

budget plans provide for realistic continuation by the grantee institution and adaptation by other institutions. NSEP is interested in proposed approaches to leveraging other funds against the proposed project.

(5) *Evaluation plans.* Proposals will be evaluated on their approach to measuring impact. What impact will the proposed program have on national capacity? How will the proposed program deal with assessing language and foreign cultural competency? In the case of study abroad programs, how will the success and impact of study abroad experiences be assessed. Proposals should not defer the consideration of these issues to a latter stage of the effort. Evaluation and assessment should be an integral part of the entire proposal effort.

(6) *Prospects for wider impact.* Proposals must address national needs and will be evaluated according to how well they are likely to address these needs. What component of the higher education community does the proposal address? How diverse a student population will the proposed program address? What applications to other institutions will be made available, either directly or indirectly, because of the proposed program?

(7) *Capacity and commitment of the applicant.* The proposal will be evaluated according to the evidence provided on the commitment of the institution, and other institutions, to the proposed project. What other institutions are involved and what is their commitment. If there are commitments from foreign institutions, what is the evidence of this commitment? Are their plans for the institution to integrate the efforts of the proposed program into the educational process? What plans are there for eventual self-support? As with many other similar programs, NSEP is particularly interested in the degree to which the institution is willing to bear a reasonable share of the direct and indirect costs of the proposed project.

(d) Applicants should also indicate if they currently receive or are seeking support from other sources. Applicants should indicate why support from NSEP is appropriate, if other sources are also being sought.

PART 207—IMPLEMENTATION OF SECTION 740 OF THE WENDELL H. FORD AVIATION INVESTMENT AND REFORM ACT FOR THE 21ST CENTURY AS AMENDED BY SECTION 1051 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

Sec.

- 207.1 Background and purpose.
- 207.2 Applicability.
- 207.3 Restrictions.
- 207.4 Qualifications.
- 207.5 Sale procedures.
- 207.6 Reutilization and transfer procedures.
- 207.7 Reporting requirements.
- 207.8 Expiration.

AUTHORITY: Section 740 of Public Law 106-181, 114 STAT. 173 as amended by Section 1051 of Public Law 107-314, 116 STAT. 2648.

SOURCE: 68 FR 27905, May 22, 2003, unless otherwise noted.

EFFECTIVE DATE NOTE: At 68 FR 27905, May 22, 2003, part 207 was added, effective May 22, 2003, until Sept. 30, 2006.

§ 207.1 Background and purpose.

Section 740 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, as amended, allows the Department of Defense (DoD), during the period 4 April 2000 through 30 September 2006, to sell aircraft and aircraft parts to a person or entity that provides oil spill response services (including the application of oil dispersants by air). This part implements that section.

§ 207.2 Applicability.

The sections in this part apply to the sale of aircraft and aircraft parts determined to be DoD excess under the definition of the Federal Property Management Regulations (FPMR) or the Federal Management Regulation (FMR), and listed in Attachment 1 of Chapter 4 of DoD 4160.21-M (August 1997)¹ as Category A aircraft authorized for commercial use, to contractors providing oil spill response services.

¹Copies may be obtained via Internet at <http://www.dla.mil/dlaps/dod/416021m/guide.asp>.

§ 207.3

§ 207.3 Restrictions.

(a) Aircraft and aircraft parts sold under the Act shall be used primarily for oil spill spotting, observation, and dispersant delivery, and may not have a secondary purpose that interferes with oil spill response efforts under an oil spill response plan. Use for a secondary purpose requires the prior written approval of the Secretary of Defense and the Secretary of Transportation, and a certificate from the Federal Aviation Administration, to be obtained in advance, for the proposed secondary use.

(b) Aircraft may not be flown outside of or removed from the U.S. except for the purpose of fulfilling an international agreement to assist in oil spill dispersing efforts, for immediate response efforts for an oil spill outside United States waters that has the potential to threaten United States waters, or for purposes that are jointly approved by the Secretary of Defense and the Secretary of Transportation.

(c) The DoD sale of aircraft and aircraft parts sold under the Act shall not extend past the time limits of the Act.

§ 207.4 Qualifications.

