

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 237 and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 237 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 237 and 252 continues to read as follows:

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

PART 237—SERVICE CONTRACTING

■ 2. Subpart 237.70 is revised to read as follows:

Subpart 237.70—Mortuary Services

Sec.

237.7000 Scope.

237.7001 Method of acquisition.

237.7002 Area of performance and distribution of contracts.

237.7003 Solicitation provisions and contract clauses.

237.7000 Scope.

This subpart—

(a) Applies to contracts for mortuary services (the care of remains) for military personnel within the United States; and

(b) May be used as guidance in areas outside the United States for mortuary services for deceased military and civilian personnel.

237.7001 Method of acquisition.

(a) *Requirements type contract.* By agreement among the military activities, one activity in each geographical area will contract for the estimated requirements for the care of remains for all military activities in the area. Use a requirements type contract (see FAR 16.503) when the estimated annual requirements for the activities in the area are ten or more.

(b) *Purchase order.* Where no contract exists, use DD Form 1155, Order for Supplies or Services, to obtain mortuary services.

237.7002 Area of performance and distribution of contracts.

Follow the procedures at PGI 237.7002 for—

(a) Defining the geographical area to be covered by the contract; and

(b) Distributing copies of the contract.

237.7003 Solicitation provisions and contract clauses.

(a) Use the provision at 252.237-7002, Award to Single Offeror, in all sealed bid solicitations for mortuary services.

Use the basic provision with its Alternate I in all negotiated solicitations for mortuary services.

(b) Use the following clauses in all mortuary service solicitations and contracts, except do not use the clauses at 252.237-7004, Area of Performance, in solicitations or contracts that include port of entry requirements:

(1) 252.237-7003, Requirements, (insert activities authorized to place orders in paragraph (e) of the clause).

(2) 252.237-7004, Area of Performance.

(3) 252.237-7005, Performance and Delivery.

(4) 252.237-7006, Subcontracting.

(5) 252.237-7007, Termination for Default.

(6) 252.237-7008, Group Interment.

(7) 252.237-7009, Permits.

(8) 252.237-7011, Preparation History.

(c) Use the clause at FAR 52.245-4, Government-Furnished Property (Short Form), in solicitations and contracts that include port of entry requirements.

■ 3. Section 237.7100 is revised to read as follows:

237.7100 Scope.

This subpart—

(a) Applies to contracts for laundry and dry cleaning services within the United States; and

(b) May be used as guidance in areas outside the United States.

237.7101 [Removed]

■ 4. Section 237.7101 is removed.

237.7102 [Redesignated]

■ 5. Section 237.7102 is redesignated as section 237.7101.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.237-7002 [Amended]

■ 6. Section 252.237-7002 is amended in the introductory text, and in Alternate I in the introductory text, by removing “237.7004” and adding in its place “237.7003”.

252.237-7003 through 252.237-7009 [Amended]

■ 7. Sections 252.237-7003 through 252.237-7009 are amended in the introductory text by removing “237.7004” and adding in its place “237.7003”.

252.237-7010 [Removed and Reserved]

■ 8. Section 252.237-7010 is removed and reserved.

252.237-7011 [Amended]

■ 9. Section 252.237-7011 is amended in the introductory text by removing “237.7004” and adding in its place “237.7003”.

252.237-7012 through 252.237-7015 [Amended]

■ 10. Sections 252.237-7012 through 252.237-7015 are amended in the introductory text by removing “237.7102” and adding in its place “237.7101”.

252.237-7016 [Amended]

■ 11. Section 252.237-7016 is amended in the introductory text, and in Alternates I and II in the introductory text, by removing “237.7102” and adding in its place “237.7101”.

252.237-7017 and 252.237-7018 [Amended]

■ 12. Sections 252.237-7017 and 252.237-7018 are amended in the introductory text by removing “237.7102” and adding in its place “237.7101”.

