

when the handset receives a signal below this level upon dialing 9-1-1.

Additional comment hereby is sought to assist the Commission in determining whether to adopt the approach presented by the Alliance in its September 17 *ex parte* filing. Interested parties may file comments no later than October 7, 1998, and reply comments no later than October 19, 1998. To file formally in this proceeding, participants must file an original and five copies of all comments. If participants want each Commissioner to receive a personal copy of their comments, an original and nine copies must be filed. All comments should be filed with the Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554, referencing CC Docket No. 94-102. This proceeding is a permit-but-disclose proceeding governed by the provisions of Section 1.1206 of the Commission's Rules, 47 CFR 1.1206.

For further information, contact Won Kim at (202) 418-1310, Wireless Telecommunications Bureau, Policy Division.

Federal Communications Commission.

Kathleen O'Brien Ham,

Deputy Chief, Wireless Telecommunications Bureau.

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BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

48 CFR Parts 1201, 1205, 1206, 1211, 1213, 1215, 1237, 1252 and 1253

Amendment of Department of Transportation Acquisition Regulations

AGENCY: Office of the Secretary, DOT.

ACTION: Proposed rule.

SUMMARY: The Department of Transportation (DOT) is proposing to amend the Transportation Acquisition Regulation (TAR) to implement and supplement the Federal Acquisition Regulation (FAR) Circulars 97-01 through 97-03, to delete unnecessary FAR implementation, and to sequentially align Coast Guard Supplements with the applicable TAR Parts 1205, 1206, 1211, 1213, 1237, 1252 and 1253.

DATES: Comments should be submitted by November 2, 1998 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to:

Charlotte Hackley, Office of Acquisition and Grant Management, M-60, 400 Seventh Street SW., Washington, DC 20590 or e-mail comments to charlotte.hackley@ost.dot.gov.

FOR FURTHER INFORMATION CONTACT: Charlotte Hackley, Office of Acquisition and Grant Management, M-60, 400 Seventh Street SW., Washington, DC 20590; (202) 366-4267.

SUPPLEMENTARY INFORMATION:

A. Background

These proposed changes were initiated after the quarterly review of the TAR and the changes cited in FAR Circulars 97-01 through 97-03. The significant changes are to—

1. Provide DOT policy and standard procedures for the receipt, handling and disposition of unsolicited proposals; and

2. Delete Form DOT F 4220.44 and the instructions for completing the form to coincide with the changes made to FAR Part 15. The form is approved under the Office of Management and Budget Control Number 2105-0517 which expires on May 31, 2000.

B. Regulatory Flexibility Act

The Department certifies that this proposed 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.* The rule makes primarily administrative changes to the TAR and provides DOT policy and procedures for the receipt, handling and disposition of unsolicited proposals. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. Comments from small entities concerning the affected TAR parts will be considered in accordance with 5 U.S.C. 610 of the Act. Any comments should reference the Act.

C. Paperwork Reduction Act

The Department certifies that the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*) does not apply because this proposed rule does not contain information collection requirements.

List of Subjects in 48 CFR Parts 1201, 1205, 1206, 1211, 1213, 1215, 1237, 1252 and 1253

Government procurement.

The proposed rule is issued under the delegated authority of 49 CFR Part 1.59(p).

This authority is delegated to the Senior Procurement Executive, issued

this 24th day of September, 1998, at Washington, DC.

Robert G. Taylor,

Acting Director of Acquisition and Grant Management.

Adoption of Amendments

For the reasons set out in the preamble, 48 CFR Chapter 12 is amended as follows:

1. The authority citation for 48 CFR Chapter 12, parts 1201, 1205, 1206, 1211, 1213, 1215, 1237, 1252 and 1253 continues to read as follows:

Authority: 5 U.S.C. 301; 41 U.S.C. 418(b); 48 CFR 3.1.

PART 1201—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. Section 1201.103 is removed.

2a. In § 1201.201-1, paragraph (d) is removed.

3. Section 1201.301 is amended by adding paragraphs (a)(2) introductory text, (a)(2)(i), (a)(2)(ii), and (b) as follows:

1201.301 Policy.

(a) * * *

(2) *Acquisition procedures.* The authority of the agency head under (FAR) 48 CFR 1.301(a)(2) to issue or authorize the issuance of internal agency guidance at any organizational level has been delegated to the SPE.