The Secretary of Transportation must certify in writing to the Secretary of Defense prior to sale that the person or entity is capable of meeting the terms and conditions of a contract to perform oil spill response services by air, and that the overall system to be employed by the person or entity for the delivery and application of oil spill dispersants has been sufficiently tested to ensure that the person or entity is capable of participating in an oil spill response plan that has been approved by the Secretary of the Department in which the Coast Guard is operating.

(a) Prior to sales offerings of aircraft or aircraft parts, the U.S. Department of Transportation (DoT) must provide to the Defense Reutilization and Marketing Service (DRMS), in writing, a list or persons or entities eligible to bid under this Act, including expiration date of each DOT contract, and locations covered by the DOT contract.

(b) This requirement may not be delegated to the U.S. Coast Guard (USCG).

32 CFR Ch. I (7-1-05 Edition)

§ 207.5 Sale procedures.

Sale of aircraft and aircraft parts must be in accordance with the provisions of Chapter 4 of DoD 4160.21-M (August 1997), paragraph B 2, and with other pertinent parts of this manual, with the following changes and additions:

(a) Sales shall be limited to the aircraft types listed in Attachment 1 of Chapter 4 of DoD 4160.21-M (August 1997), and parts thereto.

(b) Sales shall be made at fair market value (FMV), as determined by the Secretary of Defense and, to the extent practicable, on a competitive basis.

(1) DRMS must conduct sales utilizing FMVs that are either provided by the Military Services on the Disposal Turn-In Documents (DTIDs) or based on DRMS's professional expertise and knowledge of the market. Advice regarding FMV shall be provided to DRMS by DOT, as appropriate.

(2) If the high bid for a sale item does not equal or exceed the FMV, DRMS is vested with the discretion to reject all bids and reoffer the item:

(i) As excess property on another oil spill sale, if there is indication that reoffer may be successful; or,

(ii) As surplus property if, after reporting the aircraft to the General Services Administration (GSA) for utilization and donation screening, there are no Federal or State Agency requirements as determined by GSA.

(3) Disposition of proceeds from sale of aircraft under the Act, net of DRMS's expenses, will be to the general fund of the United States Treasury as miscellaneous receipts.

(c) Purchasers shall certify that aircraft and aircraft parts will be used only in accordance with conditions stated in § 207.3.

(1) Sales solicitations will require bidders to submit end-use certificates with their bids, stating the intended use and proposed areas of operation.

(2) The completed end-use certificates shall be used in the bid evaluation process.

(d) Sales contracts shall include terms and conditions for verifying and enforcing the use of the aircraft and aircraft parts in accordance with provisions of the guidance.

(1) The DRMS Sales Contracting Officer (SCO) is responsible for verifying and enforcing the use of aircraft and aircraft parts in accordance with the terms and conditions of the sales contract.

(i) Sales contracts include provisions for on-site visits to the purchaser's place(s) of business and/or worksite(s).

(ii) Sales contracts require the purchaser to make available to the SCO, upon his or her request, all records concerning the use of aircraft and aircraft parts.

(2) DOT shall nominate in writing, and the SCO shall appoint, qualified Government employees (not contract employees) to serve as Contracting Officer's Representatives (CORs) for the purpose of conducting on-site verification and enforcement of the use of aircraft and aircraft parts for those purposes permitted by the sales contract.

(i) COR appointments must be in writing and must state the COR's duties, the limitations of the appointment, and the reporting requirements.

(ii) DOT bears all COR costs.

(iii) The SCO may reject any COR nominee for cause, or terminate any COR appointment for cause.

(3) Sales contracts require purchasers to comply with the Federal Aviation Agency (FAA) requirements in Chapter 4 of DoD 4160.21-M (August 1997), paragraphs B 2 b (4) (d) 2 through B 2 b (4) (d) 5.

(4) Sales contracts require purchasers to comply with the Flight Safety Critical Aircraft Parts regime in Chapter 4 of DoD 4160.21-M (August 1997), paragraph B 26 c and d, and in Attachment 3 to Chapter 4 of DoD 4160.21-M (August 1997).

(5) Sales contracts require purchasers to obtain the prior written consent of the SCO for resale of aircraft or aircraft parts purchased from DRMS under this Act. Resales are only permitted to other entities that, at time of resale, meet the qualifications required of initial purchasers. The SCO must seek, and DOT must provide, written assurance as to the acceptability of a prospective repurchaser before approving resale. Resales will normally be approved for oil spill response contractors that have completed their

contracts, or that have had their contracts terminated, or that can provide other valid reasons for seeking resale that are acceptable to the SCO.

