

today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 70

Administrative practice and procedure, Air pollution control, Environmental protection, Hazardous substances, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: November 21, 1996.

Chuck Clarke,

Regional Administrator.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Appendix A to part 70 is amended by adding the entry for Idaho in alphabetical order to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

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Idaho

(a) Idaho Division of Environmental Quality: submitted on January 20, 1995, and supplemented on July 14, 1995, September 15, 1995, and January 12, 1996; interim approval effective on January 6, 1997; interim approval expires January 6, 1999.

(b) Reserved.

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[FR Doc. 96-31121 Filed 12-5-96; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF DEFENSE

48 CFR Part 231

[DFARS Case 96-D334]

Defense Federal Acquisition Regulation Supplement; Restructuring Costs

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 8115 of the National Defense Appropriations Act for Fiscal Year 1997 (Pub. L. 104-208) concerning the reimbursement of external restructuring costs associated with a business combination.

DATES: *Effective date:* December 6, 1996.

Comment date: Comments on the interim rule should be submitted in

writing to the address shown below on or before February 4, 1997, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Ms. Sandra G. Haberlin, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telefax number (703) 602-0350. Please cite DFARS Case 96-D334 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra G. Haberlin, (703) 602-0131.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule amends DFARS 231.205-70, External restructuring costs, to implement Section 8115 of the National Defense Appropriations Act for Fiscal Year 1997 (Pub. L. 104-208). Section 8115 restricts DoD from using fiscal year 1997 funds to reimburse external restructuring costs associated with a business combination undertaken by a defense contractor unless certain conditions are met. These conditions include either that (1) the audited savings for DoD resulting from the restructuring will be at least twice the costs; or (2) the savings for DoD will exceed the costs allowed and the Secretary of Defense determines that the business combination will result in the preservation of a critical capability that might otherwise be lost to the Department.

B. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense to issue this rule as an interim rule. Urgent and compelling reasons exist to promulgate this rule without prior opportunity for public comment. This rule implements Section 8115 of the National Defense Appropriations Act for Fiscal Year 1997 (Pub. L. 104-208), which was effective upon enactment on September 30, 1996. However, comments received in response to the publication of this rule will be considered in formulating the final rule.

C. 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 most contracts awarded to small entities use simplified acquisition procedures or are awarded on a competitive fixed-price basis, and do not require application of the cost

principle contained in this rule. In addition, this rule only applies to those entities that incur restructuring costs associated with a business combination under contracts funded by fiscal year 1997 funds. An Initial Regulatory Flexibility Analysis has, therefore, 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 Section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 96-D334 in correspondence.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the interim rule does not impose any new reporting or recordkeeping requirements which require Office of Management and Budget approval under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 231

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 231 is amended as follows:

1. The authority citation for 48 CFR Part 231 continues to read as follows:

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

PART 231—CONTRACT COST PRINCIPLES AND PROCEDURES

2. Section 231.205-70 is amended by revising paragraph (a), and by adding paragraphs (c) (3) and (d) (10) to read as follows:

231.205-70 External restructuring costs.

(a) *Scope.* This subsection prescribes policies and procedures for allowing contractor external restructuring costs when net savings would result for DoD. This subsection also implements Section 818 of the National Defense Authorization Act for Fiscal Year 1995 (Pub. L. 103-337) and Section 8115 of the National Defense Appropriations Act for Fiscal Year 1997 (Pub. L. 104-208).

* * * * *

(c) * * *

(3) Additionally, for business combinations that occur after September 30, 1996, no fiscal year 1997 appropriated funds may be obligated or expended to reimburse a contractor for restructuring costs associated with external restructuring activities unless—

(i) The audited savings for DoD resulting from the restructuring will

exceed the costs allowed by a factor of at least two to one; or

(ii) The savings for DoD resulting from the restructuring will exceed the costs allowed, and the Secretary of defense determines that the business combination will result in the preservation of a critical capability that might otherwise be lost to DoD.

(d) * * *

(10) Consult with the Director of Defense Procurement, Office of the Under Secretary of Defense (Acquisition & Technology), when 231.205–70(c)(3)(ii) applies.

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[FR Doc. 96–31100 Filed 12–5–96; 8:45 am]

BILLING CODE 5000–04–M

48 CFR Parts 249 and 252

[DFARS Case 96–D320]

Defense Federal Acquisition Regulation Supplement; Notice of Termination

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 824 of the National Defense Authorization Act for fiscal year 1997 (Pub. L. 104–201). Section 824 streamlines the statutory requirements for providing notification to contractors regarding contract terminations or reductions that are expected to occur as a result of reduced funding levels under major defense programs.

EFFECTIVE DATE: December 6, 1996. Comments on the interim rule should be submitted in writing to the address shown below on or before February 4, 1997, to be considered in the formulation of the final rule.

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

Please cite DFARS Case 96–D320 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Layser, (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule implements Section 824 of the National Defense Authorization Act for Fiscal Year 1997

(Pub. L. 104–201). Section 824 of Public Law 104–201 amends Section 4471 of Public Law 102–484 (10 U.S.C. 2501 note) to streamline requirements for providing notices to contractors and subcontractors that may be adversely affected by substantial reductions in funding levels under major defense programs. The changes include: (1) Elimination of the requirement for notices pertaining to funding reductions that may occur as a result of the submission of the President's budget; (2) elimination of the requirement for publication of notices of anticipated program termination or reduction in the Federal Register; and (3) an increase in the time period, from 45 to 60 days, within which contractors must provide notice of anticipated contract termination or reduction to affected subcontractors after receiving notice from the Government.

B. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense to issue this rule as an interim rule. Urgent and compelling reasons exist to promulgate this rule without prior opportunity for public comment. This rule implements Section 824 of the National Defense Authorization Act for Fiscal Year 1997 (Pub. L. 104–201). Section 824 became effective upon enactment on September 23, 1996. This interim rule is necessary to ensure that DoD contracting activities become aware of the amended statutory requirements for providing notification to contractors regarding anticipated contract termination or reduction. However, comments received in response to the publication of this interim rule will be considered in formulating the final rule.

C. Regulatory Flexibility Act

The interim rule may 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 revises requirements for providing notification to contractors and subcontractors regarding contract terminations or reductions that are expected to occur under major defense programs. An initial regulatory flexibility analysis has been prepared and is summarized as follows: This interim rule amends the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 824 of the National Defense Authorization Act for Fiscal Year 1997 (Pub. L. 104–201). Section 824 streamlines the statutory requirements for providing notification to contractors and subcontractors

regarding contract terminations or reductions that are expected to occur as a result of reduced funding levels under major defense programs. The rule will apply to all large and small entities that have, under a major defense program, a prime contract, a first-tier subcontract of \$500,000 or more, or a lower-tier subcontract of \$100,000 or more, that is expected to be terminated or substantially reduced as a result of reduced funding levels in an appropriations act. It is not feasible to predict the number of small entities that may be affected. However, according to statistics from the DD Form 350 data base maintained by Department of Defense (DoD) Washington Headquarters Services, DoD awarded approximately 35,400 prime contracts exceeding \$100,000 to small entities during fiscal year 1995. This rule imposes no additional reporting, recordkeeping, or compliance requirements on offerors or contractors. This rule does not duplicate, overlap, or conflict with any other Federal rules. Consideration was given to delaying the notification requirements until the time of execution of the contract termination modification. However, this alternative would not ensure full compliance with the applicable statute, which requires DoD to notify its contractors of anticipated contract termination or reduction not later than 60 days after the enactment of an appropriations act. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subparts also will be considered in accordance with Section 610 of the Act. Such comments should be submitted separately and cite DFARS Case 96–D320 in correspondence.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the interim rule does not impose any new reporting or recordkeeping requirements which require Office of Management and Budget approval under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 249 and 252

Government procurement.

Michele P. Peterson,
Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 249 and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 249 and 252 continues to read as follows: