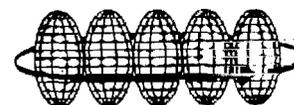


TRANSPORTATION INSTITUTE

5201 AuthWay
Camp Springs, Maryland 20746
(301) 423-3335 (MD)
(202) 347-2590 (Wash., D.C.)
Telecopier (301) 423-0634

www.trans-inst.org



Pacific Coast Office
World Trade Center - West
2200 Alaskan Way, Suite 110
Seattle, WA 98121
(206) 443-1738
T&copier (206) 443-0917

JAMES L. HENRY
Chairman and President

November 13, 2001

RICHARD BERKOWITZ
Director, Pacific Coast Operations
LAWRENCE H. EVANS
Director, Domestic Marine Affairs
GERARD C. SNOW
Director, Government Affairs

Defense Acquisition Regulations Council

ATTN: Ms. Amy Williams

OUSD (AT&L) DP (DAR)

IMD 3C132

3062 Defense Pentagon

Washington, DC 20301-3062

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RE: DFARS Case 2000-D020 -- Defense Federal Acquisition Regulation Supplement; Balance of Payments Program

Dear Madam:

The Transportation Institute represents U.S.-flag vessel operators engaged in the Nation's domestic and international waterborne commerce, including: a number of companies regularly transporting Department of Defense cargoes; companies under contract to the Military Sealift Command; companies under contract to operate government vessels in the Ready Reserve Force; companies participating in the Maritime Security Program; and, companies which have committed their resources as part of the Defense Department's Voluntary Intermodal Sealift Agreement. These U.S.-flag vessel operators are committed to providing a viable U.S.-flag fleet to serve the Nation's economic and sealift needs. As such, adherence to U.S. cargo reservation statutes is; of the utmost importance to these companies in their efforts to meet the many challenges facing them in an unevenly competitive international shipping market. Therefore, the Institute is troubled by the initiative of the Defense Acquisition Regulations Council to add policy for application of the Balance of Payments Program to construction contracts that would replace the existing Federal Acquisition Regulation (FAR) policy for the Department of Defense (DOD) and the proposed discontinuation of application of the Balance of Payments Program to construction contracts (DFARS Case 2000-D020).

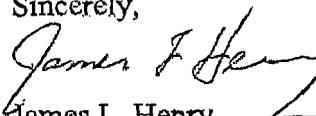
Specifically, the Institute has serious reservations with the proposed rulemaking as it is intended to streamline application of the Balance of Payments Program to DOD construction contracts by exempting construction materials that are at or below the simplified acquisition threshold. Further, the proposed rule would empower government contracting officers to make pre-solicitation determinations as to whether a requirement can best be filled by a foreign end product or construction material. This action would essentially result in the loss of

Defense Acquisition Regulations Council
Page Two
November 13, 2001

government-funded cargoes to U.S.-flag vessel operators. Government-impelled cargoes serve as a base cargo, which, enables U.S. vessel operators to better compete in an uneven international market place. Given the tragic events that occurred, on September 11, the need for a concerted U.S. response and the subsequent downturn in the U.S. economy, U.S. government policy should be one to promote U.S. industries, encourage the purchase of U.S. supplies and greater use of U.S. services, such as American-flag shipping. Therefore, we urge the Defense Department to reconsider this rulemaking and its far-reaching implications on many essential American industries.

As noted in other comments the Transportation Institute filed today with the Defense Acquisition Regulations Council (DFARS Case 2000-D014), it is imperative that the United States maintain and enforce U.S. government programs that encourage a healthy U.S.-flag fleet capable of meeting U.S. economic and national security interests at home and abroad. A decade ago, the U.S.-flag merchant marine responded to the Nation's call, to sustain American troops engaged in the Persian Gulf War. U.S.-flag commercial vessels and vessels from the government's reserve fleet and the crews serving on both were able to carry out their mission as a result of established U.S. maritime policy. Since the Persian Gulf War, the United States has taken steps to bolster US. sealift capability through the enactment of the Maritime Security Program and the Voluntary Intermodal Sealift Agreement, Underscoring all of these programs is the understanding that an active and healthy U.S.-flag commercial fleet depends on a strong U.S. cargo base, including those cargoes funded by U.S. Government resources. The Defense Acquisition Regulations Council, through the proper enforcement of U.S. laws, must encourage a viable U.S.-flag merchant fleet and complement the efforts of other defense agencies in their missions to supply and sustain U.S. troops as they protect U.S. interests at home and abroad. The U.S.-flag merchant marine is a key partner in that mission.

Sincerely,


James L. Henry
President

JLH:tlh