

(ii) In 2017 and 2018, more than 5 percent of unique patients seen by the EP during the EHR reporting period (or their authorized representatives) views, downloads or transmits their health information to a third party during the EHR reporting period.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 203 and 252

[Docket DARS-2022-0001]

Defense Federal Acquisition Regulation Supplement; Technical Amendments

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

ACTION: Final rule; technical amendment.

SUMMARY: DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) in order to make needed editorial changes.

DATES: Effective September 29, 2022.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer D. Johnson, Defense Acquisition Regulations System, telephone 703-717-8226.

SUPPLEMENTARY INFORMATION: This final rule amends the DFARS to make needed editorial changes to 48 CFR parts 203 and 252.

List of Subjects in 48 CFR Parts 203 and 252

Government procurement.

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

Therefore, 48 CFR parts 203 and 252 are amended as follows:

PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

■ 1. The authority citation for 48 CFR part 203 is revised to read as follows:
Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

203.171-1 [Amended]

■ 2. Amend section 203.171-1 by removing “Section” and “Public Law” and adding “section” and “Pub. L.” in their places, respectively.

203.171-3 [Amended]

■ 3. Amend section 203.171-3 in paragraph (a) by removing “Section” and adding “section” in its place.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. The authority citation for 48 CFR part 252 continues to read as follows:

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

■ 5. Amend section 252.239-7010 by:

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

■ b. Removing from paragraph (b)(2) “*http://iase.disa.mil/cloud_security/Pages/index.aspx unless notified by the Contracting Officer that this requirement has been waived by the DoD Chief Information Officer.*” and adding “*https://public.cyber.mil/dccs/dccs-documents/ unless notified by the Contracting Officer that this requirement has been waived by the DoD Chief Information Officer.*” in its place.

The revisions read as follows:

252.239-7010 Cloud Computing Services.

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Cloud Computing Services (Sep 2022)

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[FR Doc. 2022-20966 Filed 9-28-22; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 252

[Docket DARS-2022-0022]

RIN 0750-AL52

Defense Federal Acquisition Regulation Supplement: Representation Relating to Compensation of Former DoD Officials (DFARS Case 2021-D030)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to clarify the requirement for offerors to represent whether former DoD officials employed by the offeror are in compliance with post-employment restrictions.

DATES: Effective September 29, 2022.

FOR FURTHER INFORMATION CONTACT: Monica Wideman, telephone 703-717-3446.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is issuing a final rule to implement a recommendation of the Government Accountability Office (GAO). Section 851 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2007 (Pub. L. 109-364) required GAO to report on recent employment of former DoD officials by major defense contractors. In May 2008, GAO issued a report titled “Defense Contracting: Post-Government Employment of Former DoD Officials Needs Greater Transparency (GAO-08-485).” GAO concluded that greater transparency was needed by DoD with respect to former senior and acquisition executives (i.e., DoD “covered officials”) to ensure compliance with applicable post-employment restrictions.

Subsequently, DoD issued a final rule in the **Federal Register** at 76 FR 71826, effective November 18, 2011, which implemented the GAO recommendation by adding a new representation for offerors to complete and provide as part of each proposal, including proposals for commercial items. The representation is required only one time rather than continuously throughout contract performance. The solicitation provision at DFARS 252.203-7005, Representation Relating to Compensation of Former DoD Officials, is a representation that all of the offeror’s employees who are former DoD officials are in compliance with all post-employment restrictions at 18 U.S.C. 207, 41 U.S.C. 2101-2107, and 5 CFR parts 2637 and 2641, as well as Federal Acquisition Regulation (FAR) 3.104-2.

A more recent GAO Report titled “GAO-21-104311, Post-Government Employment Restrictions-DoD Could Further Enhance Its Compliance Efforts Related to Former Employees Working for Defense Contractors,” dated September 9, 2021, states that in 2011 DoD modified its acquisition regulations to require that contractors, when submitting proposals in response to DoD solicitations, represent their employees’ compliance with several post-Government employment restrictions. Although GAO recognized that DoD has provided guidance on section 1045 of the NDAA for FY 2018 (Pub. L. 115-91), to include DoD Instruction 1000.32, “Prohibition of Lobbying Activity by Former DoD Senior Officials,” the GAO report pointed out that DoD has not added section 1045 of the NDAA for FY 2018 to the list of post-Government

employment ethics provisions currently enumerated within the solicitation provision at DFARS 252.203–7005. Specifically, since section 1045, which restricts lobbying activities with respect to DoD matters by former DoD senior officials, was enacted after the addition of DFARS 252.203–7005 in 2011, it was not originally included in the list of enumerated post-Government employment provisions. Therefore, GAO recommended that DoD assess whether to amend the DFARS to add section 1045 to the required offeror representation concerning compliance with post-Government employment restrictions.

