will be issuing a Revised Preliminary Flood Insurance Rate Map, and if necessary a Flood Insurance Study report, featuring updated flood hazard information, the proposed rulemaking is being withdrawn. A Notice of Proposed Flood Hazard Determinations will be published in the Federal Register and in the affected community’s local newspaper.


Roy E. Wright,

[FR Doc. 2013–11588 Filed 5–15–13; 8:45 am]

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Proposed Flood Elevation Determinations for Beaver County, Pennsylvania (All Jurisdictions)

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Federal Emergency Management Agency (FEMA) is withdrawing its proposed rule concerning proposed flood elevation determinations for Beaver County, Pennsylvania (All Jurisdictions).

DATES: This withdrawal is effective on May 16, 2013.


SUPPLEMENTARY INFORMATION: On October 5, 2010, FEMA published a proposed rulemaking at 75 FR 61377, proposing flood elevation determinations along one or more flooding sources in Beaver County, Pennsylvania. Because FEMA has or will be issuing a Revised Preliminary Flood Insurance Rate Map, and if necessary a Flood Insurance Study report, featuring updated flood hazard information, the proposed rulemaking is being withdrawn. A Notice of Proposed Flood Hazard Determinations will be published in the Federal Register and in the affected community’s local newspaper.


Roy E. Wright,

[FR Doc. 2013–11591 Filed 5–15–13; 8:45 am]

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Proposed Flood Elevation Determinations for Greene County, Pennsylvania (All Jurisdictions)

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Federal Emergency Management Agency (FEMA) is withdrawing its proposed rule concerning proposed flood elevation determinations for Greene County, Pennsylvania (All Jurisdictions).

DATES: This withdrawal is effective on May 16, 2013.


SUPPLEMENTARY INFORMATION: On May 10, 2011, FEMA published a proposed rulemaking at 76 FR 26978, proposing flood elevation determinations along one or more flooding sources in Greene County, Pennsylvania. Because FEMA has or will be issuing a Revised Preliminary Flood Insurance Rate Map, and if necessary a Flood Insurance Study report, featuring updated flood hazard information, the proposed rulemaking is being withdrawn. A Notice of Proposed Flood Hazard Determinations will be published in the Federal Register and in the affected community’s local newspaper.


Roy E. Wright,

[FR Doc. 2013–11594 Filed 5–15–13; 8:45 am]
link “Submit a Comment” that corresponds with “DFARS Case 2012–D055.” Follow the instructions provided at the “Submit a Comment” screen. Please include your name, company name (if any), and “DFARS Case 2012–D055” on your attached document.

○ Email: dfars@osd.mil. Include DFARS Case 2012–D055 in the subject line of the message.

○ Fax: 571–372–6094.


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, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).


SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to revise the DFARS to partially implement section 818 (paragraphs (c) and (f)) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2012 (Pub. L. 112–81, enacted December 31, 2011). Section 818 is entitled “Detection and Avoidance of Counterfeit Electronic Parts.” Paragraph (c) of section 818 requires the issuance of DFARS regulations addressing contractor responsibilities for detecting and avoiding the use or inclusion of counterfeit electronic parts or suspect counterfeit electronic parts, the use of trusted suppliers, and requirements for contractors to report counterfeit electronic parts and suspect counterfeit electronic parts. Paragraph (f) of section 818 contains the definitions of “covered contractor” and “electronic part.” Other aspects of section 818 are being implemented separately.

In addition, this proposed rule addresses the amendments to section 818 that were made by section 833, entitled “Contractor Responsibilities in Regulations Relating to Detection and Avoidance of Counterfeit Electronic Parts,” of the NDAA for FY 2013 (Pub. L. 112–239, enacted January 2, 2013).

II. Discussion

The intent of section 818 is to hold contractors responsible for detecting and avoiding the use or inclusion of counterfeit electronic parts or suspect counterfeit electronic parts. Three specific areas were identified that required either modification or additions to DFARS in order to implement the requirements defined in section 818.

