

**Notification Requirements for Critical Safety Items
DFARS Case 2004-D008
Final Rule**

PART 212—ACQUISITION OF COMMERCIAL ITEMS

* * * * *

212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(f) * * *

[(x) Use the clause at 252.246-7003, Notification of Potential Safety Issues, as prescribed in 246.371.]

* * * * *

PART 244—SUBCONTRACTING POLICIES AND PROCEDURES

* * * * *

244.403 Contract clause.

Use the clause at 252.244-7000, Subcontracts for Commercial Items and Commercial Components (DoD Contracts), in solicitations and contracts for supplies or services other than commercial items, that contain any of the following clauses:

252.225-7014 Preference for Domestic Specialty Metals, Alternate I.

[252.246-7003 Notification of Potential Safety Issues.]

252.247-7023 Transportation of Supplies by Sea.

252.247-7024 Notification of Transportation of Supplies by Sea.

* * * * *

PART 246—QUALITY ASSURANCE

* * * * *

SUBPART 246.3—CONTRACT CLAUSES

* * * * *

[246.371 Notification of potential safety issues.

(a) Use the clause at 252.246-7003, Notification of Potential Safety Issues, in solicitations and contracts for the acquisition of—

(1) Repairable or consumable parts identified as critical safety items;

(2) Systems and subsystems, assemblies, and subassemblies integral to a system; or

(3) Repair, maintenance, logistics support, or overhaul services for systems and subsystems, assemblies, subassemblies, and parts integral to a system.

(b) Follow the procedures at PGI 246.371 for the handling of notifications received under the clause at 252.246-7003.]

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

* * * * *

252.244-7000 Subcontracts for Commercial Items and Commercial Components (DoD Contracts).

As prescribed in 244.403, use the following clause:

SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (DOD CONTRACTS) (~~NOV-2005~~**[XXX 2006]**)

In addition to the clauses listed in paragraph (c) of the Subcontracts for Commercial Items clause of this contract (Federal Acquisition Regulation 52.244-6), the Contractor shall include the terms of the following clauses, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under this contract:

252.225-7014 Preference for Domestic Specialty Metals, Alternate I (10 U.S.C. 2241 note).

[252.247-7003 Notification of Potential Safety Issues.]

252.247-7023 Transportation of Supplies by Sea (10 U.S.C. 2631).

252.247-7024 Notification of Transportation of Supplies by Sea
(10 U.S.C. 2631).

(End of clause)

* * * * *

[252.246-7003 Notification of Potential Safety Issues.

As prescribed in 246.371(a), use the following clause:

NOTIFICATION OF POTENTIAL SAFETY ISSUES (XXX 2006)

(a) *Definitions.* As used in this clause—

“Credible information” means information that, considering its source and the surrounding circumstances, supports a reasonable belief that an event has occurred or will occur.

“Critical safety item” means a part, subassembly, assembly, subsystem, installation equipment, or support equipment for a system that contains a characteristic, any failure, malfunction, or absence of which could have a safety impact.

“Safety impact” means the occurrence of death, permanent total disability, permanent partial disability, or injury or occupational illness requiring hospitalization; loss of a weapon system; or property damage exceeding \$1,000,000.

“Subcontractor” means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for the Contractor or another subcontractor under this contract.

(b) The Contractor shall provide notification, in accordance with paragraph (c) of this clause, of—

(1) All nonconformances for parts identified as critical safety items acquired by the Government under this contract; and

(2) All nonconformances or deficiencies that may result in a safety impact for systems, or subsystems, assemblies, subassemblies, or parts integral to a system, acquired by or serviced for the Government under this contract.

(c) The Contractor—

(1) Shall notify the Administrative Contracting Officer (ACO) and the Procuring Contracting Officer (PCO) as soon as practicable, but not later than 72 hours, after discovering or acquiring credible information concerning nonconformances and deficiencies described in paragraph (b) of this clause; and

(2) Shall provide a written notification to the ACO and the PCO within 5 working days that includes—

(i) A summary of the defect or nonconformance;

(ii) A chronology of pertinent events;

(iii) The identification of potentially affected items to the extent known at the time of notification;

(iv) A point of contact to coordinate problem analysis and resolution; and

(v) Any other relevant information.

(d) The Contractor—

(1) Is responsible for the notification of potential safety issues occurring with regard to an item furnished by any subcontractor; and

(2) Shall facilitate direct communication between the Government and the subcontractor as necessary.

(e) Notification of safety issues under this clause shall be considered neither an admission of responsibility nor a release of liability for the defect or its consequences. This clause does not affect any right of the Government or the Contractor established elsewhere in this contract.

(f)(1) The Contractor shall include the substance of this clause, including this paragraph (f), in subcontracts for—

(i) Parts identified as critical safety items;

(ii) Systems and subsystems, assemblies, and subassemblies integral to a system; or

(iii) Repair, maintenance, logistics support, or overhaul services for systems and subsystems, assemblies, subassemblies, and

parts integral to a system.

(2) For those subcontracts described in paragraph (f)(1) of this clause, the Contractor shall require the subcontractor to provide the notification required by paragraph (c) of this clause to—

(i) The Contractor or higher tier subcontractor; and

(ii) The ACO and the PCO, if the subcontractor is aware of the ACO and the PCO for the contract.

(End of clause)]

* * * * *