(i) If it is determined by the SCO that there is no interest in the aircraft or aircraft parts being offered for resale among entities deemed qualified repurchasers by DOT, the SCO may permit resale to entities outside the oil spill response industry.

(ii) When an aircraft or aircraft parts are determined to be uneconomically repairable and suitable only for cannibalization and/or scrapping, the purchaser shall advise the SCO in writing and provide evidence in the form of a technical inspection document from a qualified FAA airframe and powerplant mechanic, or equivalent.

(iii) The policy outlined in paragraph (d)(5) of this section also applies to resales by repurchasers, and to all other manner of proposed title transfer (including, but not limited to, exchanges and barter).

(iv) Sales of aircraft and aircraft parts under the Act are intended for principals only. Sales offerings will caution prospective purchasers not to buy with the expectation of acting as brokers, dealers, agents, or middlemen for other interested parties.

(6) The failure of a purchaser to comply with the sales contract terms and conditions may be cause for suspension and/or debarment, in addition to other administrative, contractual, civil, and criminal (including, but not limited to, 18 U.S.C. 1001) remedies which may be available to the Department of Defense.

(7) Aircraft parts will be made available as follows:

(i) DRMS may, based on availability and demand, offer for sale under the Act whole unflyable aircraft, aircraft carcasses for cannibalization, or aircraft parts, utilizing substantially the same provisions outlined in paragraphs (a) through (d)(6) of this section for flyable aircraft.

(ii) Sales contracts for unflyable aircraft shall contain a restriction in perpetuity against use for flight. DRMS will not issue a bill of sale for these aircraft. When unflyable aircraft or aircraft residue is to be sold for parts use, the data plates must be removed

§ 207.6

32 CFR Ch. I (7-1-05 Edition)

and destroyed by the owning military service prior to releasing the aircraft to the contractor.

(iii) If DOT requests that DRMS set aside parts for sale under Act, DOT must provide listings of parts required, by National Stock Number and Condition Code.

(iv) Only qualified oil spill response operators who fly the end-item aircraft will be allowed to purchase unflyable aircraft, aircraft carcasses, or aircraft parts applicable to that end-item.

(v) FMVs are not required for aircraft parts. DRMS will utilize historic prices received for similar parts in making sale determinations.

§ 207.6 Reutilization and transfer procedures.

Prior to any sales effort, the Secretary of Defense shall, to the maximum extent practicable, consult with the Administrator of GSA, and with the heads of other Federal departments and agencies as appropriate, regarding reutilization and transfer requirements for aircraft and aircraft parts under this Act (see Chapter 4 of DoD 4160.21-M (August 1997), paragraphs B 2 b (1) through B 2 b (3)).

(a) DOT shall notify Army, Navy, and/or Air Force, in writing, of their aircraft requirements as they arise, by aircraft type listed in Attachment 1 of Chapter 4 of DoD 4160.21-M (August 1997).

(b) When aircraft become excess, the owning Military Service will screen for reutilization requirements within the Department of Defense, and those requirements shall take precedence over DOT requirements under this Act.

(c) *Federal agency transfer:* (1) The Military Service shall report aircraft that survive reutilization screening to GSA Region 9 on a Standard Form 120. The Military Service must advise GSA Region 9 if DOT has lodged a written requirement for the aircraft for use in oil spill response. GSA will screen for Federal agency transfer requirements in accordance with the FMR.

(2) If a Federal agency requirement exists, GSA shall advise the owning Military Service, in writing, of its intent to issue the aircraft to satisfy the Federal agency requirement. The Military Service will notify DOT of the

competing Federal requirement for the aircraft. If DOT disputes the priority given to the Federal requirement, it shall end a written notice of dispute to the owning Military Service and to the Deputy Under Secretary of Defense (Logistics and Materiel Readiness (DUSD (L&MR))) within thirty (30) days of receipt of notice from the Military Service. DUSD (L&MR) shall then resolve the dispute, in writing. The aircraft cannot be issued until notification is given and any dispute is resolved.

(d) *The Military Services shall:* (1) Respond to the DOT, in writing, when excess aircraft that can meet DOT's stated requirements have survived reutilization and transfer screening.