A. Definitions. Several definitions are proposed. “Electronic part” is defined at paragraph (f) of section 818. Section 818(b)(1) requires definition of “counterfeit electronic part” and “suspect counterfeit electronic part.” As recommended by Government Accountability Office (GAO) Report GAO–10–389, entitled “DoD Should Leverage Ongoing Initiatives in Developing Its Program to Mitigate Risk of Counterfeit Parts,” to establish a clear and consistent definition of “counterfeit parts.” DoD is proposing to add a definition of “legally authorized source” to the definition of “counterfeit part” as an important component of its program to mitigate risks posed by counterfeit parts. The new terms are proposed to be located at DFARS 202.101, Definitions, because they will apply to multiple parts of the regulations.

B. Contractor responsibilities. Detection and avoidance of counterfeit electronic parts or suspect counterfeit electronic parts. New policy on counterfeit parts is proposed to be added to DFARS subpart 246.8, Contractor Liability for Loss of or Damage to Property of the Government. The proposed new coverage includes a clause at DFARS 252.246–7007, Contractor Counterfeit Electronic Part Avoidance and Detection System. In addition, this rule proposes to add compliance (with the requirements for identifying, avoiding, and reporting counterfeit parts) to the existing requirements for the contractor’s purchasing system. To that end, the rule proposes to modify the clause at DFARS 252.244–7001, Contractor Purchasing System Administration, to add system criteria for the contractor’s purchasing system. It also proposes an alternate which adds systems criteria for a less comprehensive review of the contractor’s purchasing system that targets review of those elements relating to the detection and avoidance of counterfeit electronic parts and suspect counterfeit electronic parts. The alternate is prescribed for use in solicitations and contracts that include the clause at 252.246–7007, but do not include the clause at FAR 52.244–2, Subcontracts.

(1) Unallowability of costs of rework and corrective action. A new subsection, DFARS 231.205–71, proposes to prohibit contractors from claiming, as a reimbursable cost under DoD contracts, the cost of counterfeit electronic parts or suspect counterfeit electronic parts or the cost of rework or corrective action that may be required to remedy the use or inclusion of such parts. However, section 833 of the NDAA for FY 2013 provides specific exceptions that would enable these costs to be reimbursed if (i) a contractor has a DoD-approved operational system to detect and avoid counterfeit parts; or the suspect counterfeit parts were provided as Government-furnished property; and (ii) the contractor has provided timely notice to the Government. These exceptions are included at DFARS 231.205–71(c) in the proposed rule.

(2) Government role. The Government’s role in reviewing and monitoring the contractor’s processes and procedures for detecting and avoiding counterfeit or suspect counterfeit electronic parts (see section 818(e)(2)(B)) is addressed as part of a contractor’s purchasing system review (see proposed DFARS 244.303(b)).

III. 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.

IV. Regulatory Flexibility Act

DoD does not expect this proposed 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 it applies only to contracts that are subject to the Cost Accounting Standards (CAS)(see section 818(f)). Contracts with small entities are exempt from CAS. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:
This proposed rule is intended to partially implement section 818 of the National Defense Authorization Act for Fiscal Year 2012 and section 833 of the National Defense Authorization Act for Fiscal Year 2013. Section 818 is entitled “Detection and Avoidance of Counterfeit Electronic Parts;” it requires DoD-wide regulations concerning contractors’ requirements to identify, avoid, and report counterfeit and suspect electronic counterfeit parts. Further, paragraph (a) of section 818 requires DoD to establish and issue relevant DoD-wide definitions. Section 833 provides exceptions to cost unallowability if contractors take specific steps.

The rule will not apply to small entities as prime contractors. The requirements will apply to contracts that are subject to the Cost Accounting Standards (CAS) under 41 U.S.C. chapter 15, as implemented in regulations found at 48 CFR 9903.201–1 (other than educational institutions, Federally Funded Research and Development Centers operated by educational institutions, or University Associated Research Centers). Contracts and subcontracts with small entities are exempt from CAS requirements.

There is, however, the potential for an impact on small entities in the supply chain of a prime contractor with contracts subject to CAS. The impact should be negligible as long as the small entity is not supplying counterfeit electronic parts to the prime contractor.

The proposed rule would use the existing requirements for contractors’ purchasing systems as the basis for the anti-counterfeiting compliance (see the clause at DFARS 252.244–7001, Contractor Purchasing System Administration).

The rule does not duplicate, overlap, or conflict with any other Federal rules.

