

DEPARTMENT OF DEFENSE**Department of the Army****Notice of Proposed Change to MTMC Freight Transportation Procurement Procedures**

AGENCY: Military Traffic Management Command, U.S. Army, DoD.

ACTION: Notice (Request for Comments).

SUMMARY: The Military Traffic Management Command (MTMC) proposes to revise the procedures it uses in procuring long term recurring freight transportation services from motor carriers and barge operators. MTMC often procures transportation services using contracting procedures that are not governed by the Federal Acquisition Regulation, e.g., guaranteed traffic (GT) agreements. A revision of these procedures is being proposed due to change in the governing law.

DATES: Interested parties are requested to submit comments on this proposal by September 19, 2000. All comments received within 60 days of publication of this notice will be considered prior to any decision on whether to adopt this proposal.

ADDRESSES: Comments should be addressed to Headquarters, Military Traffic Management Command, ATTN: MTAQ Room 12N67, Hoffman Building II, 200 Stovall Street, Alexandria, Virginia 22331-5000.

FOR FURTHER INFORMATION CONTACT: Christina N. Dossman, (703-) 428-2052.

SUPPLEMENTARY INFORMATION: Historically, freight transportation services procured by MTMC have not been governed by the Federal Acquisition Regulation (FAR) contained in Title 48 of the Code of Federal Regulations.

The FAR states at FAR 47.000 that it does not regulate transportation procured by bills of lading and similar documents. FAR 47-104.1 states that under 49 U.S.C. 10721 (now recoded at 49 U.S.C. sections 10721 [rail], 13721 [motor, water and freight forwarder] and 15504 [pipeline], carriers can offer reduced rates for Government Bill of Lading service and that agencies can negotiate reduced rates for volume moves or for shipments on a recurring basis. Under the exception recognized in FAR 47.200 the government could acquire transportation using 49 USC 10721 rates even though the FAR normally applies to transportation acquire by sealed bid or negotiated contracts (i.e., not individual GBL traffic).

Under the above rules MTMC could and did use FAR exempt procedures

for traffic based upon GBLs and also for traffic based upon Section 10721 rates.

49 U.S.C. 10721 was part of the Interstate Commerce Act which regulated rates offered by common carriers. This Act has been substantially amended in recent years, most notably by the Trucking Industry Reform Act of 1994, which abolished tariff filing requirements for motor carriers of freight, and by Public Law 104-88, the ICC Termination Act of 1995, which abolished the Interstate Commerce Commission. Thus, the provisions of the former Section 10721, to the extent it still exists in revised form as sections 10721, 13712 and 15504, have no practical application to the freight service DOD acquires from carriers. (See *Munitions Carriers Conference, Inc. v. United States*, 147 F.3d 1027 (1998).

In view of this change in the law, MTMC proposes to procure future transportation services involving recurring shipments or long term contracts under the FAR, including use of the FAR contract format and inclusion of all required FAR provisions and clauses. This will include future procurements based upon, or similar to, the guaranteed traffic (GT) agreements that MTMC now utilizes under FAR exempt procedures. This proposal does not apply to the current household goods program which is covered by different laws, but it should be noted that some household goods transportation contracts are already being conducted under the FAR.

MTMC will continue to use a voluntary tender procedure for shipments not covered under a long term contract. Those GBL-based movements continue to be recognized as exceptions to the legal requirement to use the FAR.

Regulatory Flexibility Act

This proposed change of procurement policy is not considered rule making within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601-612. Paperwork Reduction Act. The Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* does not apply because no information collection requirements or records keeping responsibilities are imposed on offerors, contractors, or members of the general public.

Brenda R. Jackson-Sewell,

Lieutenant Colonel, U.S. Air Force, Deputy Principal Assistant Responsible for Contracting.

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DEPARTMENT OF DEFENSE**Department of the Army; Corps of Engineers****Intent To Prepare a Draft Environmental Impact Statement [DEIS] for the Boeuf-Tensas Basin, Southeast Arkansas, Feasibility Report**

AGENCY: U.S. Army Corps of Engineers, Vicksburg District, DOD.

ACTION: Notice of Intent.

SUMMARY: The feasibility study for the Boeuf-Tensas Basin, Southeast Arkansas will be conducted to fully evaluate a range of alternatives to provide a plan for flood control, environmental protection/restoration, and agricultural water supply in Chicot, Desha, Ashley, Drew, Lincoln, and Jefferson Counties, Arkansas.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Marcy (telephone (601) 631-5965), CEMVK-PP-PQ, 4155 Clay Street, Vicksburg, Mississippi 39183-3435.

SUPPLEMENTARY INFORMATION: This study is authorized by a resolution of the Senate Committee on Environment and Public Works adopted 23 June 1988.

1. Proposed Action: Feasibility studies for the Boeuf-Tensas Basin, Southeast Arkansas study will be conducted to fully evaluate a range of alternatives to provide a multipurpose plan for flood control, agricultural water supply, and environmental protection and/or enhancement. Various alternatives will be analyzed, and assuming a feasible plan is identified, design studies will be completed to develop a baseline cost estimate and schedule for implementation.

2. Alternatives: One feasible implementable plan was identified during the Reconnaissance Study and documented in the Final Reconnaissance Report, February 1991. This plan would use water from seven different sources and/or methods, including rainfall, existing streamflows at the safe and legal rate of withdrawal, ground water at the safe yield, existing on-farm storage reservoirs, new on-farm storage reservoirs, import water from the Arkansas River, and water conservation. The primary delivery system to import water from the Arkansas River would consist of approximately 136 miles of channel excavation; one 75-cubic-foot-per-second pump station at Harding Drain in Pine Bluff, Arkansas; four gravity structures through the Arkansas River south bank levees at Linwood, Douglas Lake, Silver Lake, and Belcoe Lake; a dam across the south end of Morgan Point Cutoff; a 680-cubic-foot-