

common questions and foster uniform handling of common issues. The Guidebook may be found on the Deputy Assistant Secretary of the Army (Procurement & Production) Web site at <http://dasapp.saalt.army.mil/>.

(e) *Solicitation provision and contract clause.* The clause at § 5152.225-74-9000 shall be inserted in all solicitations and contracts that may require deployment of contractor personnel in support of military operations. It may be tailored to fit the specific circumstances of the procurement.

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## DEPARTMENT OF DEFENSE

### Department of the Army

#### 48 CFR Part 5152

RIN 0702-AA39

#### Solicitation Provisions and Contract Clauses

**AGENCY:** Department of Army, DOD.

**ACTION:** Interim final rule; Request for comments.

**SUMMARY:** The Department of the Army is amending its Acquisition Regulations to increase consistency in Army contracts that may require deployment of contractor personnel. This change is a consolidation and summarization of current information 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 add rules concerning Foreign Acquisition—Contractors Accompanying the Force, 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](mailto: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 issuance amends 48 CFR part 5152 (also referred to as the Army Federal Acquisition Regulation Supplement (AFARS)) 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 notice 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 notice 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 5152

Government contracts, Government procurement.

■ For reasons set forth in the preamble, the Department of the Army amends 48 CFR Part 5152 as follows:

#### PART 5152—SOLICITATIONS PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 5152.225-74-9000 is added to read as follows:

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

■ 2. Add 5152.225-74-9000 to read as follows:

##### 5152.225-74-9000 Contractors Accompanying the Force.

As prescribed at subpart 5125.74-9000(e) insert the following clause:

##### CONTRACTORS ACCOMPANYING THE FORCE (NOV. 2003)

(a) *General.* (1) Performance of this contract may require deployment of Contractor Personnel in support of military operations. The Contractor acknowledges that such operations are inherently dangerous and accepts the risks associated with contract performance in this environment.

(2) For purposes of this clause, the term "Contractor Personnel" refers to the Contractor's officers and employees. Unless otherwise specified (*e.g.*, subparagraph (b) of this clause), this term does not include personnel who permanently reside in the country where contract performance will take place.

(3) The Contractor shall ensure that Contractor Personnel working in an area of operations (AO, as defined in the Joint Publication 1-02, "DOD Dictionary of