The economic impact of this proposed rule on small entities has been minimized in the following ways:

(a) The proposed rule would use the existing requirements (and contract clause) for contractors’ purchasing systems, rather than creating a separate, new system.

(b) The proposed rule would apply only to prime contractors that must comply with the Cost Accounting Standards, which excludes small entities without diminishing the ability of DoD to oversee compliance.

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 2012–D055), in correspondence.

V. Paperwork Reduction Act

The rule contains 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; however, these changes to the DFARS, as they pertain to contractors’ purchasing systems, will generally not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Number 0704–0253, entitled Purchasing Systems. The current information collection estimates that 90 respondents will submit one response annually, with 16 hours per response. We estimate that the additional information collection burden associated with the clause at 52.244–7001—Alternate, will be as much as five percent more than the existing burden. Therefore, the change to the current annual reporting burden for OMB Control Number 0704–0253 is estimated as follows:

- Respondents: 5.
- Responses per respondent: 1.
- Total annual responses: 5.
- Preparation hours per response: 16.
- Total hours: 80.

B. Request for Comments Regarding Paperwork Burden

Written comments and recommendations on the proposed information collection, including suggestions for reducing this burden, should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503, or email Jasmeet.K_Seehra@omb.eop.gov, with a copy to the Defense Acquisition Regulations System, Attn: Ms. Meredith Murphy, OUSD(AT&L)DPAP/DARS, Room 38B855, 3060 Defense Pentagon, Washington, DC 20301–3060, or email dfars@osd.mil. Include DFARS Case 2012–D055 in the subject line of the message."

List of Subjects in 48 CFR Parts 202, 231, 244, 246, and 252

Government procurement.

Manuel Quinones,
Editor, Defense Acquisition Regulations System.

Therefore, DoD proposes to amend 48 CFR parts 202, 231, 244, 246, and 252 as follows:

1. The authority citation for parts 202, 231, 244, and 252 continues to read as follows:


PART 202—DEFINITIONS OF WORDS AND TERMS

2. Amend section 202.101 by adding, in alphabetical order, the following definitions to read as follows:

202.101 Definitions.

* * * * *

Counterfeit part means—

(1) An unauthorized copy or substitute part that has been identified, marked, and/or altered by a source other than the part’s legally authorized source and has been misrepresented to be from a legally authorized source;

(2) An item misrepresented to be an authorized item of the legally authorized source; or

(3) A new, used, outdated, or expired item from a legally authorized source that is misrepresented by any source to the end-user as meeting the performance requirements for the intended use.

* * * * *

Electronic part means an integrated circuit or discrete electronic component (including, but not limited to, a transistor, capacitor, resistor, or diode), or a circuit assembly (section 818(f)(2) of Pub. L. 112–81).
Legally authorized source means the current design activity or the original manufacturer or a supplier authorized by the current design activity or the original manufacturer to produce an item.

Suspect counterfeit part means a part for which visual inspection, testing, or other information provide reason to believe that a part may be a counterfeit part.

PART 231—CONTRACT COST PRINCIPLES AND PROCEDURES

3. Add section 231.205–71 to read as follows:

231.205–71 Cost of remedy for use or inclusion of counterfeit electronic parts and suspect counterfeit electronic parts.


(b) Contractors that are subject to the Cost Accounting Standards (CAS) under 41 U.S.C. Chapter 15, as implemented in regulations found at 48 CFR 9903.201–1 (see the FAR appendix), and that supply electronic parts or products that include electronic parts under CAS-covered contracts are responsible for detecting and avoiding the use or inclusion of counterfeit electronic parts or suspect counterfeit electronic parts in such products and for any rework or corrective action that may be required to remedy the use or inclusion of such parts.

(c) The costs of counterfeit electronic parts or suspect counterfeit electronic parts and the cost of rework or corrective action that may be required to remedy the use or inclusion of such parts are expressly unallowable, unless—

(1) The contractor has an operational system to detect and avoid counterfeit parts and suspect counterfeit electronic parts that have been reviewed and approved by DoD pursuant to 244.303;

(2) The counterfeit electronic parts or suspect counterfeit electronic parts are Government-furnished property as defined in FAR 45.101; and

(3) The covered contractor provides timely notice to the Government.

PART 244—SUBCONTRACTING POLICIES AND PROCEDURES

4. Revise section 244.303 to read as follows:

244.303 Extent of review.

(a) Also review the adequacy of rationale documenting commercial item determinations to ensure compliance with the definition of “commercial item” in FAR 2.101.

(b) Also review the adequacy of the contractor’s counterfeit electronic part avoidance and detection system under DFARS 252.246–70XX, Contractor Counterfeit Electronic Part Avoidance and Detection System.

5. Revise section 244.305–71 to read as follows:

244.305–71 Contract clause.

Use the Contractor Purchasing System Administration clause or its alternate as follows:

(a) Use the clause at 252.244–7001, Contractor Purchasing System Administration—Basic, in solicitations and contracts containing the clause at FAR 52.244–2, Subcontracts.

(b) Use the clause at 252.244–7001, Contractor Purchasing System Administration—Alternate I, in solicitations and contracts that contain the clause at 252.246–70XX, Contractor Counterfeit Electronic Part Avoidance and Detection System, but do not contain FAR 52.244–2, Subcontracts.

PART 246—QUALITY ASSURANCE

6. The authority citation for part 246 is revised to read as follows:


7. Add section 246.870 through 246.870–3 to read as follows:

246.870 Contractors’ counterfeit electronic part avoidance and detection systems.

246.870–1 Scope.

This section—

(a) Implements section 818(c) of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112–81); and

(b) Prescribes policy and procedures for preventing counterfeit parts and suspect counterfeit parts from entering the supply chain when procuring electronic parts or end items, components, parts, or materials that contain electronic parts.

246.870–2 Policy.

(a) General. Contractors are required to establish and maintain an acceptable counterfeit electronic part avoidance and detection system. Failure to do so may result in disapproval of the purchasing system by the contracting officer and/or withholding of payments (see 52.244–7001).

(b) System criteria. A contractor’s counterfeit electronic part avoidance and detection system must address, at a minimum, the following areas:

(1) The training of personnel.

(2) The inspection and testing of electronic parts, including criteria for acceptance and rejection.

(3) Processes to abolish counterfeit parts proliferation.

(4) Mechanisms to enable traceability of parts to suppliers.

(5) Use and qualification of trusted suppliers.

(6) The reporting and quarantining of counterfeit electronic parts and suspect counterfeit electronic parts.

(7) Methodologies to identify suspect counterfeit parts and to rapidly determine if a suspect counterfeit part is, in fact, counterfeit.

(8) The design, operation, and maintenance of systems to detect and avoid counterfeit electronic parts and suspect counterfeit electronic parts.

(9) The flow down of counterfeit avoidance and detection requirements to subcontractors.

246.870–3 Contract clause.

Use the clause at 252.246–70XX, Contractor Counterfeit Electronic Part Avoidance and Detection System, in solicitations and contracts (other than in contracts with educational institutions, Federally Funded Research and Development Centers (FFRDCs), or University Associated Research Centers (UARCs) operated by educational institutions) when procuring electronic parts or an end item, component, part, or material containing electronic parts or services where the contractor will supply electronic components, parts, or materials as part of the service and the resulting contract will be subject to the Cost Accounting standards under 41 U.S.C. chapter 15, as implemented in regulations found at 48 CFR 9903.201–1 (see the FAR Appendix).

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

8. Revise section 252.244–7001 to read as follows:

252.244–7001 Contractor purchasing system administration.

As prescribed in 244.305–71, use one of the following clauses.

Contractor Purchasing System Administration—Basic. For the specific use of the basic clause, see the prescription at 244.305–71(a).

Contractor Purchasing System Administration—Basic (Date)

(a) Definitions. As used in this clause—

“Acceptable purchasing system” means a purchasing system that complies with the system criteria in paragraph (c) of this clause.

“Purchasing system” means the Contractor’s system or systems for...
purchasing and subcontracting, including
make-or-buy decisions, the selection of
vendors, analysis of quoted prices,
negotiation of prices with vendors, placing
and administering of orders, and expediting
delivery of materials.

“Significant deficiency” means a
shortcoming in the system that materially
affects the ability of officials of the
Department of Defense to rely upon
information produced by the system that is
needed for management purposes.

