

§ 650.4 Standard patent rights clause.

* * * * *

(1) *Communications.* All communications required by this Patents Rights clause must be submitted through the iEdison Invention Information Management System maintained by the National Institutes of Health unless prior permission for another form of submission is obtained from the Patent Assistant at patents@nsf.gov or at Office of the General Counsel, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

* * * * *

■ 3. Section 650.19 is revised to read as follows:

§ 650.19 Electronic invention handling.

(a) Grantees must use the iEdison Invention Information Management System maintained by the National Institutes of Health to disclose NSF subject inventions. Detailed instructions for use of that system are provided at <http://s-edison.info.nih.gov/iEdison/> and should be followed for NSF subject inventions except that:

(1) All communications required must be provided electronically as a PDF or TIFF file through iEdison unless prior permission for another form of submission is obtained from the Patent Assistant.

(2) NSF does not require either an Annual Utilization Report or a Final Invention Statement and Certification.

(b) Questions on use of iEdison and requests for permission to submit material in other forms may be sent to the NSF Patent Assistant at patents@nsf.gov or at Office of the General Counsel, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Amy Northcutt,

Deputy General Counsel.

[FR Doc. 05-14657 Filed 7-25-05; 8:45 am]

BILLING CODE 7555-01-M

DEPARTMENT OF DEFENSE**48 CFR Part 219**

[DFARS Case 2004-D031]

Defense Federal Acquisition Regulation Supplement; Sole Source 8(a) Awards to Small Business Concerns Owned by Native Hawaiian Organizations

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement DoD appropriations act provisions permitting the award of sole source contracts to small business concerns owned by Native Hawaiian Organizations. The rule applies to manufacturing contacts exceeding \$5,000,000 and non-manufacturing contracts exceeding \$3,000,000 that are awarded under the Small Business Administration's 8(a) Program.

DATES: *Effective Date:* July 26, 2005.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before September 26, 2005 to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2004-D031, using any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Defense Acquisition Regulations Web Site: <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. Follow the instructions for submitting comments.

- E-mail: dfars@osd.mil. Include DFARS Case 2004-D031 in the subject line of the message.

- Fax: (703) 602-0350.

- Mail: Defense Acquisition Regulations Council, Attn: Ms. Deborah Tronic, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062.

- Hand Delivery/Courier: Defense Acquisition Regulations Council, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202-3402.

All comments received will be posted to <http://emissary.acq.osd.mil/dar/dfars.nsf>.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Tronic, (703) 602-0289.

SUPPLEMENTARY INFORMATION:**A. Background**

Section 8021 of the DoD Appropriations Act for Fiscal Year 2004 (Pub. L. 108-87) and Section 8021 of the DoD Appropriations Act for Fiscal Year 2005 (Pub. L. 108-287) provide funding for the DoD Indian Incentive Program, which is implemented in DFARS Subpart 226.1. The appropriations act provisions also require that small business concerns owned by Native Hawaiian Organizations be provided the same status as Indian tribes and Alaska Native Corporations with regard to contract awards under the Small Business Administration's (SBA) 8(a) Program. Under the 8(a) Program, as implemented in FAR Subpart 19.8,

competition is required for manufacturing contracts exceeding \$5,000,000 and non-manufacturing contracts exceeding \$3,000,000, unless (1) there is not a reasonable expectation that at least two eligible and responsible 8(a) firms will submit offers at a fair market price, or (2) SBA accepts the requirement on behalf of a concern owned by an Indian tribe or an Alaska Native Corporation. This interim rule expands the competition exceptions to include requirements accepted on behalf of a small business concern owned by a Native Hawaiian Organization.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD has prepared an initial regulatory flexibility analysis consistent with 5 U.S.C. 603. The analysis is summarized as follows:

This interim rule amends the DFARS to implement DoD appropriations act provisions permitting the award of sole source contracts to small business concerns owned by Native Hawaiian Organizations. The rule applies to manufacturing contacts exceeding \$5,000,000 and non-manufacturing contracts exceeding \$3,000,000 that are awarded under the Small Business Administration's 8(a) Program. The objective of the rule is to provide small business concerns owned by Native Hawaiian Organizations the same status that is provided to Indian tribes and Alaska Native Corporations under the 8(a) Program. Awards to these entities are exempted from the competition requirements that would otherwise apply to award of manufacturing contacts exceeding \$5,000,000 and non-manufacturing contracts exceeding \$3,000,000 under the Program. The legal basis for the rule is Section 8021 of the DoD Appropriations Act for Fiscal Year 2004 (Pub. L. 108-87) and Section 8021 of the DoD Appropriations Act for Fiscal Year 2005 (Pub. L. 108-287). The rule will benefit small business concerns that are owned by Native Hawaiian Organizations by permitting sole source contract awards to these concerns.

A copy of the analysis may be obtained from the point of contact specified herein. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2004-D031.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the 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 publish an interim rule prior to affording the public an opportunity to comment. This interim rule implements Section 8021 of the DoD Appropriations Act for Fiscal Year 2004 (Pub. L. 108-87) and Section 8021 of the DoD Appropriations Act for Fiscal Year 2005 (Pub. L. 108-287). These statutes require that small business concerns owned by Native Hawaiian Organizations be provided the same status as Indian tribes and Alaska Native Corporations with regard to contract awards under the Small Business Administration's 8(a) Program. Application of this status will permit small business concerns owned by Native Hawaiian Organizations to receive sole source contract awards under the 8(a) Program, in amounts exceeding the thresholds at which competition would otherwise be required. Comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Part 219

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR part 219 is amended as follows:

■ 1. The authority citation for 48 CFR part 219 continues to read as follows:

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

PART 219—SMALL BUSINESS PROGRAMS

■ 2. Section 219.805-1 is added to read as follows:

219.805-1 General.

(b)(2)(A) For acquisitions that exceed the competitive threshold and use fiscal year 2004 or 2005 appropriated funds, the SBA also may accept the requirement for a sole source 8(a) award on behalf of a small business concern owned by a Native Hawaiian Organization (Section 8021 of Pub. L. 108-87 and Section 8021 of Pub. L. 108-287).

(B) *Native Hawaiian Organization*, as used in this subsection and as defined by 15 U.S.C. 637(a)(15) and 13 CFR 124.3, means any community service organization serving Native Hawaiians in the State of Hawaii—

(1) That is a not-for-profit organization chartered by the State of Hawaii;

(2) That is controlled by Native Hawaiians; and

(3) Whose business activities will principally benefit such Native Hawaiians.

[FR Doc. 05-14624 Filed 7-25-05; 8:45 am]

BILLING CODE 5001-08-P

DEPARTMENT OF DEFENSE

48 CFR Part 225

[DFARS Case 2004-D035]

Defense Federal Acquisition Regulation Supplement; Berry Amendment Memoranda

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement policy regarding acquisitions for which DoD determines that domestic items are not available to fulfill DoD requirements in a satisfactory quality and sufficient quantity at U.S. market prices.

DATES: Effective July 26, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations Council, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0328; facsimile (703) 602-0350. Please cite DFARS Case 2004-D035.

SUPPLEMENTARY INFORMATION:

A. Background

10 U.S.C. 2533a (the Berry Amendment) requires DoD to acquire certain items from domestic sources. 10 U.S.C. 2533a(c) provides an exception to this requirement if the Secretary of Defense or the Secretary of the military department concerned determines that satisfactory quality and sufficient quantity of such items cannot be procured as and when needed at U.S. market prices. DoD has issued the following memoranda regarding domestic nonavailability determinations under 10 U.S.C. 2533a(c):

The Deputy Secretary of Defense memorandum of May 1, 2001, provides that the Under Secretary of Defense for

Acquisition, Technology, and Logistics, and the Secretaries of the military departments may make domestic nonavailability determinations under the Berry Amendment, but may not redelegate this authority. The memorandum also requires an analysis of alternatives, and a certification as to why such alternatives are unacceptable.

The Under Secretary of Defense (Acquisition, Technology, and Logistics) memorandum of October 22, 2004, requires Congressional notification of any domestic nonavailability determinations involving titanium or products containing titanium.

This final rule amends DFARS

225.7002-2(b) to reflect the requirements of the DoD memoranda.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This rule will not have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of DoD. Therefore, publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2004-D035.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the 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.*

List of Subjects in 48 CFR Part 225

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR part 225 is amended as follows:

■ 1. The authority citation for 48 CFR part 225 continues to read as follows:

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

PART 225—FOREIGN ACQUISITION

■ 2. Section 225.7002-2 is amended by adding paragraphs (b)(1) through (5) to read as follows:

225.7002-2 Exceptions.

* * * * *

(b) * * *

(1) The following officials are authorized, without power of