

In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Barry D. Wood, Esq., Mark A. Brinton, Esq., Jones, Waldo, Holbrook & McDonough, P.C., 2300 M Street NW., Suite 900, Washington, DC 20037 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT:

Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 96-257, adopted December 20, 1996, and released December 27, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

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DEPARTMENT OF DEFENSE

48 CFR Parts 225, 231, and 242

[DFARS Case 95-D040]

Defense Federal Acquisition Regulation Supplement; Independent Research and Development/Bid and Proposal Costs for FY96 and Beyond

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comment.

SUMMARY: The Department of Defense is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to reflect proposed changes to the Federal Acquisition Regulation (FAR) to treat Independent Research and Development and Bid and Proposal cost for fiscal year 1996 and beyond as fully allowable, subject only to the FAR normal standards of reasonableness and allocability.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before March 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 95-D040 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Haberlin, at (703) 602-0131. Please cite DFARS Case 95-D040.

SUPPLEMENTARY INFORMATION:

A. Background

The current Independent Research and Development (IR&D)/Bid and Proposal (B&P) cost principle at DFARS 231.205-18 covers the limited allowability of IR&D/B&P costs for major contractors through a 3-year transition period (fiscal years 1993-1995), based on the requirements of section 802 of the National Defense Authorization Act for fiscal years 1992 and 1993 (Pub. L. 102-190). Section 802 does not address the allowability of IR&D/B&P costs after fiscal year 1995. This proposed DFARS rule supplements a proposed FAR rule (FAR Case 95-032), which treats IR&D/B&P costs for fiscal year 1996 and beyond as 100 percent allowable for all contractors, subject only to the FAR normal standards of reasonableness and allocability. The proposed FAR rule was published in the Federal Register on November 14, 1996 (61 FR 58452). In addition, this DFARS rule continues to require, in accordance with 10 U.S.C. 2372, that IR&D/B&P activities of major contractors have a potential interest to DoD for the costs to be allowable.

The proposed DFARS rule revises 231.205-18 and 242.771 to delete (1) the requirement for advance agreement negotiations or formal IR&D technical reviews and evaluations after contractors' fiscal year 1992; and (2) the limited allowability restriction of IR&D/B&P costs for fiscal years 1993-1995. Also, the rule revises 225.7303-2(c) to indicate that the "potential interest to

DoD" requirement of DFARS 231.205-18(c)(3) does not apply to contracts for foreign military sales.

B. Regulatory Flexibility Act

The 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.*, 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. An initial regulatory flexibility analysis, therefore, has not been performed. 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 must be submitted separately and cite DFARS Case 95-D040 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed rule does not impose any new recordkeeping, information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 225, 231, and 242

Government procurement

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, it is proposed that 48 CFR Parts 225, 231, and 242 be amended as follows:

1. The authority citation for 48 CFR Parts 225, 231, and 242 continues to read as follows:

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

PART 225—FOREIGN ACQUISITION

2. Section 225.7303-2 is amended by revising paragraph (c) to read as follows:

225.7303-2 Cost of doing business with a foreign government or an international organization.

* * * * *

(c) The cost limitation for major contractors on independent research and development and bid and proposal (IR&D/B&P) costs for projects which are of potential interest to DoD, in 231.205-18(c)(iii), does not apply to foreign military sale contracts, except as provided in 225.7303-5. The

allowability of IR&D/B&P costs on contracts for foreign military sales not wholly paid for from funds made available on a nonrepayable basis shall be limited to the contract's allocable share of the contractor's total IR&D/B&P expenditures. In pricing contracts for such foreign military sales—

(1) Use the best estimate of reasonable costs in forward pricing.

(2) Use actual expenditures, to the extent that they are reasonable, in determining final cost.

* * * * *

PART 231—CONTRACT COST PRINCIPLES AND PROCEDURES

3. Section 231.205–18 is revised to read as follows:

231.205–18 Independent research and development and bid and proposal costs.

(a) *Definition.* Major contractor, as used in this subsection, means a contractor with more than \$11,000,000 in IR&D/B&P costs in the preceding fiscal year allocated to DoD prime contracts and subcontracts whose values exceed the simplified acquisition threshold, except for fixed-price contracts and subcontracts without cost incentives.

(c) *Allowability.* (i) Departments/agencies shall not supplement this regulation in any way that limits IR&D/B&P cost allowability.

(ii) See 225.7303–2(c) for allowability provisions affecting foreign military sale contracts.

(iii) For major contractors (see paragraph (a) of this subsection), the following limitation applies—

(A) The amount of IR&D/B&P costs allowable under DoD contracts shall not exceed the lesser of—

(1) Such contracts' allocable share of total incurred IR&D/B&P costs; or

(2) The amount of incurred IR&D/B&P costs for projects having potential interest to DoD.

(B) Allowable IR&D/B&P costs are limited to those for projects which are of potential interest to the DoD, including activities intended to accomplish any of the following—

(1) Enable superior performance of future U.S. weapon systems and components;

(2) Reduce acquisition costs and life-cycle costs of military systems;

(3) Strengthen the defense industrial and technology base of the United States;

(4) Enhance the industrial competitiveness of the United States;

(5) Promote the development of technologies identified as critical under 10 U.S.C. 2522;

(6) Increase the development and promotion of efficient and effective applications of dual-use technologies;

(7) Provide efficient and effective technologies for achieving such environmental benefits as: improved environmental data gathering, environmental cleanup and restoration, pollution reduction in manufacturing, environmental conservation, and environmentally safe management of facilities.

(iv) For major contractors, the contracting officer will—

(i) Determine whether IR&D/B&P projects are of potential interest to DoD; and

(ii) Provide the results of the determination to the contractor.

(v) The cognizant contract administration office shall furnish contractors with guidance on financial information needed to support IR&D/B&P costs and on technical information needed from major contractors to support the potential interest to DoD determination (see also 242.771–3(a)).

PART 242—CONTRACT ADMINISTRATION

4. Sections 242.771 through 242.771–3 are revised to read as follows:

242.771 Independent research and development/bid and proposal.

242.771–1 Scope of subpart.

This section implements 10 U.S.C. 2372, Independent research and development and bid and proposal costs: payments to contractors.

242.771–2 Policy.

Defense contractors are encouraged to engage in IR&D/B&P activities of potential interest to DoD, including activities cited in 231.205–18(c)(iii)(B).

242.771–3 Responsibilities.

(a) The cognizant administrative contracting officer (ACO) or corporate ACO shall—

(1) Determine cost allowability of IR&D/B&P costs as set forth in 231.205–18 and FAR 31.205–18.

(2) Determine whether IR&D/B&P projects performed by major contractors (see 231.205–18(a)) are of potential interest to DoD. Notify the contractor promptly of any IR&D/B&P activities which are not of potential interest to DoD.

(b) The Defense Contract Management Command of the Defense Logistics Agency or the Military Department responsible for performing contract administration functions is responsible for—

(1) Providing contractors with guidance on financial information needed to support IR&D/B&P costs.

(2) Providing Defense Contract Audit Agency (DCAA) with IR&D/B&P statistical information, as necessary, to assist DCAA in its annual reporting requirement (see paragraph (c) of this subsection).

(c) The Defense Contract Audit Agency is responsible for submitting an annual report to the Director of Defense Procurement (USD (A&T) DP) setting forth required statistical information relating to the DoD-wide IR&D/B&P program.

(d) The Director, Defense Research and Engineering (USD (A&T) DDR&E), is responsible for establishing a regular method for communication—

(1) From DoD to contractors, of timely and comprehensive information regarding planned or expected DoD future needs; and

(2) From contractors to DoD, of brief technical descriptions of contractor IR&D projects.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 538

[Docket No. 94–35; Notice 2]

RIN 2127–AF37

Minimum Driving Range for Dual Fueled Electric Passenger Automobiles

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: In this document, NHTSA proposes to set the minimum driving range only for dual fueled electric passenger automobiles, otherwise known as hybrid electric vehicles (HEVs), at 17.7 miles when operating on electricity alone. The purpose of establishing the range is to meet a statutory requirement intended to encourage the production of HEVs. An HEV which meets the range requirement would qualify to have its fuel economy calculated according to a special procedure that would facilitate the efforts of its manufacturer to comply with the corporate average fuel economy standards. NHTSA is also proposing to