(b) General. The Contractor shall establish
and maintain an acceptable purchasing
system. Failure to maintain an acceptable
purchasing system, as defined in this clause,
may result in disapproval of the system by
the Contracting Officer and/or withholding of
payments.

(c) System criteria. The Contractor’s
purchasing system shall—

(1) Have an adequate system description
including policies, procedures, and
purchasing practices that comply with the
Federal Acquisition Regulation (FAR) and
the Defense Federal Acquisition Regulation
Supplement (DFARS);

(2) Ensure that all applicable purchase
orders and contracts contain all
flowdown clauses, including terms and
conditions and any other clauses needed to
carry out the requirements of the prime
contract;

(3) Maintain an organization plan that
establishes clear lines of authority and
responsibility;

(4) Ensure all purchase orders are based on
authorized requisitions and include a
complete and accurate history of purchase
transactions to support vendor selected, price
paid, and document the subcontract/
purchase order files which are subject to
Government review;

(5) Establish and maintain adequate
documentation to provide a complete and
accurate history of purchase transactions to
support vendor selected, price paid, and
document the subcontract/purchase order files which are subject to
Government review;

(6) Apply a consistent make-or-buy policy
that is in the best interest of the Government;

(7) Use competitive sourcing to the
maximum extent practicable, and ensure
debarred or suspended contractors are
properly excluded from contract award;

(8) Evaluate price, quality, delivery,
technical capabilities, and financial
capabilities of competing vendors to ensure
fair and reasonable prices;

(9) Require management level justification
and adequate cost or price analysis, as
applicable, for any sole or single source
award;

(10) Perform timely and adequate cost or
price analysis and technical evaluation for
each subcontractor and supplier proposal or
quote to ensure fair and reasonable
subcontract prices;

(11) Document negotiations in accordance
with FAR 15.406–3;

(12) Seek, take, and document
economically feasible purchase discounts,
including cash discounts, trade discounts,
quantity discounts, rebates, freight
allowances, and company-wide volume
discounts;

(13) Ensure proper type of contract
selection and prohibit issuance of cost-plus-
a-percentage-of-cost subcontracts;

(14) Maintain subcontract surveillance to
time delivery of an acceptable
product and procedures to notify the
Government of potential subcontract
problems that may impact delivery, quantity,
or price;

(15) Document and justify reasons for
subcontract changes that affect cost or price;

(16) Notify the Government of the award of
all subcontracts that contain the FAR and
DFARS flowdown clauses that allow for
Government audit of those subcontracts, and
ensure the performance of audits of those
subcontracts;

(17) Enforce adequate policies on conflict
of interest, gifts, and gratuities, including the
requirements of 41 U.S.C. chapter 87,
Kickback;

(18) Perform internal audits or
management reviews, training, and maintain
policies and procedures for the purchasing
department to ensure the integrity of the
purchasing system;

(19) Establish and maintain policies and
procedures to ensure purchase orders and
subcontracts contain mandatory and
applicable flowdown clauses, as required by
the FAR and DFARS, including terms and
conditions required by the prime contract
and any clauses required to carry out the
requirements of the prime contract, including the
requirements of 252.246–70XX,
Contractor Counterfeit Electronic Part
Avoidance and Detection System, if
applicable;

(20) Provide for an organizational and
administrative structure that ensures
effective and efficient procurement of
required quality materials and parts at the
best value from responsible and reliable
sources, including the requirements of
252.246–70XX, Contractor Counterfeit
Electronic Part Avoidance and Detection
System, if applicable;

(21) Establish and maintain selection
processes to ensure the most responsive and
responsible sources for purchasing required
quality parts and materials and to promote
competitive sourcing among dependable
suppliers so that purchases are reasonably
priced and from sources that meet contractor
quality requirements, including the
requirements of 252.246–70XX,
Contractor Counterfeit Electronic Part
Avoidance and Detection System, if applicable;

(22) Establish and maintain procedures to
time delivery of materials.

(23) Establish and maintain procedures to
ensure performance of adequate price or cost
analysis on purchasing actions;

(24) Establish and maintain procedures to
ensure that proper types of subcontracts are
selected, and that there are controls over
subcontracting, including oversight and
surveillance of subcontracted effort; and

(25) Identify any subcontract changes to
the revised cost of the subcontract effect and
shall include verification that the
subcontractor will provide added value; or

(26) Identify any subcontract changes to
the revised cost of the subcontract effect and
shall include verification that the
subcontractor will provide added value; or

(27) Establish and maintain procedures to
time delivery of materials.

such that it exceeds 70 percent of the total
cost of the work to be performed by the
subcontractor. The notification shall identify
the revised cost of the subcontract effect and
shall include verification that the
subcontractor will provide added value as
related to the work to be performed by the
lower-tier subcontractor(s).

(d) Significant deficiencies. (1) The
Contracting Officer will provide notification
of initial determination to the Contractor in
writing, of any significant deficiencies.
The initial determination will describe the
deficiency in sufficient detail to allow the
Contractor to understand the deficiency.

(2) The Contractor shall respond within 30
days to a written initial determination from
the Contracting Officer that identifies
significant deficiencies in the Contractor’s
purchasing system. If the Contractor
responds with the initial determination, the
Contractor shall state, in writing, its rationale
for disagreeing.

(3) The Contracting Officer will evaluate
the Contractor’s response and notify the
Contractor, in writing, of the Contracting
Officer’s final determination concerning—

(i) Remaining significant deficiencies;

(ii) The adequacy of any proposed or
completed corrective action; and

(iii) System disapproval, if the Contracting
Officer determines that one or more
significant deficiencies remain.

(e) If the Contractor receives the
Contracting Officer’s final determination of
significant deficiencies, the Contractor shall,
within 45 days of receipt of the final
determination, either correct the significant
deficiencies or submit an acceptable
corrective action plan showing milestones
and actions to eliminate the deficiencies.

(f) Withholding payments. If the
Contracting Officer makes a final
determination to disapprove the Contractor’s
purchasing system, and the contract includes
the clause at 252.242–7005, Contractor
Business Systems, the Contracting Officer
will withhold payments in accordance with
that clause.

(End of clause)

Contractor Purchasing System
Administration—Alternate I. For the
specific use of Alternate I, see the
prescription at 244.305–71. Alternate I
paragraph (c) does not include paragraphs (c)(1) through (c)(18) and
(c)(22) through (c)(24) of the basic
clause and paragraphs (c)(19) through
(c)(21) of the basic clause are revised and
renumbered in Alternate I.

Contractor Purchasing System
Administration—Alternate I (Date)

(a) Definitions. As used in this clause—
Acceptable purchasing system means a
purchasing system that complies with the
system criteria in paragraph (c) of this clause.

Purchasing system means the Contractor’s
system or systems for purchasing and
subcontracting, including make-or-buy
decisions, the selection of vendors, analysis
of quoted prices, negotiation of prices with
vendors, placing and administering of orders,
and expediting delivery of materials.
Significant deficiency means a shortcoming in the system that materially affects the ability of officials of the Department of Defense to rely upon information produced by the system that is needed for management purposes.

(b) General. The Contractor shall establish and maintain an acceptable purchasing system. Failure to maintain an acceptable purchasing system, as defined in this clause, may result in disapproval of the system by the Contracting Officer and/or withholding of payments.

(c) System criteria. The Contractor’s purchasing system shall—

(1) Establish and maintain policies and procedures to ensure purchase orders and subcontracts contain mandatory and applicable flowdown clauses, as required by the FAR and DFARS, including terms and conditions required by the prime contract and any clauses required to carry out the requirements of the prime contract, including the requirements of 252.246–70XX, Contractor Counterfeit Electronic Part Avoidance and Detection System; and

(2) Provide for an organizational and administrative structure that ensures effective and efficient procurement of required quality materials and parts at the best value from responsible and reliable sources, including the requirements of 252.246–70XX, Contractor Counterfeit Electronic Part Avoidance and Detection System; and

(3) Establish and maintain selection processes to ensure the most responsive and responsible sources for furnishing required quality parts and materials and to promote competitive sourcing among dependable suppliers so that purchases are from sources that meet contractor quality requirements, including the requirements of 252.246–70XX, Contractor Counterfeit Electronic Part Avoidance and Detection System.

