

**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)

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## **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.

**List of Subjects in 48 CFR Parts 225 and 252**

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, 48 CFR Parts 225 and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 225 and 252 continues to read as follows:

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

**PART 225—FOREIGN ACQUISITION**

2. Subpart 225.74 is added to read as follows:

**Subpart 225.74—Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States**

Sec.

225.7400 Scope of subpart.

225.7401 General.

225.7402 Contract clause.

**225.7400 Scope of subpart.**

This subpart pertains to antiterrorism/force protection policy for contracts that require performance or travel outside the United States.

**225.7401 General.**

Information and guidance pertaining to DoD antiterrorism/force protection can be obtained from the following offices:

(a) For Navy contracts: Naval Criminal Investigative Service (NCIS), Code 24; telephone, DSN 228-9113 or commercial (202) 433-9113.

(b) For Army contracts: HQDA (DAMO-ODL)/ODCSOP; telephone, DSN 225-8491 or commercial (703) 695-8491.

(c) For Marine Corps contracts: CMC Code POS-10; telephone, DSN 224-4177 or commercial (703) 614-4177.

(d) For Air Force contracts: HQ AFSFC/SFPT; telephone, DSN 473-0927/0928 or commercial (210) 671-0927/0928.

(e) For Combatant Command contracts: The appropriate Antiterrorism Force Protection Office at the Command Headquarters.

(f) For Defense Agencies: The appropriate agency security office.

(g) For additional information: Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, ASD (SOLIC); telephone, DSN 255-0044 or commercial (703) 695-0044.

**225.7402 Contract clause.**

Use the clause at 252.225-7043, Antiterrorism/Force Protection Policy

for Defense Contractors Outside the United States, in solicitations and contracts that require performance or travel outside the United States, except for contracts with—

- (a) Foreign governments;
- (b) Representatives of foreign governments; or
- (c) Foreign corporations wholly owned by foreign governments.

**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

3. Section 252.225-7043 is added to read as follows:

**252.225-7043 Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States.**

As prescribed in 225.7402, use the following clause:

**ANTITERRORISM/FORCE PROTECTION POLICY FOR DEFENSE CONTRACTORS OUTSIDE THE UNITED STATES (JUN 1998)**

(a) Except as provided in paragraph (b) of this clause, the Contractor and its subcontractors, if performing or traveling outside the United States under this contract, shall—

(1) Affiliate with the Overseas Security Advisory Council, if the Contractor or subcontractor is a U.S. entity;

(2) Ensure that Contractor and subcontractor personnel who are U.S. nationals and are in-country on a non-transitory basis, register with the U.S. Embassy, and that Contractor and subcontractor personnel who are third country nationals comply with any security related requirements of the Embassy of their nationality;

(3) Provide, to Contractor and subcontractor personnel, antiterrorism/force protection awareness information commensurate with that which the Department of Defense (DoD) provides to its military and civilian personnel and their families, to the extent such information can be made available prior to travel outside the United States; and

(4) Obtain and comply with the most current antiterrorism/force protection guidance for Contractor and subcontractor personnel.

(b) The requirements of this clause do not apply to any subcontractor that is—

- (1) A foreign government;
- (2) A representative of a foreign government; or
- (3) A foreign corporation wholly owned by a foreign government.

(c) Information and guidance pertaining to DoD antiterrorism/force protection can be obtained from [Contracting Officer to insert applicable information cited in 225.7401]. (End of clause)

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**DEPARTMENT OF DEFENSE****48 CFR Part 245**

[DFARS Case 98-D004]

**Defense Federal Acquisition Regulation Supplement; Use of Auctions, Spot Bids, or Retail Sales of Surplus Contractor Inventory by the Contractor**

**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 lower the level at which the Government must approve the use of auctions, spot bids, or retail sales, when a contractor is disposing of surplus inventory on the Government's behalf. This change is expected to expedite the disposal process.

**EFFECTIVE DATE:** June 11, 1998.

**FOR FURTHER INFORMATION CONTACT:** Rick Layser, Defense Acquisition Regulations Council, 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 98-D004.

**SUPPLEMENTARY INFORMATION:****A. Background**

DFARS Subpart 245.73 contains procedures for the sale of surplus Government property that is in the possession of a contractor. This final rule amends DFARS 245.7301 to lower, from the headquarters of the contract administration activity, to the commander of the contract administration office, the level at which the Government must approve the use of auctions, spot bids, or retail sales to dispose of such property.

**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 subpart will be considered in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 98-D004.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the final 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.*