

SUMMARY: DoD has issued an interim rule amending Defense Federal Acquisition Regulation Supplement (DFARS) policy pertaining to unique item identification and valuation. This rule contains changes resulting from comments received in response to an interim rule published in the **Federal Register** on October 10, 2003.

DATES: *Effective date:* January 1, 2004.

Applicability date: The requirements in this rule apply to all solicitations issued on or after January 1, 2004.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before March 1, 2004, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments directly on the World Wide Web 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–D081 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. Steven Cohen, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2003–D081.

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

FOR FURTHER INFORMATION CONTACT: Mr. Steven Cohen, (703) 602–0293.

SUPPLEMENTARY INFORMATION:

A. Background

DoD published an interim rule in the **Federal Register** on October 10, 2003, applicable to all solicitations issued on or after January 1, 2004. The interim rule established requirements for contractors to furnish unique item identifiers, or other item identification, and to provide the Government's acquisition cost of items that are to be delivered under a DoD contract.

Twenty-six sources submitted comments on the interim rule. As a result of the significance of the comments, DoD has issued a second interim rule. The following is a discussion of the comments and the differences between the two rules. Where appropriate, similar comments have been grouped together.

1. *Comment:* Several comments were made with regard to the aggressiveness of the implementation schedule commencing January 1, 2004.

DoD Response: DoD agrees that the implementation schedule is aggressive. DoD considers the implementation of unique identification to be a strategic imperative, necessary to efficiently move supplies to warfighters. It will enhance logistics, contracting, and financial business transactions supporting U.S. and coalition troops; will enable DoD to consistently capture the value of items it buys, control these items during their use, and combat counterfeiting of parts; and will enable DoD to make appropriate entries into its property accountability, inventory, and financial management information systems toward achieving compliance with the Chief Financial Officers Act. Therefore, the implementation schedule can not be slipped. The clarification and streamlining of the "valuation" process in this new interim rule should assist in making implementation commencing January 1, 2004, achievable.

2. *Comment:* Several comments were made with regard to the timing of this new requirement, and the need to implement on an accelerated schedule when the aviation industry is suffering from the worst business conditions in the history of the industry.

DoD Response: DoD agrees that the implementation schedule is aggressive. A DoD Policy memo dated November 26, 2003, provides some relief for the aviation industry by including marking consistent with 14 CFR Part 45, Identification and Registration Marking, for aircraft, aircraft engines, propellers, propeller blades, and hubs as consistent with DoD unique identification policy.

3. *Comment:* Several comments were made with regard to the possibility of waivers from or exceptions to the new requirement.

DoD Response: The rule is considered to be a strategic imperative, necessary to efficiently move supplies to warfighters. No waivers or exceptions can be granted.

4. *Comment:* Several comments were made with regard to citing MIL–STD–130K, recommending that the more current version be cited.

DoD Response: The rule is consistent with the current MIL–STD–130L. However, the clause at 252.211–7003 has been amended to eliminate reference to a specific MIL–STD–130 version, and to instead require compliance with the version of MIL–STD–130 cited in the contract Schedule.

5. *Comment:* Numerous comments were received addressing difficulties and confusion with the policy inserted in DFARS 204.7103 and 204.7104 concerning contract line and subline item number structure.

DoD Response: The policy added to DFARS 204.7103 and 204.7104 by the previous interim rule has been removed. The existing policy in DFARS Subpart 204.71 for contract line, subline, and exhibit line item structure is sufficient for the requirements of this rule. Valuation information will be included in the Material Inspection and Receiving Report provided at the time of delivery.

6. *Comment:* Numerous comments were received addressing the methodology for assessing the Government's acquisition cost of items for cost-type contracts.

DoD Response: As a result of the concerns raised in the comments, DoD has redefined the Government's unit acquisition cost for cost-type line, subline, or exhibit line items, as the Contractor's estimated fully burdened unit cost to the Government for each item at the time of delivery.

7. *Comment:* Comments were received highlighting confusion among the definitions for "unique item identifier," "unique item identification," and the DoD data elements of unique identification.

DoD Response: As a result of the concerns raised in the comments, DoD has amended the clause at DFARS 252.211–7003 to add a definition of "DoD unique item identification" and to clarify the definition of "DoD recognized unique identification equivalent, including a reference to the Web site at <http://www.acq.osd.mil/uid>, where all DoD recognized unique identification equivalents are listed.

8. *Comment:* Numerous comments were received highlighting the cost of implementing these requirements, and five comments were received citing the cost burden of implementing these requirements for small businesses.

DoD Response: DoD has determined that it is a strategic imperative that items valued at or above \$5,000, or meeting other specified conditions, be marked with unique identification. There are no exceptions. Small businesses will find there are a number of vendors, many of them small businesses, that can provide unique identification marking assistance. DoD considers the cost of implementing unique identification requirements to be an allowable cost under FAR Part 31.

9. *Comment:* Several comments cited confusion as to what items specifically require unique identification and which do not.

DoD Response: As a result of the concerns raised in the comments, DoD has restructured the policy in DFARS 211.274 and the clause at 252.211–7003 to clarify that all items over \$5,000 in value require unique identification,