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Authority: 15 U.S.C. 2601 *et seq.*

Dated: April 21, 2023.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 211, 212, 245, and 252

[Docket DARS–2023–0017]

RIN 0750–AL14

Defense Federal Acquisition Regulation Supplement: Consolidation of DoD Government Property Clauses (DFARS Case 2020–D029)

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 consolidate existing contract clauses for the management and reporting of Government property into a single contract clause, to replace references to legacy software applications used for reporting Government property within the DoD enterprise-wide eBusiness

platform, and to convert existing form-based processes into electronic processes within that platform.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before June 26, 2023, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2020–D029, using any of the following methods:

○ *Federal eRulemaking Portal:* <https://www.regulations.gov>. Search for “DFARS Case 2020–D029.” Select “Comment” and follow the instructions to submit a comment. Please include “DFARS Case 2020–D029” on any attached documents.

○ *Email:* osd.dfars@mail.mil. Include DFARS Case 2020–D029 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: Heather Kitchens, telephone 571–296–7152.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to amend the DFARS to consolidate contract clauses related to management and reporting of Government property, update references to certain forms that are being incorporated into electronic processes, and update references to applications used to report receipt, shipment, transfer, or loss of Government property, or excess Government property. DoD developed the Government-furnished property (GFP) module within the Procurement Integrated Enterprise Environment (PIEE) to house the GFP life-cycle reporting requirements to provide end-to-end accountability for all GFP transactions within a single, secure, integrated system, while employing enhancements in technology to reduce burden on the public and the Government.

There are no changes to the Government property data that contractors are required to report; only the application used to submit the information is changing. The GFP module application is based upon newer technology that will provide contractors with a much more efficient process to submit data for their reports. For instance, contractors will not be required to enter the same data into

multiple fields; the system will automatically populate data fields throughout the process. By creating a single tool for all reporting of Government property, data can be readily accessed across various processes, thereby reducing contractor input and errors while enabling traceability across the Government property life cycle.

II. Discussion and Analysis

This proposed rule would remove four DFARS clauses and consolidate their requirements into a single clause at DFARS 252.245–70XX, Management and Reporting of Government Property. The four clauses being removed, and related text for those clauses, are as follows:

a. DFARS clause 252.211–7007, Reporting of Government-Furnished Property. Upon removal of this clause, the associated policy at DFARS 211.274–4, Policy for reporting of Government-furnished property, is no longer applicable and is removed. The removal of 211.274–4 necessitates redesignating subsequent sections. Removal of the clause prescription at 211.274–6(b) results in the redesignation of the subsequent paragraph. DFARS clause 252.211–7007 is also removed from section 212.301, Solicitation provisions and contract clauses for the acquisition of commercial products and commercial services.

b. DFARS clause 252.245–7001, Tagging, Labeling, and Marking of Government-Furnished Property, is removed along with the associated clause prescription at 245.107(3).

c. DFARS clause 252.245–7002, Reporting Loss of Government Property, is removed along with the associated clause prescription at 245.107(4).

d. DFARS clause 252.245–7004, Reporting, Reutilization, and Disposal, is removed along with the associated clause prescription at 245.107(6).

The new consolidated DFARS clause, 252.245–70XX, Management and Reporting of Government Property, instructs contractors to use the GFP module in the PIEE instead of legacy applications when reporting receipt, shipment, transfer, or loss of Government property, and for reporting excess property. A new prescription for this proposed clause is at DFARS 245.107(4). The clause is also added to DFARS 212.301 for use in DoD solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services.

At DFARS 245.102, Policy, a reference in paragraph (2) is updated; and in

paragraph (5) the paragraph heading is changed to “Reporting Government property”, and guidance is added concerning the new clause 252.245–70XX to replace the obsolete guidance for clause 252.245–7002, which is removed. At 245.103–72, Government-furnished property attachments to solicitations and awards, updated guidance is provided for using GFP attachments in acquisitions.

DFARS 245.201–70, Definitions, provided a cross-reference to DFARS Procedures, Guidance, and Information (PGI) 245.201–70 that is no longer needed; therefore, the section is removed. As a result, section 245.201–71 is redesignated as 245.201–70.