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DEPARTMENT OF DEFENSE

48 CFR Part 241

[DFARS Case 2003-D069]

Defense Acquisition Regulations System; Defense Federal Acquisition Regulation Supplement; Acquisition of Utility Services

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

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to the acquisition of utility services. This rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

EFFECTIVE DATE: January 23, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Schulze, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0326; facsimile (703) 602-0350. Please cite DFARS Case 2003-D069.

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/dpap/dars/dfars/transformation/index.htm>.

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

- Deletes text on use of competitive procedures and delegated authority to acquire utility services at DFARS 241.202 and 241.203, as these issues are adequately addressed in the Federal Acquisition Regulation;

- Deletes obsolete text on preaward contract reviews at DFARS 241.270; and
- Deletes procedures and corresponding definitions related to connection charges and award of separate contracts for utility services at DFARS 241.101, 241.202, and 241.205. Text on these subjects has been

relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI), available at <http://www.acq.osd.mil/dpap/dars/pgi>.

DoD published a proposed rule at 70 FR 8566 on February 22, 2005. DoD received no comments on the proposed rule. Therefore, DoD has adopted the proposed rule as a final rule without change.

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 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 the rule updates and streamlines DFARS text, but makes no significant change to DoD contracting policy.

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 241

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR part 241 is amended as follows:

PART 241—ACQUISITION OF UTILITY SERVICES

■ 1. The authority citation for 48 CFR part 241 continues to read as follows:

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

■ 2. Section 241.101 is amended by removing the definitions of “Definite term contract”, “Dual service area”, and “Indefinite term contract”, and by revising the definition of “Service power procurement officer” to read as follows:

241.101 Definitions.

* * * * *

Service power procurement officer means for the—

- (1) Army, the Chief of Engineers;
- (2) Navy, the Commander, Naval Facilities Engineering Command;
- (3) Air Force, the head of a contracting activity; and
- (4) Defense Logistics Agency, the head of a contracting activity.

■ 3. Section 241.103 is revised to read as follows:

241.103 Statutory and delegated authority.

(1) The contracting officer may enter into a utility service contract related to the conveyance of a utility system for a period not to exceed 50 years (10 U.S.C. 2688(c)(3)).

(2) See PGI 241.103 for statutory authorities and maximum contract periods for utility and energy contracts.

■ 4. Section 241.202 is revised to read as follows:

241.202 Procedures.

(1) *Connection and service charges.* The Government may pay a connection charge when required to cover the cost of the necessary connecting facilities. A connection charge based on the estimated labor cost of installing and removing the facility shall not include salvage cost. A lump-sum connection charge shall be no more than the agreed cost of the connecting facilities less net salvage. The order of precedence for contractual treatment of connection and service charges is—

(i) No connection charge.

(ii) Termination liability. Use when an obligation is necessary to secure the required services. The obligation must be not more than the agreed connection charge, less any net salvage material costs. Use of a termination liability instead of a connection charge requires the approval of the service power procurement officer or designee.

(iii) Connection charge, refundable. Use a refundable connection charge when the supplier refuses to provide the facilities based on lack of capital or published rules which prohibit providing up-front funding. The contract should provide for refund of the connection charge within five years unless a longer period or omission of the refund requirement is authorized by the service power procurement officer or designee.

(iv) Connection and service charges, nonrefundable. The Government may pay certain nonrefundable, nonrecurring charges including service initiation charges, a contribution in aid of construction, membership fees, and charges required by the supplier's rules and regulations to be paid by the customer. If possible, consider sharing with other than Government users the use of (and costs for) facilities when large nonrefundable charges are required.

(2) *Construction and labor requirements.* Follow the procedures at PGI 241.202(2) for construction and labor requirements associated with connection and service charges.

241.203 [Removed]

■ 5. Section 241.203 is removed.

■ 6. Section 241.205 is revised to read as follows:

241.205 Separate contracts.

Follow the procedures at PGI 241.205 when acquiring utility services by separate contract.

241.270 [Removed]

■ 7. Section 241.270 is removed.

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