

FOR FURTHER INFORMATION CONTACT:
LTC Edward C. King Jr, (703) 602-0131.

SUPPLEMENTARY INFORMATION:

A. Background

Section 804 of the Fiscal Year 1995 Defense Authorization Act (Pub. L. 103-337) extends the authority through September 30, 1997, for contractors to claim credit towards their small business subcontracting goals for subcontracts with qualified nonprofit agencies for the blind and severely disabled. DFARS Subpart 219.7 is amended to permit contractors to receive credit when awarding subcontracts to such entities.

B. Regulatory Flexibility Act

The interim rule is not expected 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 the rule only applies to large business concerns. An initial regulatory flexibility analysis has therefore not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected subpart will be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 94-D312 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act applies. Information collection requirements imposed by this rule were cleared under OMB control number 9000-0007 for Standard Form 295, Summary Subcontract Report.

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense to issue this rule as an interim rule. Compelling reasons exist to promulgate this rule as an interim rule as it is necessary to authorize prime contractors to receive credit toward their subcontracting goals as permitted by Section 804 of Pub. L. 103-337. However, comments received in response to this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Part 219

Government procurement.

Claudia L. Naugle,

Deputy Director, Defense Acquisition Regulations Council.

Therefore, 48 CFR part 219 is amended as follows:

1. The authority citation for 48 CFR part 219 continues to read as follows:

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

PART 219—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

2. Section 219.703 is amended by revising paragraph (a) introductory text to read as follows:

219.703 Eligibility requirements for participating in the program.

(a) Qualified nonprofit agencies for the blind and other severely disabled, that have been approved by the Commission for Purchase from People Who Are blind or Severely Disabled under the Javits-Wagner-O'Day Act (41 U.S.C. 46-48), are eligible as a result of Section 9077 of Pub. L. 102-396, and subsequent Appropriations Acts, and Sections 808 of Pub. L. 102-484 and 804 of Pub. L. 103-377 through September 30, 1997, to participate in the program. Under this authority, subcontracts awarded to such entities may be counted toward the prime contractor's small business subcontracting goal through fiscal year 1997.

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48 CFR Parts 223 and 252

Defense Federal Acquisition Regulation Supplement; Hazardous Materials

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: The Director of Defense Procurement has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to add an exception to the statutory prohibition on storage and disposal of non-DoD-owned toxic and hazardous materials at military installations.

DATES: *Effective Date:* March 6, 1995.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before May 9, 1995, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: LTC Edward C. King Jr., PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, D.C. 20301-3062. Telefax number (703) 602-0350. Please cite DFARS Case 94-D309 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT:
LTC Edward C. King Jr, (703) 602-0131.

SUPPLEMENTARY INFORMATION:

A. Background

Section 325 of the Fiscal Year 1995 Defense Authorization Act (Pub. L. 103-337) amends 10 U.S.C. 2692 to add an exception to the prohibition on storage and disposal of non-DoD-owned toxic and hazardous materials at military installations. DFARS Subpart 223.71 and the clause at 252.223-7006 are amended to add the exception in all solicitations and contracts which require, may require, or permit contractor performance on a DoD installation.

B. Regulatory Flexibility Act

The interim rule is not expected 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 of the limited applicability of the rule to industrial-type facilities located on military installations. An initial regulatory flexibility analysis has therefore not been performed. Comments from small entities concerning the affected subpart and clause will be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 94-D309 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense to issue this rule as an interim rule. Compelling reasons exist to promulgate this rule as an interim rule without prior opportunity for public comments because it is necessary to add the exception authorized by Section 325 of Pub. L. 103-337. However, comments received in response to this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Part 223 and 252

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

Therefore, 48 CFR Parts 223 and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 223 and 252 continues to read as follows:

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

PART 223—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

2. Section 223.7102 is amended by adding paragraph (a)(9) to read as follows:

§ 223.7102 Exceptions.

