

(2) The institution has a long-standing policy of pacifism based on historical religious affiliation.

#### 209.470-3 Procedures.

If the Secretary of Defense determines that an institution of higher education is ineligible to receive DoD funds because of a policy or practice described in 209.470-2(a)—

(a) The Secretary of Defense will list the institution on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs published by General Services Administration (also see FAR 9.404 and 32 CFR part 216); and

(b) DoD components—

(1) Must not solicit offers from, award contracts to, or consent to subcontracts with the institution;

(2) Must make no further payments under existing contracts with the institution; and

(3) Must terminate existing contracts with the institution.

#### 209.470-4 Contract clause.

Use the clause at 252.209-7005, Reserve Officer Training Corps and Military Recruiting on Campus, in all solicitations and contracts with institutions of higher education.

### PART 243—CONTRACT MODIFICATIONS

3. Section 243.105 is amended by revising paragraph (a)(ii) and removing paragraph (a)(iii). The revised text reads as follows:

#### 243.105 Availability of funds.

(a) \* \* \*

(ii) In accordance with 10 U.S.C. 983, do not provide funds by contract or contract modification, or make contract payments, to an institution of higher education that has a policy or practice of hindering Senior Reserve Officer Training Corps units or military recruiting on campus as described at 209.470.

### PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 252.209-7005 is revised to read as follows:

#### 252.209-7005 Reserve Officer Training Corps and Military Recruiting on Campus.

As prescribed in 209.470-4, use the following clause:

#### Reserve Officer Training Corps and Military Recruiting on Campus (Jan 2000)

(a) *Definition.* "Institution of higher education," as used in this clause, means an institution that meets the requirements of 20

U.S.C. 1001 and includes all subelements of such an institution.

(b) *Limitation on contract award.* Except as provided in paragraph (c) of this clause, an institution of higher education is ineligible for contract award if the Secretary of Defense determines that the institution has a policy or practice (regardless of when implemented) that prohibits or in effect prevents—

(1) The Secretary of a military department from maintaining, establishing, or operating a unit of the Senior Reserve Officer Training Corps (ROTC) (in accordance with 10 U.S.C. 654 and other applicable Federal laws) at that institution;

(2) A student at that institution from enrolling in a unit of the Senior ROTC at another institution of higher education;

(3) The Secretary of a military department or the Secretary of Transportation from gaining entry to campuses, or access to students (who are 17 years of age or older) on campuses, for purposes of military recruiting; or

Military recruiters from accessing, for purposes of military recruiting, the following information pertaining to students (who are 17 years of age or older) enrolled at that institution:

- (i) Name.
- (ii) Address.
- (iii) Telephone number.
- (iv) Date and place of birth.
- (v) Educational level.
- (vi) Academic major.
- (vii) Degrees received.
- (viii) Most recent educational institution enrollment.

(c) *Exception.* The limitation in paragraph (b) of this clause does not apply to an institution of higher education if the Secretary of Defense determines that—

(1) The institution has ceased the policy or practice described in paragraph (b) of this clause; or

(2) The institution has a long-standing policy of pacifism based on historical religious affiliation.

(d) *Agreement.* The Contractor represents that it does not now have, and agrees that during performance of this contract it will not adopt, any policy or practice described in paragraph (b) of this clause, unless the Secretary of Defense has granted an exception in accordance with paragraph (c)(2) of this clause.

(e) Notwithstanding any other clause of this contract, if the Secretary of Defense determines that the Contractor misrepresented its policies and practices at the time of contract award or has violated the agreement in paragraph (d) of this clause—

(1) The Contractor will be ineligible for further payments under this and other contracts with the Department of Defense; and

(2) The Government will terminate this contract for default for the Contractor's material failure to comply with the terms and conditions of award.

(End of clause)

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BILLING CODE 5000-04-M

## DEPARTMENT OF DEFENSE

### 48 CFR Part 235

[DFARS Case 99-D302]

#### Defense Federal Acquisition Regulation Supplement; Manufacturing Technology Program

**AGENCY:** Department of Defense (DoD).

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Acting Director of Defense Procurement has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 216 of the National Defense Authorization Act for Fiscal Year 2000. Section 216 amends statutory provisions pertaining to cost-sharing requirements for contract5s under the Manufacturing Technology Program.