(2) Report excess aircraft that survive reutilization and transfer screening and are available for sale to Headquarters, Defense Reutilization and Marketing Service, ATTN: DRMS-LMI, Federal Center, 74 Washington Avenue North, Battle Creek, Michigan 49017-3092. The Military Services must use a DD Form 1348-1A, DTID, for this purpose.

(3) Transfer excess aircraft that survive reutilization and transfer screening to the Aerospace Maintenance and Regeneration Center (AMARC), Davis-Monthan AFB, AZ, and place the aircraft in an "excess" storage category while aircraft are undergoing oil spill response sale. Aircraft shall not be made available or offered to oil spill response operators from the Military Service's airfield. The Military Service shall be responsible for the AMARC aircraft induction charges. The aircraft purchaser will be liable for all AMARC withdrawal charges, to include any aircraft preparation required from AMARC. Sale of parts required for aircraft preparation is limited to those not required for the operational mission forces, and only if authorized by specific authority of the respective Military Service's weapon system program manager.

§ 207.7 Reporting requirements.

Not later than 31 March 2003, the Secretary of Defense must submit to the Committees on Armed Services and

Commerce, Science, and Transportation of the Senate and the Committees on National Security and Transportation and Infrastructure of the House of Representatives a report setting forth the following:

(a) The number and type of aircraft sold under this authority, and the terms and conditions under which the aircraft were sold.

(b) The persons or entities to which the aircraft were sold.

(c) An accounting of the current use of the aircraft sold.

(d) DOT must submit to Headquarters, Defense Reutilization and Marketing Service, ATTN: DRMS-LMI, Federal Center, 74 Washington Avenue North, Battle Creek, Michigan, 49017-3092, not later than 1 February 2006, a report setting forth an accounting of the current disposition of all aircraft sold under the authority of the Act.

(e) DRMS must compile the report, based on sales contract files and (for the third report element) input from the DOT. The report must be provided to Headquarters Defense Logistics Agency not later than 1 March 2006. Headquarters Defense Logistics Agency shall forward the report to Deputy Under Secretary of Defense (Logistics & Materiel Readiness) not later than 15 March 2006.

§207.8 Expiration.

This part expires on 30 September 2006.

PARTS 208–209 [RESERVED]

PART 210—ENFORCEMENT OF STATE TRAFFIC LAWS ON DoD INSTALLATIONS

Sec.

210.1 Purpose.

210.2 Applicability and scope.

210.3 Policy.

210.4 Responsibilities.

AUTHORITY: 63 Stat. 377, as amended, 18 U.S.C. 13; 40 U.S.C. 318a through d., 40 U.S.C. 612.

SOURCE: 46 FR 58306, Dec. 1, 1981, unless otherwise noted.

§210.1 Purpose.

This part establishes policies pursuant to the requirements of DoD Direc-

tive 6055.4,¹ “Department of Defense Traffic Safety Program,” November 7, 1978, and to authority delegated to the Secretary of Defense under Enclosure 1 for the enforcement, on DoD military installations, of those state vehicular and pedestrian traffic laws that cannot be assimilated under U.S.C., Title 18, section 13.

[46 FR 58306, Dec. 1, 1981, as amended at 56 FR 13285, Apr. 1, 1991]

§210.2 Applicability and scope.

(a) The provisions of this part apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies.

(b) The provisions encompass all persons who operate or control a motor vehicle or otherwise use the streets of a military installation over which the United States exercises exclusive or concurrent legislative jurisdiction.

(c) The provisions govern only vehicular and traffic offenses or infractions that cannot be assimilated under 18 U.S.C. 13, thereby precluding application of state laws to traffic offenses committed on military installations.

§210.3 Policy.

(a) It is the policy of the Department of Defense that an effective, comprehensive traffic safety program be established and maintained at all military installations as prescribed in DoD Directive 6055.4.¹

(b) State vehicular and pedestrian traffic laws that are now or may hereafter be in effect shall be expressly adopted and made applicable on military installations to the extent provided by this part. All persons on a military installation shall comply with the vehicular and pedestrian traffic laws of the state in which the installation is located.

(c) Pursuant to the authority established in the Enclosure 1 to DoD Directive 5525.4², installation commanders of all DoD installations in the United States and over which the United

¹Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

²See footnote 1 to §210.1.