

the open market. The team's solution was the National Defense Projects Rating Plan (NDPRP). The NDPRP defined premiums via a formula based upon average workers' compensation rates throughout the country and adjusted for experience pooled from Defense contractors. This produced premiums without loadings, *e.g.*, commissions, and eliminated the burden of negotiating premiums every year with insurance carriers. Today, there is little cost difference between the NDPRP and the states' workers' compensation program, because the states have adopted the same premium algorithm as the NDPRP and many contractors have adopted self-insurance. The text at DFARS 228.304 may be beneficial in the event of a prolonged surge in Defense contract activity, and should be retained as guidance. Accordingly, DoD proposes to remove this text from the DFARS and relocate it to the new DFARS companion resource, PGI.

- **DFARS 228.305, Overseas workers' compensation and war-hazard insurance.** The Defense Base Act (42 U.S.C. 1651 *et seq.*) extends the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901) to various classes of employees working outside the United States. When the agency head recommends a waiver to the Secretary of Labor, the Secretary may waive the applicability of the Defense Base Act to any contract, subcontract, work location, or classification of employees. DFARS 228.305 provides the procedures within DoD for submitting such requests for waiver. DoD proposes to remove this procedural text from the DFARS and relocate it to the new DFARS companion resource, PGI.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this 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 deletes DFARS text addressing procedures that are no longer in use or that are internal to DoD. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be

submitted separately and should cite DFARS Case 2003–D037.

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 228

Government procurement.

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

Therefore, DoD proposes to amend 48 CFR Part 228 as follows:

1. The authority citation for 48 CFR Part 228 continues to read as follows:

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

PART 228—BONDS AND INSURANCE

2. Sections 228.304 and 228.305 are revised to read as follows:

228.304 Risk-pooling arrangements.

DoD has established the National Defense Projects Rating Plan, also known as the Special Casualty Insurance Rating Plan, as a risk-pooling arrangement to minimize the cost to the Government of purchasing the liability insurance listed in FAR 28.307–2. Use the plan in accordance with the procedures at PGI 228.304 when it provides the necessary coverage more advantageously than commercially available coverage.

228.305 Overseas workers' compensation and war-hazard insurance.

(d) When submitting requests for waiver, follow the procedures at PGI 228.305(d).

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DEPARTMENT OF DEFENSE

48 CFR Part 231

[DFARS Case 2003–D036]

Defense Federal Acquisition Regulation Supplement; Cost Principles and Procedures

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to contract cost principles. This proposed rule is a result

of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before April 23, 2004, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments via the Internet at <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. As an alternative, respondents may e-mail comments to: dfars@osd.mil. Please cite DFARS Case 2003–D036 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Mr. Thaddeus Godlewski, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2003–D036.

At the end of the comment period, interested parties may view public comments on the Internet at <http://emissary.acq.osd.mil/dar/dfars.nsf>.

FOR FURTHER INFORMATION CONTACT: Mr. Thaddeus Godlewski, (703) 602–2202.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at <http://www.acq.osd.mil/dp/dars/transf.htm>.

This proposed rule is a result of the DFARS Transformation initiative. The proposed changes—

- Delete the text at DFARS 231.205–10, Cost of money, because it is redundant of the text in DFARS Subpart 230.70, Facilities Capital Employed for Facilities in Use.
- Clarify the text at DFARS 231.205–22, Legislative lobbying costs, to specify that these costs are statutorily unallowable.
- Revise the text at DFARS 231.205–70, External restructuring costs, to—

1. Eliminate unnecessary references to fiscal years 1995, 1997, and 1998 legislation.

2. Delete text at 231.205–70(c)(1)(iv)(A) and (B) regarding business combinations that occurred on or before November 18, 1997. This text is unnecessary, because external restructurings normally must be initiated within 3 years of a business combination.

3. Delete text at 231.205–70(d), Procedures and ACO responsibilities. This text will be relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI). A proposed rule describing the purpose and structure of PGI is published elsewhere in this issue of the **Federal Register** under DFARS Case 2003–D090, Procedures, Guidance, and Information.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this 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 clarifies existing DFARS text or deletes DFARS text that is redundant, outdated, procedural, or internal to DoD. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003–D036.

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, DoD proposes to amend 48 CFR part 231 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

231.205–10 [Removed]

2. Section 231.205–10 is removed.

3. Section 231.205–22 is revised to read as follows:

231.205–22 Legislative lobbying costs.

(a) Costs associated with preparing any material, report, list, or analysis on the actual or projected economic or employment impact in a particular State or congressional district of an acquisition program for which all research, development, testing, and evaluation has not been completed also are unallowable (10 U.S.C. 2249).

4. Section 231.205–70 is amended by revising paragraphs (a), (c), and (d) to read as follows:

231.205–70 External restructuring costs.

(a) *Scope.* This subsection—

(1) Prescribes policies and procedures for allowing contractor external restructuring costs when savings would result for DoD; and

(2) Implements 10 U.S.C. 2325.

* * * * *

(c) *Limitations on cost allowability.*

(1) Restructuring costs associated with external restructuring activities shall not be allowed unless—

(i) Such costs are allowable in accordance with FAR Part 31 and DFARS Part 231;

(ii) An audit of projected restructuring costs and restructuring savings is performed;

(iii) The cognizant administrative contracting officer (ACO) reviews the audit report and the projected costs and projected savings, and negotiates an advance agreement in accordance with paragraph (d)(8) of this subsection; and

(iv) For business combinations that occur after November 18, 1997, the Under Secretary of Defense (Acquisition, Technology, and Logistics) or the Principal Deputy determines in writing that the audited projected savings for DoD resulting from the restructuring will exceed either—

(A) The costs allowed by a factor of at least two to one; or

(B) The cost allowed, and the business combination will result in the preservation of a critical capability that might otherwise be lost to DoD.

(2) The audit, review, certification, and determination required by paragraph (c)(1) of this subsection shall not apply to any business combination for which payments for restructuring costs were made before August 15, 1994, or for which the cognizant ACO executed an advance agreement establishing cost ceilings based on

audit/negotiation of detailed cost proposals for individual restructuring projects before August 15, 1994.

(d) *Procedures and ACO responsibilities.* As soon as it is known that the contractor will incur restructuring costs for external restructuring activities, the cognizant ACO shall follow the procedures at PGI 231.205–70(d).

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DEPARTMENT OF DEFENSE

48 CFR Parts 234, 242, and 252

[DFARS Case 2003–D030]

Defense Federal Acquisition Regulation Supplement; Major Systems Acquisition

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to major systems acquisition, earned value management systems, and cost/schedule status reporting. This proposed rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before April 23, 2004, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments via the Internet at <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. As an alternative, respondents may e-mail comments to: dfars@osd.mil. Please cite DFARS Case 2003–D030 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Teresa Brooks, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2003–D030.

At the end of the comment period, interested parties may view public comments on the Internet at <http://emissary.acq.osd.mil/dar/dfars.nsf>.

FOR FURTHER INFORMATION CONTACT: Ms. Teresa Brooks, (703) 602–0326.

SUPPLEMENTARY INFORMATION: