

(l) *Purchase of scarce goods and services.* If the Combatant Commander has established an organization for the theater of operations whose function is to determine that certain items are scarce goods or services, the Contractor shall coordinate with that organization local purchases of goods and services designated as scarce, in accordance with instructions provided by the Contracting Officer.

(m) *Evacuation.* (1) If the Combatant Commander orders a mandatory evacuation of some or all personnel, the Government will provide assistance, to the extent available, to United States and third country national Contractor personnel.

(2) In the event of a non-mandatory evacuation order, unless authorized in writing by the Contracting Officer, the Contractor shall maintain personnel on location sufficient to meet obligations under this contract.

(n) *Next of kin notification and personnel recovery.* (1) The Contractor shall be responsible for notification of the employee-designated next of kin in the event an employee dies, requires evacuation due to an injury, or is isolated, missing, detained, captured, or abducted.

(2) In the case of isolated, missing, detained, captured, or abducted Contractor personnel, the Government will assist in personnel recovery actions in accordance with DoD Directive 2310.2, Personnel Recovery.

(o) *Mortuary affairs.* Mortuary affairs for Contractor personnel who die while accompanying the U.S. Armed Forces will be handled in accordance with DoD Directive 1300.22, Mortuary Affairs Policy.

(p) *Changes.* In addition to the changes otherwise authorized by the Changes clause of this contract, the Contracting Officer may, at any time, by written order identified as a change order, make changes in the place of performance or Government-furnished facilities, equipment, material, services, or site. Any change order issued in accordance with this paragraph (p) shall be subject to the provisions of the Changes clause of this contract.

(q) *Subcontracts.* The Contractor shall incorporate the substance of this clause, including this paragraph (q), in all subcontracts when subcontractor personnel are authorized to accompany U.S. Armed Forces deployed outside the United States in—

- (1) Contingency operations;
- (2) Humanitarian or peacekeeping operations;
- (3) Other military operations; or
- (4) Military exercises designated by the Combatant Commander.

(End of clause)

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BILLING CODE 5001-08-P

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

[DFARS Case 2004-D031]

#### 48 CFR Part 219

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

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD has adopted as final, with changes, 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 contracts 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:* June 16, 2006.

**FOR FURTHER INFORMATION CONTACT:** Ms. Deborah Tronic, Defense Acquisition Regulations System, OUSD(AT&L)DPAP(DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0289; facsimile (703) 602-0350. Please cite DFARS Case 2004-D031.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

DoD published an interim rule at 70 FR 43072 on July 26, 2005, to implement 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). In addition to providing funding for the DoD Indian Incentive Program, these statutes required that small business concerns owned by Native Hawaiian Organizations be provided the same status as Indian tribes and Alaska Native Corporations with regard to sole source contract awards under the Small Business Administration's 8(a) Program. The interim rule amended DFARS 219.805-1 to reflect this requirement.

Three sources submitted comments on the interim rule. All three supported the rule and recommended that the rule be made permanent. DoD has adopted the interim rule as a final rule, with additional changes to reflect the provisions of Section 8020 of the DoD Appropriations Act for Fiscal Year 2006 (Pub. L. 109-148). Section 8020 established a permanent requirement for provision of Native Hawaiian Organizations with the same status as Indian tribes and Alaska Native Corporations under the 8(a) Program.

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 a final regulatory flexibility analysis consistent with 5 U.S.C. 604. A copy of the analysis may be obtained from the point of contact specified herein. The analysis is summarized as follows:

This 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 contracts 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 exempt from the competition requirements that otherwise would apply to award of manufacturing contracts exceeding \$5,000,000 and non-manufacturing contracts exceeding \$3,000,000 under the Program. The rule will benefit small business concerns owned by Native Hawaiian Organizations, by permitting sole source contract awards to these concerns.

##### 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 219**

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

■ Accordingly, the interim rule amending 48 CFR Part 219, which was published at 70 FR 43072 on July 26, 2005, is adopted as a final rule with the following change:

**PART 219—SMALL BUSINESS PROGRAMS**

■ 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.

■ 2. Section 219.805–1 is amended by revising paragraph (b)(2)(A) to read as follows:

**219.805–1 General.**

(b)(2)(A) For acquisitions that exceed the competitive threshold, 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 8020 of Pub. L. 109–148).

\* \* \* \* \*

[FR Doc. E6–9506 Filed 6–15–06; 8:45 am]

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**DEPARTMENT OF DEFENSE****Defense Acquisition Regulations System****48 CFR Part 225**

RIN 0750–AF32

**Defense Federal Acquisition Regulation Supplement; Berry Amendment Exceptions—Acquisition of Perishable Food, and Fish, Shellfish, or Seafood (DFARS Case 2006–D005)**

**AGENCY:** Defense Acquisition Regulations System, 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 Section 831 of the National Defense Authorization Act for Fiscal Year 2006 and Section 8118 of the Defense Appropriations Act for Fiscal Year 2005. These statutes relate to the acquisition of perishable foods for DoD activities located outside the United States, and the acquisition of domestic fish, shellfish, and seafood.

**DATES:** *Effective date:* June 16, 2006.

*Comment date:* Comments on the interim rule should be submitted in writing to the address shown below on or before August 15, 2006, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2006–D005, using any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2006–D005 in the subject line of the message.
- Fax: (703) 602–0350.
- Mail: Defense Acquisition Regulations System, Attn: Ms. Amy Williams, OUSD(AT&L)DPAP(DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.
- Hand Delivery/Courier: Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, (703) 602–0328.

**SUPPLEMENTARY INFORMATION:****A. Background**

10 U.S.C. 2533a (the Berry Amendment) requires DoD to acquire certain items from domestic sources, unless an exception applies. The requirements of 10 U.S.C. 2533a are implemented at DFARS 225.7002, and the exceptions are listed at DFARS 225.7002–2. This interim rule amends the exceptions at DFARS 225.7002–2 to implement Section 831 of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109–163) and Section 8118 of the Defense Appropriations Act for Fiscal Year 2005 (Pub. L. 108–287). Section 831 of Public Law 109–163 amended 10 U.S.C. 2533a(d)(3) to expand the exception that permits the acquisition of non-domestic perishable foods by activities located outside the United States, to also permit the acquisition of such foods by activities that are making purchases on behalf of activities located outside the United States. Section 8118 of Public Law 108–287 established a permanent requirement for the acquisition of domestic fish, shellfish, and seafood, including fish, shellfish, and seafood contained in foods manufactured or processed in the United States. This requirement previously had been included in Defense Appropriations Acts on an annual basis.

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 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: (1) The acquisition of perishable foods for DoD activities located outside the United States; and (2) continuation of the existing requirement for the acquisition of domestic fish, shellfish, and seafood. Therefore, DoD has not performed an initial regulatory flexibility analysis. 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 2006–D005.

**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 831 of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109–163), which became effective upon enactment on January 6, 2006. Section 831 facilitates the acquisition of perishable foods for personnel of activities located outside the United States, by expanding the exception to domestic source requirements for those acquisitions. 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 225**

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

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