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DEPARTMENT OF AGRICULTURE

Forest Service

Implementation of the Wildfire Suppression Aircraft Transfer Act of 1996

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: The Wildfire Suppression Aircraft Transfer Act of 1996 authorizes the Department of Defense to sell excess aircraft and aircraft parts to eligible persons or entities seeking a contract with the Forest Service for the delivery of fire retardant by air for wildfire suppression. The Secretary of Agriculture must certify in writing to the Secretary of Defense, prior to a sale, those persons or entities that are capable of meeting the terms and conditions of a contract to deliver fire retardant by air. This notice identifies the certification criteria against which persons or entities, who want to contract with the Forest Service, will be evaluated when seeking to purchase excess U.S. Department of Defense aircraft or excess aircraft parts.

EFFECTIVE DATE: July 3, 2000.

FOR FURTHER INFORMATION CONTACT: Michael Dudley, Aviation Management Specialist, Forest Service, Fire and Aviation Staff, Mail Stop 1107, Forest Service, USDA, P.O. Box 96090, Washington, D.C. 20090-6090 or call (202) 205-0995 or email mdudley@fs.fed.us.

SUPPLEMENTARY INFORMATION:

Background

The Wildfire Suppression Aircraft Transfer Act of 1996 (10 U.S.C. 2576) provides that from October 1, 1996, through September 30, 2000, the Secretary of Defense may sell certain aircraft and aircraft parts to persons or entities that contract with the Federal government for the delivery of fire retardant by air to suppress wildfire.

The Defense Logistics Agency of the Department of Defense published regulations implementing the Wildfire Suppression Aircraft Transfer Act of 1996 in the **Federal Register** on June 1, 1999 (64 FR 29227).

The Secretary of Agriculture must certify in writing to the Secretary of Defense, prior to a sale, those persons or entities that are capable of meeting the terms and conditions of a contract to deliver fire retardant by air. This notice identifies the certification criteria that persons or entities, who want to contract with the Forest Service, will have to meet to be eligible to bid on U.S. Department of Defense excess aircraft and aircraft parts for delivery of fire retardant by air for wildfire suppression. Determination of eligibility will be conducted under existing procedures described in Federal Acquisition Regulation Part 9. Sale of aircraft and parts will be conducted under existing procedures described in 32 CFR Part 171 and Department of Defense Manual 4160.21-M, Chapter 4, paragraph B2.

Aircraft Sale Certification and Restrictions

The Wildfire Suppression Act of 1996 (10 U.S.C. 2576), hereby referred to as the Act, authorizes the U.S. Department of Defense to sell excess aircraft and aircraft parts to eligible persons or entities seeking a contract with the Forest Service of the U.S. Department of Agriculture for airtanker service for suppression of wildfires. The Act requires that, prior to the sale, the Secretary of Agriculture must certify to the Secretary of Defense that potential purchasers are capable of meeting the terms and conditions of an aerial fire retardant delivery contract with the Forest Service. These criteria supplement the rule adopted by the Defense Logistics Agency of the U.S. Department of Defense at 32 CFR, Part 171, on June 1, 1999 (64 FR 29227).

Certification Criteria for Potential Purchasers of Excess Aircraft.

(1) The potential purchaser can demonstrate proof of adequate financial capacity to purchase, modify, operate, and maintain proposed aircraft at competitive rates in the airtanker marketplace.

(2) The potential purchaser can provide a business plan indicating current and proposed ability to drop

retardant from airtankers in an acceptable manner.

(3) The potential purchaser can demonstrate adequate organization and facilities for operation and maintenance of proposed aircraft.

(4) The potential purchaser has the ability to comply with all applicable Federal Aviation Regulations (FAR). The potential purchaser can be certified and can operate under 14 CFR, Part 137.

(5) The potential purchaser can provide a proposed plan for obtaining required approvals, including type and airworthiness certificates, for aircraft modification and/or tank and gating system. (FAA and Interagency Airtanker Board)

(6) The potential purchaser can demonstrate experience in operating and maintaining aircraft proposed for sale.

(7) Aircraft parts will be sold only to those persons or entities eligible to bid on aircraft under the Wildfire Suppression Act of 1996 and implementation regulations adopted by the Defense Logistics Agency of the U.S. Department of Defense at 32 CFR, Part 171. Firms may only purchase parts appropriate for the aircraft they are operating.

Restrictions

Section 171.3 of Title 32 of the Code of Regulations published by the Department of Defense on June 1, 1999, restricts the use of the aircraft and aircraft parts sold under the Wildfire Suppression Aircraft Transfer Act of 1996 to wildfire suppression purposes only; the aircraft and aircraft parts must not be flown or removed from the United States unless dispatched by the National Interagency Fire Center in support of an international agreement to assist in wildfire suppression or when jointly approved in advance, in writing, by the Secretary of Agriculture and the Secretary of Defense.

Dated: June 27, 2000.

Clyde Thompson,

Deputy Chief, Business Operations.

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