

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

amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove certain limitations on individual compensation costs for contractor personnel, as a result of changes made to the Federal Acquisition Regulation in Federal Acquisition Circular 97-04 on February 23, 1998.

EFFECTIVE DATE: March 26, 1998.

FOR FURTHER INFORMATION CONTACT:

Ms. Sandra G. Haberlin, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0131; telefax (703) 602-0350. Please cite DFARS Case 97-D320.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends DFARS Part 231 to remove certain limitations on individual compensation costs for contractor personnel. Section 31.205-6, paragraph (p), of the Federal Acquisition Regulation, as amended by Item XIII of Federal Acquisition Circular 97-04 (63 FR 9066, February 23, 1998), contains the sole statutory limitation on allowable senior executive compensation costs incurred after January 1, 1998, under new or previously existing contracts.

B. Regulatory Flexibility Act

The final rule does not constitute a significant revision within the meaning of FAR 1.501 and Pub. L. 98-577, and publication for public comment is not required. However, comments from small entities concerning the affected DFARS subparts will be considered in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 97-D320 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the final rule does not impose any information collection requirements that 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

231.205-6 [Amended]

2. Section 231.205-6 is amended by removing paragraphs (a)(2)(i)(A) through (a)(2)(ii)(B).

231.303 [Amended]

3. Section 231.303 is amended by removing paragraph (3), and by redesignating paragraph (4) as paragraph (3).

231.603 [Amended]

4. Section 231.603 is amended by removing paragraph (1), and by removing the paragraph (2) designation.

231.703 [Amended]

5. Section 231.703 is amended by removing paragraph (1), and by removing the paragraph (2) designation.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AE83

Endangered and Threatened Wildlife and Plants; Proposed Reclassification From Endangered to Threatened Status for the Mariana Fruit Bat From Guam, and Proposed Threatened Status for the Mariana Fruit Bat From the Commonwealth of the Northern Mariana Islands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes reclassification from endangered to threatened status pursuant to the Endangered Species Act of 1973, as amended (Act), for the Mariana fruit bat (*Pteropus mariannus mariannus*) from Guam, and threatened status pursuant to the Act for the Mariana fruit bat from the Commonwealth of the Northern Mariana Islands (CNMI). This subspecies is restricted to the Mariana archipelago, comprised of the Territory of Guam and the CNMI. The Mariana fruit bat is listed as endangered on Guam, and the populations on the southern islands of the CNMI (Aguijan, Tinian, and Saipan) are candidates for listing. Recent evidence suggests that inter-island movement between Guam and other islands throughout the archipelago is not a rare event; hence,

the Mariana fruit bats on Guam are no longer believed to represent a population distinct from those in the CNMI. Similarly, the populations of Aguijan, Tinian, and Saipan are not believed to be distinct from one another or from populations on other islands in the archipelago. Therefore, for the purposes of this proposed rule, all Mariana fruit bats in the Mariana Island archipelago are considered to represent one population. Mariana fruit bats are known from all of the islands of the Mariana archipelago, and throughout this range they are threatened by illegal hunting, degradation and loss of habitat from feral animals and through the development of forested areas, the potential for extinction of subpopulations from naturally occurring events such as typhoons, and predation by the brown tree snake. This proposal, if made final, would implement the protection provisions provided by the Act.

DATES: Comments from all interested parties must be received by May 26, 1998. Public hearing requests must be received by May 11, 1998.

ADDRESSES: Comments and materials concerning this proposal should be sent to Brooks Harper, Field Supervisor, Pacific Islands Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Room 3-122, Box 50088, Honolulu, Hawaii 96850. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Karen Rosa, Assistant Field Supervisor-Endangered Species, Pacific Islands Office, at the above address (telephone 808/541-3441, FAX 808/541-3470).

SUPPLEMENTARY INFORMATION:

Background

The Mariana Islands archipelago consists of the 15-island Commonwealth of the Northern Mariana Islands (CNMI) and the Territory of Guam. Both are within the jurisdiction of the United States. This archipelago extends 466 miles (750 kilometers (km)) from 13°14'N, 144°45'W and 20°3'N, 144°54'W and is approximately 932 miles (1,500 km) east of the Philippine Islands. The ten northern islands are volcanic, while the five southern islands are uplifted coral limestone plateaus with volcanic outcrops. Mariana fruit bats have historically inhabited all of these islands. The largest southern islands (Guam, Rota, Tinian, and Saipan) are occupied by approximately 160,000 people.