

List of Subjects in 48 CFR Part 219

Government procurement.

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

Interim Rule Adopted as Final With Changes

Accordingly, the interim rule amending 48 CFR Part 219 and Appendix I to Chapter 2, which was published at 65 FR 6554 on February 10, 2000, is adopted as a final rule with the following changes:

1. The authority citation for 48 CFR Part 219 and Appendix I to Subchapter I continues to read as follows:

Authority: 41 U.S.C. 421 and 38 CFR Chapter 1.

PART 219—SMALL BUSINESS PROGRAMS

2. Section 219.7103-2 is amended as follows:

a. In paragraph (e) introductory text by adding the word "only" before the word "if";

b. By revising paragraph (f); and

c. In paragraph (h) by removing the word "Command" and adding in its place the word "Agency". The revised text reads as follows:

219.7103-2 Contracting officer responsibilities.

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(f) Not authorize reimbursement for costs of assistance furnished to a protege firm in excess of \$1,000,000 in a fiscal year unless a written determination from the Director, SADB, OUSD (AT&L), is obtained.

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3. Section 219.7106 is revised to read as follows:

219.7106 Performance reviews.

The Defense Contract Management Agency will conduct annual performance reviews of all mentor-protege agreements as indicated in Appendix I, Section I-112. The determinations made in these reviews should be a major factor in determinations of amounts of reimbursement, if any, that the mentor firm is eligible to receive in the remaining years of the Program participation term under the agreement.

Appendix I—Policy and Procedures for the DoD Pilot Mentor-Protege Program

I-100 [Amended]

4. Section I-100 is amended in paragraph (c)(1) by removing the word "protege" and adding in its place the abbreviation "SDB".

5. Section I-106 is amended as follows:

a. By removing paragraph (c)(4);

b. In paragraph (d) introductory text by revising the last sentence;

c. In paragraph (d)(1) by removing the semicolon and adding a period in its place; and

d. In paragraph (d)(2) by removing "or" and adding a period in its place. The revised text reads as follows:

I-106 Approval process for companies to participate in the Program as mentor firms.

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(d) * * * The company must submit a justification and endorsement from the cognizant Director, SADB, when requesting any of the following unusual actions:

* * * * *

6. Section I-107 is amended as follows:

a. By redesignating paragraphs (b)(4) through (b)(8) as paragraphs (b)(5) through (b)(9), respectively;

b. By adding a new paragraph (b)(4); and

c. By revising paragraph (c). The added and revised text reads as follows:

I-107 Mentor-protege agreements.

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(b) * * * (4) A statement from the protege firm indicating its commitment to comply with the requirements for reporting and for review of the agreement during the duration of the agreement and for 2 years thereafter;

* * * * *

(c) Mentor firms must send a copy of any termination notices to the Director, SADB, OUSD (AT&L), the cognizant Director, SADB, and the Defense Contract Management Agency administrative contracting officer responsible for conducting the annual performance review, and, where funding is made available through a DoD program manager, must provide a copy to the program manager and to the contracting officer.

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7. Section I-111 is amended as follows:

a. By revising paragraph (b);

b. In paragraph (c)(1) by removing "Command (DCMC)" and adding in its place "Agency (DCMA)"; and

c. In paragraph (c)(2) by removing "DCMC" and adding in its place "DCMA", and by removing "program office" and adding in its place "program manager". The revised text reads as follows:

I-111 Reporting requirements.

* * * * *

(b) The mentor firm and the protege firm—

(1) Must provide data on the progress made by the protege firm in employment, revenues, and participation in DoD contracts during—

(i) Each fiscal year of the Program participation term; and

(ii) Each of the 2 fiscal years following the expiration of the Program participation term;

(2) Must provide the data by October 31st of each year to address the prior fiscal year; and

(3) During the Program participation term, may provide the data as part of the mentor report required by paragraph (a) of this section for the period ending September 30th.

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I-112 [Amended]

8. Section I-112 is amended as follows:

a. In the first sentence of the introductory text by removing the word "Command" and adding in its place the word "Agency";

b. In paragraph (a) by adding the word "and" after the semicolon;

c. In paragraph (b) by removing "agreement; and" adding in its place "Program participation term."; and

d. By removing paragraph (c).

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DEPARTMENT OF DEFENSE

48 CFR Parts 222 and 252

[DFARS Case 99-D308]

Defense Federal Acquisition Regulation Supplement; Construction and Service Contracts in Noncontiguous States

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has adopted as final, with changes, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 8071 of the Fiscal Year 2000 Defense Appropriations Act. Section 8071 provides that DoD contracts for construction or services performed in a noncontiguous State, that has an unemployment rate in excess of the national average, must include a clause requiring the contractor to employ individuals who are residents of that State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills.

EFFECTIVE DATE: August 17, 2000.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations Council, OUSD (AT&L) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0288; telefax (703) 602-0350. Please cite DFARS Case 99-D308.

SUPPLEMENTARY INFORMATION:

A. Background

DoD published an interim rule at 65 FR 14402 on March 16, 2000. The interim rule revised DFARS Subpart 222.70 and the clause at 252.222-7000, pertaining to restrictions on the employment of personnel in noncontiguous States, to implement Section 8071 of the Fiscal Year 2000 Defense Appropriations Act (Pub. L. 106-79). The final rule contains additional revisions to further clarify the definition of "noncontiguous State" and to delegate authority for waiver of the employment restrictions to the head of the agency.

One source submitted comments on the interim rule. DoD considered those comments in the development of the final rule.

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 certifies that this final rule will not 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, prior to this rule, a similar requirement existed for the noncontiguous States of Alaska and Hawaii. DoD knows of no economic impact on small entities that resulted from the implementation of this requirement in those States.

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.*

List of Subjects in 48 CFR Parts 222 and 252

Government procurement.

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

Interim Rule Adopted as Final With Changes

Accordingly, the interim rule amending 48 CFR Parts 222 and 252, which was published at 65 FR 14402 on March 16, 2000, is adopted as a final rule with the following changes:

1. The authority citation for 48 CFR Parts 222 and 252 continues to read as follows:

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

PART 222—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

2. Section 222.7001 is revised to read as follows:

222.7001 Definition.

"Noncontiguous State," as used in this subpart, means Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Islands, Navassa Island, Palmyra Atoll, and Wake Island.

3. Section 222.7003 is revised to read as follows:

222.7003 Waivers.

The head of the agency may waive the requirements of 222.7002 on a case-by-case basis in the interest of national security.

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DEPARTMENT OF DEFENSE

48 CFR Part 236

[DFARS Case 2000-D010]

Defense Federal Acquisition Regulation Supplement; Special Procedures for Negotiation of Construction Contracts

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 obsolete text pertaining to special procedures for fee

negotiation under cost-reimbursement contracts for construction.

EFFECTIVE DATE: August 17, 2000.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations Council, OUSD (AT&L) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0288; telefax (703) 602-0350. Please cite DFARS Case 2000-D010.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule removes DFARS Subpart 236.4, section 236.403, which contained special procedures for fee negotiation under cost-reimbursement contracts for construction. This DFARS text previously supplemented Federal Acquisition Regulation (FAR) text that is now located at FAR 36.215. DoD has determined that this supplemental DFARS text is no longer necessary.

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

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98-577 and publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2000-D010.

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.*

List of Subjects in 48 CFR Part 236

Government procurement.

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Therefore, 48 CFR Part 236 is amended as follows:

1. The authority citation for 48 CFR Part 236 continues to read as follows:

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