.225–7039 by—

- a. Revising the clause date; and
- b. In paragraph (f) introductory text, removing “commercial items” and adding “commercial products or commercial services” in its place.

The revision reads as follows:

252.225–7039 Defense Contractors Performing Private Security Functions Outside the United States.

* * * * *

Defense Contractors Performing Private Security Functions Outside The United States (DATE)

* * * * *

■ 206. Amend section 252.225–7044 by—

- a. Revising the clause date;
- b. In paragraph (a), in the definition of “Commercially available off-the-shelf (COTS) item”, removing from paragraph (i)(A) “commercial item” and ““commercial item”” and adding “commercial product” and ““commercial product”” in their places, respectively;
- c. In paragraph (b)(2), removing “commercial item” and adding “commercial product” in its place; and
- d. In the Alternate I clause—
 - i. Revising the clause date;
 - ii. In paragraph (a), in the definition of “Commercially available off-the-shelf (COTS) item”, removing from paragraph (i)(A) “commercial item” and “commercial item” and adding “commercial product” and ““commercial product”” in their places, respectively; and
 - iii. In paragraph (b)(2), removing “commercial item” and adding “commercial product” in its place.

The revisions read as follows:

252.225–7044 Balance of Payments Program—Construction Material.

* * * * *

Balance of Payments Program—Construction Material—Basic (DATE)

* * * * *

Balance of Payments Program—Construction Material—Alternate I (DATE)

* * * * *

■ 207. Amend section 252.225–7045 by—

- a. Revising the clause date;
- b. In paragraph (a), in the definition of “Commercially available off-the-shelf (COTS) item”, removing from paragraph (i)(A) “commercial item” and ““commercial item”” and adding “commercial product” and ““commercial product”” in their places, respectively;
- c. In paragraph (c)(2), removing “commercial item” and adding “commercial product” in its place;
- d. In the Alternate I clause—
 - i. Revising the clause date;
 - ii. In paragraph (a), in the definition of “Commercially available off-the-shelf (COTS) item”, removing from paragraph (i)(A) “commercial item” and “commercial item” and adding “commercial product” and ““commercial product”” in their places, respectively; and
 - iii. In paragraph (c)(2), removing “commercial item” and adding “commercial product” in its place;
- e. In the Alternate II clause—
 - i. Revising the clause date;
 - ii. In paragraph (a), in the definition of “Commercially available off-the-shelf (COTS) item”, removing from paragraph (i)(A) “commercial item” and “commercial item” and adding “commercial product” and ““commercial product”” in their places, respectively; and
 - iii. In paragraph (c)(2), removing “commercial item” and adding “commercial product” in its place; and
- f. In the Alternate III clause—
 - i. In the introductory text, removing “(SC/CASA)” and adding “(SC/CASA)” in its place;
 - ii. Revising the clause date;
 - iii. In paragraph (a), in the definition of “Commercially available off-the-shelf (COTS) item”, removing from paragraph (i)(A) “commercial item” and “commercial item” and adding “commercial product” and ““commercial product”” in their places, respectively; and
 - iv. In paragraph (c)(2), removing “commercial item” and adding “commercial product” in its place.

The revisions read as follows:

252.225–7045 Balance of Payments Program—Construction Material Under Trade Agreements.

* * * * *

Balance of Payments Program—Construction Material Under Trade Agreements—Basic (DATE)

* * * * *

Balance of Payments Program—Construction Material Under Trade Agreements—Alternate I (date)

* * * * *

Balance of Payments Program—Construction Material Under Trade Agreements—Alternate II (DATE)

* * * * *

Balance of Payments Program—Construction Material Under Trade Agreements—Alternate III (DATE)

* * * * *

■ 208. Amend section 252.225–7052 by—

- a. Adding introductory text;
- b. Revising the clause date;
- c. In paragraph (a), in the definition of “Commercially available off-the-shelf item”, removing from paragraph (1)(A) “commercial item” and ““commercial item”” and adding “commercial product” and ““commercial product”” in their places, respectively; and
- d. In paragraph (d), removing “commercial items” and adding “commercial products” in its place.

The addition and revision reads as follows:

252.225–7052 Restriction on the Acquisition of Certain Magnets, Tantalum, and Tungsten.