DFARS 245.604–1, Sales procedures, for the sale of surplus personal property is updated. This DFARS section supplements Federal Acquisition Regulation (FAR) 45.604–1, which states that sales shall be in accordance with the policy for the sale of surplus property contained in the Federal Management Regulation (41 CFR part 102–38) and that agencies may specify implementing procedures. The implementing procedures at DFARS 245.604–1 are revised to align two sales procedures terms with 41 CFR 102–38 to reflect “invitation for bid” and “negotiated sales” in lieu of “informal bid procedures” and “noncompetitive sales.” Sales procedures for the contractor are addressed in DFARS clause 252.245–70XX.

Subpart 245.70, Plant Clearance Forms, is no longer needed and is removed and reserved. DD Form 1149, Requisition and Invoice Shipping Document; DD Form 1348–1, DoD Single Line Item Release/Receipt Document; and DD Form 1640, Request for Plant Clearance, have been converted from form-based processes into electronic processes within the GFP module and are addressed in the new clause 252.245–70XX. Coverage for the SF–97, Certificate of Release of a Motor Vehicle (Agency Record Copy), and the DD form 1641, Disposal Determination Approval, is relocated to DFARS PGI 245.602–70. As a result of addressing these forms in DFARS PGI and in the new clause, DFARS subpart 245.70, Plant Clearance Forms, is no longer needed and is removed.

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 proposed rule includes a new DFARS contract clause 252.245–7XXX, Management and Reporting of

Government Property. The clause at DFARS 252.245-7XXX is prescribed at DFARS 245.107(4) for use in solicitations and contracts containing the clause at FAR 52.245-1, Government Property. The new clause 252.245-7XXX is applicable to acquisitions at or below the SAT and to acquisitions of commercial products and commercial services when the contract contains the clause at FAR 52.245-1. For DoD, the FAR clause 52.245-1 is required to be used in all purchase orders for repair, maintenance, overhaul, or modification of Government property regardless of the unit acquisition cost of the items to be repaired. These purchase orders are likely to fall under the SAT. Not applying this clause to contracts below the SAT and for the acquisition of commercial products, including COTS items, and commercial services would exclude contracts intended to be covered by this rule and undermine the overarching purpose of the rule. Consequently, DoD plans to apply the rule to contracts at or below the SAT and to those for the acquisition of commercial products, including COTS items, and commercial services.

IV. Expected Impact of the Rule

The proposed rule consolidates the requirements for Government property reporting from multiple DFARS contract clauses into a single DFARS clause, reflecting the move of this activity into a single integrated eBusiness platform. This change will improve the ability of contractors and the Government to access and use the data across the Government property life cycle. The technical enhancements of the PIEE GFP Module allow for importing data, which will substantially reduce the reporting burden on DoD contractors while improving the accuracy of information. The PIEE GFP Module further enables DoD to consolidate and electronically share data about Government property in the possession of contractors, thereby improving accountability and auditability.

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. Regulatory Flexibility Act

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule is not creating any new requirements for contractors. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to consolidate existing contract clauses for the management and reporting of Government property into a single DFARS clause, eliminate some form-based reporting by providing an electronic equivalent, and replace references to legacy software applications used for the reporting of Government property with updated language directing the Government and contractors to utilize the Procurement Integrated Enterprise Environment (PIEE) Government-furnished property (GFP) Module within the DoD enterprise-wide eBusiness platform. DoD developed the GFP module within the PIEE to house the GFP life-cycle reporting requirements, thus providing end-to-end accountability for all GFP transactions within a single, secure, integrated system. Use of the PIEE GFP Module capitalizes on technological enhancements and reduces burden on the public and the Government.

The objective of the rule is to create more efficient instructions for reporting Government property by consolidating reporting requirements for Government property. The proposed rule transitions instructions for property reporting from multiple stand-alone, legacy software applications to the PIEE GFP Module, a fully integrated, DoD enterprise-wide eBusiness platform. Use of the new system functionality will enable DoD to address numerous audit findings and security concerns. The legal basis for the rule is 41 U.S.C. 1303.

This proposed rule will likely affect some small business concerns that are provided Government-furnished property in the performance of their contracts. Data generated from the Federal Procurement Data System for fiscal years 2019 through 2021 indicates that, on average, 2,022 unique small entities per year received awards with Government property that would be subject to this proposed rule.

The proposed rule does not impose any new reporting, recordkeeping, or compliance requirements. The replacement application used for reporting is intended to maintain the status quo regarding the information to be reported and to reduce compliance requirements due to the technological advances in the PIEE GFP Module.