(a) * * *

(9) The treatment and disposal of any non-DoD-owned material if the Secretary of the military department concerned—

(i) Determines that the material is required or generated by a private person in connection with the authorized and compatible commercial use by that person of an industrial-type facility of that military department; and

(ii) Enters a contract with that person that—

(A) Is consistent with the best interest of national defense and environmental security; and

(B) Provides for that person's continued financial and environmental responsibility and liability with regard to the material.

* * * * *

3. Section 223.7103 is revised to read as follows:

223.7103 Contract clause.

(a) Use the clause at 252.223-7006, Prohibition on Storage and Disposal of Toxic and Hazardous Materials, in all solicitations and contracts which require, may require, or permit contractor performance on a DoD installation.

(b) Use the clause at 252.223-7006 with its Alternate I, when the Secretary of the military department issues a determination under the exception at 223.7102(a)(9).

3. Section 252.223-7006 is amended by revising the introductory text and by adding an Alternate I to read as follows:

252.223-7006 Prohibition on storage and disposal of toxic and hazardous materials.

As prescribed in 223.7103(a), use the following clause:

* * * * *

Alternate I (Mar 1995)

As prescribed in 223.7103(b), add the following paragraphs (c) and (d) to the basic clause:

(c) With respect to treatment or disposal authorized pursuant to 10 U.S.C. 2692(b)(9), and notwithstanding any other provision of the contract, the Contractor assumes all financial and environmental responsibility and liability resulting from any treatment or disposal of non-DoD-owned toxic or hazardous material on a military installation. The Contractor shall indemnify, defend, and hold the Government harmless for all costs, liability, or penalties resulting from the Contractor's treatment or disposal of non-DoD-owned toxic or hazardous materials on a military installation.

(d) The Contractor shall include this clause, including this subparagraph (d) in each subcontract.

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48 CFR Part 235

Defense Federal Acquisition Regulation Supplement; Federally Funded Research and Development Centers

AGENCIES: Department of Defense (DoD)

ACTION: Interim rule with request for comments.

SUMMARY: The Director of Defense Procurement has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to allow DoD-sponsored FFRDCs that function primarily as research laboratories to respond to solicitations and announcements for programs which promote research, development, demonstration, or transfer of technology.

DATES: Effective date: March 3, 1995.

Comment date: Comments on the interim rule should be submitted in writing at the address shown below on or before May 9, 1995, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulation Council, ATTN: Mr. R.G. Laysner, PDUSD(A&T)DP/DAR, IMD 3D139, 3062 Defense Pentagon, Washington, D.C. 20301-3062. Telefax Number (703) 602-0350. Please cite DFARS Case 94-D306 in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Laysner (703) 602-0131.

SUPPLEMENTARY INFORMATION:

A. Background

Section 217 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337) allows DoD-sponsored FFRDCs that function primarily as research laboratories to respond to solicitations and announcements for programs which promote research, development, demonstration, or transfer of technology. This interim DFARS rule implements this allowance.

B. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense to issue this rule as an interim rule. Compelling reasons exist to promulgate this rule without prior opportunity for public comment because Section 217 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337) became effective upon enactment of the Act, October 5, 1994. This interim rule is necessary to ensure that DoD contracting activities become aware of the statutory allowance of DoD-sponsored FFRDCs that function primarily as research laboratories to respond to solicitations and announcements for programs which promote research, development, demonstration, or transfer of technology. However, comments received in response to the publication of this rule will be considered in formulating the final rule.

C. Regulatory Flexibility Act

The proposed changes to DFARS Part 217, are not expected 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 the rule allows a very limited number of FFRDCs to respond to solicitations and announcements for programs which promote research, development, demonstration, or transfer of technology. The rule is expected to benefit small entities involved in technology research, development, demonstration or transfer who can establish teaming arrangements with FFRDCs. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and may be obtained from the address stated herein. A copy of the IRFA has been submitted to the Chief Counsel for Advocacy of the Small Business Administration.

D. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96-511) does not apply because this