As prescribed in 225.7018–5, use the following clause:

Restriction on the Acquisition of Certain Magnets, Tantalum, and Tungsten (DATE)

* * * * *

■ 209. Amend section 252.225–7054 by—

- a. Revising the clause date; and
- b. In paragraph (c), removing “commercial items” and adding “commercial products” in its place.

The revision reads as follows:

252.225–7054 Prohibition on Use of Certain Energy Sourced From Inside the Russian Federation.

* * * * *

Prohibition on Use of Certain Energy Sourced From Inside the Russian Federation (DATE)

* * * * *

■ 210. Amend section 252.226–7001 by—

- a. Revising the section heading and clause date; and
- b. In paragraph (f)(3), removing “commercial items” and adding

“commercial products or commercial services” in its place.

The revisions read as follows:

252.226–7001 Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns.

* * * * *

Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (DATE)

* * * * *

■ 211. Amend section 252.227–7013 by—

- a. Revising the section heading, clause heading, and the clause date;
- b. In paragraph (b) introductory text, removing “world-wide” and “Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation” and adding “worldwide” and “Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation” in their places, respectively;
- c. In paragraph (f)(2), removing “to the Government purpose rights” and “Rights in Technical Data—Noncommercial Items” and adding “to the Government with government purpose rights” and “Rights in Technical Data—Other Than Commercial Products or Commercial Services” in their places, respectively;
- d. In paragraph (f)(3), removing “Rights in Technical Data—Noncommercial Items” and adding “Rights in Technical Data—Other Than Commercial Products or Commercial Services” in its place; and
- e. In paragraph (k)(2), removing “noncommercial items”, “commercial items”, and “commercial item” wherever they appear and adding “other than commercial products or commercial services”, “commercial products or commercial services”, and “commercial product or commercial service” in their places, respectively.

The revisions read as follows:

252.227–7013 Rights in Technical Data—Other Than Commercial Products and Commercial Services.

* * * * *

Rights in Technical Data—Other Than Commercial Products or Commercial Services (DATE)

* * * * *

■ 212. Amend section 252.227–7014 by—

- a. Revising the section heading, clause heading and date, and paragraphs (a)(14) and (a)(15) introductory text;

- b. In paragraph (b) introductory text, removing “world-wide” and “noncommercial computer software” and adding “worldwide” and “other than commercial computer software” in their places, respectively;
- c. In paragraphs (b)(3)(i) and (ii), removing “noncommercial computer software” and adding “other than commercial computer software” in its place;
- d. Revising paragraph (b)(4)(i);
- e. In paragraph (f)(2), removing “Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation” and adding “Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation” in its place;
- f. In paragraph (f)(3), removing “Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation” and adding “Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation” in its place; and
- g. In paragraph (k)(1), removing “noncommercial computer software” and adding “other than commercial computer software” in its place.

The revisions read as follows:

252.227–7014 Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation.

* * * * *

Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation (DATE)

(a) * * *

(14) *Other than commercial computer software* means software that does not qualify as commercial computer software under the definition of “commercial computer software” of this clause.

(15) *Restricted rights* apply only to other than commercial computer software and mean the Government’s rights to—

* * * * *

(b) * * *

(4) * * *

(i) The standard license rights granted to the Government under paragraphs (b)(1) through (3) of this clause, including the period during which the Government shall have government purpose rights in computer software, may be modified by mutual agreement to provide such rights as the parties consider appropriate but shall not provide the Government lesser rights in computer software than are enumerated

in the definition of “restricted rights” of this clause or lesser rights in computer software documentation than are enumerated in the definition of “limited rights” of the Rights in Technical Data—Other Than Commercial Products and Services clause of this contract.

* * * * *

■ 213. Amend section 252.227–7015 by—

■ a. Revising the section heading, clause heading, and clause date;

■ b. In paragraph (a)(1), removing “*Commercial item*” and adding “*Commercial product or commercial service*” in its place;

■ c. In paragraphs (b)(2)(i) and (ii), removing “commercial items” and adding “commercial products” in its place; and

■ d. In paragraph (e)(2), removing “commercial items” and “commercial item” and adding “commercial products or commercial services” and “commercial product or commercial service” in their places, respectively.

The revisions read as follows:

252.227–7015 Technical Data—Commercial Products and Commercial Services.

* * * * *

Technical Data—Commercial Products and Commercial Services (DATE)

* * * * *

■ 214. Amend section 252.227–7016 by revising the section heading, clause date, and paragraphs (a) and (c)(2) to read as follows:

252.227–7016 Rights in Bid or Proposal Information.

* * * * *

Rights in Bid or Proposal Information (DATE)

(a) *Definitions.*

(1) For contracts that require the delivery of technical data, the terms “technical data” and “computer software” are defined in the Rights in Technical Data—Other Than Commercial Products and Commercial Services clause of this contract or, if this is a contract awarded under the Small Business Innovation Research Program, the Rights in Other Than Commercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program clause of this contract.

(2) For contracts that do not require the delivery of technical data, the term “computer software” is defined in the Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation clause of this contract or, if this is a contract awarded under

the Small Business Innovation Research Program, the Rights in Other Than Commercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program clause of this contract.

* * * * *

(c) * * *

(2) The Government’s right to use, modify, reproduce, release, perform, display, or disclose information that is technical data or computer software required to be delivered under this contract are determined by the Rights in Technical Data—Other Than Commercial Items, Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation, or Rights in Other Than Commercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program clause(s) of this contract.

* * * * *

■ 215. Amend section 252.227–7017 by revising the section heading, provision date, and paragraph (a) to read as follows:

252.227–7017 Identification and Assertion of Use, Release, or Disclosure Restrictions.

* * * * *

Identification and Assertion of Use, Release, or Disclosure Restrictions (DATE)

(a) The terms used in this provision are defined in the following clause or clauses contained in this solicitation—

(1) If a successful offeror will be required to deliver technical data, the Rights in Technical Data—Other Than Commercial Products and Commercial Services clause, or, if this solicitation contemplates a contract under the Small Business Innovation Research Program, the Rights in Other Than Commercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program clause.

(2) If a successful offeror will not be required to deliver technical data, the Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation clause, or, if this solicitation contemplates a contract under the Small Business Innovation Research Program, the Rights in Other Than Commercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program clause.

* * * * *

■ 216. Amend section 252.227–7018 by—

■ a. Revising the section heading, clause heading, clause date, and paragraphs (a)(17) and (a)(18) introductory text;

■ c. In paragraph (b) introductory text, removing “world-wide” and “noncommercial computer software” and adding “worldwide” and “other than commercial computer software” in their places, respectively;

■ d. In paragraph (b)(3), removing “noncommercial computer software” and adding “other than commercial computer software” in its place;

■ e. In paragraph (f)(2), removing “Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program” and adding “Rights in Other Than Commercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program” in its place;

■ f. In paragraph (f)(3), removing “Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program” and adding “Rights in Other Than Commercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program” in its place;

■ g. In paragraph (f)(4):

■ i. Revising the heading; and

■ ii. Removing “Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program” and adding “Rights in Other Than Commercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program” in its place; and

■ h. Revising paragraph (k)(2).

The revisions read as follows:

252.227–7018 Rights in Other Than Commercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program.

* * * * *

Rights in Other Than Commercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program (DATE)

(a) * * *

(17) *Other than commercial computer software* means software that does not qualify as commercial computer software under the definition of “commercial computer software” of this clause.

(18) *Restricted rights* apply only to other than commercial computer software and mean the Government’s rights to—

* * * * *

(f) *SBIR data rights markings.* * * *

* * * * *

(k) * * *

(2) Whenever any other than commercial technical data or computer

software is to be obtained from a subcontractor or supplier for delivery to the Government under this contract, the Contractor shall use this same clause in the subcontract or other contractual instrument, and require its subcontractors or suppliers to do so, without alteration, except to identify the parties. The Contractor shall use the Technical Data—Commercial Products and Commercial Services clause of this contract to obtain technical data pertaining to commercial products including commercial components, commercial services, or commercial processes. No other clause shall be used to enlarge or diminish the Government's, the Contractor's, or a higher tier subcontractor's or supplier's rights in a subcontractor's or supplier's technical data or computer software.

* * * * *
■ 217. Amend section 252.227-7019 by revising the section heading, clause date, and paragraph (a)(2) to read as follows:

252.227-7019 Validation of Asserted Restrictions—Computer Software.

* * * * *

Validation of Asserted Restrictions—Computer Software (DATE)

(a) * * *

(2) Other terms used in this clause are defined in the Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation clause of this contract.

* * * * *

■ 218. Amend section 252.227-7025 by—

- a. Revising the clause date;
■ b. In paragraph (a)(1), removing "Rights in Technical Data-Noncommercial Items" and adding "Rights in Technical Data—Other Than Commercial Products and Commercial Services" in its place;
■ c. In paragraph (a)(2), removing "Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation" and adding "Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation" in its place;
■ d. In paragraph (a)(3), removing "Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program" and adding "Rights in Other Than Commercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program" in its place; and
■ e. In paragraph (b)(4)(i), removing "commercial item" and "commercial

items" and adding "commercial product or commercial service" and "commercial products" in their places, respectively.

The revision reads as follows:

252.227-7025 Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends.

* * * * *

Limitations on the Use or Disclosure of Government-Furnished Information Marked With Restrictive Legends (DATE)

* * * * *

■ 219. Amend section 252.227-7037 by—

- a. Revising the section heading;
■ b. In the introductory text, removing "27.7104(e)(5)" and adding "227.7104(e)(5)" in its place;
■ c. Revising the clause date;
■ d. In paragraph (a), removing "Rights in Technical Data—Noncommercial Items" and adding "Rights in Technical Data—Other Than Commercial Products and Commercial Services" in its place;
■ e. Revising paragraph (b)(1) heading;
■ f. In paragraphs (b)(1)(i) and (ii), removing "commercial item" and adding "commercial product or commercial service" in its place;
■ g. In paragraphs (b)(2)(i)(A) and (B), removing "commercial item" and adding "commercial product" in its place; and
■ h. In paragraph (l), removing "commercial items" and adding "commercial products" in its place.

The revisions read as follows:

252.227-7037 Validation of Restrictive Markings on Technical Data.

* * * * *

Validation of Restrictive Markings on Technical Data (DATE)

* * * * *

(b) * * *
(1) Commercial products and commercial services. * * *

* * * * *

■ 220. Amend section 252.232-7006 by—

- a. Revising the date of the clause; and
■ b. In paragraph (f)(1)(v), removing "item" wherever it appears.

The revision reads as follows:

252.232-7006 Wide Area WorkFlow Payment Instructions.

* * * * *

Wide Area Workflow Payment Instructions (DATE)

* * * * *

■ 221. Amend 252.232-7017 by—

- a. Revising the date of the clause; and

■ b. In paragraph (c), removing "commercial items" and adding "commercial products or commercial services" in its place.

The revision reads as follows:

252.232-7017 Accelerating Payments to Small Business Subcontractors—Prohibition on Fees and Consideration.

* * * * *

Accelerating Payments to Small Business Subcontractors—Prohibition on Fees and Consideration (DATE)

* * * * *

■ 222. Amend 252.236-7013 by—

- a. Revising the section heading and date of the clause; and
■ b. In paragraph (c), removing "commercial items" and adding "commercial products" in its place.

The revisions read as follows:

252.236-7013 Requirement for Competition Opportunity for American Steel Producers, Fabricators, and Manufacturers.

* * * * *

Requirement for Competition Opportunity for American Steel Producers, Fabricators, and Manufacturers (DATE)

* * * * *

■ 223. Amend section 252.237-7010 by—

- a. Revising the section heading and clause date; and
■ b. In paragraph (c), removing "commercial items" and adding "commercial services" in its place.

The revisions read as follows:

252.237-7010 Prohibition on Interrogation of Detainees by Contractor Personnel.

* * * * *

Prohibition on Interrogation of Detainees by Contractor Personnel (DATE)

* * * * *

■ 224. Amend section 252.237-7019 by—

- a. Revising the clause date; and
■ b. In paragraph (c), removing "commercial items" and adding "commercial services" in its place.

The revision reads as follows:

252.237-7019 Training for Contractor Personnel Interacting With Detainees.

* * * * *

Training for Contractor Personnel Interacting With Detainees (DATE)

* * * * *

■ 225. Amend section 252.239-7010 by—

- a. Revising the section heading and clause date; and

■ b. In paragraph (l), removing “commercial items” and adding “commercial services” in its place. The revisions read as follows:

252.239–7010 Cloud Computing Services.
* * * * *

Cloud Computing Services (DATE)
* * * * *

■ 226. Amend section 252.244–7000 by—
■ a. Revising the section heading, clause heading, and clause date; and
■ b. In paragraphs (a), (b), (c)(1) and (2), and (d), removing “commercial items” and adding “commercial products or commercial services” in its place. The revisions read as follows:

252.244–7000 Subcontracts for Commercial Products or Commercial Services.
* * * * *

Subcontracts for Commercial Products or Commercial Services (DATE)
* * * * *

■ 227. Amend section 252.246–7003 by—
■ a. Revising the clause date; and
■ b. Adding a heading to paragraph (f); and
■ c. In paragraph (f)(2) introductory text, removing “commercial items” and adding “commercial products or commercial services” in its place. The revision and addition read as follows:

252.246–7003 Notification of Potential Safety Issues.
* * * * *

Notification of Potential Safety Issues (DATE)
* * * * *

(f) *Subcontracts.* * * *
* * * * *
■ 228. Amend section 252.246–7007 by—
■ a. Revising the clause date; and
■ b. In paragraph (e):
■ i. Adding a heading; and
■ ii. Removing “commercial items” and adding “commercial products” in its place. The revision and addition read as follows:

252.246–7007 Contractor Counterfeit Electronic Part Detection and Avoidance System.
* * * * *

Contractor Counterfeit Electronic Part Detection and Avoidance System (DATE)
* * * * *

(e) *Subcontracts.* * * *
* * * * *
■ 229. Amend section 252.246–7008 by—
■ a. Revising the clause date; and
■ b. In paragraph (e), removing “commercial items” and adding “commercial products” in its place. The revision reads as follows:

252.246–7008 Sources of Electronic Parts.
* * * * *

Sources of Electronic Parts (DATE)
* * * * *

■ 230. Amend section 252.247–7003 by—
■ a. Revising the clause date; and
■ b. In paragraph (c):
■ i. Adding a heading; and
■ ii. Removing “commercial items” and adding “commercial products or commercial services” in its place. The revision reads as follows:

252.247–7003 Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer.
* * * * *

Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (DATE)
* * * * *

(c) *Subcontracts.* * * *
* * * * *
■ 231. Amend section 252.247–7023 by—
■ a. Revising the section heading, clause date, and paragraph (b)(2)(ii)(A);
■ b. In paragraph (b)(2)(ii)(B) introductory text, removing “Commercial items” and adding “Commercial products” in its place;
■ c. In paragraph (i) introductory text:
■ i. Adding a heading; and
■ ii. Removing “commercial items” and adding “commercial products” in its place;
■ d. In Alternate I—
■ i. Revising the clause date and paragraph (b)(2)(i);
■ ii. In paragraph (b)(2)(ii) introductory text, removing “Commercial items” and adding “Commercial products” in its place;
■ iii. In paragraph (b)(2)(ii)(B), removing “commercial items” and adding “commercial products” in its place; and

■ iv. In paragraph (i) introductory text:
■ A. Adding a heading; and
■ B. Removing “commercial items” and adding “commercial products” in its place; and
■ e. In Alternate II—
■ i. Revising the clause date and paragraph (b)(2)(i);
■ ii. In paragraph (b)(2)(ii) introductory text, removing “Commercial items” and adding “Commercial products” in its place; and
■ iii. In paragraph (i) introductory text:
■ A. Adding a heading; and
■ B. Removing “commercial items” and adding “commercial products” in its place.

The revisions read as follows:
252.247–7023 Transportation of Supplies by Sea.
* * * * *

Transportation of Supplies by Sea—Basic (DATE)
* * * * *

(b) * * *
(2) * * *
(i) * * *
(A) Other than commercial products;
or
* * * * *
(i) *Subcontracts.* * * *
* * * * *

Transportation of Supplies by Sea—Alternate I (DATE)
* * * * *

(b) * * *
(2) * * *
(i) Other than commercial products;
or
* * * * *
(i) *Subcontracts.* * * *
* * * * *

Transportation of Supplies by Sea—Alternate II (DATE)
* * * * *

(b) * * *
(2) * * *
(i) Other than commercial products;
or
* * * * *
(i) *Subcontracts.* * * *
* * * * *