

available in several documents, some of which are currently in draft form, and does not include new Army contracting policy. The purpose of this issuance is to notify interested parties of this change, and to request the public's comments. This change is issued by the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) (ASA(ALT)). This issuance is made concurrent with publication of an interim rule with request for comments to Solicitations Provisions and Contract Clauses, published in this issue of the **Federal Register**.

DATES: *Effective date:* November 28, 2003.

Comment date: Comments must be submitted to the address shown below on or before January 27, 2004.

ADDRESSES: Respondents may e-mail comments to: s.wisniewski@us.army.mil. Those who cannot submit comments by e-mail may submit comments to: Procurement Policy and Support Office, Attn: SAAL-PP, Sharon Wisniewski, Presidential Towers, 2511 S. Jeff Davis Highway, Arlington, VA, 22202, facsimile (703) 604-8178. Please cite "AFARS CAF Clause" in the subject line of comments.

FOR FURTHER INFORMATION CONTACT: Sharon Wisniewski, (586) 574-7050 or Linda Fowlkes, (703) 604-7104.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule is added to incorporate information to facilitate deploying contractor personnel to Iraq or other areas of operations. It also seeks to ease the administrative difficulty for each contractor and contracting office researching current guidance on contractors accompanying the force, and to increase consistency among Army contracts. This AFARS change is published to address contractor and Army contracting offices' questions and concerns. This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

The Army does not expect this rule 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 the rule applies only to contractors that may require deployment of contractor personnel outside the United States, and because it only consolidates existing and draft logistical guidance. The amount of such additional services is not expected to be significantly large in comparison to the

total amount of services procured by Army, and any additional costs would be reimbursable under the resulting contract. Therefore, Army has not performed an initial regulatory flexibility analysis. Army invites comments from small businesses and other interested parties. Army also will consider comments from small entities concerning the affected AFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite "Small Entities CAF comment."

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 a Rule Effective With Publication in the Federal Register

A determination has been made under the authority of the Army Deputy Assistant Secretary of the Army (Policy & Procurement) that urgent and compelling reasons exist to publish this rule prior to affording the public an opportunity to comment. Contracting offices continue to write contracts that require contractor personnel to accompany the military force in Iraq and other places. Contractor representatives and contracting offices have requested inclusion of coverage in the AFARS expeditiously, even if not a complete solution, pending coverage on this topic in higher level regulations. Comments received in response to this notice will be considered.

Emily Clarke,

Director, Procurement Policy and Support.

List of Subjects in 48 CFR Part 5125

Government contracts, Government procurement.

■ For the reasons stated in the preamble, the Department of the Army adds 48 CFR part 5125 to read as follows:

PART 5125—FOREIGN ACQUISITION

Authority: 5 U.S.C 301, 10 U.S.C. 2202, DoD Directive 5000.35, FAR 1.301 and DOD FAR Supplement 201.3.

Subpart 5125.74-9000—Contractors Accompanying the Force—Deployment of Contractor Personnel in Support of Military Operations

Scope of Subpart

(a) *General.* This subpart applies whenever contractors may be required to accompany the force in support of

military operations, as defined in Joint Publication 1-02, "DOD Dictionary of Military and Associated Terms."

(b) *Coordination.* There are many operational details that will affect the scope of work in contracts requiring deployment of contractor personnel in support of military operations. The requirements activity, in conjunction with the contracting activity, must coordinate with the appropriate logistics organization to determine what level of support (e.g., billeting, messing, clothing and equipment, access to medical facilities, pre-deployment processing) will be available to contractors.

(i) DFARS 225.802-70 (Contracts for performance outside the United States and Canada) prescribes special procedures applicable to contracts requiring the performance of work in a foreign country by U.S. personnel or a third country contractor, or that will require logistics support for contractor employees, and the contracting activity is not under the command jurisdiction of a unified or specified command for the country involved. This provision generally requires the contracting activity to undertake certain coordination with the cognizant contract administration office for that country.

(ii) In situations where no contract administration office has been designated, the contracting officer shall ensure, prior to contract award, that the responsible combatant command concurs with any contract provision that promises logistical support to U.S. or foreign national contractor personnel. This requirement may be satisfied through a memorandum executed by the requiring activity that documents combatant command approval of any logistical support specified in the main body of the contract or its statement of work.

(c) *Legal status of contractor personnel.* The Status of Forces Agreements applicable to the Area of Operations (AO), as well as the Geneva Conventions and other international laws govern the legal status of contractor personnel. Contractor personnel's legal status will vary depending on the location and circumstances surrounding an incident.

(d) Requirements offices and contracting officers should use the Army Contractors Accompanying the Force Guidebook for more detailed guidance, including sample contract language, and a listing of Army and DoD regulations and other resources. Contracting Officers may tailor this language as appropriate, but using the Guidebook will both answer many