

DEPARTMENT OF DEFENSE

48 CFR Part 219

[DFARS Case 97-D323]

Defense Federal Acquisition Regulation Supplement; Comprehensive Subcontracting Plans

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 reflect revisions made to the DoD Test Program for Negotiation of Comprehensive Small Business Subcontracting Plans. The revisions to the test program implement Section 822 of the National Defense Authorization Act for Fiscal Year 1998.

DATES: *Effective Date:* March 26, 1998.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before May 26, 1998, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Ms. Susan L. Schneider, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telefax number (703) 602-0350.

E-mail comments submitted over the Internet should be addressed to: dfars@acq.osd.mil

Please cite DFARS Case 97-D323 in all correspondence related to this issue. E-mail comments should cite DFARS Case 97-D323 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Susan L. Schneider, (703) 602-0131.

SUPPLEMENTARY INFORMATION:**A. Background**

This interim rule amends DFARS 219.702 to reflect revisions made to the DoD Test Program for Negotiation of Comprehensive Small Business Subcontracting Plans. The revisions to the test program implement Section 822 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105-85). Section 822 extends, from September 30, 1998, to September 30, 2000, the expiration date for the test program; and provides for use of comprehensive subcontracting plans by participating contractors that are performing as subcontractors under DoD contracts.

The revised DoD test plan is published in the Notices section of this issue of the **Federal Register**.

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 small businesses are exempt from subcontracting plan requirements, and the rule does not change the obligation of large business concerns to maximize subcontracting opportunities for small 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 DFARS subpart also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 97-D323 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the interim rule does not impose any information collection requirements that require Office of Management and Budget approval 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 DFARS rule reflects changes to the Test Program for Negotiation of Comprehensive Small Business Subcontracting Plans, as required by Section 822 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105-85). Section 822 was effective upon enactment on November 18, 1997. 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 Part 219

Government procurement.
Michele P. Peterson,
Executive Editor, 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 PROGRAMS

2. Section 219.702 is amended by revising paragraphs (a)(i) and (ii) to read as follows:

219.702 Statutory requirements.

(a) * * *

(i) The test program—

(A) Will be conducted—

(1) From October 1, 1990, through September 30, 2000;

(2) In accordance with the DoD test plan, "Test Program for Negotiation of Comprehensive Small Business Subcontracting Plans"; and

(3) By the military departments and defense agencies through specifically designated contracting activities; and

(B) Permits contractors selected for participation in the test program by the designated contracting activities to—

(1) Negotiate plant, division, or company-wide comprehensive subcontracting plans instead of individual contract subcontracting plans; and

(2) Use the comprehensive plans when performing any DoD contract or subcontract that requires a subcontracting plan.

(ii) During the test period, comprehensive subcontracting plans will—

(A) Be negotiated on an annual basis by the designated contracting activities;

(B) Be incorporated by the contractors' cognizant contract administration activity into all of the contractors' active DoD contracts that require a plan;

(C) Be accepted for use by contractors participating in the test, whether performing at the prime or subcontract level; and

(D) Not be subject to application of liquidated damages during the period of the test program (Section 402, Pub. L. 101-574).

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DEPARTMENT OF DEFENSE

48 CFR Part 231

[DFARS Case 97-D320]

Defense Federal Acquisition Regulation Supplement; Limitation on Allowability of Compensation for Certain Contractor Personnel

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule