

List of Subjects in 48 CFR Part 204

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 204 is amended as follows:

1. Authority citation for 48 CFR Part 204 continues to read as follows:

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

PART 204—ADMINISTRATIVE MATTERS

2. Section 204.201 is amended by adding paragraph (c) after paragraph 2, and by revising paragraph (e)(i) introductory text and paragraph (e)(i)(D) to read as follows:

§ 204.201 Procedures.

* * * * *

(c) Distribute one copy to each Defense Finance and Accounting Service (DFAS) accounting station cited in the contract, in addition to the copy provided to each DFAS funding office.

(e)(i) Distribute one copy of each of the following types of contracts or modifications to the appropriate Defense Contract Audit Agency (DCAA) field audit office (listed in DCAAP 5100.1, Directory of DCAA Offices, available on the World Wide Web, Internet address <http://www.deskbook.osd.mil>, under reference library documents)—

* * * * *

(D) Fixed-price contracts with provisions for redetermination, cost incentives, economic price adjustment based on cost, or cost allowability; and

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3. Section 204.202 is amended by revising paragraphs (1)(ii)(B) and (1)(iv) to read as follows:

204.202 Agency distribution requirements.

(1) * * *

(ii) * * *

(B) The Defense Logistics Agency is authorized to prescribe alternate procedures for distribution of contract documents in Defense Supply Center Philadelphia European Region;

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(iv) One copy to the contract administration office (CAO) automatic data processing point, except when the DoDAAD code is the same as that of either the CAO or payment office; and

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[FR Doc. 98-15433 Filed 6-10-98; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF DEFENSE**48 CFR Parts 222 and 252**

[DFARS Case 97-D318]

Defense Federal Acquisition Regulation Supplement; Contractor Use of Nonimmigrant Aliens—Guam

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 implement Section 390 of the National Defense Authorization Act for Fiscal Year 1998. Section 390 requires that each DoD contract for base operations support to be performed on Guam prohibit performance of work under the contract by any alien who is issued a visa or otherwise provided nonimmigrant status under the Immigration and Nationality Act.

DATES: *Effective date:* June 11, 1998.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before August 10, 1998, to be considered in the formulation of the final rule.

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

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

Please cite DFARS Case 97-D318 in all correspondence related to this issue. E-mail comments should cite DFARS Case 97-D318 in the subject line.

FOR FURTHER INFORMATION CONTACT: Michael Pelkey, telephone (703) 602-0131.

SUPPLEMENTARY INFORMATION:**A. Background**

This interim rule adds a new DFARS Subpart 222.73 and a new contract clause at DFARS 252.222-7005 to implement Section 390 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105-85). Section 390 provides that each DoD contract for base operations support to be performed on Guam shall contain a condition that work under the contract may not be performed by any alien who is issued a visa or otherwise provided nonimmigrant status under Section 101(a)(15)(H)(ii) of the Immigration and

Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)).

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 application of the rule is limited to contracts for base operations support to be performed on Guam. Therefore, an initial regulatory flexibility analysis has 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-D318 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 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 promulgate this interim rule without prior opportunity for public comment. This interim rule implements Section 390 of the National Defense Authorization Act for Fiscal Year 1998, which requires that each DoD contract for base operations support to be performed on Guam prohibit performance of work under the contract by any alien worker who is issued a visa or otherwise provided nonimmigrant status under the Immigration and Nationality Act. Immediate implementation is necessary to preclude violation of Section 390, which was effective upon enactment on November 18, 1997. Comments received in response to the publication of this interim rule will be considered in the formulation of the final rule.

List of Subjects in 48 CFR Parts 222 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 222 and 252 are amended as follows:

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. Subpart 222.73 is added to read as follows:

Subpart 222.73—Base Operations Support for Military Installations on Guam

Sec.
222.7300 Scope of subpart.
222.7301 General.
222.7302 Contract clause.

222.7300 Scope of subpart.

(a) This subpart implements Section 390 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105-85).

(b) This subpart applies to base operations support contracts that—

- (1) Are to be performed on Guam; and
- (2) Are entered into or modified on or after November 18, 1997.

222.7301 General.

Work under a contract for base operations support on Guam may not be performed by any alien who is issued a visa or otherwise provided nonimmigrant status under Section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)).

222.7302 Contract clause.

Use the clause at 252.222-7005, Prohibition on Use of Nonimmigrant Aliens—Guam, in all solicitations and contracts subject to this subpart.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 252.222-7005 is added to read as follows:

252.222-7005 Prohibition on Use of Nonimmigrant Aliens—Guam.

As prescribed in 222.7302, use the following clause:

Prohibition on Use of Nonimmigrant Aliens—Guam (Jun 1998)

The work required by this contract shall not be performed by any alien who is issued a visa or otherwise provided nonimmigrant status under Section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)).

(End of clause)

[FR Doc. 98-15432 Filed 6-10-98; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF DEFENSE

48 CFR Parts 225 and 252

[DFARS Case 96-D016]

Defense Federal Acquisition Regulation Supplement; Antiterrorism Training

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 add guidance pertaining to DoD antiterrorism/force protection policy. The rule requires DoD contractors and their subcontractors to take appropriate security precautions when performing or traveling outside the United States.

DATES: Effective date: June 11, 1998.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before August 10, 1998 to be considered in the formulation of the final rule.

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

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

Please cite DFARS Case 96-D016 in all correspondence related to this issue. E-mail comments should cite DFARS Case 96-D016 in the subject line.

FOR FURTHER INFORMATION CONTACT: Melissa Rider, telephone (703) 602-0131.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule adds a new DFARS Subpart 225.74 and a new contract clause at DFARS 252.225-7043 pertaining to antiterrorism/force protection policy for DoD contracts that require performance or travel outside the United States.

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 the rule only applies to contracts that require performance or travel outside the United States, and any

costs related to compliance with the rule will be included in the contract price. Therefore, an initial regulatory flexibility analysis has 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 96-D016 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 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 promulgate this interim rule without prior opportunity for public comment. This DFARS rule implements interim policy issued by the Deputy Secretary of Defense on January 28, 1998, pertaining to antiterrorism/force protection for defense contractors overseas. The interim policy requires that defense contractors and subcontractors that perform or travel outside the United States under defense contracts affiliate with the Overseas Security Council; ensure that their employees who are U.S. nationals register with the U.S. Embassy and that their employees who are third country nationals comply with the requirements of the Embassy of their nationality; provide antiterrorism/force protection awareness training to their employees similar to that provided the military, DoD civilians, and their families, before the employees travel overseas; and receive the most current antiterrorism/force protection guidance for personnel and comply with the DoD Foreign Clearance Guide, as appropriate. This interim DFARS rule is necessary to provide prompt implementation of the Deputy Secretary of Defense interim policy and to ensure that employees of DoD contractors and subcontractors performing or traveling outside the United States receive timely and up-to-date security information that will help to ensure their physical safety. Comments received in response to the publication of this interim rule will be considered in the formulation of the final rule.