

204 rather than DFARS Part 11 requirements policy.

*DoD Response:* For clarity, all references to “value” have been removed, and “unit acquisition cost” has been more clearly defined. This interim rule removes the prescriptive policy in DFARS Part 204 that was added by the previous interim rule.

23. *Comment:* A respondent asked whether valuation needs to be captured down to zero. The respondent suggested that the cost of capturing the value of low-dollar items under cost-type contracts may exceed the benefits.

*DoD Response:* The definition of “unit acquisition cost” under cost-type line items has been changed to capture the contractor’s estimate of the Government’s unit cost. This should avoid the unnecessary administrative burden envisioned by the respondent.

24. *Comment:* A respondent asked how development items are to be handled. For example, how will a subline item for development work on one or more pieces of hardware be identified and part numbered?

*DoD Response:* The estimated unit acquisition cost for a development item will be handled the same as the estimated unit acquisition cost for any other delivered item. The contractor will use its business judgment to provide the Government with its best estimate of the fully burdened cost to the Government.

25. *Comment:* A respondent asked how modification kits that are not separately stock listed items, but comprise several hundred individual parts/items, would be handled.

*DoD Response:* Modification kits will be handled the same as any other delivered item. Subassemblies, components, or parts that are embedded within the kit will need to be separately identified if unique identification is required, but acquisition cost will not be required.

26. *Comment:* A respondent suggested that the clause at DFARS 252.211–7003 should be limited to the marking requirements (formerly paragraphs (a) thru (c)) and the flow down requirement (formerly paragraph (f)). The respondent suggested that former paragraph (d), Item records, duplicates data that already exists either in the contract or on the associated DD 250/Memo of Shipment. The only exception is the unique identification itself.

*DoD Response:* Concur in part. The rule has been amended to specify that the data required by the clause will be submitted in the Material Inspection and Receiving Report. As a result, DoD was able to eliminate the DFARS part

204 line item structure requirements for this data.

27. *Comment:* A respondent suggested that the contractor should be told how long the assigned unique identification data should be maintained. For example, most contract data presently must be maintained until final contract payment plus 3 years. If the Government wished the unique identification data to be maintained longer, it should be stated here. Alternatively, if the only requirement is that the contractor ensure that a unique identifier is not duplicated, this is not a records retention requirement, but rather a requirement to ensure a system is set up to avoid duplication. Therefore, record retention would be up to the contractor.

*DoD Response:* The clause at DFARS 252.211–7003 defines “Unique item identifier” as a set of data marked on items that is globally unique, unambiguous, and robust enough to ensure data information quality throughout life and to support multifaceted business applications and users.

28. *Comment:* A respondent suggested that the Valuation paragraph (formerly paragraph (e)) of the clause at 252.211–7003, is unnecessary. The assignment of value for items to be delivered to the Government should be a contracting officer responsibility under DFARS 204.7103. The language in the rule creates an additional “reporting” requirement that is inconsistent with existing processes and the Paperwork Reduction Act determination.

*DoD Response:* Do not concur. The valuation portion of the rule is the data currently provided on the DD Form 250, Material Inspection and Receiving Report.

29. *Comment:* DFARS Appendix F should be revised to specify the data the Government needs on the DD Form 250 or Memo of Shipment. These existing documents should be the vehicle through which the Government collects the desired data. Most of the data listed in the Item records paragraph (formerly paragraph (d)) of the clause at DFARS 252.211–7003 is already available in the contract and on the DD250/Memo of Shipment. The DFARS rule should require contractors to continue to provide that data on those documents with the addition of the unique identification specific data; once Wide Area Workflow revisions are fully operational, the Government will have the data and the mechanism to populate its data base without further contractor intervention.

*DoD Response:* Revisions to DFARS Appendix F are being considered separately under DFARS Case 2003–

D085, as part of DoD’s DFARS Transformation Initiative.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

## B. Regulatory Flexibility Act

This 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.* DoD has prepared an initial regulatory flexibility analysis, which is summarized as follows:

This interim rule contains requirements for DoD contractors to provide unique identification for items delivered to DoD, through the use of item identification marking. In addition, the rule contains requirements for DoD contractors to identify the Government’s unit acquisition cost of all hardware items delivered under a contract. The objective of the rule is to improve management of DoD assets. DoD considers this rule to be a strategic imperative, necessary to efficiently move supplies to warfighters. This rule will facilitate DoD compliance with the Chief Financial Officers Act of 1990 (Pub. L. 101–576). The rule does not duplicate, overlap, or conflict with any other Federal rules. There are no known significant alternatives that will accomplish the objectives of the rule.

A copy of the analysis may be obtained from the point of contact specified herein.

## C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any new information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

## D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. This interim rule contains requirements for contractors to uniquely mark and to identify the Government’s unit acquisition cost of items delivered to DoD. 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