

**48 CFR Part 231**

[DFARS Case 96-D332]

**Defense Federal Acquisition Regulation Supplement; Restructuring Costs/Bonuses****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 prohibit use of fiscal year 1997 funds to reimburse a contractor for costs paid by the contractor to an employee for a bonus or other payment in excess of the normal salary paid to the employee, when such payment is part of restructuring costs associated with a business combination.

**DATES:** Effective date: November 15, 1996.

*Comment date:* Comments on the interim rule should be submitted in writing to the address shown below on or before January 14, 1997, to be considered in the formulation of the final rule.

**ADDRESSES:** Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Ms. Sandra G. Haberin, PDUDA (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telefax number (703) 602-0350. Please cite DFARS Case 96-D332 in all correspondence related to this issue.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sandra G. Haberin, (703) 602-0131.

**SUPPLEMENTARY INFORMATION:****A. Background**

This interim rule amends paragraph (f)(1) of DFARS 231.205-6, Compensation for personal services, to implement Section 8095 of the Fiscal Year 1997 Defense Appropriations Act (Pub. L. 104-208). Section 8095 prohibits DoD from using fiscal year 1997 funds to reimburse a contractor for costs paid by the contractor to an employee for a bonus or other payment in excess of the normal salary paid by the contractor to the employee, when such payment is part of restructuring costs associated with a business combination.

**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. This rule implements Section 8095 of the Defense Appropriations Act for Fiscal Year 1997 (Pub. L. 104-208), which was effective upon enactment on September 30, 1996. However, comments received in response to the publication of this rule will be considered in formulating the final rule.

**C. 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 most contracts awarded to small entities use the simplified acquisition procedures or are awarded on a competitive fixed-price basis, and do not require application of the cost principle contained in this rule.

**D. Paperwork Reduction Act**

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

**List of Subjects in 48 CFR Part 231**

Government procurement.  
Michele P. Peterson,  
*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, 48 CFR Part 231 is amended as follows:

1. The authority citation for 48 CFR Part 231 continues to read as follows:

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

**PART 231—CONTRACT COST PRINCIPLES AND PROCEDURES**

2. Section 231.205-6 is amended by revising paragraph (f)(1) to read as follows:

**§ 231.205-6 Compensation for personal services.**

\* \* \* \* \*

(f)(1) Costs for bonuses or other payments in excess of the normal salary paid by the contractor to an employee, that are part of restructuring costs associated with a business combination, are unallowable under DoD contracts funded by fiscal year 1996 appropriations (Section 8122 of Pub. L. 104-61) or fiscal year 1997 appropriations (Section 8095 of Pub. L. 104-208). This limitation does not apply to severance payments or early retirement incentive payments. (See 231.205-70(b) for the definitions of

“business combination” and “restructuring costs.”)

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**DEPARTMENT OF TRANSPORTATION****Surface Transportation Board****49 CFR Parts 1104, 1111, 1112, 1115 and 1121**

[STB Ex Parte No. 527]

**Expedited Procedures for Processing Rail Rate Reasonableness, Exemption and Revocation Proceedings****AGENCY:** Surface Transportation Board.**ACTION:** Final rule.

**SUMMARY:** The Surface Transportation Board (Board) amended its Rules of Practice at 49 CFR 1100-1149 in a decision served October 1, 1996 and published in the Federal Register on October 8, 1996 (61 FR 52710). The rules were scheduled to become effective November 7, 1996, but their effectiveness was postponed until November 16, 1996 in a decision served and published on November 6, 1996 (61 FR 57339). Joseph C. Szabo, for and on behalf of United Transportation Union-Illinois Legislative Board, filed a petition to stay a portion of the decision and a petition to reopen. The National Industrial Traffic League also filed a petition for reopening and reconsideration. In response to these petitions, the Board is modifying some of the final rules published in the Federal Register on October 8, 1996. In addition, certain other minor technical changes are being made.

**EFFECTIVE DATE:** November 16, 1996.

**FOR FURTHER INFORMATION CONTACT:** Thomas J. Stilling, (202) 927-7312. [TDD for the hearing impaired: (202) 927-5721.]

**SUPPLEMENTARY INFORMATION:** The Board's decision adopting these regulations is available to all persons for a charge by phoning DC NEWS & DATA, INC., at (202) 289-4357. The Board certifies that these rules will not have a significant economic effect on a substantial number of small entities. These rules clarify previously announced policy and make participation in proceedings less burdensome.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.