

**Policy Alert No. 10-35 Rev. 001** was revised to provide additional emphasis to the time requirements for definitizing affected change orders. The revised language is shown in **green font**. This revision, Rev. 002, clarifies the use of Not to Exceed (NTE). The revised policy alert is retransmitted for your information. The revised language provided by Rev. 002 of this Policy is shown in **purple font**.

**09/01/11**

**POLICY ALERT**  
**No. 10-35 / Rev 002**  
**Management of Unpriced Change Orders**

**REFERENCE:** Federal Register: [August 10, 2010 \(Volume 75, Number 153\)](#)  
DFARS Publication Notice: 20100810  
DFARS Case Number: 2008 D034

**TYPE OF ACTION:** Final Rule

**EFFECTIVE DATE:** August 10, 2010

**SUMMARY:** The Department of Defense (DoD) has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to align requirements for management and oversight of unpriced change orders (DFARS 243.2) with those applicable to other undefinitized contract actions (DFARS 217.74) pursuant to section 812 of the National Defense Authorization Act for Fiscal Year 2010. The major change is the addition to DFARS of a new section, “243.204-70 Definitization of Change Orders”.

The evaluation criteria at DFARS 215.404-71-3 (d)(2) has been revised to make reference to policy at DFARS 243.204-70-6 for unpriced change orders “The contracting officer shall assess the extent to which costs have been incurred prior to definitization of the contract action (also see 217.7404-6(a) **[and 243.204-70-6]**...”

The definition of “Undefinitized Contract Action” at DFARS 217.7401 adds a sentence that refers to DFARS 243.204-70 for undefinitized [unpriced] change orders. The definition of “Contract Actions” at DFARS 217.7401, does not include change orders, administrative changes, funding modifications, or any other contract modifications that are within the scope and under

the terms of the contract (no change). However, the definition includes a reference to DFARS 243.204-70 for policy relating to the definitization of change orders.

Key components to “DFARS 243.204-70 Definitization of change orders” include the following:

- Applicability to unpriced change orders with an estimated value exceeding \$5 million.
- Unpriced change orders shall include a not-to-exceed price.
- Unpriced change orders shall contain definitization schedules, **which provide for definitization no later than the earlier of (i) 180 days after issuance (extendable to a maximum of 180 days after the contractor submits a qualifying proposal) or (ii) the date on which the amount of funds obligated is equal to more than 50 percent of the not-to-exceed price.**
  - **Note: Contract Policy and Pricing Branch (CP&PB) has developed standardized language to be used by COD-Aurora, COD-Falls Church, and USUHS, in all change orders (see attachments for change order language)**
- The contracting officer may suspend or reduce progress payments under FAR 32.503-6, or take other appropriate action if the contractor does not submit a qualifying proposal.
- When negotiating the final price of an unpriced change order, ensure that profit objectives reflect:
  - any reduced cost risk to the contractor for costs incurred during contract performance before negotiation of the final price,
  - contractor’s reduced cost risk for incurred costs during the remainder of the contract; and
  - the extent that costs have been incurred prior to definitization. The risk assessment shall be documented in the contract file.
- Include action plans in the “The Consolidated Undefined Contract Action Management Plan” for unpriced change orders and include in the semi-annual “Consolidated Undefined Contract Action (UCA) Management Report” information about all change orders that are not forward priced (i.e., unpriced) and have an estimated value exceeding \$5 million.

**ACTION REQUIRED:** Contracting Officers and Contract Specialist/Administrators shall familiarize themselves with these changes. For your convenience, a Microsoft Word format document showing the DFARS changes made by this rule is [here](#) and a Microsoft Word format document showing the changes to PGI is [here](#).

Use the clause at “252.217-7027, Contract Definitization” in unpriced change orders with an estimated value exceeding \$5 million (see DFARS 217.7406(b)(vi)).

This Policy Alert is effective on the date indicated above, and remains in effect until incorporated into a **TRICARE Acquisition Directive** or until otherwise rescinded.

You may direct comments/questions on this Policy Alert to the Acquisition Policy and Pricing Branch at 303-676-**3507**.

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