**DATES:** Effective date: January 13, 2000.

*Comment date:* Comments on the interim rule should be submitted in writing to the address shown below on or before March 13, 2000, to be considered in the formation of the final rule.

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

E-Mail comments submitted via the internet should be addressed to: [dfars@acq.osd.mil](mailto:dfars@acq.osd.mil)

Please cite DFARS Case 99-D302 in all correspondence related to this rule. E-mail comments should cite DFARS Case 99-D302 in the subject line.

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan Schneider, (703) 602-0326.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

This interim rule revises DFARS 235.006-70 to implement Section 216 of the National Defense Authorization Act for Fiscal Year 2000 (Pub. L. 106-65). Section 216 amends 10 U.S.C. 2525 to eliminate the mandatory cost-sharing requirements for contracts under the Manufacturing Technology Program, and to provide that cost sharing be included as a factor in competitive procedures for evaluating proposals under manufacturing technology projects.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

## B. Regulatory Flexibility Act

DoD does not expect this rule 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 DoD awards approximately only 20 new contracts under the Manufacturing Technology Program each year. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 99-D302.

## C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that 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 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 216 of the National Defense Authorization Act for Fiscal Year 2000. Section 216 eliminates the mandatory cost-sharing requirements in the Manufacturing Technology Program and provides that cost sharing be included as a factor in competitive procedures for evaluating proposals under manufacturing technology projects. Section 216 because effective on October 5, 1999. DoD will consider comments received in response to this interim rule in the formation of the final rule.

### List of Subject in 48 CFR Part 235

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, 48 CFR Part 235 is amended as follows:

1. The authority citation for 48 CFR Part 235 continues to read as follows:

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

### PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

2. Section 235.006-70 is revised to read as follows:

### 235.006-70 Manufacturing Technology Program.

In accordance with 10 U.S.C. 2525(d), for acquisitions under the Manufacturing Technology Program—

(a) Award all contracts using competitive procedures; and

(b) Include in all solicitations an evaluation factor that addresses the extent to which offerors propose to share in the cost of the project (see FAR 15.304).

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**BILLING CODE 5000-04-M**

## DEPARTMENT OF DEFENSE

### 48 CFR Part 241

[DFARS Case 99-D309]

### Defense Federal Acquisition Regulation Supplement; Authority Relating to Utility Privatization

**AGENCY:** Department of Defense (DoD).

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Acting Director of Defense Procurement has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 2812 of the National Defense Authorization Act for Fiscal Year 2000. Section 2812 provides that DoD may enter into utility service contracts related to the conveyance of a utility system for periods not to exceed 50 years.

**DATES:** Effective date: January 13, 2000.

*Comment date:* Comments on the interim rule should be submitted in writing to the address shown below on or before March 13, 2000, to be considered in the formation of the final rule.

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

E-mail comments submitted via the Internet should be addressed to: [dfars@acq.osd.mil](mailto:dfars@acq.osd.mil)

Please cite DFARS Case 99-D309 in all correspondence related to this rule. E-mail comments should cite DFARS Case 99-D309 in the subject line.

**FOR FURTHER INFORMATION CONTACT:** Ms. Melissa Rider, (703) 602-4245.

### SUPPLEMENTARY INFORMATION:

#### A. Background

This final rule adds a new section at DFARS 241.103 to implement Section

2812 of the National Defense Authorization Act for Fiscal Year 2000 (Pub. L. 106-65). Section 2812 amends 10 U.S.C. 2688 to provide authority for DoD to enter into utility service contracts related to the conveyance of a utility system for periods not to exceed 50 years.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

## B. Regulatory Flexibility Act

DoD does not except this rule 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 utility services generally are not provided by small business concerns. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 99-D309.

## C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that 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 that urgent and compelling reasons exist to publish this interim rule prior to affording the public an opportunity to comment. This interim rule amends the DFARS to add policy regarding DoD's authority to enter into utility service contracts with terms of up to 50 years, if the contracts are connected with the conveyance of a utility system. The rule implements Section 2812 of the National Defense Authorization Act for Fiscal Year 2000. Section 2812 became effective on October 5, 1999. DoD will consider comments received in response to this interim rule in the formation of the final rule.

### List of Subjects in 48 CFR Part 241

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, 48 CFR Part 241 is amended as follows: