

U.S. Department of Justice
Executive Office for United States Attorneys

Legal Programs
Suite 7600 Bicentennial Building
600 E Street NW
Washington, DC 20530
Fax (202) 616-6447

Memorandum Sent via Electronic Mail

DATE: June 11, 1999

To: ALL CRIMINAL CHIEFS

From: Lynne M. Solon Deputy Director

SUBJECT: Defense Federal Acquisition Regulation

ACTION REQUIRED: None. Information Only.

Shahira Tadross
Attorney Advisor
Legal Programs
Phone: (202) 616-6444
Fax: (202) 616-6647

This memo is to inform your District that on March 25, 1999, revisions to regulations contained in the Defense Federal Acquisition Regulation Supplement (DFARS) found at 48 CFR Parts 203 and 252 (DFARS 203.570 and 252.203-7701) became effective. The regulations at issue implement 10 U.S.C. § 2408, which prohibits, in certain circumstances, individuals convicted of Department of Defense (DoD) defense contract-related felonies from engaging in particular types of employment and activities with DoD contractors for a specified period of time.

Revisions to the DFARS regulations include the expansion of the list of persons convicted of a felony arising out of a contract with the DoD. As a result of the revisions, DoD agencies also have the discretion to prohibit service of persons convicted under the DFARS regulation for periods greater than five years if written determination is made for the need for a longer period. Relevant portions of the revised regulations state that:

Any individual who is convicted after September 29, 1998, of a fraud or any other felony of fraud or any other felony arising out of a contract with the DoD, is prohibited from serving:

- (1) In a management or supervisory capacity on any DoD contract or first tier subcontract;
- (2) On its board of directors of any DoD contractor or first-tier subcontractor;
- (3) As a consultant, agent, or representative to any DoD contractor or first-tier subcontractor; or
- (4) In any capacity with the authority to influence, advise, or control the decisions of any DoD contractor or subcontractor with regard to any DoD contract or first-tier subcontract.

Prohibition from service applies for not less than five years from the date of conviction unless the DoD agency head or a designee grants a waiver in the interest of national security; and may be more than five years from the date of conviction, if the DoD agency head or a designee makes a written determination of the need for the longer period.

The Bureau of Justice Assistance (BJA) will continue its role pursuant to the Department's statutory responsibilities Under 10 U.S.C. § 2408; thus, please continue to forward your cases for debarment to the Denial of Federal Benefits Program of BJA. In accordance with the requirements of the revised regulations, cases recommended for a debarment period of more than five years must be accompanied by a letter expressing the need for such action, otherwise the debarment period will be five years.

Questions regarding reporting requirements or submissions should be directed to BJA at (202) 616-3507. A copy of the revised DFARS implementing regulations at issue is attached for your reference. It is anticipated that similar amendments to the enabling legislation of 10 U.S.C. 2408 will be enacted and codified shortly.