This proposed rule does not duplicate, overlap, or conflict with any other Federal rules. There are no practical alternatives available to meet the objectives of the rule.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2020-D029), in correspondence.

VII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) applies. The proposed rule contains information collection requirements under the new consolidated DFARS clause 252.245-70XX, Management and Reporting of Government Property. Accordingly, DoD has submitted a request for approval of a revised information collection requirement for 0704-0246, DFARS part 245, Government Property, to the Office of Management and Budget (OMB).

As a result of the consolidation of Government-furnished property reporting requirements under a single contract clause, 252.245-70XX, two associated OMB Control Numbers will be discontinued, as the reporting requirements are included in the revised request for OMB Control Number 0704-0246. The OMB Control Numbers to be discontinued are 0704-0398, DFARS Part 211, Describing Agency Needs and related clause at 252.211; and 0704-0557, DFARS Part 245, Use of the Government Property Clause for Repair of Government-furnished Property. Upon approval of the revisions to OMB Control Number 0704-0246 and publication of the final rule for this case, OMB Control Numbers 0704-0398 and 0704-0557 will be discontinued.

The following sets forth the revised information collection request for OMB Control Number 0704-0246:

A. Estimate of Public Burden

Public reporting burden for this collection of information is estimated to average 0.1 hour per response, including the time for reviewing instructions,

searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden estimated as follows:

Respondents: 3,513.

Total annual responses: 454,184.

Total response burden hours: 47,659.

B. Request for Comments Regarding Paperwork Burden

Written comments and recommendations on the proposed information collection, including suggestions for reducing this burden, should be submitted within 60 days to <https://www.regulations.gov>. Public comments are particularly invited on: whether this collection of information is necessary for the proper performance of functions of the DFARS, and will have practical utility; whether DoD's estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

To obtain a copy of the supporting statement and associated collection instruments, please email osd.dfars@mail.mil. Include DFARS Case 2020–D029 in the subject line of the message.

List of Subjects in 48 CFR Parts 211, 212, 245, and 252

Government procurement.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 211, 212, 245, and 252 are proposed to be amended as follows:

- 1. The authority citation for 48 CFR parts 211, 212, 245, and 252 continues to read as follows:

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

PART 211—DESCRIBING AGENCY NEEDS

211.274–4 [Removed]

- 2. Remove section 211.274–4.

211.274–5 and 211.274–6 [Redesignated as 211.274–4 and 211.274–5]

- 3. Redesignate sections 211.274–5 and 211.274–6 as sections 211.274–4 and 211.274–5, respectively.

211.274–5 [Amended]

- 4. Amend the newly redesignated section 211.274–5 by—
 - a. Redesignating paragraphs (a)(1), (2), and (3) as paragraphs (a) introductory text and (a)(1) and (2), respectively;
 - b. Removing paragraph (b); and
 - c. Redesignating paragraph (c) as paragraph (b).

PART 212—ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

- 5. Amend section 212.301—
 - a. In paragraph (f)(iv)(A) by removing “211.274–6(a)(1)” and adding “211.274–5(a)” in its place;
 - b. By removing paragraph (f)(iv)(B);
 - c. By redesignating paragraph (f)(iv)(C) as paragraph (f)(iv)(B);
 - d. In the newly redesignated paragraph (f)(iv)(B) by removing “211.274–6(c)” and adding “211.274–5(b)” in its place;
 - e. Redesignating paragraphs (f)(xviii) and (xix) as paragraphs (f)(xix) and (xx), respectively; and
 - f. Adding a new paragraph (f)(xviii).
The addition reads as follows:

212.301 Solicitation provisions and contract clauses for the acquisition of commercial products and commercial services.

* * * * *

(f) * * *

(xviii) *Part 245—Government Property.* Use the clause at 252.245–70XX, Management and Reporting of Government Property, as prescribed in 245.107(4).

* * * * *

PART 245—GOVERNMENT PROPERTY

- 6. Amend section 245.102:
 - a. By revising paragraph (2);
 - b. In the paragraph (4) heading and paragraphs (4)(i) and (4)(ii)(A) by removing “Government-furnished property” and adding “GFP” in their places, respectively; and
 - c. By revising paragraph (5).
The revisions read as follows:

245.102 Policy.

* * * * *

(2) *Government supply sources.* When a contractor will be responsible for preparing requisitioning documentation to acquire Government-furnished property (GFP) from Government supply sources, include in the contract the requirement to prepare the documentation in accordance with Volume 2 of the Defense Logistics Manual (DLM) 4000.25, Military Standard Transaction Reporting and Accounting Procedures (MILSTRAP).

Copies are available from the address cited at PGI 251.102.

* * * * *

- (5) *Reporting Government property.* It is DoD policy that all Government property be reported in the GFP module or Wide Area WorkFlow module of the Procurement Integrated Enterprise Environment (PIEE) as required by the clause at 252.245–70XX, Management and Reporting of Government Property.
- 7. Revise section 245.103–72 to read as follows:

245.103–72 Government-furnished property attachments to solicitations and awards.

When performance will require the use of GFP, contracting officers shall include the GFP attachment to solicitations and awards. See PGI 245.103–72 for links to the formats and procedures for preparing the GFP attachment.

- 8. Amend section 245.107 by—
 - a. Removing paragraphs (3), (4), and (6);
 - b. Redesignating paragraph (5) as paragraph (3); and
 - c. Adding a new paragraph (4).
The addition reads as follows:

245.107 Contract clauses.

* * * * *

(4) Use the clause at 252.245–70XX, Management and Reporting of Government Property, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services, that contain the clause at FAR 52.245–1, Government Property.

245.201–70 [Removed]

- 9. Remove section 245.201–70.

245.201–71 [Redesignated as 245.201–70]

- 10. Redesignate section 245.201–71 as 245.201–70 and revise it to read as follows:

245.201–70 Security classification.

Follow the procedures at PGI 245.201–70 for security classification.

- 11. Amend section 245.604–1—
 - a. In paragraph (1) by removing “(formal or informal sales)”;
 - b. By revising the paragraph (2) heading;
 - c. In paragraph (3)(ii) by removing “252.245–7004, Reporting, Reutilization, and Disposal” and adding “252.245–70XX, Management and Reporting of Government Property” in its place;
 - d. In the paragraph (4) heading and paragraphs (4)(i) introductory text and (4)(ii) by removing “Noncompetitive” and adding “Negotiated” in its place

wherever it appears and in paragraph (4)(iii) introductory text by removing “noncompetitive” and adding “negotiated” in its place; and

■ e. In paragraph (5) by removing “Implementation of Trade Security Controls” and adding “Implementation of Trade Security Controls (TSCs) for Transfers of DoD Personal Property to Parties Outside DoD Control” in its place.

The revision reads as follows:

245.604–1 Sales procedures.

* * * * *

(2) *Invitation for bid procedures.*

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Subpart 245.70 [Removed and Reserved]

■ 12. Remove and reserve subpart 245.70 consisting of sections 245.7001 and 245.7001–1 through 245.7001–6.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.211–7003 [Amended]

■ 13. Amend section 252.211–7003 introductory text by removing “211.274–6(a)(1)” and adding “211.274–5(a)” in its place.

252.211–7007 [Removed and Reserved]

■ 14. Remove and reserve section 252.211–7007.

252.211–7008 [Amended]

■ 15. Amend section 252.211–7008 introductory text by removing “211.274–6(c)” and adding “211.274–5(b)” in its place.

252.245–7001 [Removed and Reserved]

■ 16. Remove and reserve section 252.245–7001.

252.245–7002 [Removed and Reserved]

■ 17. Remove and reserve section 252.245–7002.

252.245–7003 [Amended]

■ 18. Amend section 252.245–7003 introductory text by removing “245.107(5)” and adding “245.107(3)” in its place.

252.245–7004 [Removed and Reserved]

■ 19. Remove and reserve section 252.245–7004.

■ 20. Add section 252.245–70XX to read as follows:

252.245–70XX Management and Reporting of Government Property.

As prescribed in 245.107(4), use the following clause:

Management and Reporting of Government Property (Date)

(a) *Definitions.* As used in this clause—
As is means that the Government makes no warranty with respect to the serviceability and/or suitability of the Government property for contract performance and that the Government will not pay for any repairs, replacement, and/or refurbishment of the property.