(i) *Departmentwide acquisition procedures.* DOT internal operating procedures are contained in the Transportation Acquisition Manual (TAM).

(ii) *OA acquisition procedures.* Procedures necessary to implement or supplement the FAR, TAR, or TAM may be issued by the HCA, who may delegate this authority to any organizational level deemed appropriate. OA procedures may be more restrictive or require higher approval levels than those permitted by the TAM unless specified otherwise.

(b) The authority of the agency head under (FAR) 48 CFR 1.301(b) to establish procedures to ensure that agency acquisition regulations are published for comment in the **Federal Register** in conformance with the procedures in FAR Subpart 1.5 is delegated to the Assistant General Counsel for Regulation and Enforcement (C-50).

PART 1205—PUBLICIZING CONTRACT ACTIONS

4. Subpart 1205.90 is revised to read as follows:

Subpart 1205.90—Publicizing Contract Actions for Personal Services Contracting

1205.9000 Applicability. (USCG)

Contracts awarded by the U.S. Coast Guard using the procedures in (TAR) 48 CFR 1237.104–91 are expressly authorized under Section 1091 of Title 10 U.S.C. as amended by Pub. L. 104–106, DOD Authorization Act, Section 733 for the Coast Guard and are exempt from the requirements of (FAR) 48 CFR Part 5.

PART 1206—COMPETITION REQUIREMENTS

5. Subpart 1206.90 is revised to read as follows:

Subpart 1206.90—Competition Requirements for Personal Services Contracting

1206.9000 Applicability. (USCG)

Contracts awarded by the U.S. Coast Guard using the procedures in (TAR) 48 CFR 1237.104–91 are expressly authorized under Section 1091 of Title 10 U.S.C. as amended by Pub. L. 104–106, DOD Authorization Act, Section 733 for the Coast Guard and are exempt from the competition requirements of (FAR) 48 CFR Part 6.

PART 1211—DESCRIBING AGENCY NEEDS

6. Subpart 1211.2 is amended by revising § 1211.204–90 as follows:

1211.204–90 Solicitation provision and contract clause. (USCG)

(a) The contracting officer shall insert the USCG clause at (TAR) 48 CFR 1252.211–90, Bar Coding Requirement, (also see (TAR) 48 CFR 1213.507–90(a)) when the bar coding of supplies is necessary.

(b) See (TAR) 48 CFR 1213.507–90 for a provision which is required when the USCG clause at (TAR) 48 CFR 1252.211–90, Bar Coding Requirement, is used with simplified acquisition procedures.

PART 1213—SIMPLIFIED ACQUISITION PROCEDURES

7. Subpart 1213.1 is revised to read as follows:

Subpart 1213.1—Procedures

1213.106 Soliciting competition, evaluation of quotations or offers, award and documentation.

1213.106–190 Soliciting competition. (USCG)

The contracting officer shall insert the USCG provision at (TAR) 48 CFR

1252.213–90, Evaluation Factor for Coast Guard Performance of Bar Coding Requirement, in requests for quotations when the USCG clause at (TAR) 48 CFR 1252.211–90, Bar Coding Requirement, is used with simplified acquisition procedures.

7a. Subpart 1213.3 is added to read as follows:

Subpart 1213.3—Simplified Acquisition Methods

1213.302 Purchase orders.

1213.302–590 Clauses. (USCG)

The contracting officer shall insert the USCG clause at (TAR) 48 CFR 1252.211–90, Bar Coding Requirement, in requests for quotations and purchase orders issued by the Inventory Control Points when bar coding of supplies is necessary.

8. Part 1215 is revised to read as follows:

PART 1215—CONTRACTING BY NEGOTIATION

Subpart 1215.2—Solicitation and Receipt of Proposals and Information

1215.204 Contract format.

1215.204–3 Contract clauses.

1215.207–70 Handling proposals and information.

Subpart 1215.4—Contract Pricing

1215.404 Proposal analysis.

1215.404–470 Payment of profit or fee.

Subpart 1215.6—Unsolicited Proposals

1215.602 Policy.

1215.603 General.

1215.604 Agency points of contact.

1215.606 Agency procedures.

1215.606–2 Evaluation.

Subpart 1215.2—Solicitation and Receipt of Proposals and Information

§ 1215.204 Contract format.

1215.204–3 Contract clauses.

The contracting officer shall insert clause (TAR) 48 CFR 1252.215–70, Key Personnel and/or Facilities, in solicitations and contracts when the selection for award is substantially based on the offeror's possession of special capabilities regarding personnel and/or facilities.

1215.207–70 Handling proposals and information.

(a) Offerors' proposals and information received in response to a request for information shall be marked as required by TAM 1203.104–5, as applicable.

(b) Proposals may be released outside the Government if it is necessary to receive the most competent technical

and/or management evaluation available.

Subpart 1215.4—Contract Pricing

1215.404 Proposal analysis.

1215.404–470 Payment of profit or fee.

The contracting officer shall not pay profit or fee on undefinitized contracts or undefinitized contract modifications. Any profit or fee earned shall be paid after the contract or modification is definitized.

Subpart 1215.6—Unsolicited Proposals

1215.602 Policy.

It is the policy of the Department of Transportation (DOT) to encourage the submission of new and innovative ideas which will support DOT's mission. Through the various Operating Administrations (OA), DOT is responsible for transportation safety improvements and endorsement, international transportation agreements and the continuity of transportation services in the public interest.

1215.603 General.

DOT will accept for review and consideration, unsolicited proposals from any entity. However, DOT will not pay any costs associated with the preparation of these proposals. Proposals which do not meet the definition and applicable content and marking requirements of (FAR) 48 CFR 15.6 will not be considered under any circumstances and will be returned to the submitter.

1215.604 Agency points of contact.

(a) The DOT does not have a centralized location to receive unsolicited proposals. The effort submitted in the proposal determines which DOT OA should receive and evaluate the proposal.

(b) Proposers should submit proposals to the cognizant OA contracting office for appropriate handling. Specific information concerning each DOT OA and the type of commodities which they normally procure are available on the worldwide web at <http://www.dot.gov>. Proposers are urged to contact these contracting/procurement offices prior to submitting a proposal to ensure that the proposal is being submitted to the appropriate contracting office for action. This action will serve to reduce paperwork and time for the Government and the proposer.

1215.606 Agency procedures.

(a) The OA contracting office is designated as the point of contact for receipt of unsolicited proposals. Persons

within DOT (e.g., technical personnel) who receive unsolicited proposals shall forward the document to their cognizant contracting office.

(b) Within ten working days after receipt of an unsolicited proposal, the contracting office shall review the proposal and determine whether the proposal meets the content and marking requirements of (FAR) 48 CFR 15.6. If the proposal does not meet these requirements, it shall be returned to the submitter giving the reasons for noncompliance.

1215.606-2 Evaluation.

(a) If the proposal is in compliance, the contracting office shall acknowledge receipt of the proposal to the proposer and give the date the proposal evaluation is expected to be completed. The proposal shall be marked as required by (FAR) 48 CFR 15.609 and forwarded to the appropriate technical office for evaluation. The evaluating office shall be given reasonable time to complete the evaluation. However, in no event should an evaluation take more than sixty calendar days after receipt of the proposal except under extenuating circumstances. Contracting offices shall establish a system to ensure that this timeframe is met. If the date can not be met, the proposer shall be advised accordingly and be given a revised evaluation completion date.

(b) The evaluating office shall neither reproduce nor disseminate the proposal to other offices without the consent of the contracting office from which the proposal was received for evaluation. If additional information from the proposer is required by the evaluating office, the evaluator shall convey this request to the contracting office in lieu of the proposer. The evaluator shall not communicate directly with the originator of the proposal.

(c) If the evaluator recommends acceptance of the proposal, the cognizant contracting officer shall ensure compliance with all of the requirements of (FAR) 48 CFR 15.607.

PART 1237—SERVICE CONTRACTING

9. Subpart 1237.1 is amended by revising §§ 1237.104, 1237.104-90, and 1237.104-91 to read as follows:

Subpart 1237.1—Service Contracts—General

1237.104 Personal services contracts. (USCG)

1237.104-90 Delegation of authority. (USCG)

(a) Section 733(a) of Pub. L. 104-106, the DOD Authorization Act of 1996,

amended Title 10 of the United States Code to include a new provision which authorizes the Secretary, with respect to the Coast Guard, to enter into personal services contracts at medical treatment facilities (10 U.S.C. 1091).

(b) The authority of the Secretary of Transportation under Pub. L. 104-106 to award personal services contracts for medical services at facilities for the Coast Guard is delegated to the HCA with the authority to redelegate to contracting officers under procedures established by the HCA, who will address applicable statutory limitations under Section 1091A of Title 10 U.S.C.

1237.104-91 Personal services contracts with individuals under the authority of 10 U.S.C. 1091 (USCG)

(a) Personal services contracts for health care services are authorized by 10 U.S.C. 1091 for the Coast Guard. Sources for contracts for health care services under the authority of 10 U.S.C. 1091 shall be selected through procedures established in this section. These procedures do not apply to contracts awarded to business entities other than individuals. Selections made using the procedures in this section are exempt by statute from (TAR) 48 CFR 1206 competition requirements (see (TAR) 48 CFR 1206.9000 (USCG)) and from (FAR) 48 CFR Part 6 competition requirements.

(b) The contracting officer must provide adequate advance notice of contracting opportunities to individuals residing in the area of the facility. The notice should include the qualification criteria against which individuals responding shall be evaluated. Contracting officers shall solicit offerors through the most effective means of seeking competition, such as a local publication which serves the area of the facility. Acquisitions for health care services using personal services contracts are exempt from posting and synopsis requirements of (FAR) 48 CFR Part 5.

(c) The contracting officer shall provide the qualifications of individuals responding to the notice to the representative(s) responsible for evaluation and ranking in accordance with the evaluation procedures. Individuals must be considered solely on the professional qualifications established for the particular health care services being acquired and the Government's estimate of reasonable rates, fees, or costs. The representative(s) responsible for the evaluation and ranking shall provide the contracting officer with rationale for the ranking of the individuals consistent with the required qualifications.

(d) Upon receipt of the ranked listing of offerors, the contracting officer shall either:

- (1) Enter into negotiations with the highest ranked offeror. If a mutually satisfactory contract cannot be negotiated, the contracting officer shall terminate negotiations with the highest ranked offeror and enter into negotiations with the next highest, or;
- (2) Enter into negotiations with all qualified offerors and select on the basis of qualifications and rates, fees, or other costs.

(e) In the event only one individual responds to an advertised requirement, the contracting officer is authorized to negotiate the contract award. In this case, the individual must still meet the minimum qualifications of the requirement and the contracting officer must be able to make a determination that the price is fair and reasonable.

(f) If a fair and reasonable price cannot be obtained from a qualified individual, the requirement should be canceled and acquired using procedures other than those set forth in this section.

(g) The total amount paid to an individual in any year for health care services under a personal services contract shall not exceed the paycap in COMDTINST M4200.19 (series), Coast Guard Acquisition Procedures.

(h) The contract may provide for the same per diem and travel expenses authorized for a Government employee, including actual transportation and per diem in lieu of subsistence for travel between home or place of business and official duty station and only for travel outside the local area in support of the statement of work.

(i) Coordinate benefits, taxes and maintenance of records with the appropriate office(s).

(j) The contracting officer shall insure that contract funds are sufficient to cover all contingency items that may be cited in the statement of work for health care services.

9a. Subpart 1237.90 is revised to read as follows:

Subpart 1237.90—Mortuary Services

1237.9000 Solicitation provisions and contract clauses. (USCG)

(a) The contracting officer shall insert the following clauses in solicitations and contracts for mortuary services. However, USCG clauses (TAR) 48 CFR 1252.237-91 and 1252.237-97 shall not be inserted in solicitations and contracts that include port of entry requirements:

- (1) (TAR) 48 CFR 1252.237-90, Requirements;
- (2) (TAR) 48 CFR 1252.237-91, Area of Performance;

(3) (TAR) 48 CFR 1252.237-92, Performance and Delivery;

(4) (TAR) 48 CFR 1252.237-93, Subcontracting;

(5) (TAR) 48 CFR 1252.237-94, Termination for Default;

(6) (TAR) 48 CFR 1252.237-95, Group Interment;

(7) (TAR) 48 CFR 1252.237-96, Permits;

(8) (TAR) 48 CFR 1252.237-97, Facility Requirements; and

(9) (TAR) 48 CFR 1252.237-98, Preparation History.

(b) The contracting officer shall insert USCG provision (TAR) 48 CFR 1252.237-99, Award to Single Offeror, in all sealed bid solicitations for mortuary services. Use the basic provision with Alternate I in negotiated solicitations for mortuary services.

(c) The contracting officer shall insert (FAR) 48 CFR 52.245-4, Government-Furnished Property (Short Form) in solicitations and contracts that include port of entry requirements.

PART 1252—SOLICITATION AND PROVISIONS AND CONTRACT CLAUSES

Subpart 1252.2—Texts of Provisions and Clauses

1252.211-71, 1252.215-70, 1252.216-71, 1252.216-72, and 1252.216-73 [Amended]

10. Section 1252.211-71, first paragraph is amended by removing the citation "A(TAR) 48 CFR 1211.204" and adding in its place the citation "A(TAR) 48 CFR 1211.204-70";

10a. § 1252.215-70, first paragraph is amended by removing the citation "A(TAR) 48 CFR 1215.106" and adding in its place the citation "A(TAR) 48 CFR 1215.204-3";

10b. § 1252.216-71, first paragraph is amended by removing the citation "A(TAR) 48 CFR 1216.405(a)" and adding in its place the citation "A(TAR) 48 CFR 1216.406";

10c. § 1252.216-72, first paragraph is amended by removing the citation "A(TAR) 48 CFR 1216.405(b)" and adding in its place the citation "A(TAR) 48 CFR 1216.406";

10d. § 1252.216-73, first paragraph is amended by removing the citation "A(TAR) 48 CFR 1216.405(c)" and adding in its place the citation "A(TAR) 48 CFR 1216.406".

11. Section 1252.211-90 is added and §§ 1252.213-90, 1252.220-90, 1252.228-90, and 1252-237-90 thru 1252-237.99 are revised to read as follows:

1252.211-90 Bar coding requirement. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1211.204-90 and 1213.302-590, insert the following clause:

Bar Coding Requirements (Oct 1996)

Item markings shall include bar coding in accordance with MIL-STD-1189 as clarified below:

(a) The stock number shall be bar coded with no prefixes, dashes, spaces, or suffixes encoded. The contract number, the delivery order, or call order number, when used, shall be bar coded with no spaces or dashes encoded.

(b) Prefixes and suffixes to the stock number may be included in the OCR-A in-the-clear markings, but not in the bar code.

(c) Preferred Bar Code Density (characters per inch as defined in MIL-STD-1189) is "standard," but densities from "standard" to "low" are acceptable.

(d) OCR-A characters do not have to be machine readable.

(e) Bar coding shall be machine readable.

(f) Unless otherwise specified herein, minimum bar code height shall be 0.25 inch (6.4 mm) or 15 percent of the bar code length, whichever is greater.

(g) The preferred position of the OCR-A characters is below the bar codes, but the OCR-A characters may be above the bar codes.

(h) On outer containers contractors shall either:

(1) Encode the stock numbers and contract number in one line of bar code with the stock number appearing first; or

(2) Encode the item stock number and contract number on two labels, with the top label containing the stock number and the lower label containing the contract number.

(i) On unit and intermediate containers, the item stock number in bar code with OCR-A below may be on the same label as the other data (identification markings) required by MIL-STD-129H. However, the bar code stock number shall appear on the top line with OCR-A characters on the second line; the OCR-A characters may include the stock number prefix and suffix, or alternatively, the complete stock number including any prefix and suffix, shall be repeated as part of the identification markings.

(j) Exclusions from bar code markings are:

(1) Multi-packs/consolidation containers (containers with two or more different stock numbers within).

(2) Reusable shipping containers used for multiple/different stock number applications.

(3) Items consigned to a prime contractor's plant for installation in production.

(End of clause)

1252.213-90 Evaluation factor for Coast Guard performance of bar coding requirement. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1213.106-190, insert the following provision:

Evaluation Factor for Coast Guard Performance of Bar Coding Requirement (Oct 1994)

If a small business cannot provide the bar coding requirement, as indicated elsewhere in the schedule, the contracting officer will apply the following formula to the quoted amounts:

- (a) Unit price quoted by small business \$ _____
 (b) Add unit cost to the USCG to provide bar coding \$ _____
 (c) Adjusted unit price (add lines a. and b.) \$ _____

The line (c) amount will become the amount the contracting officer considered when determining the lowest quoted amount. (End of provision)

1252.220-90 Local hire. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1220.9001, insert the following clause:

Local Hire (Oct 1994)

The Contractor shall employ, for the purpose of performing this contract in whole or in part in a State that has an unemployment rate in excess of the national average rate of unemployment (as defined by the Secretary of Labor), individuals who are local residents and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills. Local Resident means a resident or an individual who commutes daily to that State.

(End of clause)

1252.228-90 Notification of Miller Act payment bond protection. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1228.106-490, insert the following clause:

Notification of Miller Act Payment Bond Protection (Oct 1994)

This notice clause shall be inserted by first tier subcontractors in all their subcontracts and shall contain the surety which has provided the payment bond under the prime contract.

(a) The prime contract is subject to the Miller Act (40 USC 270), under which the prime contractor has obtained a payment bond. This payment bond may provide certain unpaid employees, suppliers, and subcontractors a right to sue the bonding surety under the Miller Act for amounts owned for work performed and materials delivery under the prime contract.

(b) Persons believing that they have legal remedies under the Miller Act should consult their legal advisor regarding the proper steps to take to obtain these remedies. This notice clause does not provide any party any rights against the Federal Government, or create any relationship, contractual or otherwise, between the Federal Government and any private party.

(c) The surety which has provided the payment bond under the prime contract is:

(Name) _____

(Street Address) _____

(City, State, Zip Code)

(Contact & Tel. No.)

(End of clause)

1252.237-90 Requirements. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1237.9000, insert the following clause:

Requirements (Oct 1994)

(a) Except as provided in paragraphs (c) and (d) of this clause, the Government will order from the Contractor all of its requirements in the area of performance for the supplies and services listed in the schedule of this contract.

(b) Each order will be issued as a delivery order and will list—

- (1) The supplies or services being ordered;
- (2) The quantities to be furnished;
- (3) Delivery or performance dates;
- (4) Place of delivery or performance;
- (5) Packing and shipping instructions;
- (6) The address to send invoices; and
- (7) The funds from which payment will be made.

(c) The Government may elect not to order supplies and services under this contract in instances where the body is removed from the area for medical, scientific, or other reason.

(d) In an epidemic or other emergency, the contracting activity may obtain services beyond the capacity of the Contractor's facilities from other sources.

(e) Contracting Officers of the following activities may order services and supplies under this contract—

(End of clause)

1252.237-91 Area of performance. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1237.9000, insert the following clause:

Area of Performance (Oct 1994)

(a) The area of performance is as specified in the contract.

(b) The Contractor shall take possession of the remains at the place where they are located, transport them to the Contractor's place of preparation, and later transport them to a place designated by the Contracting Officer.

(c) The Contractor will not be reimbursed for transportation when both the place where the remains were located and the delivery point are within the area of performance.

(d) If remains are located outside the area of performance, the Contracting Officer may place an order with the Contractor under this contract or may obtain the services elsewhere. If the Contracting Officer requires the Contractor to transport the remains into the area of performance, the Contractor shall be paid the amount per mile in the schedule for the number of miles required to transport the remains by a reasonable route from the point where located to the boundary of the area of performance.

(e) The Contracting Officer may require the Contractor to deliver remains to any point within 100 miles of the area of performance. In this case, the Contractor shall be paid the amount per mile in the schedule for the number of miles required to transport the remains by a reasonable route from the boundary of the area of performance to the delivery point.

(End of clause)

1252.237-92 Performance and delivery. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1237.9000, insert the following clause:

Performance and Delivery (Oct 1994)

(a) The Contractor shall furnish the material ordered and perform the services specified as promptly as possible but not later than 36 hours after receiving notification to remove the remains, excluding the time necessary for the Government to inspect and check results of preparation.

(b) The Government may, at no additional charge, require the Contractor to hold the remains for an additional period not to exceed 72 hours from the time the remains are casketed and final inspection completed.

(End of clause)

1252.237-93 Subcontracting. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1237.9000, insert the following clause:

Subcontracting (Oct 1994)

The Contractor shall not subcontract any work under this contract without the Contracting Officer's written approval. This clause does not apply to contracts of employment between the Contractor and its personnel.

(End of clause)

1252.237-94 Termination for default. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1237.9000, insert the following clause:

Termination for Default (Oct 1994)

(a) This clause supplements and is in addition to the Default clause of this contract.

