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THE OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D.C. 20301-6000

ACQUISITION AND
LOGISTICS

DASD(P)DARS

29 JAN 1986

In reply refer to:
DAR Case 86-3

697-9125

SUBJECT: Section 8078, 1986 Defense Appropriations Act - Restrictions on
the Employment of Personnel for Work on Construction/Service
Contracts in Alaska and Hawaii

The attached Departmental Implementation Letter was issued by the
Military Departments and by this office to the Defense Agencies under cur
cognizance.

OTTO J. GUENTHER, COL, USA
Director
Defense Acquisition
Regulatory Council

Attachment



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In reply refer to:
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DASD(P)DARS

MEMORANDUM FOR THE DIRECTOR, NATIONAL SECURITY AGENCY
THE DIRECTOR, DEFENSE COMMUNICATIONS AGENCY
THE DIRECTOR, DEFENSE INTELLIGENCE AGENCY
THE DIRECTOR, DEFENSE NUCLEAR AGENCY
THE DIRECTOR, DEFENSE MAPPING AGENCY

SUBJECT: Section 8078, 1986 Defense Appropriations Act - Restrictions on
the Employment of Personnel for Work on Construction/Service
Contracts

On 24 January 1986, the DAR Council approved the attached new Subpart 22.72 of the DFARS for publication in the Federal Register as an interim rule and for immediate Departmental implementation. This action is necessary because Section 8078 of the FY 1986 Defense Appropriations Act, enacted on 23 December 1985, requires that whenever the unemployment rate in Alaska or Hawaii exceeds the national average as determined by the Secretary of Labor, service and construction contracts awarded in FY 1986 and calling for performance in whole or in part within those states must contain a restriction on who can be employed to perform work on that contract. This requirement is implemented by a new clause at DFARS 52-222-7002. Contracting officers shall include the clause in all new solicitations, as well as modify existing solicitations to incorporate the clause when to do so will not unduly delay the procurement. For contracts already awarded in FY 1986, contracting officers should attempt to modify them to include the clause on a no cost basis, provided the Government's interests are adequately protected.

This Departmental is effective immediately.

OTTO J. GUENTHER, COL, USA
Director
Defense Acquisition
Regulatory Council

Attachments
DFARS 22.72 and 52.222-7002

Add a new Subpart 22.72 as follows:

SUBPART 22.72--SECTION 8078, 1986 DEFENSE APPROPRIATIONS ACT -
RESTRICTIONS ON THE EMPLOYMENT OF PERSONNEL FOR
WORK ON CONSTRUCTION/SERVICE CONTRACTS IN ALASKA
AND HAWAII

22.7200 Policy.

(a) Except as provided in (b) and (c) below, Section 8078 of the 1986 Defense Appropriations Act requires that notwithstanding any other provision of law, every contract awarded during FY 1986 calling for construction or services to be performed in whole or in part within the State of Alaska or the State of Hawaii shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract work within the particular state, individuals who are residents of that state, and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills to perform the contract.

(b) This section shall not apply at any time during FY 1986 when the unemployment rate in Alaska is not in excess of the national average rate of unemployment as determined by the Secretary of Labor.

(c) This section shall not apply to contracts to be performed in whole or in part within the State of Hawaii unless in FY 1986 the unemployment rate in Hawaii is in excess of the national average rate of unemployment as determined by the Secretary of Labor.

22.7201 Waivers. This section may be waived by the Secretary of Defense, the Deputy Secretary of Defense, the Assistant Secretary of Defense for Acquisition and Logistics, and any Secretary, Undersecretary, or Assistant Secretary of the Army, Navy, and Air Force, in the interest of national security. Requests for waiver shall be processed in accordance with Departmental or agency procedures.

22.7202 Contract Clause. The contracting officer shall insert the clause at 52.222-7002, Restrictions on Employment of Personnel, in all solicitations and contracts in accordance with 22.7200.

Add a new clause as follows:

52.222-7002 Restrictions on Employment of Personnel. As prescribed in 22.7202, insert the following clause.

RESTRICTIONS ON EMPLOYMENT OF PERSONNEL (JAN 1986)

(a) The Contractor shall employ, for the purposes of performing that portion of the contract work in the State of (insert appropriate state), individuals who are residents of the state, and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills to perform the contract.

(b) The Contractor agrees to insert the substance of this clause, including this paragraph (b), in each subcontract.

(End of clause)

99th Congress
1st Session

HOUSE OF REPRESENTATIVES

REPORT
99-1005

MAKING CONTINUING APPROPRIATIONS
FOR FISCAL YEAR 1987

CONFERENCE REPORT

TO ACCOMPANY

H.R. RES. 718



prior notification to the Committees on Appropriations of the House of Representatives and the Senate.

SEC. 9065. It is the sense of the Congress that the Secretary of Defense should formulate and carry out a program under which contracts awarded by the Department of Defense in fiscal year 1987 would, to the maximum extent practicable and consistent with existing law, be awarded to contractors who agree to carry out such contracts in labor surplus areas (as defined and identified by the Department of Labor).

