

contracts that are estimated to exceed \$1,000,000 and are to be performed in the United States territories and possessions in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Gulf.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

6. Section 252.236-7010 is added to read as follows:

252.236-7010 Overseas Military Construction—Preference for United States Firms.

As prescribed in 236.570(c), use the following provision:

Overseas Military Construction—Preference for United States Firms (Jan 1997)

(a) *Definition.*

“United States firm,” as used in this provision, means a firm incorporated in the United States that complies with the following:

(1) The corporate headquarters are in the United States;

(2) The firm has filed corporate and employment tax returns in the United States for a minimum of 2 years (if required), has filed State and Federal income tax returns (if required) for 2 years, and has paid any taxes due as a result of these filings; and

(3) The firm employs United States citizens in key management positions.

(b) *Evaluation.* Offers from firms that do not qualify as United States firms will be evaluated by adding 20 percent to the offer.

(c) *Status.* The offeror _____ is, _____ is not a United States firm.

(End of provision)

[FR Doc. 97-1041 Filed 1-16-97; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF DEFENSE

48 CFR Parts 225, 236, and 252

[DFARS Case 96-D329]

Defense Federal Acquisition Regulation Supplement; Restriction on MILCON Overseas Architect-Engineer Contracts

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 implement Section 111 of the Fiscal Year 1997 Military Construction Appropriations Act (Pub. L. 104-196). Section 111 restricts award of architect-engineer contracts estimated to exceed \$500,000 for projects to be accomplished in Japan, in any North

Atlantic Treaty Organization member country, or in countries bordering the Arabian Gulf, to United States firms or United States firms in joint venture with host nation firms.

DATES: *Effective date:* January 17, 1997.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before March 18, 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. Amy Williams, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telefax number (703) 602-0350. Please cite DFARS Case 96-D329 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602-0131.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule amends the DFARS to implement Section 111 of the Fiscal Year 1997 Military Construction Appropriations Act (Public Law 104-196). The rule contains, at 236.602-70, the statutory restriction on award of overseas architect-engineer contracts; and adds a new solicitation provision at 252.236-7011, Overseas Architect-Engineer Services—Restriction to United States Firms.

B. Regulatory Flexibility Act

This 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 architect-engineer contracts estimated to exceed \$500,000 for projects to be accomplished in Japan, in any North Atlantic Treaty Organization member country, or in countries bordering the Arabian Gulf. 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 DFARS subparts also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 96-D329 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this interim rule does not impose any information collection requirements that require 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 that urgent and compelling reasons exist to publish this interim rule prior to affording the public an opportunity to comment. This interim rule implements Section 111 of the Fiscal Year 1997 Military Construction Appropriations Act (Public Law 104-196). Section 111 restricts award of architect-engineer contracts estimated to exceed \$500,000 for projects to be accomplished in Japan, in any North Atlantic Treaty Organization member country, or in countries bordering the Arabian Gulf, to United States firms or United States firms in joint venture with host nation firms. Immediate publication of an interim rule is necessary to promptly comply with Section 111. Comments received in response to the publication of this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Parts 225, 236, and 252

Government procurement.

Michele P. Peterson,
Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 225, 236, and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 225, 236, and 252 continues to read as follows:

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

PART 225—FOREIGN ACQUISITION

2. Section 225.7004 is added to read as follows:

225.7004 Restriction on overseas architect-engineer services.

For restriction on award of architect-engineer contracts to be performed in Japan, in any North Atlantic Treaty Organization member country, or in countries bordering the Arabian Gulf, see 236.602-70.

PART 236—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

3. Section 236.102 is amended by adding paragraph (4) to read as follows:

236.102 Definitions.

* * * * *

(4) *United States firm* is defined in the provisions at 252.236-7010, Overseas Military Construction-Preference for United States Firms, and 252.236-7011,

Overseas Architect-Engineer Services—Restriction to United States firms.

4. Section 236.602-70 is added to read as follows:

236.602-70 Restriction on award of overseas architect-engineer contracts to foreign firms.

In accordance with Section 111 of Public Law 104-32 and similar sections in subsequent military construction appropriations acts, A-E contracts funded by military construction appropriations that are estimated to exceed \$500,000 and are to be performed in Japan, in any North Atlantic Treaty Organization member country, or in countries bordering the Arabian Gulf, shall be awarded only to United States firms or to joint ventures of United States and host nation firms.

5. Section 236.609-70 is amended by revising the title; by redesignating paragraphs (a)(1) and (2)(2) as paragraphs (a)(1)(i) and (a)(1)(ii), respectively; by redesignating paragraph (a) introductory text as paragraph (a)(1); by redesignating paragraph (b) as

paragraph (a)(2); and by adding a new paragraph (b) to read as follows:

236.609-70 Additional provisions and clauses.

* * * * *

(b) Use the provision 252.236-7011, Overseas Architect-Engineer Services—Restriction to United States Firms, in solicitations for A-E contracts that are estimated to exceed \$500,000 and are to be performed in Japan, in any North Atlantic Treaty Organization member country, or in countries bordering the Arabian Gulf.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

6. Section 252.236-7011 is added to read as follows:

252.236-7011 Overseas Architect-Engineer Services—Restriction to United States Firms.

As prescribed in 236.609-70(b), use the following provision:

Overseas Architect-Engineer Services—Restriction to United States Firms (Jan 1997)

(a) *Definition.*

United States firm, as used in this provision, means a firm incorporated in the United States that complies with the following:

(1) The corporate headquarters are in the United States;

(2) The firm has filed corporate and employment tax returns in the United States for a minimum of 12 years (if required), has filed State and Federal income tax returns (if required) for 2 years, and has paid any taxes due as a result of these filings; and

(3) The firm employs United States citizens in key management positions.

(b) *Restriction.* Military construction appropriations acts restrict award of a contract, resulting from this solicitation, to a United States firm or a joint venture of United States and host nation firms.

(c) *Status.* The offeror confirms, by submission of its offer, that it is a United States firm or a joint venture of United States and host nation firms.

(End of provision)

[FR Doc. 97-1042 Filed 1-16-97; 8:45 am]

BILLING CODE 5000-04-M