

with paragraph (h) of DFARS clause 252.247-7023.

(k) 252.247-7024 Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631), if flow down is required in accordance with paragraph (b) of DFARS clause 252.247-7024.

(End of clause)

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## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Part 232 and 252

RIN 0750-AH40

#### Defense Federal Acquisition Regulation Supplement; Updates to Wide Area WorkFlow (DFARS Case 2011-D027)

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

**ACTION:** Proposed rule.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement to update policies on the submission of payment requests and receiving reports in electronic format.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before January 20, 2012, to be considered in the formation of the final rule.

**ADDRESSES:** Submit comments identified by DFARS case 2011-D027, using any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by inputting "DFARS Case 2011-D027" under the heading "Enter keyword or ID" and selecting "Search." Select the link "Submit a Comment" that corresponds with "DFARS Case 2011-D027." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "DFARS Case 2011-D027" on your attached document.
- *Email:* [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2011-D027 in the subject line of the message.
- *Fax:* (703) 602-0350.
- *Mail:* Defense Acquisition Regulations System, Attn: Mr. Julian Thrash, 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. To confirm receipt of your comment(s), please check [www.regulations.gov](http://www.regulations.gov), approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

**FOR FURTHER INFORMATION CONTACT:** Mr. Julian Thrash, (703) 602-0310.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

DoD proposes to update policy and procedures in the Defense Federal Acquisition Regulation Supplement (DFARS) for electronic submission of payment requests and receiving reports through Wide Area WorkFlow (WAWF) and TRICARE Encounter Data System (TEDS). WAWF, which electronically interfaces with the primary DoD payment systems, is the accepted DoD system for generating invoices and receiving reports. TEDS is an accepted system for processing payment requests for rendered TRICARE health care services.

The capabilities of WAWF have expanded to enable use in a wider variety of environments by a wider variety of users. As such, this rule is intended to expand the use of WAWF for submission of payment requests and receiving reports and to standardize processes and instructions on the use of WAWF by accomplishing the following DFARS revisions:

- Update 232.7002(a)(1) to clarify that only payment requests (not receiving reports) for contracts paid for with the Governmentwide commercial purchase card are excepted from using WAWF;
- Remove the exception to the use of WAWF at 232.7002(a)(2) for contracts awarded to foreign vendors;
- Update 232.7002(a)(3) to specify a WAWF exception for contracts awarded by contracting officers for contingency, humanitarian, peacekeeping, or emergency response operations only when the use of WAWF is not feasible by the contractor;
- Update 232.7002(a)(4) to specify a WAWF exception for purchases made for an unusual or compelling need as defined in Federal Acquisition Regulation (FAR) 6.302-2 only when the use of WAWF is not feasible;
- Remove, at 232.7003(b), the contracting officer's authority to allow a contractor to submit a payment request and receiving report using an electronic form other than WAWF, unless a written determination is provided to the Senior Procurement Executive;
- Add at 232.7003(c), the use of TEDS for submitting and processing TRICARE payment requests and receiving reports for rendered health care services; and

- Provide a standard WAWF payment clause.

##### II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

##### III. Regulatory Flexibility Act

DoD expects that this proposed rule may 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.* Therefore, an Initial Regulatory Flexibility Analysis has been prepared and is summarized as follows:

The rule incorporates WAWF's new capability of capturing receiving reports for contracts paid for with a Governmentwide commercial purchase card and clarifies exceptions to the use of WAWF only when it is not feasible. The rule also consolidates and standardizes instructions to contractors on how to use the WAWF application. Furthermore, it eliminates locally defined methods that are in some cases causing confusion and inefficiencies, and it incorporates the use of TEDS for medical services requiring Health Insurance Portability and Accountability Act data not handled by WAWF.

DoD made small business awards to 60,000 companies in Fiscal Year 2010. With the exception of less than 4,000 companies that only received awards paid with a purchase card, this will be a simplification of procedures by allowing contractors to use the same process and systems for all DoD shipments.

This rule does not impose any new reporting or recordkeeping requirements.

The rule does not duplicate, overlap, or conflict with any other Federal rules. There are no significant alternatives to accomplish the stated objectives of this rule.

DoD invites comments from small business concerns 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 2011–D027) in the correspondence.

#### IV. Paperwork Reduction Act

This rule does not impose any new information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

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

Government procurement.

Mary Overstreet,

Editor, Defense Acquisition Regulations System.

Therefore DoD proposes to amend 48 CFR parts 232 and 252 as follows:

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

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

#### PART 232—CONTRACT FINANCING

2. Revise section 232.7002(a) to read as follows:

##### 232.7002 Policy.

(a) Contractors shall submit payment requests and receiving reports in electronic form, except for—

(1) Payment requests for purchases paid for with a Governmentwide commercial purchase card;

(2) Classified contracts or purchases when electronic submission and processing of payment requests could compromise the safeguarding of classified information or national security;

(3) Contracts awarded by deployed contracting officers in the course of military operations, including, but not limited to, contingency operations as defined in 10 U.S.C. 101(a)(13) or humanitarian or peacekeeping operations as defined in 10 U.S.C. 2302(8), or contracts awarded by contracting officers in the conduct of emergency operations, such as responses to natural disasters or national or civil emergencies, when access to Wide Area WorkFlow by those contractors is not feasible;

(4) Purchases to support unusual or compelling needs of the type described

in FAR 6.302–2, when access to Wide Area WorkFlow by those contractors is not feasible;

(5) Cases in which DoD is unable to receive payment requests or provide acceptance in electronic form; or

(6) Cases in which the contracting officer administering the contract for payment has determined, in writing, that electronic submission would be unduly burdensome to the contractor. In those cases, a copy of the determination shall be furnished to the Service Procurement Executive.

3. Amend section 232.7003 by revising paragraphs (b) and (c) to read as follows:

##### 232.7003 Procedures.

(b) For payment of commercial transportation services provided under a Government rate tender or a contract for transportation services, the use of a DoD-approved electronic third party payment system or other exempted vendor payment/invoicing system (*e.g.*, PowerTrack, Transportation Financial Management System, and Cargo and Billing System) is permitted.

(c) For submitting and processing payment requests and receiving reports for rendered health care services, use of TRICARE Encounter Data System (TEDS) as the electronic format is permitted.

4. Revise section 232.7004 to read as follows:

##### 232.7004 Contract clauses.

(a) Except as provided in 232.7002(a)(2), (3), or (4), use the clause at 252.232–7003, Electronic Submission of Payment Requests and Receiving Reports, in solicitations and contracts.

(b) Use the clause at 252.232–70XX, Wide Area WorkFlow Payment Instructions, when 252.232–7003 is used and neither 232.7003 (b) nor (c) apply. See PGI 232.7004 for instructions on completing the clause.

#### PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Amend section 252.232–7003 by—

(a) Amending the introductory text to remove “232.7004” and insert in its place “232.7004(a)”;

(b) Amending the clause date by removing “(MAR 2008)” and adding in its place “(Date)”;

(c) Adding new paragraph (a)(4);

(d) Removing paragraphs (c)(1) and (2);

(e) Redesignating paragraphs (c)(3) and (4) as paragraphs (c)(1) and (2), respectively; and

(f) Amending the newly redesignated paragraph (c)(1) by removing the word “or” at the end of the paragraph;

(g) Amending the newly redesignated paragraph (c)(2) by removing “.” and replacing it with “;” at the end of the paragraph;

(h) Adding new paragraphs (c)(3) and (4).

The additions read as follows:

##### 252.232–7003 Electronic Submission of Payment Requests and Receiving Reports.

\* \* \* \* \*

(a) \* \* \*

(4) “Receiving report” means the data required by the clause at 252.246–7000, Material Inspection and Receiving Report.

\* \* \* \* \*

(c) \* \* \*

(3) DoD makes payment for rendered health care services using the TRICARE Encounter Data System (TEDS) as the electronic format; or

(4) Payment is made via the Governmentwide commercial purchase card, the receiving report shall still be submitted via WAWF.

\* \* \* \* \*

6. Section 252.232–70XX is added to read as follows:

##### 252.232–70xx Wide Area WorkFlow Payment Instructions.

As prescribed in 232.7004(b), use the following clause:

#### WIDE AREA WORKFLOW PAYMENT INSTRUCTIONS (DATE)

(a) *Definitions.* As used in this clause—  
*Document type* means the type of payment request or receiving report available for creation in Wide Area WorkFlow (WAWF).

*Department of Defense Activity Address Code (DoDAAC)* is a six position code that uniquely identifies a unit, activity, or organization.

*Local processing office (LPO)* is the office responsible for payment certification when the entitlement system is OnePay.

(b) *Electronic Invoicing.* The WAWF system is the preferred method to electronically process vendor payment requests and receiving reports, as authorized by DFARS 252.232–7003, Electronic Submission of Payment Requests and Receiving Reports, unless an alternate invoicing method is agreed to by the contracting parties in accordance with DFARS clause 252.232–7003.

(c) *WAWF Access.* To access WAWF, the Contractor shall—

(1) Have a designated electronic business point of contact in the Central Contractor Registration at <https://www.acquisition.gov>; and

(2) Be registered to use WAWF at <https://wawf.eb.mil/> following the step-by-step procedures for self-registration available at this Web site.

(d) *WAWF Training.* The Contractor should follow the training instructions of the WAWF

Web-Based Training Course and use the Practice Training Site before submitting payment requests through WAWF. Both can be accessed by selecting the "Web Based Training" link on the WAWF home page at <https://wawf.eb.mil/>.

(e) *WAWF Methods of Document Submission.* Document submissions may be via web entry, Electronic Data Interchange, or File Transfer Protocol.

(f) *WAWF Payment Instructions.* The Contractor must use the following information when submitting payment requests and receiving reports in WAWF for this contract/order:

(1) *Document Type.* The Contractor agrees to use the document type(s) identified below, unless the Contractor notifies the contracting officer that its business process does not allow for submission of the specified document type(s). The Contractor and the contracting officer must agree to an alternative document type before award.

(Contracting Officer: Insert Applicable Document Type(s))

**Note:** If a Combo Document Type is identified but not supportable by the Contractor's business systems, an Invoice (stand-alone) and Receiving Report (stand-alone) Document Type may be used instead.)

(2) *Inspection/Acceptance Location.* The Contractor shall select the appropriate inspection/acceptance location(s) in WAWF, if specified by the contracting officer below.

(Contracting Officer: Insert Inspection and Acceptance locations or "Not Applicable".)

(3) *Document Routing.* The Contractor shall use the information in the Routing Data Table below only to fill in applicable fields in WAWF when creating payment requests and receiving reports in the System.

#### ROUTING DATA TABLE \*

Field name in WAWF	Data to be entered in WAWF
Pay Office DoDAAC	
Issue By DoDAAC	
Admin DoDAAC	
Inspect By DoDAAC	
Ship To Code	
Service Approver (DoDAAC)	
Ship From Code	
Service Acceptor (DoDAAC)	
Accept at Other DoDAAC	
LPO DoDAAC	
DCAA Auditor DoDAAC	
Other DoDAAC(s)	

(Contracting Officer: Insert applicable DoDAAC information or "See Schedule" if multiple Ship to/Acceptance locations apply, or "Not Applicable".)

(4) *Payment Request and Supporting Documentation.* The Contractor shall ensure a payment request includes appropriate contract line item and subtitle item descriptions of the work performed or supplies delivered, unit price/cost per unit, fee (if applicable), and all relevant back-up documentation (e.g. timesheets) in support of each payment request.

(5) *WAWF Email Notifications.* The Contractor shall enter the email address identified below in the "Send Additional Email Notifications" field of WAWF once a document is submitted in the system.

(Contracting Officer: Insert applicable Email addresses or "Not Applicable".)

(g) *Payment Request Follow-up.* The Contractor may obtain invoice status by accessing <https://myinvoice.csd.disa.mil/>, after submission of an invoice in WAWF. The information may not be readily available until at least 3 days prior to payment date.

(h) *WAWF Point of Contact.* The Contractor may obtain clarification regarding invoicing in WAWF from the contracting activity's WAWF point of contact identified below.

(Contracting Officer: Insert applicable information or "Not Applicable".)

(End of clause)

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 49 CFR Part 10

[Docket No. OST-1996-1437]

RIN 2105-AD11

### Maintenance of and Access to Records Pertaining to Individuals; Proposed Exemption

**AGENCY:** Department of Transportation (DOT), Office of the Secretary.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** DOT proposes to exempt portions of a newly established system of records titled, "Department of Transportation/ALL 24 Departmental Office of Civil Rights System" from certain provision of the Privacy Act. Specifically, the DOT exempts portions of the "Department of Transportation/ALL-24 Departmental Office of Civil Rights System" from one or more provisions of the Privacy Act because of criminal, civil and administrative enforcement requirements. Public comment is invited.

**DATE:** Comments are due December 21, 2011.

**ADDRESSES:** You may file comments identified by the docket number DOT-OST-1996-1437 by any of the following methods:

- *Federal Rulemaking Portal:* go to <http://www.regulations.gov> and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200

New Jersey Ave., SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* West Building Ground Floor, Room W12-140, 1200 New Jersey Ave., SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays.

- *Fax:* (202) 493-2251.

*Instructions:* You must include the agency name and docket number DOT-OST-1996-1437 or the Regulatory Identification Number (RIN) for the rulemaking at the beginning of your comment. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

*Privacy Act:* Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.) You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you may visit <http://DocketsInfo.dot.gov>.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to the street address listed above. Follow the online instructions for accessing the docket.

**FOR FURTHER INFORMATION CONTACT:** Claire Barrett, Departmental Chief Privacy Officer, Office of the Chief Information Officer, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590 or [claire.barrett@dot.gov](mailto:claire.barrett@dot.gov) or (202) 366-8135.

**SUPPLEMENTARY INFORMATION:** It is DOT practice to identify a Privacy Act system of records that is exempt from one or more provisions of the Privacy Act (pursuant to 5 U.S.C. 552a(j) or (k)) both in the system notice published in the **Federal Register** for public comment and in an Appendix to DOT's regulations implementing the Privacy Act (49 CFR Part 10, Appendix A). This amendment proposes exemption from certain portions of the Privacy Act of a proposed record system—the Departmental Office of Civil Rights System of Records (DOCRS)—to be used to track correspondence, inquiries, complaints, and appeals filed by individuals, small businesses, or representatives of individuals or small businesses who believe they have been subjected to discrimination or retaliation prohibited by Federal law by a DOT employee, or by a DOT