SEC. 9066. It is the sense of the Congress that competition, which is necessary to enhance innovation, effectiveness, and efficiency, and which has served our Nation so well in other spheres of political and economic endeavor, should be expanded and increased in the provision of our national defense.

SEC. 9067. None of the funds appropriated by this Act shall be available to pay a dislocation allowance pursuant to section 407 of title 37, United States Code, in excess of one month's basic allowance for quarters.

SEC. 9068. None of the funds available to the Department of Defense shall be obligated or expended to contract out any activity currently performed by the Defense Personnel Support Center in Philadelphia, Pennsylvania: Provided, That this provision shall not apply after notification to the Committees on Appropriations of the House of Representatives and the Senate of the results of the cost analysis of contracting out any such activity.

SEC. 9069. Notwithstanding any other provision of law, each contract awarded by the Department of Defense in fiscal year 1987 for construction or services to be performed in whole or in part in a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: Provided, That the Secretary of Defense may waive the requirements of this section in the interest of national security.

SEC. 9070. None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act, receives an enlistment bonus under section 308a or 308f of title 37, United States Code; nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Administrator of Veterans' Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Administrator pay such benefits to any such member.

SEC. 9071. Notwithstanding any other provision of this Act, no funds appropriated by this Act shall be expended for the research, development, test, evaluation or procurement for integration of a nuclear warhead into the Joint Tactical Missile System (JTACMS).

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See Back Page, REAGAN

President Reagan



Anchorage Daily News/Bill Roth

in her second run of the giant slalom at the NCAA national skiing championships at

North Pacific watch

Navy to build new radar in Aleutians

By DAVID HULEN
Daily News reporter

The Navy plans to spend approximately \$92 million over the next two years to build an advanced, largely-secret surveillance system in the Aleutian Islands, apparently to monitor Soviet naval and air activity in the North Pacific.

The project, planned for Amchitka Island near the end of the Aleutian chain, uses an "over-the-horizon" radar similar to a system planned by the Air Force for southcentral Alaska.

Such systems, developed over the past decade, use the electrically-charged ionosphere to bounce radio signals around the curve of the Earth, giving them far greater range

See Back Page, RADAR

Newcomb goes shackled to court

Newcomb faces new charges of attempted murder

By CAMPBELL
reporter

Newcomb, a past-master at eluding police, was taken in shackles before a Superior Court judge Wednesday afternoon with a \$1 million bond on his head, facing new charges of trying to kill two policemen. Victor Carlson set Newcomb's bond at \$1 million for two first-degree

murders. His arrest came five hours after Newcomb allegedly shot Anchorage police Officers Preston "Jack" Chapman and Francis O'Brien. Acting on a tip that the wanted man had been spotted, the patrolmen confronted Newcomb in the Anchorage Barber College in Mountain View late Tuesday afternoon.

In court papers filed Wednesday, state



stead of absolute values.

If references to theistic religions such as Christianity and Judaism are excluded from public school texts, the plaintiffs contended, then so must references to secular humanism.

The defendants, who included the Alabama state board of education and 12 parents who entered the case

secular humanism as a central term for any textbook, classroom course or teaching method contrary to their fundamentalist religious beliefs.

In his 172-page decision, Hand said: "For purposes of the First Amendment, secular humanism is a religious belief system, entitled to the protections of, and subject to the prohibitions of, the religion clauses of the U.S. Constitu-

tion that may be promoted and advanced in the public schools."

He also said that the case represented neither an "attempt of narrow-minded or fanatical pro-religionists to force a public school system to teach only those opinions and facts they find digestible" nor an "attempt by anyone to censor materials deemed undesirable, improv-

the allegedly improper promotion of certain religious beliefs, thus violating the constitutional prohibitions against the establishment of religion..."

At a news conference on the steps of the federal courthouse in Mobile after the decision was released, Robert Sheirling of Mobile, an attorney for the plaintiffs, said: "This is exactly what we

cused at the outset of: having some hidden agenda in this matter, and I think Judge Hand... has stated very succinctly what this case is and what it is not."

But John Buchanan, a former Alabama congressman and Baptist minister who is chairman of People for the American Way, said: "Today's order is judicial book-burn-

ing by this ruling is nothing less than government censorship of the school curriculum

The challenged textbook included those used in teaching home economics, history and social studies. Among other things, the plaintiff charged that passages in the books about one-parent families and divorce offend their beliefs about traditional families.

RADAR: Navy plans to spend \$92 million for advanced surveillance system on Amchitka Island

Continued from Page A-1

than traditional line-of-sight radars.

Navy officials have said details of how the Amchitka system will work — and what it will be used for — are classified, and they have refused to discuss it in any detail. A lengthy environmental assessment of the project, prepared by the Navy last year for federal and state agencies, says only that the system is "required for strategic defense purposes" and is "in the interest of national security."

The system's mission is apparently different from the Air Force's \$450 million over-the-horizon "backscatter" radar tentatively scheduled to be built over the next several years near Tok and Gulkana. That system is primarily an early-warning system aimed at watching for Soviet planes and cruise missiles, Air Force officials have said. The system, with a range of about 800 miles, will be directed north and west and Air Force officials claim it will be able to track planes flying hundreds of miles inside the Soviet Union.

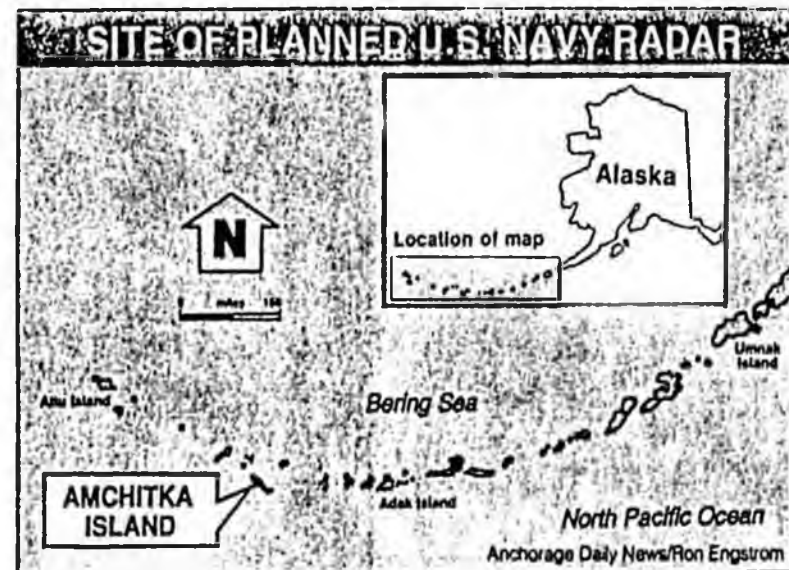
A spokesman for the Air Force's Electronic Systems

Division in Massachusetts said the Navy system "has a different mission. It's not related at all" to the Air Force's Alaska project. The spokesman, Kevin Gilmartin, said he understood the Navy project was to primarily monitor sea-launched missiles in the North Pacific, as well as Soviet sea and air movement, but he said the Air Force could not provide details.

"That's essentially what it does," said Shawn O'Keefe, a staff member for the Senate Defense Appropriations Subcommittee. "It has other capabilities, too, as I understand it. It's the capabilities and the mission that are classified.... The basic point is to further the range. The more range you have, the more information you can collect."

Amchitka is a treeless, uninhabited, 35-mile-long strip of land in the Rat Island group, about 1,400 miles southwest of Anchorage. An American air base was built there during World War II and it was the site of underground nuclear tests in the 1960s and early 1970s.

The Navy has increased its activity in the North Pacific in recent months, including sea exercises in the Gulf of Alaska and Aleutians. There



is a Navy base at Adak, about 200 miles east of Amchitka, that includes surveillance and communications facilities, an underwater weapons detachment and a group of P-3 aircraft that track Soviet ships and submarines.

Military researchers at the Washington-based Center for Policy Studies have reported that Adak is the storage site for some 70 nuclear anti-submarine depth bombs. The Navy has refused to comment on whether there are nuclear weapons at the base.

About 250 miles west of

Amchitka is Shemya Island, site of a largely-classified Air Force base that includes radar systems and reconnaissance planes which monitor Soviet missile tests.

According to diagrams in the Navy's environmental assessment, the Amchitka radar antennas will be pointed directly west, toward the Kamchatka Peninsula in the Soviet Union. The major Soviet Pacific submarine base is on the eastern shore of the peninsula, at Petropavlovsk, and the sea between there and the Aleutians is a major Soviet

naval operating area, according to "Soviet Military Power," an annual U.S. Defense Department publication.

About 800 miles separate Amchitka from the Kamchatka Peninsula.

According to the Navy budget office, about \$92 million has been budgeted for the project through the scheduled completion in late 1988. Site work is scheduled to start this spring, with construction of the transmitter and receiver antennas sometime next year.

The project is being coordinated by Navy officials in Silverdale, Wash., but all questions were referred to a spokesman at the Pentagon, who said he could not discuss the project.

The over-the-horizon system uses the ionosphere — the electrically-charged layer of atmosphere 100 to 250 miles above the Earth's surface — to flex high-frequency radio signals around the curve of the Earth. It's the same principle that causes short-wave radio signals to bounce around the globe.

The signals bounce off the ionosphere and return to earth downrange. Whatever the beam strikes causes the signals to scatter back off the

ionosphere and return to a receiver near the transmitter where they are deciphered by computer.

The Navy environmental report doesn't describe in detail what the antennas will look like, but says that both the transmitter and receiver sites will include several hundred acres. The transmitter will be built on the western tip of the island, with the receiver based about 20 miles southeast, in the center of the island.

A base camp, with quarters for 16 crew members, will be built at the west end of the island, near the existing air strip and dock.

The Navy environmental report says the project will require construction of a diesel-fueled power plant to generate about 2 million kilowatts of electricity for the transmitter. Extensive road work also will be needed.

The Navy picked Amchitka, the report says, because of its flat terrain, "important strategic location," and existing dock, airfield and other facilities.

The island is part of the Aleutian National Wildlife Refuge, but federal and state environmental and wildlife groups have raised no serious objections to the project.