

(b) No written retainer agreement is required for advice and counsel or brief service provided by the recipient to the client or for legal services provided to the client by a private attorney pursuant to 45 CFR part 1614.

(c) The recipient shall maintain copies of all retainer agreements generated in accordance with this section.

#### Appendix A—Legal Services Corporation Poverty Guidelines

**Note:** Appendix A: The Corporation is not requesting comments on the current Appendix. The Appendix is revised annually, after the Department of Health and Human Services issues the new Federal Poverty Guidelines for that year.

**Victor M. Fortuno,**

*General Counsel and Vice President for Legal Affairs.*

[FR Doc. 05–10061 Filed 5–23–05; 8:45 am]

BILLING CODE 7050–01–P

## DEPARTMENT OF DEFENSE

### 48 CFR Part 246

[DFARS Case 2003–D027]

#### Defense Federal Acquisition Regulation Supplement; Quality Assurance

**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 Government contract quality assurance requirements. 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 July 25, 2005, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2003–D027, using any of the following methods:

○ Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

○ Defense Acquisition Regulations Web site: <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. Follow the instructions for submitting comments.

○ E-mail: [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2003–D027 in the subject line of the message.

○ Fax: (703) 602–0350.

○ Mail: Defense Acquisition Regulations Council, Attn: Ms. Deborah Tronic, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

○ Hand Delivery/Courier: Defense Acquisition Regulations Council, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

All comments received will be posted to <http://emissary.acq.osd.mil/dar/dfars.nsf>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Deborah Tronic, (703) 602–0289.

#### 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/dfars/transf.htm>.

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

○ Update and clarify requirements for Government contract quality assurance and use of warranties;

○ Delete unnecessary definitions and unnecessary text on technical requirements matters, responsibilities of contract administration offices, and material inspection and receiving reports; and

○ Delete text on preparation of quality assurance instructions, use of quality inspection approval stamps, and information on types of quality evaluation data. This text will be relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI), available at <http://www.acq.osd.mil/dpap/dars/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 makes no significant change to DoD contracting policy. 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 subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003–D027.

##### 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 246

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

Therefore, DoD proposes to amend 48 CFR part 246 as follows:

1. The authority citation for 48 CFR part 246 continues to read as follows:

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

#### PART 246—QUALITY ASSURANCE

##### 246.101 [Removed]

2. Section 246.101 is removed.

3. Section 246.102 is amended by revising paragraph (1) to read as follows:

##### 246.102 Policy.

\* \* \* \* \*

(1) Develop and manage a systematic, cost-effective Government contract quality assurance program to ensure that contract performance conforms to specified requirements. Apply Government quality assurance to all contracts for services and products designed, developed, purchased, produced, stored, distributed, operated, maintained, or disposed of by contractors.

\* \* \* \* \*

4. Section 246.103 is revised to read as follows:

##### 246.103 Contracting office responsibilities.

(1) The contracting office must coordinate with the quality assurance activity before changing any quality requirement.

(2) The activity responsible for technical requirements may prepare instructions covering the type and extent of Government inspections for

acquisitions that are complex, have critical applications, or have unusual requirements. Follow the procedures at PGI 246.103(2) for preparation of instructions.

**246.104 and 246.203 [Removed]**

5. Sections 246.104 and 246.203 are removed.

6. Section 246.406 is amended by revising paragraph (2) to read as follows:

**246.406 Foreign governments.**

\* \* \* \* \*

(2) *International military sales (non-NATO)*. Departments and agencies shall—

(i) Perform quality assurance services on international military sales contracts or in accordance with existing agreements;

(ii) Inform host or U.S. Government personnel and contractors on the use of quality assurance publications; and

(iii) Delegate quality assurance to the host government when satisfactory services are available.

\* \* \* \* \*

7. Section 246.408–71 is amended by revising paragraph (c) to read as follows:

**246.408–71 Aircraft.**

\* \* \* \* \*

(c) The CAO shall ensure that the contractor possesses any required FAA certificates prior to acceptance.

