

common questions and foster uniform handling of common issues. The Guidebook may be found on the Deputy Assistant Secretary of the Army (Procurement & Production) Web site at <http://dasapp.saalt.army.mil/>.

(e) *Solicitation provision and contract clause.* The clause at § 5152.225-74-9000 shall be inserted in all solicitations and contracts that may require deployment of contractor personnel in support of military operations. It may be tailored to fit the specific circumstances of the procurement.

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## DEPARTMENT OF DEFENSE

### Department of the Army

#### 48 CFR Part 5152

RIN 0702-AA39

#### Solicitation Provisions and Contract Clauses

**AGENCY:** Department of Army, DOD.

**ACTION:** Interim final rule; Request for comments.

**SUMMARY:** The Department of the Army is amending its Acquisition Regulations to increase consistency in Army contracts that may require deployment of contractor personnel. This change is a consolidation and summarization of current information available in several documents, some of which are currently in draft form, and does not include new Army contracting policy. The purpose of this issuance is to notify interested parties of this change, and to request the public's comments. This change is issued by the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) (ASA(ALT)). This issuance is made concurrent with publication of an interim rule with request for comments to add rules concerning Foreign Acquisition—Contractors Accompanying the Force, published in this issue of the **Federal Register**.

**DATES:** *Effective date:* November 28, 2003.

*Comment date:* Comments must be submitted to the address shown below on or before January 27, 2004.

**ADDRESSES:** Respondents may e-mail comments to:

[s.wisniewski@us.army.mil](mailto:s.wisniewski@us.army.mil). Those who cannot submit comments by e-mail may submit comments to: Procurement Policy and Support Office, Attn: SAAL-PP, Sharon Wisniewski, Presidential Towers, 2511 S. Jeff Davis Highway, Arlington, VA, 22202, facsimile (703)

604-8178. Please cite "AFARS CAF Clause" in the subject line of comments.

#### FOR FURTHER INFORMATION CONTACT:

Sharon Wisniewski, (586) 574-7050 or Linda Fowlkes, (703)604-7104.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

This issuance amends 48 CFR part 5152 (also referred to as the Army Federal Acquisition Regulation Supplement (AFARS)) to incorporate information to facilitate deploying contractor personnel to Iraq or other areas of operations. It also seeks to ease the administrative difficulty for each contractor and contracting office researching current guidance on contractors accompanying the force, and to increase consistency among Army contracts. This AFARS change is published to address contractor and Army contracting offices' questions and concerns. This notice was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

##### B. Regulatory Flexibility Act

The Army 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 the rule applies only to contractors that may require deployment of contractor personnel outside the United States, and because it only consolidates existing and draft logistical guidance. The amount of such additional services is not expected to be significantly large in comparison to the total amount of services procured by Army, and any additional costs would be reimbursable under the resulting contract. Therefore, Army has not performed an initial regulatory flexibility analysis. Army invites comments from small businesses and other interested parties. Army also will consider comments from small entities concerning the affected AFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite "Small Entities CAF comment."

##### 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 a Rule Effective With Publication in the Federal Register

A determination has been made under the authority of the Army Deputy Assistant Secretary of the Army (Policy & Procurement) that urgent and compelling reasons exist to publish this notice prior to affording the public an opportunity to comment. Contracting offices continue to write contracts that require contractor personnel to accompany the military force in Iraq and other places. Contractor representatives and contracting offices have requested inclusion of coverage in the AFARS expeditiously, even if not a complete solution, pending coverage on this topic in higher level regulations. Comments received in response to this notice will be considered.

Emily Clarke,

Director, Procurement Policy and Support.

##### List of Subjects in 48 CFR Part 5152

Government contracts, Government procurement.

■ For reasons set forth in the preamble, the Department of the Army amends 48 CFR Part 5152 as follows:

#### PART 5152—SOLICITATIONS PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 5152.225-74-9000 is added to read as follows:

**Authority:** 5 U.S.C. 301, 10 U.S.C. 2202, DOD Directive 5000.35, FAR 1.301 and DOD FAR Supplement 201.3.

■ 2. Add 5152.225-74-9000 to read as follows:

##### 5152.225-74-9000 Contractors Accompanying the Force.

As prescribed at subpart 5125.74-9000(e) insert the following clause:

##### CONTRACTORS ACCOMPANYING THE FORCE (NOV. 2003)

(a) *General.* (1) Performance of this contract may require deployment of Contractor Personnel in support of military operations. The Contractor acknowledges that such operations are inherently dangerous and accepts the risks associated with contract performance in this environment.

(2) For purposes of this clause, the term "Contractor Personnel" refers to the Contractor's officers and employees. Unless otherwise specified (*e.g.*, subparagraph (b) of this clause), this term does not include personnel who permanently reside in the country where contract performance will take place.

(3) The Contractor shall ensure that Contractor Personnel working in an area of operations (AO, as defined in the Joint Publication 1-02, "DOD Dictionary of

Military and Associated Terms”) are familiar and comply with applicable: (i) Military Service and Department of Defense regulations, directives, instructions, general orders, policies, and procedures, in particular Army Regulation 715–9 and Field Manual 3–100.21; (ii) U.S., host country, local, and international laws and regulations; and (iii) treaties and international agreements (e.g., Status of Forces Agreements, Host Nation Support Agreements, and Defense Technical Agreements) relating to safety, health, force protection, and operations under this contract.

(4) The Contractor shall ensure that this clause is included in all subcontracts.

