

9.5.2 Conditions for Refund

[Revise the introductory paragraph of 9.5.2 as follows:]

A refund request must be made within 90 days after the date of mailing. Except as provided in 114.2.1 and 414.3.1, a mailer may file for a postage refund only under one of the following circumstances:

* * * * *

9.5.3 Refunds Not Given

[Revise 9.5.3 as follows:]

A postage refund will not be given if the guaranteed service was not provided due to any of the circumstances in 114.2.1 and 414.3.1.

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We will publish an appropriate amendment to 39 CFR 111 if our proposal is adopted.

Stanley F. Mires,

Chief Counsel, Legislative.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 211 and 252

RIN 0750-AG55

Defense Federal Acquisition Regulation Supplement; Government-Assigned Serial Number Marking (DFARS Case 2008-D047)

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

ACTION: Proposed rule with request for comments.

SUMMARY: DoD proposes to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to require contractors to apply Government-assigned serial numbers in human-readable format on major end items, when required by law, regulation, or military operational necessity.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before June 29, 2010, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2008-D047, using any of the following methods:

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

E-mail: dfars@osd.mil. Include DFARS Case 2008-D047 in the subject line of the message.

Fax: 703-602-0350.

Mail: Defense Acquisition Regulations System, Attn: Ms. Mary Overstreet, OUSD(AT&L)DPAP(DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301-3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Overstreet, 703-602-0311.

SUPPLEMENTARY INFORMATION:

A. Background

DoD proposes to amend the DFARS 211.274 to require contractors to apply Government-assigned serial numbers, such as tail numbers/hull numbers and equipment registration, in human-readable format on major end items, when required by law, regulation, or military operational necessity. The rule establishes a standard DoD method of specifying Government-assigned serial numbers contractually, and requires the contractor to associate these serial numbers with the Unique Item Identifier (UII) assigned by the contractor and to register them in the DoD Item Unique Identification (IUID) Registry along with the UII. The rule also requires agreement between the Government and contractor prior to use of the serial numbers in constructing the end item UII.

Application of these Government serial numbers is a standard practice because crew members and maintenance technicians have to distinguish visually individual end items during operations. The serial numbers are applied at minimal cost typically by painting them on an exterior surface with a stencil resulting in a human-readable format. The rule eliminates any ambiguity between the UII and the use of the Government-assigned serial number.

The rule also proposes a new clause, Use of Government-Assigned Serial Numbers, in solicitations and contracts that contain the clause at 252.211-7003, Item Identification and Valuation, and that require the contractor to mark major end items under the terms and conditions of the contract. The Government-assigned method of serialization outlined in this proposed rule allows the Government to use its internal serialization as a data key to existing DoD property management, logistics, and maintenance systems.

This regulatory action was subject to review under section 6(b) of Executive

Order 12866, Regulatory Planning and Review, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD has prepared an initial regulatory flexibility analysis consistent with 5 U.S.C. 603. A copy of the analysis may be obtained from the point of contact specified herein. The analysis is summarized as follows:

This proposed 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 any start-up costs that contractors will incur to comply with the rule are expected to be minimal, and should be offset by the reduced administrative costs that are expected to result from implementation of this rule. The objective of the rule is to improve the accountability and control of DoD assets. The proposed clause at 252.211-70XX, Use of Government-Assigned Serial Numbers, requires the Contractor to mark the Government-assigned serial numbers on those major end items as specified by line item in the Schedule, in accordance with the technical instructions for the placement and method of application identified in the terms and conditions of the contract, and to register the Government-assigned serial number along with the major end item's UII at the time of delivery in accordance with the provisions of the clause at DFARS 252.211-7003(d). Since DoD requires that the use of Government-assigned serial numbers be limited to satisfy requirements of law or regulation, or to facilitate the identification of major end items consistent with military operational requirements, *e.g.*, aircraft tail numbers or ship hull numbers in military operations, the number of small entities impacted by this rule is not expected to be substantial. At this time, DoD is unable to estimate the number of small entities to which this rule will apply. Therefore, DoD invites comments from small business 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 2008-D047) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96-511) does not apply because the rule does not impose additional 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 211 and 252

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

Therefore, DoD proposes to amend 48 CFR parts 211 and 252 as follows:

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

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

PART 211—DESCRIBING AGENCY NEEDS

211.274–5 [Redesignated as 211.274–6]

2. Redesignate section 211.274–5 as 211.274–6.

3. Add section 211.274–5 to read as follows:

211.274–5 Policy for assignment of Government-assigned serial numbers.

