

MAINE—PM10 NONATTAINMENT AREAS—Continued

| Designated area    | Designation |                      | Classification |      |
|--------------------|-------------|----------------------|----------------|------|
|                    | Date        | Type                 | Date           | Type |
| Rest of State..... | 11/15/90    | Unclassifiable ..... |                |      |

<sup>1</sup> This definition of the nonattainment area redefines its borders from the entire City of Presque Isle to this area of 0.6 square miles which circumscribe the area of high emission densities and ambient PM10 levels. (January 12, 1995 and FR citation from published date.)

[FR Doc. 95-736 Filed 1-11-95; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF DEFENSE**

**48 CFR Parts 206 and 237**

**Defense Federal Acquisition Regulation Supplement; Personal Service Contracts**

**AGENCY:** Department of Defense (DoD).  
**ACTION:** Interim rule with request for public comments.

**SUMMARY:** The Director of Defense Procurement is issuing an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to establish procedures for contracting for personal services with individuals for health care services.

**DATES:** *Effective Date:* January 5, 1995.  
*Comment Date:* Comments on the interim rule should be submitted to the address shown below on or before March 13, 1995 to be considered in formulation of a final rule.

**ADDRESSES:** Interested parties should submit written comments to: Defense Acquisition Regulations Council, ATTN: Ms. Linda S. Holcombe, PDUSD (A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telefax number (703) 602-0350. Please cite DFARS Case 94-D302 in all correspondence related to this issue.

**FOR FURTHER INFORMATION CONTACT:** Ms. Linda S. Holcombe, (703) 602-0131.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

Section 712 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160) requires the Secretary of Defense to establish procedures for entering into personal service contracts under 10 U.S.C. 1091 to carry out health care responsibilities in medical/dental treatment facilities. Section 704 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337) provides authority for the Secretary of Defense to enter into personal service contracts under 10 U.S.C. 1091 to provide the

services of clinical counselors, family advocacy program staff, and victim's services representatives.

**B. Regulatory Flexibility Act**

The interim 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.* because it may, to the extent such authority is exercised by the Secretary of Defense, reduce competitive participation by any entities, large or small, which perform, or are interested in performing, personal service contracts under 10 U.S.C. 1091 to carry out health care responsibilities. Using these procedures for selecting sources for health care services, business entities other than individuals are not solicited and cannot receive contract awards. A copy of the Initial Regulatory Flexibility Analysis has been submitted to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Initial Regulatory Flexibility Analysis may be obtained from Ms. Linda S. Holcombe, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. The interim rule applies to both large and small businesses. Comments are invited from small businesses and other interested parties. Comments from small entities will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite DFARS Case 94-D302 in all correspondence.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the interim rule does not impose reporting or recordkeeping requirements which require the approval of OMB under 44 U.S.C. 3501 *et seq.*

**List of Subjects in 48 CFR Parts 206 and 237**

Government procurement.  
**Claudia L. Naugle,**  
*Deputy Director, Defense Acquisition Regulations Council.*

Therefore, 48 CFR Parts 206 and 237 are amended to read as follows:

1. The authority citation for 48 CFR Parts 206 and 237 continues to read as follows:

**Authority:** 41 U.S.C. 421 and 48 CFR Chapter 1.

**PART 206—COMPETITION REQUIREMENTS**

2. A new subpart 206.1 is added to read as follows:

**Subpart 206.1—Full and Open Competition**  
 Sec.  
 206.102 Use of competitive procedures.

**Subpart 206.1—Full and Open Competition**

**206.102 Use of competitive procedures.**  
 (d) *Other competitive procedures.*  
 The procedures in 237.104(b)(ii) are competitive procedures.

**PART 237—SERVICE CONTRACTING**

3. Section 237.104 is amended by revising paragraph (b)(ii) to read as follows:

**237.104 Personal services contracts.**  
 (b)(i) \* \* \*  
 (ii) Personal service contracts for health care are authorized by 10 U.S.C. 1091.

(A) This authority may be used to acquire—  
 (1) Direct health care services provided in medical treatment facilities; and

(2) Services of clinical counselors, family advocacy program staff, and victim's services representatives to members of the Armed Forces and covered beneficiaries who require such services, provided in medical treatment facilities or elsewhere. Persons with whom a personal services contract may be entered into under this authority include clinical social workers, psychologists, psychiatrists, and other comparable professionals who have advanced degrees in counseling or related academic disciplines and who meet all requirements for State licensure and board certification requirements, if any, within their fields of specialization.

(B) Sources for personal service contracts with individuals under the authority of 10 U.S.C. 1091 shall be

selected through the procedures in this section. These procedures do not apply to contracts awarded to business entities other than individuals. Selections made using the procedures in this section are competitive (see 206.102(d)).

(C) Approval requirements for—

(1) Direct health care personal service contracts (see 237.104(b)(ii)(A)(1)) and a pay cap are in DoDI 6025.5, Personal Services Contracting Authority for Direct Health Care Providers. Requests to enter into a personal service contract for direct health care services must be approved by the commander of the medical/dental treatment facility where the services will be performed.