**246.408–72 [Removed]**

8. Section 246.408–72 is removed.

9. Sections 246.470–1 and 246.470–2 are revised to read as follows:

**246.470–1 Assessment of additional costs.**

(a) Under the clause at FAR 52.246–2, Inspection of Supplies—Fixed-Price, after considering the factors in paragraph (c) of this subsection, the quality assurance representative (QAR) may believe that the assessment of additional costs is warranted. If so, the representative shall recommend that the contracting officer take the necessary action and provide a recommendation as to the amount of additional costs. Costs are based on the applicable Federal agency, foreign military sale, or public rate in effect at the time of the delay, reinspection, or retest.

(b) If the contracting officer agrees with the QAR, the contracting officer shall—

(1) Notify the contractor, in writing, of the determination to exercise the Government's right under the clause at FAR 52.246–2, Inspection of Supplies—Fixed-Price; and

(2) Demand payment of the costs in accordance with the collection procedures contained in FAR Subpart 32.6.

(c) In making a determination to assess additional costs, the contracting officer shall consider—

(1) The frequency of delays, reinspection, or retest under both current and prior contracts;

(2) The cause of such delay, reinspection, or retest; and

(3) The expense of recovering the additional costs.

**246.470–2 Quality evaluation data.**

The contract administration office shall establish a system for the collection, evaluation, and use of the types of quality evaluation data specified in PGI 246.470–2.

**246.470–3 through 246.470–5 [Removed]**

10. Sections 246.470–3 through 246.470–5 are removed.

11. Section 246.472 is revised to read as follows:

**246.472 Inspection stamping.**

(a) DoD quality inspection approval marking designs (stamps) may be used for both prime contracts and subcontracts. Follow the procedures at PGI 246.472(a) for use of DoD inspection stamps.

(b) Policies and procedures regarding the use of National Aeronautics and Space Administration (NASA) quality status stamps are contained in NASA publications. When requested by NASA centers, the DoD inspector shall use NASA quality status stamps in accordance with current NASA requirements.

12. Section 246.601 is added to read as follows:

**246.601 General.**

See Appendix F, Material Inspection and Receiving Report, for procedures and instructions for the use, preparation, and distribution of—

(1) The Material Inspection and Receiving Report (DD Form 250 series); and

(2) Supplier's commercial shipping/packing lists used to evidence Government contract quality assurance.

**246.670 and 246.671 [Removed]**

13. Sections 246.670 and 246.671 are removed.

**246.702 and 246.703 [Removed]**

14. Sections 246.702 and 246.703 are removed.

15. Sections 246.704 through 246.706 are revised to read as follows:

**246.704 Authority for use of warranties.**

(1) The chief of the contracting office must approve use of a warranty, except in acquisitions for—

(i) Commercial items (see FAR 46.709);

(ii) Technical data, unless the warranty provides for extended liability (see 246.708);

(iii) Supplies and services in fixed-price type contracts containing quality assurance provisions that reference higher-level contract quality requirements (see 246.202–4); or

(iv) Supplies and services in construction contracts when using the warranties that are contained in Federal, military, or construction guide specifications.

(2) The chief of the contracting office shall approve the use of a warranty only when the benefits are expected to outweigh the cost.

**246.705 Limitations.**

(a) In addition to the exceptions provided in FAR 46.705(a), warranties in the clause at 252.246–7001, Warranty of Data, may be used in cost-reimbursement contracts.

**246.706 Warranty terms and conditions.**

(b)(5) *Markings*. For non-commercial items, use MIL–STD–129, Marking for Shipments and Storage, and MIL–STD–130, Identification Marking of U.S. Military Property, when marking warranty items.

16. Section 246.710 is amended by revising paragraph (1) to read as follows:

**246.710 Contract clauses.**

(1) Use a clause substantially the same as the clause at 252.246–7001, Warranty of Data, in solicitations and contracts that include the clause at 252.227–7013, Rights in Technical Data and Computer Software, when there is a need for greater protection or period of liability than provided by the inspection and warranty clauses prescribed in FAR part 46.

\* \* \* \* \*

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 15**

**RIN 1018–AH89**

**Importation of Exotic Wild Birds into the United States; Notice of Reopening of Comment Period on Proposed Rule to Add Blue-Fronted Amazon Parrots from Argentina's Sustainable-Use Management Plan to the Approved List of Non-Captive-Bred Species Under the Wild Bird Conservation Act**

**AGENCY:** Fish and Wildlife Service, Interior.