Commercial and Government Entity (CAGE) code means—

(1) An identifier assigned to entities located in the United States or its outlying areas by the Defense Logistics Agency (DLA) Commercial and Government Entity (CAGE) Branch to identify a commercial or government entity by unique location; or

(2) An identifier assigned by a member of the North Atlantic Treaty Organization (NATO) or by the NATO Support and Procurement Agency (NSPA) to entities located outside the United States and its outlying areas that the DLA Commercial and Government Entity (CAGE) Branch records and maintains in the CAGE master file. This type of code is known as a NATO CAGE (NCAGE) code.

Contractor-acquired property, contractor inventory, Government property, Government-furnished property, and loss of Government property have the meanings given in the Federal Acquisition Regulation (FAR) 52.245–1, Government Property, clause of this contract.

Demilitarization means the act of eliminating the functional capabilities and inherent military design features from DoD personal property. Methods and degree range from removal and destruction of critical features to total destruction by cutting, tearing, crushing, mangling, shredding, melting, burning, etc.

Export-controlled items has the meaning given in the Defense Federal Acquisition Regulation Supplement (DFARS) 252.225–7048, Export-Controlled Items, clause of this contract.

Ineligible transferee means an individual, an entity, or a country—

(1) Excluded from Federal programs by the General Services Administration as identified in the System for Award Management Exclusions located at <https://sam.gov>;

(2) Delinquent on obligations to the U.S. Government under surplus sales contracts;

(3) Designated by the Department of Defense as ineligible, debarred, or suspended from defense contracts; or

(4) Subject to denial, debarment, or other sanctions under export control laws and related laws and regulations, and orders administered by the Department of State, the Department of Commerce, the Department of Homeland Security, or the Department of the Treasury.

Item unique identification means a system of assigning, reporting, and marking DoD property with unique item identifiers that have machine-readable data elements to distinguish an item from all other like and unlike items.

National stock number means a 13-digit stock number used to identify items of supply. It consists of a four-digit Federal

Supply Code and a nine-digit National Item Identification Number.

Reparable item means an item, typically in unserviceable condition, furnished to the contractor for maintenance, repair, modification, or overhaul.

Scrap means property that has no value except for its basic material content. For purposes of demilitarization, scrap is defined as recyclable waste and discarded materials derived from items that have been rendered useless beyond repair, rehabilitation, or restoration such that the item’s original identity, utility, form, fit, and function have been destroyed. Items can be classified as scrap if processed by cutting, tearing, crushing, mangling, shredding, or melting. Intact or recognizable components and parts are not “scrap.”

Serially-managed item means an item designated by DoD to be uniquely tracked, controlled, or managed in maintenance, repair, and/or supply systems by means of its serial number or unique item identifier.

Serviceable or usable property means property with potential for reutilization or sale as is or with minor repairs or alterations.

Supply condition code means a classification of materiel in terms of readiness for issue and use or to identify action underway to change the status of materiel.

Unique item identifier (UII) means a set of data elements marked on an item that is globally unique and unambiguous. The term includes a concatenated UII or a DoD recognized unique identification equivalent.

(b) *Reporting Government property.* (1) The Contractor shall use the Government Furnished Property (GFP) module of the Procurement Integrated Enterprise Environment (PIEE) to—

(i) Report physical receipt of GFP;

(ii) Report the loss of Government property, in accordance with paragraph (f)(1)(vii) of the FAR 52.245–1 clause of this contract. Unless otherwise provided for in this contract, this requirement applies to a loss of GFP that results from damage that occurs during work in process (e.g., workmanship errors);

(iii) Report the transfer of GFP to another DoD contract;

(iv) Report the shipment of GFP to the Government or to a contractor. The GFP module generates the electronic equivalent of the DD Form 1149, DD Form 1348–1, or other required shipping documents;

(v) Report when serially-managed items of GFP are incorporated into a higher-level component, assembly, or end item;

(vi) Complete the plant clearance inventory schedule in accordance with paragraph (j)(2) of the FAR 52.245–1 clause of this contract, unless disposition instructions are otherwise included in this contract. The GFP module generates the electronic equivalent of the Standard Form (SF) 1428, Inventory Disposal Schedule; and

(vii) Submit a request to buy back or to convert to GFP items of Contractor-acquired property.

(2) Information regarding the GFP module is available in the GFP Module Vendor Guide at <https://dodprocurementtoolbox.com/site-pages/gfp-resources>. Users may also register

for access to the GFP module and obtain training on the PIEE home page at <https://wawf.eb.mil/piee-landing>.

(3) In complying with paragraphs (b)(1)(i) through (v) of this clause, the Contractor shall report the updated status of the property to the GFP module within 7 business days of the date the change in status occurs, unless otherwise specified in the contract.

(4) The Contractor shall use Wide Area WorkFlow in accordance with DFARS Appendix F, Material Inspection and Receiving Report, to report the shipment of repairable items after completion of repair, maintenance, modification, or overhaul.

(5) When Government property is in the possession of subcontractors, the Contractor shall ensure that reporting is accomplished using the data elements required in paragraph (c) of this clause.

(c) *Records of Government property.* To facilitate reporting of Government property to the GFP module, the Contractor's property records, in addition to the requirements of paragraph (f)(iii) of the FAR 52.245-1 clause of this contract, shall enable recording of the following data elements:

(1) National stock number (NSN). If an NSN is not available, use either the combination of manufacturer's CAGE code and part number, or model number.

(2) CAGE code on the accountable Government contract.

(3) Received/sent (shipped) date.

(4) Accountable Government contract number.

(5) Serial number (for serially-managed items that do not have a UII); and

(6) Supply condition code (only required for reporting of repairable items). See Appendix 2.5 of Volume 2 of the Defense Logistics Manual (DLM) 4000.25, Military Standard Transaction Reporting and Accounting Procedures (MILSTRAP), at <https://www.dla.mil/HQ/InformationOperations/DLMS/elibrary/manuals/v2/> for information on Federal supply condition codes.

(d) *Marking, reporting, and UII registration of GFP requirements.* The Contractor—

(1) Shall assign the UII and mark the GFP items identified as serially managed in the GFP attachment to this contract with an item unique identification (IUID) data matrix, when the technical drawing for the item is accessible to the Contractor and includes IUID data matrix location and marking method;

(2) Shall report the UII either before or during shipment of the repaired item;

(3) Is not required to mark items that were previously marked with an IUID data matrix and registered in accordance with DFARS 252.211-7003, Item Unique Identification and Valuation; and

(4) Shall assign a new UII, then mark and register the item, when the conditions of paragraph (d)(1) are met, if an item is found to be marked but not registered.

(e) *Disposing of Government property.* (1) The Contractor shall complete the plant clearance inventory schedule using the plant clearance capability of the GFP module of the PIEE to generate an electronic equivalent of the SF 1428, Inventory Disposal Schedule.

The plant clearance inventory schedule requires the following:

(i) If known, the applicable Federal supply code (FSC) for all items, except items in scrap condition.

(ii) If known, the manufacturer name for all aircraft components under Federal supply group (FSG) 16 or 17 and FSCs 2620, 2810, 2915, 2925, 2935, 2945, 2995, 4920, 5821, 5826, 5841, 6340, and 6615.

(iii) The manufacturer name, make, model number, model year, and serial number for all aircraft under FSCs 1510 and 1520.

(iv) The appropriate Federal condition codes. See Appendix 2.5 of Volume 2 of DLM 4000.25-2, Supply Standards and Procedures, edition in effect as of the date of this contract, at <https://www.dla.mil/Portals/104/Documents/DLMS/manuals/dlm/v2/Volume2Change13Files.pdf>.

(2) If the schedules are acceptable, the plant clearance officer will confirm acceptance in the GFP module plant clearance capability, which will transmit a notification to the Contractor. The electronic acceptance is equivalent to the DD Form 1637, Notice of Acceptance of Inventory.

(f) *Demilitarization, mutilation, and destruction.* If demilitarization, mutilation, or destruction of contractor inventory is required, the Contractor shall demilitarize, mutilate, or destroy contractor inventory, in accordance with the terms and conditions of the contract and consistent with Defense Demilitarization Manual, DoD Manual (DoDM) 4160.28-M, edition in effect as of the date of this contract. If the property is available for purchase, the plant clearance officer may authorize the purchaser to demilitarize, mutilate, or destroy as a condition of sale provided the property is not inherently dangerous to public health and safety.

(g) *Classified Contractor inventory.* The Contractor shall dispose of classified contractor inventory in accordance with applicable security guides and regulations or as directed by the Contracting Officer.

(h) *Inherently dangerous Contractor inventory.* Contractor inventory that is dangerous to public health or safety shall not be disposed of unless rendered innocuous or until adequate safeguards are provided.

(i) *Contractor inventory located in foreign countries.* Consistent with contract terms and conditions, property disposition shall be in accordance with foreign and U.S. laws and regulations, including laws and regulations involving export controls, host nation requirements, final governing standards, and government-to-government agreements. The Contractor's responsibility to comply with all applicable laws and regulations regarding export-controlled items exists independent of, and is not established or limited by, the information provided by this clause.

(j) *Disposal of scrap—(1) Contractor scrap procedures.* (i) The Contractor shall include, within its property management procedure, a process for the accountability and management of Government-owned scrap. The process shall, at a minimum, provide for the effective and efficient disposition of scrap, including sales to scrap dealers, so as to minimize costs, maximize sales proceeds, and contain the necessary internal controls

for mitigating the improper release of non-scrap property.

(ii) The Contractor may commingle Government and contractor-owned scrap and provide routine disposal of scrap, with plant clearance officer concurrence, when determined to be effective and efficient.

(2) *Scrap warranty.* The plant clearance officer may require the Contractor to secure from scrap buyers a DD Form 1639, Scrap Warranty.

(k) *Sale of surplus Contractor inventory—(1) Sales procedures.* (i) The Contractor shall conduct sales of contractor inventory (both useable property and scrap) in accordance with the requirements of this contract and plant clearance officer direction. The Contractor shall include in its invitation for bids the sales terms and conditions provided by the plant clearance officer.

(ii) The Contractor may conduct internet-based sales, to include use of a third party.

(iii) If the Contractor wishes to bid on the sale, the Contractor or its employees shall submit bids to the plant clearance officer prior to soliciting bids from other prospective bidders.

(iv) The Contractor shall solicit bids to obtain adequate competition. Negotiated sales are subject to obtaining such competition as is feasible under the circumstances of the negotiated sale.

(v) The Contractor shall solicit bids at least 15 calendar days before bid opening to allow adequate opportunity to inspect the property and prepare bids.

(vi) For large sales, the Contractor may use summary lists of items offered as bid sheets with detailed descriptions attached.

(vii) In addition to providing notice of the proposed sale to prospective bidders, the Contractor may, when the results are expected to justify the additional expense, display a notice of the proposed sale in appropriate public places, e.g., publish a sales notice on the internet, in appropriate trade journals or magazines, and in local newspapers.

(viii) The plant clearance officer or designated Government representative will witness the bid opening. The Contractor shall submit the bid abstract in electronic format to the plant clearance officer within 2 days of bid opening. If the Contractor is unable to submit the bid abstract electronically, the Contractor may submit 2 copies of the abstract manually within 2 days of bid opening. The plant clearance officer will not approve award to any bidder who is an ineligible transferee.

(2) *Required terms and conditions for sales contracts.* The Contractor shall include the following terms and conditions in sales contracts:

(i) For sales contracts or other documents transferring title:

“The Purchaser certifies that the property covered by this contract will be used in *[Insert name of country]*. In the event of resale or export by the Purchaser of any of the property, the Purchaser agrees to obtain the appropriate U.S. and foreign export or re-export license approval.”

(ii) For sales contracts that require demilitarization, mutilation, or destruction of property:

“The following item(s) [Insert list provided by plant clearance officer] require demilitarization, mutilation, or destruction by the Purchaser. Additional instructions are provided in accordance with Defense Demilitarization Manual, DoDM 4160.28–M, edition in effect as of the date of this sales contract. A Government representative will certify and verify demilitarization of items. Prepare demilitarization certificates in accordance with DoDM 4160.28, Volume 2, section 4.5, DEMIL Certificate (see figure 2, Example DEMIL Certificate).”

(iii) Removal and title transfer:

“Property requiring demilitarization shall not be removed, and title shall not pass to the Purchaser, until demilitarization has been accomplished and verified by a Government representative.”

(iv) Assumption of cost incident to demilitarization:

“The Purchaser agrees to assume all costs incident to the demilitarization and to restore the working area to its present condition after removing the demilitarized property.”

(v) Failure to demilitarize:

“If the Purchaser fails to demilitarize, mutilate, or destroy the property as specified in the sales contract, the Contractor may, upon giving 10 days written notice from to the Purchaser—

(A) Repossess, demilitarize, and return the property to the Purchaser, in which case the Purchaser hereby agrees to pay to the Contractor, prior to the return of the property, all costs incurred by the Contractor in repossessing, demilitarizing, and returning the property;

(B) Repossess, demilitarize, and resell the property, and charge the defaulting Purchaser with all costs incurred by the Contractor. The Contractor shall deduct these costs from the purchase price and refund the balance of the purchase price, if any, to the Purchaser. In the event the costs exceed the purchase price, the defaulting Purchaser hereby agrees to pay these costs to the Contractor; or

(C) Repossess and resell the property under similar terms and conditions, and charge the defaulting Purchaser with all costs incurred by the Contractor. The Contractor shall deduct these costs from the original purchase price and refund the balance of the purchase price, if any, to the defaulting Purchaser. Should the excess costs to the Contractor exceed the purchase price, the defaulting Purchaser hereby agrees to pay these costs to the Contractor.”

(l) *Restrictions on purchase or retention of Contractor inventory.* The Contractor may not knowingly sell the inventory to any person or that person’s agent, employee, or household member if that person—

(1) Is a civilian employee of DoD or the U.S. Coast Guard;

(2) Is a member of the armed forces of the United States, including the U.S. Coast Guard; or

(3) Has any functional or supervisory responsibilities for or within DoD’s property disposal, disposition, or plant clearance programs or for the disposal of contractor inventory.

(m) *Proceeds from sales of surplus property.* Unless otherwise provided in the contract, the proceeds of any sale, purchase, or retention shall be—

- (1) Forwarded to the Contracting Officer;
- (2) Credited to the Government as part of the settlement agreement pursuant to the termination of the contract;
- (3) Credited to the price or cost of the contract; or
- (4) Applied as otherwise directed by the Contracting Officer.

(End of clause)

[FR Doc. 2023–08645 Filed 4–26–23; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 212, 237, and 252

[Docket DARS–2023–0016]

RIN 0750–AL07

Defense Federal Acquisition Regulation Supplement: Transfer and Adoption of Military Animals (DFARS Case 2020–D021)

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 a section of the National Defense Authorization Act for Fiscal Year 2020.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before June 26, 2023, to be considered in the formation of the final rule.

ADDRESSES: Submit comments identified by DFARS Case 2020–D021, using any of the following methods:

○ *Federal eRulemaking Portal:* <https://regulations.gov>. Search for “DFARS Case 2020–D021.” Select “Comment” and follow the instructions to submit a comment. Please include “DFARS Case 2020–D021” on any attached documents.

○ *Email:* osd.dfars@mail.mil. Include DFARS Case 2020–D021 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: Kimberly R. Ziegler, telephone 703–901–3176.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to amend DFARS part 237, Service Contracting, to implement section 372(f) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2020 (Pub. L. 116–92). Section 372(f), as implemented at 10 U.S.C. 2387 (previously 10 U.S.C. 2410r), requires DoD contracting officers to include a clause in contracts when contract working dogs are provided under the contract. 10 U.S.C. 2387 requires the transfer of a contract working dog, after the service life of the dog has terminated, to the United States Air Force, 341st Training Squadron, for—

a. Veterinary screening and care; and
b. Reclassification as a military animal and placement for adoption in accordance with 10 U.S.C. 2583.

The service life of a contract working dog may be terminated if a contracting officer determines that—

a. The final contractual obligation of the dog preceding the transfer is with DoD; and

b. The dog cannot be used by another department or agency of the Federal Government due to age, injury, or performance.

DoD determines the status of military animals and whether a military animal is suitable for transfer or adoption under the statutory direction provided in 10 U.S.C. 2583, Military animals: transfer and adoption. It also provides the priority for adoptions or transfer, standards for veterinary care, and transportation of retiring military working dogs. The 341st Training Squadron is responsible for the performance of these duties under the DoD Military Working Dog Program. Section 372 amends 10 U.S.C. 2583; however, those amendments are outside of the scope of this proposed rule.

II. Discussion and Analysis

The proposed rule creates a new subpart under DFARS part 237, Service Contracting, to address the requirements in 10 U.S.C. 2387. DoD generally contracts for contract working dogs as a service performed by a contracted handler and dog as a unit or team, most often for security, law enforcement, or other specialized circumstances. These contract working dogs are under the control of an experienced, contracted handler at all times and are not paired with an active duty military member or DoD civilian handler. Based upon the manner in which DoD contracts for the contract working dogs and the definition of a contract working dog provided in 10 U.S.C. 2387(c), the new