(b) The Contracting Officer may terminate this contract for default by written notice without the ten day notice required by paragraph (a)(2) of the Default clause if—

(1) The Contractor, through circumstances reasonably within its control or that of its employees, performs any act under or in connection with this contract, or fails in the performance of any service under this contract and the act or failures may reasonably be considered to reflect discredit upon the Department of Transportation in fulfilling its responsibility for proper care of remains;

(2) The Contractor, or its employees, solicits relatives or friends of the deceased to purchase supplies or services not under this contract. (The Contractor may furnish supplies or arrange for services not under this contract, only if representatives of the

deceased voluntarily request, select, and pay for them.);

(3) The services or any part of the services are performed by anyone other than the Contractor or the Contractor's employees without the written authorization of the Contracting Officer;

(4) The Contractor refuses to perform the services required for any particular remains; or

(5) The Contractor mentions or otherwise uses this contract in its advertising in any way.

(End of clause)

1252.237-95 Group interment. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1237.9000, insert the following clause:

Group Interment (Oct 1994)

The Government will pay the Contractor for supplies and services provided for remains interred as a group on the basis of the number of caskets furnished, rather than on the basis of the number of persons in the group.

(End of clause)

1252.237-96 Permits. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1237.9000, insert the following clause:

Permits (Oct 1994)

The Contractor shall meet all State and local licensing requirements and obtain and furnish all necessary health department and shipping permits at no additional cost to the Government. The Contractor shall ensure that all necessary health department permits are in order for disposition of the remains.

(End of clause)

§ 1252.237-97 Facility requirements. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1237.9000, insert the following clause:

Facility Requirements (Oct 1994)

(a) The Contractor's building shall have complete facilities for maintaining the highest standards for solemnity, reverence, assistance to the family, and prescribed ceremonial services.

(b) The Contractor's preparation room shall be clean, sanitary, and adequately equipped.

(c) The Contractor shall have, or be able to obtain the necessary items (e.g. catafalques, structures, trucks, equipment) for religious services.

(d) The Contractor's funeral home, furnishings, grounds, and surrounding area shall present a clean and well-kept appearance.

(End of clause)

§ 1252.237-98 Preparation history. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1237.9000, insert the following clause:

Preparation History (Oct 1994)

For each body prepared, or for each casket handled in a group interment, the Contractor

shall state briefly the results of the embalming process on a certificate furnished by the Contracting Officer.
(End of clause)

§ 1252.237-99 Award to single offeror. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1237.9000, insert the following provision:

Award to Single Offeror (Oct 1994)

- (a) Award shall be made to a single offeror.
- (b) Offerors shall include unit prices for each item. Failure to include unit prices for

each item will be cause for rejection of the entire offer.

(c) The Government will evaluate offers on the basis of the estimated quantities shown.

(d) Award will be made to that responsive, responsible offeror whose total aggregate offer is the lowest price to the Government.
(End of provision)

Alternate I (Oct 1994)

If mortuary services are procured by negotiations, substitute the following paragraph (d) for paragraph (d) of the basic provision:

(d) Award will be made to that responsive, responsible offeror whose total aggregate

offer is in the best interest of the Government.

PART 1253—FORMS

12. Sections 1253.215 and 1253.215-270 are removed.

**Appendix to Subpart 1253.3—
[Amended]**

13. The TAR Matrix in the Appendix to Subpart 1253.3 is redesignated as the Appendix to Part 1252 and revised to read as follows:

BILLING CODE 4910-62-P

Principle type and/or purpose of contract:

Key:

P or C = Provision or Clause
IBR = Is Incorporation By Reference
authorized?
UCF = Uniform Contract Format Section
when applicable

CR SUP = Fixed-Price Supply
 CR SUP = Cost-Reimbursement Supply
 CR R&D = Fixed-Price Research & Development
 CR R&D = Cost-Reimbursement Research & Development
 CR SVC = Fixed-Price Service
 CR SVC = Cost Reimbursement Service
 CR CON = Fixed-Price Construction
 CR CON = Cost Reimbursement Construction
 &M LH = Time & Material/Labor Hours
 LMV = Leasing of Motor Vehicles

COM SVC = Communication Services
 = Dismantling, Demolition, or
 Removal of Improvements
 = Architect-Engineering
 = Facilities
 IND DEL = Indefinite Delivery
 = Transportation
 SP = Small Purchases
 UTIL SVC = Utility Services

R	= Required
A	= Required-
O	= Optional
X	= Revision

[illegible]

[illegible]

[illegible]

TAR MATRIX-CONT.

Provision or Clause	Prescribed In	P or C	IBR	UCF	Principle Type and/or Purpose of Contract															
					FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN
1252.242-73 Contracting Officers Technical Representative	1242.7000.	C	YES	I	A	A	A	A	A	A	A	A	A		A	A	A	A		
1252.245-70																				
Government Property Reports	1245.505-70	C	YES	I	A	A	A	A	A	A	A	A	A		A	A	A	A		
1252.247-70 Acceptable Service at Reduced Rates	1247.104-370	C	YES	I																
1252.247-71 F.O.B. Origin Information	1247.305-70	P	YES	L	A										A				A	
1252.247-72 F.O.B. Origin Only	1247.305-70	P	YES	L	A										A					
1252.247-73 F.O.B. Destination Only	1247.305-70	P	YES	L	A										A				A	
1252.247-74 Shipments to Ports and Air Terminals	1247.305-70	P	YES	L	A										A					
1252.247-75 F.O.B. Designated Air Carrier's Terminal, Port of Exportation	1247.305-70	P	YES	L	A										A				A	
1252.247-76 Nomination of Additional Ports	1247.305-70	P	YES	L	A										A					
1252.247-77 Supply Movement in the Defense Transportation System	1247.305-71	C	YES	F	A										A				A	

14. Appendix to Subpart 1253.3 is amended by deleting Form DOT F 4220.44.

[FR Doc. 98-26150 Filed 9-30-98; 8:45 am]

BILLING CODE 4910-62-C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 648

[I.D. 092398A]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permit (EFP) to Conduct Experimental Fishing

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of experimental fishery proposal; request for comments.

SUMMARY: NMFS announces that the Regional Administrator, Northeast Region, NMFS, is considering approval of an experimental fishing proposal that would allow vessels to conduct operations otherwise restricted by regulations governing the Fisheries of the Northeastern United States. The experimental fishery would involve fishing for, retention, and limited landing of *Loligo* squid, scup, and various bycatch species including, but

not limited to, black sea bass, summer flounder, sea trout, and butterfish. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act provisions require publication of this notification to provide interested parties the opportunity to comment on the proposed experimental fishery.

DATES: Comments must be received by October 16, 1998.

ADDRESSES: Comments should be sent to Jon Rittgers, Acting Regional Administrator, Northeast Regional Office, NMFS, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on Proposed Experimental Fishery."

FOR FURTHER INFORMATION CONTACT: Tom Warren, Fishery Management Specialist, 978-281-9347.

SUPPLEMENTARY INFORMATION: The Haskin Shellfish Research Laboratory of Rutgers University, New Jersey, submitted an application for an exempted fishery permit (EFP) on May 5, 1998, to investigate the species and size selectivity of various codend mesh sizes. A 5-day cruise targeting scup and a 5-day cruise targeting *Loligo* squid will occur during the period January 1 to April 30, 1999. Two vessels with Federal permits will tow otter trawls with experimental cod-end mesh sizes of 1-7/8, 2.0, 2-1/8, and 2.5 inches (47, 50, 53, and 63 mm) and a cod-end cover with 1.0-inch (25-mm) mesh to compare the size frequency of *Loligo* squid and the size frequencies and

relative abundances of species caught as bycatch. The same two vessels will use cod-end mesh sizes of 3.75, 4.0, 4.5, and 5.0 inches (94, 100, 113, and 125 millimeters) and a cod-end cover with 2.0-inch (50-mm) mesh to compare the size frequency of scup and the size frequencies and relative abundances of species caught as bycatch. At least 30 tows of approximately 1 hour duration will be conducted during each 5-day cruise. The commercial species caught will be marketed, and proceeds will be used to partially fund the scientific research. Landings for a particular species will be limited by all applicable fishery regulations, including applicable state or Federal limits in effect at the time of the research. Tows will occur in Mid-Atlantic waters southeast of New Jersey and the Delmarva peninsula in statistical areas 616, 622, 623, and 626. EFPs are required to exempt vessels from gear restrictions of the Fishery Management Plans for the Atlantic Mackerel, Squid, and Butterfish Fisheries and for the Summer Flounder, Scup, and Black Sea Bass Fisheries and to allow possession of undersized fish while data are being collected.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 25, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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BILLING CODE 3510-22-F