This final rule revises DFARS provision 252.203–7005, Representation Relating to Compensation of Former DoD Officials, to add the statutory reference to section 1045 of the NDAA for FY 2018 to the existing list of post-Government employment restrictions to ensure that, to the extent the individuals are “covered DoD officials” under the definition at DFARS 252.203–7000, the lobbying activities restrictions contained in section 1045 are included among the enumerated post-Government employment ethics provisions. Additionally, the provision language was revised to clarify that former personnel are required to comply with all applicable post-Government employment restrictions, not just those enumerated in the solicitation provision at DFARS 252.203–7005.

An obsolete reference to 5 CFR 2637 is removed from the provision. Part 2637 was removed from title 5 of the CFR in a final rule published in the *Federal Register* at 73 FR 36168 (June 25, 2008).

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

The statute that applies to the publication of the FAR is 41 U.S.C. 1707, Publication of Proposed Regulations. Subsection (a)(1) of the statute requires that a procurement policy, regulation, procedure, or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors.

Under the existing DFARS requirement, offerors must represent that their employees subject to section 847 of the NDAA for FY 2008 are in compliance with applicable post-

Government employment restrictions, which are outlined in the written post-Government employment opinion letter issued pursuant to section 847. Following the enactment of section 1045 of the NDAA for FY 2018, DoD included the requirement in DoD Instruction 1000.32, Prohibition of Lobbying Activity by Former DoD Senior Officials, that post-Government employment opinions address section 1045, where applicable. Therefore, this final rule is not required to be published for public comment, because it does not constitute a significant DFARS revision within the meaning of FAR 1.501–1 and does not have a significant cost or administrative impact on contractors or offerors (see Section I of this preamble).

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

This rule amends the solicitation provision at DFARS 252.203–7005. However, this rule does not impose any new requirements on contracts at or below the SAT or for commercial services or commercial products, including COTS items. The provision will continue to apply to acquisitions at or below the SAT and to acquisitions of commercial services and commercial products, including COTS items.

IV. Executive Orders 12866 and 13563

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

V. 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*. The Office of Information and Regulatory Affairs has determined that this rule is not a major rule as defined by 5 U.S.C. 804.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501–1, and 41 U.S.C. 1707 does not require publication for public comment.

VII. Paperwork Reduction Act

This 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 Part 252

Government procurement.

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

Therefore, 48 CFR part 252 is amended as follows:

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

- 1. The authority citation for 48 CFR part 252 continues to read as follows:

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

- 2. Amend section 252.203–7005 by—
 - a. Revising the provision date;
 - b. Revising paragraph (b); and
 - c. Adding “(End of provision)” at the end of the provision.

The addition and revisions read as follows:

252.203–7000 Representation Relating to Compensation of Former DoD Officials.

* * * * *

Representation Relating to Compensation of Former DOD Officials (Sep 2022)

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(b) By submission of this offer, the Offeror represents, to the best of its knowledge and belief, that all covered DoD officials employed by or otherwise receiving compensation from the Offeror, and who are expected to undertake activities on behalf of the Offeror for any resulting contract, are presently in compliance with all applicable post-employment restrictions, including those contained in 18 U.S.C. 207, 41 U.S.C. 2101–2107, 5 CFR part 2641, section 1045 of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115–91), and Federal Acquisition Regulation 3.104–2.

(End of provision)

[FR Doc. 2022-20965 Filed 9-28-22; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 350, 360, 380, 382, 383, 385, 391, 395, 396, and 397

[Docket No. FMCSA-2022-0149]

RIN 2126-AC47

General Technical, Organizational, Conforming, and Correcting Amendments to the Federal Motor Carrier Safety Regulations

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: FMCSA amends its regulations by making technical corrections throughout the Federal Motor Carrier Safety Regulations (FMCSRs). The Agency makes minor changes to correct inadvertent errors and omissions, remove or update obsolete references, and improve the clarity and consistency of certain regulatory provisions. The Agency also makes nondiscretionary, ministerial changes that merely align regulatory requirements with the underlying statutory authority, including the Infrastructure Improvement and Jobs Act (IIJA), sometimes referred to as the Bipartisan Infrastructure Law, requirements. Additionally, the Agency makes changes relating to agency management and to FMCSA's rules of organization, procedures, or practice.

DATES: This final rule is effective September 29, 2022.

FOR FURTHER INFORMATION CONTACT: Mr. Nicholas Warren, Regulatory Development Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001; (202) 366-6124; nicholas.warren@dot.gov.