(2) Services of clinical counselors, family advocacy program staff, and victim's services representatives (see 237.104(b)(ii)(A)(2)), shall be in accordance with agency procedures.

(D) The contracting officer must ensure that the requiring activity provides a copy of the approval with the purchase request.

(E) The contracting officer must provide adequate advance notice of contracting opportunities to individuals residing in the area of the facility. The notice must include the qualification criteria against which individuals responding will be evaluated. The contracting officer shall solicit applicants through at least one local publication which serves the area of the facility. Acquisitions under this section for personal service contracts are exempt from the posting and synopsis requirements of FAR Part 5.

(F) The contracting officer shall provide the qualifications of individuals responding to the notice to the commander of the facility for evaluation and ranking in accordance with agency procedures. Individuals must be considered solely on the basis of the professional qualifications established for the particular personal services being acquired and the Government's estimate of reasonable rates, fees, or other costs. The commander of the facility shall provide the contracting officer with rationale for the ranking of individuals, consistent with the required qualifications.

(G) Upon receipt from the facility of the ranked listing of applicants, the contracting officer shall either—

(1) Enter into negotiations with the highest ranked applicant. If a mutually satisfactory contract cannot be negotiated, the contracting officer shall terminate negotiations with the highest ranked applicant and enter into negotiations with the next highest.

(2) Enter into negotiations with all qualified applicants and select on the

basis of qualifications and rates, fees, or other costs.

(H) In the event only one individual responds to an advertised requirement, the contracting officer is authorized to negotiate the contract award. In this case, the individual must still meet the minimum qualifications of the requirement and the contracting officer must be able to make a determination that the price is fair and reasonable.

(I) If a fair and reasonable price cannot be obtained from a qualified individual, the requirement should be canceled and acquired using procedures other than those set forth in this section.

\* \* \* \* \*

[FR Doc. 95-763 Filed 1-11-95; 8:45 am]

BILLING CODE 5000-04-M

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 49 CFR Part 1

[OST Docket No. 1; Amdt. 265]

#### Organization and Delegation of Powers and Duties Delegations to the Director of the Departmental Office of Civil Rights

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

**SUMMARY:** This document contains a delegation of authority to the Director of the Departmental Office of Civil Rights (DOCR) to conduct all stages of the Department's formal internal discrimination complaint process and to provide policy guidance concerning the implementation and enforcement of all civil rights laws, regulations and executive orders for which the Department of Transportation (DOT or the Department) is responsible. This document also amends the delegation of authority to DOT Administrators relating to internal civil rights functions since, with the exception of certain responsibilities related to the resolution of informal complaints of discrimination within DOT operating administrations, these functions are being transferred to the Director of DOCR. There are no substantive changes to the DOCR's functions with respect to the Department's external civil rights programs. The language changes dealing with external programs are only designed to more clearly state existing authority and practice.

**EFFECTIVE DATE:** This rule becomes effective on January 12, 1995.

**FOR FURTHER INFORMATION CONTACT:** Debra J. Rosen, Office of the Assistant

General Counsel for Environmental, Civil Rights and General Law at (202) 366-9167 or Steven B. Farbman, Office of the Assistant General Counsel for Regulation and Enforcement at (202) 366-9306, Department of Transportation, 400 7th Street SW., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:** Consistent with a provision in the Department of Transportation and Related Agencies Appropriations Act, 1995, Public Law 103-331, the Secretary of Transportation approved the consolidation of internal civil rights functions within the Department. Under the consolidation plan, all functions relating to the processing of formal administrative complaints of employment discrimination filed by Department employees and applicants for federal employment with the Department are assigned to the DOCR. Thus, it is necessary to amend the relevant parts of the CFR to reflect these new authorities.

49 CFR Part 1 describes the organization of DOT and provides for the performance of duties imposed upon, and the exercise of powers vested in, the Secretary of Transportation by law. Section 1.23 describes the spheres of primary responsibility within DOT and is being revised to reflect the new responsibilities assigned to the DOCR and to clarify the DOCR's existing responsibilities. Amended section 1.23 states that the DOCR is responsible for conducting all stages of the formal internal discrimination complaint process. In addition, the DOCR is responsible for providing policy guidance within the Department concerning the implementation and enforcement of all civil rights laws, regulations and executive orders for which the Department is responsible, and for reviewing and evaluating the civil rights programs of the Department's operating administrations (OAs). Finally, amended section 1.23 states that the Director of the DOCR serves as the Department's Equal Employment Opportunity Officer and Title VI Coordinator.

Currently, section 1.45(a)(10) delegates authority to the Administrators of the DOT operating administrations to accept or reject internal complaints of discrimination by their respective employees and applicants for employment on the basis of race, color, religion, sex, national origin, or age arising within their organizations. Under the consolidation, the OAs (including the Coast Guard) will retain responsibility for resolving informal complaints of discrimination