It is DoD policy that contractors apply Government-assigned serial numbers, such as tail numbers/hull numbers and equipment registration numbers in human-readable format, on major end items when required by law, regulation, or military operational necessity. The latest version of MIL–STD–130, Marking of U.S. Military Property, shall be used for the marking of human-readable information.

4. In newly redesignated 211.274–6, add paragraph (c) to read as follows:

211.274–6 Contract clauses.

* * * * *

(c) Use the clause at 252.211–70XX, Use of Government-Assigned Serial Numbers, in solicitations and contracts that—

(1) Contain the clause at 252.211–7003, Item Identification and Valuation; and

(2) Require the contractor to mark major end items under the terms and conditions of the contract.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.211–7003 [Amended]

5. Amend section 252.211–7003 by removing “211.274–5” from the introductory text and adding in its place “211.274–6”.

252.211–7007 [Amended]

5. Amend section 252.211–7007 by removing “211.274–5” from the

introductory text and adding in its place “211.274–6”.

6. Add section 252.211–70XX to read as follows:

252.211–70XX Use of Government-Assigned Serial Numbers.

As prescribed in 211.274–6(c), use the following clause:

USE OF GOVERNMENT-ASSIGNED SERIAL NUMBERS (DATE)

(a) *Definitions.* As used in this clause—
Government-assigned serial number means a combination of letters or numerals in a fixed human-readable information format (text) conveying information about a major end item, which is provided to a Contractor by the requiring activity with accompanying technical data instructions for marking the Government-assigned serial number on major end items to be delivered to the Government.

Major end item means a final combination of component parts and/or materials which is ready for its intended use and of such importance to operational readiness that review and control of inventory management functions (procurement, distribution, maintenance, disposal, and asset reporting) is required at all levels of life-cycle management. Major end items include aircraft; ships; boats; motorized wheeled, tracked, and towed vehicles for use on highway or rough terrain; weapon and missile end items; ammunition; and sets, assemblies, or end items having a major end item as a component.

Unique item identifier (UII) means a set of data elements permanently marked on an item that is globally unique and unambiguous and never changes in order to provide traceability of the item throughout its total life cycle. The term includes a concatenated UII or a DoD-recognized unique identification equivalent.

(b) The Contractor shall mark the Government-assigned serial numbers on those major end items as specified by line item in the Schedule, in accordance with the technical instructions for the placement and method of application identified in the terms and conditions of the contract.

(c) The Contractor shall register the Government-assigned serial number along with the major end item's UII at the time of delivery in accordance with the provisions of the clause at DFARS 252.211–7003(d).

(d) The Contractor shall establish the UII for major end items for use throughout the life of the major end item. The Contractor may elect, but is not required, to use the Government-assigned serial number to construct the UII.

(End of Clause)

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 216 and 252

Defense Federal Acquisition Regulation Supplement Award-Fee Contracts (DFARS Case 2006–D021)

AGENCY: Defense Acquisition Regulations System, 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 address award-fee contracts, including eliminating the use of provisional award-fee payments.

DATES: Comments on the proposed rule should be submitted to the address shown below on or before June 29, 2010, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2006–D021, using any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *E-mail:* dfars@osd.mil. Include DFARS Case 2006–D021 in the subject line of the message.
- *Fax:* 703–602–0350.
- *Mail:* Defense Acquisition Regulations System, Attn: Mr. Mark Gomersall, OUSD(AT&L)DPAP(DARS), 3060 Defense Pentagon, Room 3B855, Washington, DC 20301–3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gomersall, 703–602–0302.

SUPPLEMENTARY INFORMATION:

A. Background

This DFARS case proposes to revise guidance for award-fee evaluations and payments and to eliminate the use of provisional award-fee payments. One new clause is provided as part of this rule to detail the use of award fees. In addition, this rule incorporates DoD policy guidance on the use of objective criteria.

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