SUPPLEMENTARY INFORMATION:

I. Legal Basis for the Rulemaking

Congress delegated certain powers to regulate interstate commerce to the United States Department of Transportation (DOT or Department) in numerous pieces of legislation, most notably in section 6 of the Department of Transportation Act (DOT Act) (Pub. L. 89-670, 80 Stat. 931, 937, Oct. 15, 1966). Section 6 of the DOT Act transferred to the Department the

authority of the former Interstate Commerce Commission (ICC) to regulate the qualifications and maximum hours of service of employees, the safety of operations, and the equipment of motor carriers in interstate commerce (80 Stat. 939). This authority, first granted to the ICC in the Motor Carrier Act of 1935 (Pub. L. 74-255, 49 Stat. 543, Aug. 9, 1935), now appears in 49 U.S.C. chapter 315. The regulations issued under this (and subsequently enacted) authority became known as the FMCSRs, codified at 49 CFR parts 350-399. The administrative powers to enforce chapter 315 (codified in 49 U.S.C. chapter 5) were also transferred from the ICC to the DOT in 1966, assigned first to the Federal Highway Administration (FHWA), and then to FMCSA. The FMCSA Administrator, whose powers and duties are set forth in 49 U.S.C. 113, has been delegated authority by the Secretary of Transportation (the Secretary) under 49 CFR 1.81 to prescribe regulations and to exercise authority over and with respect to any personnel within the organization, and under 49 CFR 1.87 to carry out the motor carrier functions vested in the Secretary.

Between 1984 and 1999, enforcement of the FMCSRs, the Hazardous Materials Regulations, and the Commercial Regulations were added to FHWA's authority. These statutes include the Motor Carrier Safety Act of 1984 (Pub. L. 98-554, Title II, 98 Stat. 2832, Oct. 30, 1984), codified at 49 U.S.C. chapter 311, subchapter III; the Commercial Motor Vehicle Safety Act of 1986 (Pub. L. 99-570, Title XII, 100 Stat. 3207-170, Oct. 27, 1986), codified at 49 U.S.C. chapter 313; the Hazardous Materials Transportation Uniform Safety Act of 1990, as amended (Pub. L. 101-615, 104 Stat. 3244, Nov. 16, 1990), codified at 49 U.S.C. chapter 51; the Omnibus Transportation Employee Testing Act of 1991 (Pub. L. 102-143, Title V, 105 Stat. 917, 952, Oct. 28, 1991), codified at 49 U.S.C. 31306; the ICC Termination Act of 1995 (Pub. L. 104-88, 109 Stat. 803, Dec. 29, 1995), codified at 49 U.S.C. chapters 131-149; and the Transportation Equity Act for the 21st Century (Pub. L. 105-178, 112 Stat. 107, June 9, 1998).

The Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Pub. L. 106-159, 113 Stat. 1748, Dec. 9, 1999) established FMCSA as a new operating administration within DOT, effective January 1, 2000. Accordingly, since that time the motor carrier safety, and certain commercial, responsibilities previously assigned to both the ICC and FHWA are the jurisdiction of FMCSA.

Congress expanded, modified, and amended FMCSA's authority in the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Pub. L. 107-56, 115 Stat. 272, Oct. 26, 2001); the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Pub. L. 109-59, 119 Stat. 1144, Aug. 10, 2005); the SAFETEA-LU Technical Corrections Act of 2008 (Pub. L. 110-244, 122 Stat. 1572, June 6, 2008); the Moving Ahead for Progress in the 21st Century Act (MAP-21) (Pub. L. 112-141, 126 Stat. 405, July 6, 2012); and the Fixing America's Surface Transportation Act (Pub. L. 114-94, 129 Stat. 1312, Dec. 4, 2015). Most recently, Congress amended FMCSA's authorities in the Infrastructure Improvement and Jobs Act (IIJA) (Pub. L. 117-58, 135 Stat. 429, Nov. 15, 2021). Accordingly, FMCSA amends three parts in title 49 of the Code of Federal Regulations (CFR) to align the regulatory text with the new statutory requirements.

The specific regulations amended by this rule are based on the statutes detailed above. Generally, the legal authority for each of those provisions was explained when the requirement was originally adopted and is noted at the beginning of each part in title 49 of the CFR.

The Administrative Procedure Act (APA) specifically provides exceptions to its notice and comment rulemaking procedures when an agency finds there is good cause to dispense with them, and incorporates the finding, and a brief statement of reasons therefore, in the rules issued (5 U.S.C. 553(b)(3)(B)). Good cause exists when an agency determines that notice and public comment procedures are impractical, unnecessary, or contrary to the public interest. The amendments made in this final rule primarily correct inadvertent errors and omissions, remove or update obsolete references, and make minor language changes to improve clarity and consistency. Some changes are statutorily mandated or align regulatory standards with the underlying statutory authority. In accommodating those changes, the Agency is performing nondiscretionary, ministerial acts. The technical amendments do not impose any material new requirements or increase compliance obligations. For these reasons, FMCSA finds good cause that notice and public comment on this final rule are unnecessary.

Moreover, the amendments changing the name of the "Office of Enforcement and Compliance (MC-EC)" to the "Office of Enforcement and Compliance (MC-SE)" and "Office of Safety