(d) Significant deficiencies. (1) The Contracting Officer will provide notification of initial determination to the Contractor, in writing, of any significant deficiencies. The initial determination will describe the deficiency in sufficient detail to allow the Contractor to understand the deficiency.

(2) The Contractor shall respond within 30 days to a written initial determination from the Contracting Officer that identifies significant deficiencies in the Contractor’s purchasing system. If the Contractor disagrees with the initial determination, the Contractor shall state, in writing, its rationale for disagreeing.

(3) The Contracting Officer will evaluate the Contractor’s response and notify the Contractor, in writing, of the Contracting Officer’s final determination concerning—

(i) Remaining significant deficiencies;

(ii) The adequacy of any proposed or completed corrective action; and

(iii) System disapproval, if the Contracting Officer determines that one or more significant deficiencies remain.

(e) If the Contractor receives the Contracting Officer’s final determination of significant deficiencies, the Contractor shall, within 45 days of receipt of the final determination, either correct the significant deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the deficiencies.

(f) Withholding payments. If the Contracting Officer makes a final determination to disapprove the Contractor’s purchasing system, and the contract includes the clause at 252.242–7005, Contractor Business Systems, the Contracting Officer will withhold payments in accordance with that clause.

(End of clause)

9. Amend subpart 252.2 by adding new section 252.246–70XX to read as follows:

**252.246–70XX Contractor Counterfeit Electronic Part Avoidance and Detection System.**

As prescribed in 246.870–3, use the following clause:

**Contractor Counterfeit Electronic Part Avoidance and Detection System (Date)**

(a) Definitions. As used in this clause—

Contractor part means—

(1) An unauthorized copy or substitute part that has been identified, marked, and/or altered by a source other than the part’s legally authorized source and has been misrepresented to be from a legally authorized source;

(2) An item misrepresented to be an authorized item of the legally authorized source; or

(3) A new, used, outdated, or expired item from a legally authorized source that is misrepresented by any source to the end-user as meeting the performance requirements for the intended use.

Counterfeit electronic part avoidance and detection system means the Contractor’s system or systems for eliminating counterfeit electronic parts from the supply chain.

Legally authorized source means the current design activity or the original manufacturer or a supplier authorized by the current design activity or the original manufacturer to produce an item.

Suspect counterfeit part means a part for which visual inspection, testing, or other information provide reason to believe that a part may be a counterfeit part.

(b) General. The Contractor shall establish and maintain an acceptable counterfeit electronic part avoidance and detection system. Failure to maintain an acceptable counterfeit electronic part avoidance and detection system, as defined in this clause, may result in disapproval of the purchasing system by the Contracting Officer and/or withholding of payments.

(c) System criteria. The Contractor’s counterfeit electronic part avoidance and detection system shall develop and implement policies and procedures that address—

(i) The training of personnel;

(ii) The inspection and testing of electronic parts, including criteria for acceptance and rejection;

(iii) Processes to abolish counterfeit parts proliferation;

(iv) Mechanisms to enable traceability of parts to suppliers; and

(v) Use and qualification of trusted suppliers.

(d) Government review and evaluation of the Contractor’s systems or systems for eliminating counterfeit electronic parts shall be accomplished as part of the evaluation of the Contractor’s purchasing system in accordance with 252.244–7001, Contractor Purchasing System Administration. 

(End of clause)

[FR Doc. 2013–11400 Filed 5–15–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212, 215, 225, and 252

RIN 0750–AH89

Defense Federal Acquisition Regulation Supplement: Only One Offer—Further Implementation (DFARS Case 2013–D001)

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

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to further implement DoD policy relating to competitive acquisitions in which only one offer is received, providing additional exceptions, and further addressing requests for data other than certified cost or pricing data from the Canadian Commercial Corporation. 

DATES: Comment date: Comments on the proposed rule should be submitted in writing to the address shown below on or before July 15, 2013, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2013–D001, using any of the following methods:

○ Regulations.gov: http://www.regulations.gov. Submit comments via the Federal eRulemaking portal by entering “DFARS Case 2013–D001” under the heading “Enter keyword or ID” and selecting “Search.” Select the link “Submit a Comment” that corresponds with “DFARS Case 2013–D001.” Follow the instructions provided.