(b) *Compliance with Combatant Command Orders.* The Contractor shall ensure that Contractor Personnel, regardless of residency status, working in the AO comply with all orders, directives, and instructions of the combatant command relating to non-interference in military operations, force protection, health, and safety. The Combatant Commander or his subordinate commanders, in conjunction with the Contracting Officer or the Contracting Officer’s Representative, may direct the Contractor, at the Contractor’s own expense, to replace and, where applicable, repatriate any Contractor personnel who fail to comply with this provision. Such action may be taken at the Government’s discretion without prejudice to its rights under any other provision of this contract, including the Termination for Default clause.

(c) *Contractor Personnel Administration.* (1) In order to maintain accountability of all deployed personnel in the AO, the Contractor shall follow instructions issued by the Army Materiel Command’s Logistics Support Element (AMC LSE) or other Contracting Officer’s designated representative to provide, and keep current, requested data on Contractor Personnel for entry into military personnel database systems.

(2) The Contractor shall coordinate with the AMC LSE or other Contracting Officer’s designated representative for logistics support, as follows: (i) Upon initial entry into the AO; (ii) upon initiation of contract performance; (iii) upon relocation of contract operations within the AO; and (iv) upon exiting the AO.

(3) Before deployment, the Contractor shall ensure that:

(i) All Contractor Personnel complete two DD Forms 93, Record of Emergency Data Card. One copy of the completed form shall be returned to the Government official specified by the Contracting Officer’s designated representative; the other shall be hand-carried by the individual employee to the AO.

(ii) All required security and background checks are completed.

(iii) All medical screening and requirements are met.

(4) The Contractor shall ensure that Contractor Personnel have completed all pre-deployment requirements specified by the Contracting Officer’s designated representative (including processing through the designated Continental United States (CONUS) Replacement Center unless another deployment processing method is

specifically authorized), and the Contractor shall notify the Contracting Officer’s designated representative that these actions have been accomplished.

(5) The Contractor shall have a plan for timely replacement of employees who are no longer available for deployment for any reason, including mobilization as members of the Reserve, injury, or death.

(d) *Clothing and Equipment Issue.* (1) To help distinguish them from combatants, Contractor Personnel shall not wear military clothing unless specifically authorized by a written Department of Army waiver. Contractor Personnel may wear specific items of clothing and equipment required for safety and security such as ballistic or NBC (Nuclear, Biological, Chemical) protective clothing. The CONUS Replacement Center or the combatant command may provide to the Contractor Personnel military unique Organizational Clothing and Individual Equipment (OCIE) to ensure security and safety.

(2) All issued OCIE shall be considered Government Furnished Property, and will be treated in accordance with Government Furnished Property clauses included elsewhere in this contract.

(e) *Weapons and Training.* (1) Contractor Personnel may not possess privately owned firearms in the AO. The combatant command may issue weapons and ammunition to Contractor Personnel, with the employee’s company’s consent as well as the individual employees’ consent, and may require weapons and other pre-deployment training.

(2) The Contractor shall ensure that Contractor Personnel follow all instructions by the combatant command, as well as applicable Military Service and DoD regulations, regarding possession, use, safety, and accountability of weapons and ammunition.

(3) All issued weapons, ammunition, and accessories (e.g., holsters) shall be considered Government Furnished Property. Upon redeployment or notification by the combatant command, the Contractor shall ensure that all Government issued weapons and unused ammunition are returned to the point of issue using a method that complies with Military Service regulations for issue and turn-in of firearms.

(f) *Vehicle and Equipment Operation.* (1) The Contractor shall ensure that Contractor Personnel possess the required licenses to operate all vehicles or equipment necessary to perform the contract in the AO.

(2) Contractor-owned or leased motor vehicles or equipment shall meet all requirements established by the combatant command and shall be maintained in a safe operating condition.

(g) *Passports, Visas and Customs.* The Contractor is responsible for obtaining all passports, visas, and other documents necessary for Contractor Personnel to enter and exit any AO.

(h) *Purchasing Limited Resources.* When the Combatant Command establishes a Commander-in-Chief Logistics Procurement Support Board (CLPSB), Joint Acquisition Review Board, or similar purchase review committee, the contractor will be required to coordinate local purchases of goods and

services designated as limited, in accordance with instructions provided by the Administrative Contracting Officer or the Contracting Officer’s designated representative.

(End of Clause)

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 571

[Docket No. NHTSA–2002–12065]

RIN 2127–AI88

#### Federal Motor Vehicle Safety Standards; Child Restraint Systems

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Delay of expiration date of interim final rule.

**SUMMARY:** On October 22, 2002, NHTSA published an interim final rule that amended the Federal motor vehicle safety standard on child restraint systems to permit the manufacture and sale of harnesses that attach to school bus seat backs as long as the harnesses are properly labeled. The agency scheduled the interim final rule to terminate on December 1, 2003, while requesting comments on permanently adopting the provisions of the interim final rule. To allow for more time to respond to the comments, this document delays the expiration date of the interim final rule for an additional nine months.

**DATES:** The expiration of the interim final rule published at 67 FR 64818 (October 22, 2002), as amended by this rule, is delayed until September 1, 2004. The amendment published in this rule is effective November 28, 2003, and expires on September 1, 2004.

Any petitions for reconsideration of this final rule must be received by NHTSA not later than January 12, 2004.

**ADDRESSES:** Petitions for reconsideration, identified by DOT DMS Docket No. NHTSA–2002–12065, should be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590: