

DFARS Case 2012-D051
Service Contract Reporting
Draft Proposed Rule

PART 212—ACQUISITION OF COMMERCIAL ITEMS

SUBPART 212.3—SOLICITATION PROVISIONS AND CONTRACT CLAUSES FOR THE ACQUISITION OF COMMERCIAL ITEMS

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

(f) ***

(lvii) [Use the clause at 252.237-70XX, Service Contract Reporting Requirements, as prescribed in 237.17X-5.]

[Redesignate (lvii) through (lxx) as (lviii) through (lxxi).]

PART 237—SERVICE CONTRACTING

SUBPART 237.1- SERVICE CONTRACT-GENERAL

[237.17X Service contract reporting.

237.17X-1 Scope.

This section implements section 807 of the National Defense Authorization Act for Fiscal Year 2008, Pub. L. 110-181 (10 U.S.C. 2330a), which requires the Secretary of Defense to annually report to Congress an inventory of the activities performed during the preceding fiscal year pursuant to contracts for services for or on behalf of the DoD.

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237.17X-2 Applicability.

(a) Except as identified in paragraph (b), this section applies to service contracts and orders with a total estimated value exceeding the simplified acquisition threshold, and supply contracts and orders with separate line items for services with a total estimated value exceeding the simplified acquisition threshold.

(b) This section does not apply to separate line items in contracts and orders for—

- (1) Construction of structures and facilities (product or service code (PSC) Group Y);**
- (2) Lease/rental of equipment or facilities (PSC Groups W and X);**
- (3) Utilities (PSC Group S1);**
- (4) Freight and shipping (PSC Groups V0, V1, and V2); and**
- (5) Classified services.**

237.17X-3 Service contract reporting requirements.

(a) The contracting officer's representative (COR), when appointed, or the contracting officer, if no COR is appointed, is responsible for ensuring the contractor has completed the reporting requirement in the clause at 252.237-70XX. Contracting officers shall verify that the contractor's ECMRA compliance is documented.

(b)(1) Waiver. The contracting officer shall prepare a determination and findings when data required to comply with the clause at 252.237-70XX cannot reasonably be made available in a timely manner. The determination and findings shall be approved at one level above the contracting officer.

(2) Upon approval, the contracting officer shall notify the requiring activity and the contractor.

237.17X-4 Contract clause.

Use the clause at 252.237-70XX, Service Contract Reporting Requirements, in solicitations, contracts, and task or delivery orders, including those using FAR part 12 procedures for the acquisition of commercial items, if—

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(a) The acquisition is for the provision of services with a total estimated value exceeding the simplified acquisition threshold; or

(b) The acquisition is for the provision of supplies that contain separate line items for services with a total estimated value exceeding the simplified acquisition threshold.]

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

SUBPART 252.2—TEXT OF PROVISIONS AND CLAUSES

[252.237-70XX Service Contract Reporting Requirements. As prescribed in 237.17X-5, use the following clause, and if not all line items are covered, indicate in the Schedule which line items are covered by the clause:

SERVICE CONTRACT REPORTING REQUIREMENTS (DATE)

(a) Except as provided in paragraph (c) of this clause, the Contractor shall —

(1) Report all required prime contract and subcontract data, or require any subcontractors to report separately, using the Enterprise-wide Contractor Manpower Reporting Application (ECMRA) database, and

(2) Enter data for all line items subject to this clause into the ECMRA at the end of each Government fiscal year and not later than October 31 or at the end of the contract performance period, whichever comes first.

(b) Information regarding ECMRA is available on the Internet at <http://www.ecmra.mil>.

(c) The Contracting Officer may waive the applicability of the requirements of paragraph (a) of this clause in accordance with Defense Federal Acquisition Regulation Supplement 237.17X-4.

(d) *Subcontractor information.* The Contractor shall include the substance of this clause, including this paragraph (c), in subcontracts that may include services.

(End of clause)]

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