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DEPARTMENT OF DEFENSE

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Office of the Secretary

32 CFR Part 158

[Docket ID: DOD-2009-OS-0029]

RIN 0790-AI48

Operational Contract Support

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: This rule establishes policy, assigns responsibilities, and provides procedures for operational contract support (OCS), including OCS program management, contract support integration, and integration of defense contractor personnel into contingency operations outside the United States. This rule was published as an interim final rule on December 29, 2011, to procedurally close gaps and ensure the correct planning, oversight and management of DoD contractors supporting contingency operations, by updating the existing outdated policy. The then existing policies were causing significant confusion, as they did not reflect current practices and legislative mandates. The inconsistencies between local Geographic Command guidance and the DoD-wide policies and the Defense Federal Acquisition Regulations Supplement were confusing for those in the field - in particular, with regard to policy on accountability and visibility requirements.

DATES: This rule is effective [INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Shanna Poole, Director, Operational Contract Support Policy, Office of the Deputy Assistance Secretary of Defense (Program Support), (703) 692-3032.

SUPPLEMENTARY INFORMATION:

Executive Summary

I. Purpose and Authority of the Regulatory Action

a. Purpose: This rule incorporates the latest changes and lessons learned into policy and procedures for OCS, including OCS program management, contract support integration, and the integration of DoD contractor personnel into contingency operations outside the United States. It was required to procedurally close gaps and ensure the correct planning, oversight and management of DoD contractors supporting contingency operations, by updating outdated policy.

b. Authority: Public Law 110-181; Public Law 110-417.

II. Summary of the Major Provisions of the Regulatory Action

The revised policies include:

- (1) incorporation of lessons learned from current operations;
- (2) requirements for the development of contractor oversight plans;
- (3) requirements for adequate military personnel necessary to execute contract oversight; and,
- (4) standards of medical care for deployed contractors.

III. Cost and Benefits

This rule establishes policies and procedures for the oversight and management of contractors supporting contingency operations outside the United States; therefore, there is no cost to the

public. Updated and refined policy regarding contractors supporting contingency operations will result in improved management, oversight and efficiency.

Public Comments

On December 29, 2011 (76 FR 81807), the Department published an interim final rule and public comments were solicited. At the end of the comment period, we received comments from two respondents. Neither comment questioned the content of the rule. One commented in part that “I am happy that your rules would treat contractors with the same respect as other military personnel who are serving in our country’s military” and the other stated “I agree that this is a necessary rule especially facing our country’s current war status.” Based on these comments, no changes were necessary to the rule itself.

Regulatory Procedures

Executive Order 12866, “Regulatory Planning and Review” and Executive Order 13563, “Improving Regulation and Regulatory Review”

It has been certified that 32 CFR part 158 does not:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in these Executive Orders.

Section 202, Pub. L. 104-4, “Unfunded Mandates Reform Act”

It has been certified that 32 CFR part 158 does not contain a Federal mandate that may result in expenditure by State, local and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year.

Public Law 96-354, “Regulatory Flexibility Act” (5 U.S.C. 601)

It has been certified that 32 CFR part 158 is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Public Law 96-511, “Paperwork Reduction Act” (44 U.S.C. Chapter 35)

It has been certified that 32 CFR part 158 does impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995. These reporting requirements have been approved by OMB under OMB Control Number 0704-0460, Synchronized Predeployment and Operational Tracker (SPOT) System.

Executive Order 13132, “Federalism”

It has been certified that 32 CFR part 158 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

- (1) The States;
- (2) The relationship between the National Government and the States; or
- (3) The distribution of power and responsibilities among the various levels of

Government.

List of Subjects in 32 CFR Part 158

Armed forces, Government contracts, Health and safety, Military personnel, National defense, Passports and visas, Recordkeeping, Security measures.

For reasons discussed in the preamble, the Department of Defense adopts the interim final rule which was published December 29, 2011 (76 FR 81807), as final without change.

DATED: November 18, 2013.

Aaron Siegel,

Alternate OSD Federal Register

Liaison Officer,

Department of Defense.

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