

the time the contractor's forward pricing rates are adjusted to reflect the impact of restructuring.

**EFFECTIVE DATE:** April 16, 1999.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sandra Haberlin, Defense Acquisition Regulations Council, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0131; telefax (703) 602-0350. Please cite DFARS Case 98-D019.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

This final rule amends DFARS 231.205-70, External restructuring costs, to specify that contracting officers should consider including a downward-only repricing clause in noncompetitive fixed-price contracts that are negotiated during the period between the time a business combination is announced and the time the contractor's forward pricing rates are adjusted to reflect the impact of restructuring.

Since the late 1980's, defense contractors have been restructuring their business operations to increase efficiencies and become more competitive in the defense marketplace. Many of the restructuring activities result from business combinations (such as mergers or acquisitions) and often lead to reduced overall costs and future savings. The repricing clause should ensure that DoD receives its appropriate share of restructuring savings.

A proposed DFARS rule was published in the **Federal Register** on November 30, 1998 (63 FR 65727). Nine sources submitted comments in response to the proposed rule. All comments were considered in the development of the final rule.

**B. Regulatory Flexibility Act**

DoD certifies that this final rule will not 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 most contracts awarded to small entities use simplified acquisition procedures or are awarded on a competitive fixed-price basis, and do not require application of the cost principle contained in this rule.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

**List of Subjects in 48 CFR Part 231**

Government procurement.

**Michele P. Peterson,**  
*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, 48 CFR Part 231 is amended as follows:

1. The authority citation for 48 CFR Part 231 continues to read as follows:

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

**PART 231—CONTRACT COST PRINCIPLES AND PROCEDURES**

2. Section 231.205-70 is amended by adding paragraph (f) to read as follows:

**§ 231.205-70 External restructuring costs.**

\* \* \* \* \*

(f) *Contracting officer responsibilities.*

(1) The contracting officer, in consultation with the cognizant ACO, should consider including a repricing clause in noncompetitive fixed-price contracts that are negotiated during the period between—

(i) The time a business combination is announced; and

(ii) The time the contractor's forward pricing rates are adjusted to reflect the impact of restructuring.

(2) The decision to use a repricing clause will depend upon the particular circumstances involved, including—

(i) When the restructuring will take place;

(ii) When restructuring savings will begin to be realized;

(iii) The contract performance period;

(iv) Whether the contracting parties are able to make a reasonable estimate of the impact of restructuring on the contract; and

(v) The size of the potential dollar impact of restructuring on the contract.

(3) If the contracting officer decides to use a repricing clause, the clause must provide for a downward-only price adjustment to ensure that DoD receives its appropriate share of restructuring net savings.

[FR Doc. 99-9559 Filed 4-15-99; 8:45 am]

BILLING CODE 5000-04-M

**DEPARTMENT OF DEFENSE**

**48 CFR Parts 232 and 252**

[DFARS Case 98-D012]

**Defense Federal Acquisition Regulation Supplement; Electronic Funds Transfer**

**AGENCY:** Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** The Director of Defense Procurement has issued a final rule

amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove policy and procedures for use of the electronic funds transfer (EFT) method of contract payment when the payment office uses the Central Contractor Registration (CCR) database as its source of EFT information. The DFARS policy and procedures are no longer necessary, as a result of changes made to the Federal Acquisition Regulation (FAR) in Item IV of Federal Acquisition Circular 97-11.

**EFFECTIVE DATE:** May 3, 1999.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sandra Haberlin, Defense Acquisition Regulations Council, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0131; telefax (703) 602-0350. Please cite DFARS Case 98-D012.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

An interim DFARS rule was published in the **Federal Register** on May 20, 1998 (63 FR 27682). The rule prescribed use of a new clause at DFARS 252.232-7009, Payment by Electronic Funds Transfer (CCR). This clause was especially tailored for DoD contractors that are paid by EFT and registered in the CCR database as required by DFARS Subpart 204.73. No public comments were received in response to the interim DFARS rule.

Subsequently, on March 4, 1999, a final FAR rule was published in the **Federal Register** (64 FR 10538). The rule amends the FAR, effective May 3, 1999, to provide policy and procedures for making contract financing and delivery payments to contractors by EFT. To accommodate the DoD requirement for contractors to register into a CCR database, the rule prescribes a new clause at FAR 52.232-33, Payment by Electronic Funds Transfer-Central Contractor Registration, for use when the payment office will make payment by EFT and will use the CCR database as its source of EFT information. The clause at FAR 52.232-33 is equivalent to the clause at DFARS 252.232-7009.

This final rule eliminates the DFARS changes made in the interim rule published on May 20, 1998, as a result of the FAR changes pertaining to payment by EFT published on March 4, 1999.

**B. Regulatory Flexibility Act**

DoD certifies that this final rule will not 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 this final rule eliminates the DFARS changes made in the interim rule, as a result of recent changes to the FAR pertaining to payment by EFT.

### C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

### List of Subjects in 48 CFR Parts 232 and 252

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, 48 CFR Parts 232 and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 232 and 252 continue to read as follows:

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

### PART 232—CONTRACT FINANCING

#### Subpart 232.11—[Removed]

2. Subpart 232.11 is removed.

### PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

#### 252.232–7009 [Removed]

3. Section 252.232–7009 is removed.

[FR Doc. 99–9560 Filed 4–15–99; 8:45 am]

BILLING CODE 5000–04–M

### DEPARTMENT OF DEFENSE

#### 48 CFR Part 235

[DFARS Case 98–D306]

#### Defense Federal Acquisition Regulation Supplement; Manufacturing Technology Program

**AGENCY:** Department of Defense (DoD).

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Director of Defense Procurement has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 213 of the Strom Thurmond National Defense Authorization Act of Fiscal Year 1999. Section 213 requires that, for each contract entered into on a cost-sharing basis under the Manufacturing Technology Program, the ratio of contract recipient cost to Government

cost must be determined by competitive procedures.

**DATES:** *Effective date:* April 16, 1999.

*Comment date:* Comments on the interim rule should be submitted in writing to the address shown below on or before June 15, 1999, to be considered in the formulation of the final rule.

**ADDRESSES:** Interested parties should submit written comments to Defense Acquisition Regulations Council, Attn: Ms. Melissa Rider, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0350.

E-mail comments submitted over the Internet should be addressed to: dfars@acq.osd.mil

Please cite DFARS Case 98–D306 in all correspondence related to this issue. E-mail comments should cite DFARS Case 98–D306 in the subject line.

**FOR FURTHER INFORMATION CONTACT:** Ms. Melissa Rider, (703) 602–0131.

#### SUPPLEMENTARY INFORMATION:

#### A. Background

This interim rule amends DFARS guidance concerning the Manufacturing Technology Program to implement Section 213 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Act 105–261). Section 213 amends 10 U.S.C. 2525(d) to require that, for each contract entered into on a cost-sharing basis under the Manufacturing Technology Program, the ratio of contract recipient cost to Government cost must be determined by competitive procedures; and that the Secretary of Defense may delegate the authority to approve use of other than a cost-sharing contract under the Program only to the Under Secretary of Defense (Acquisition and Technology) of a service acquisition executive. On January 9, 1999, the Secretary of Defense delegated this authority to the Under Secretary of Defense (Acquisition and Technology).

The rule also removes guidance from DFARS 235.006 pertaining to the Manufacturing Technology Program, as the guidance has been relocated to a new section at 235.006–70; and removes obsolete language from 235.006 pertaining to prior years' appropriations acts.

#### B. Regulatory Flexibility Act

This interim rule is not expected 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 only new requirement for offerors or contractors is a requirement for the inclusion of a cost-sharing ratio

in proposals for contracts under the Manufacturing Technology Program. This change is not expected to significantly alter the procedures for award of contracts under the Manufacturing Technology Program, as the DFARS already requires the use of cost-sharing arrangements and competitive procedures for contracts under the Program. An initial regulatory flexibility analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subparts also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 98–D306 in correspondence.

### C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

### D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish this interim rule prior to affording the public an opportunity to comment. This interim rule implements Section 213 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261) pertaining to the Manufacturing Technology Program. Section 213 became effective on October 17, 1998. Comments received in response to the publication of this interim rule will be considered in the formation of the final rule.

### List of Subjects in 48 CFR Part 235

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, 48 CFR Part 235 is amended as follows:

1. The authority citation for 48 CFR Part 235 continues to read as follows:

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

### PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

2. Section 235.006 is revised to read as follows: