

**47 CFR Part 73****[MM Docket No. 95-58; RM-8627]****Radio Broadcasting Services; LaMesa and Tahoka, TX****AGENCY:** Federal Communications Commission.**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of 100.3 Radio, Inc., licensee of Station KIOL(FM), Channel 262C1, LaMesa, Texas, and West Texas Broadcasting Company, Inc., licensee of Station KMMX(FM), Channel 284C1, LaMesa, Texas, reallocates Channel 262C1 from LaMesa to Tahoka, Texas, and modifies Station KIOL(FM)'s license to specify Tahoka as its community of license. See 60 FR 22541, May 8, 1995. Channel 262C1 can be allotted in compliance with the Commission's minimum distance separation requirements with a site restriction of 25.2 kilometers (15.6 miles) north. The coordinates for Channel 262C1 at Tahoka are 33-23-00 and 101-43-00. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** November 24, 1995.**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MM Docket No. 95-58, adopted September 29, 1995, and released October 10, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

## List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

**PART 73—[AMENDED]**

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 262C1 at Tahoka and removing 262C1 at LaMesa.

Federal Communications Commission.

John A. Karousos,

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

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**DEPARTMENT OF THE INTERIOR****Office of the Secretary****48 CFR Parts 1415, 1426, 1428 and 1452****RIN 1090-AA52****Department of the Interior Acquisition Regulation; Internal Procedures****AGENCY:** Office of the Secretary, Interior.**ACTION:** Final rule.

**SUMMARY:** In the interests of streamlining processes and improving relationships with contractors, this final rule amends the Department of the Interior Acquisition Regulation by removing nonessential portions of those regulations. Internal procedures regarding disclosure and use of information before award, unsolicited proposals, handling of preaward mistakes, proposal evaluation, price negotiation, and profit analysis are being removed. Guidance on Indian Preference contracting, formerly located in Part 1404, is being reinstated as Part 1426. Aircraft insurance clauses have been revised.

**EFFECTIVE DATE:** November 13, 1995.

**FOR FURTHER INFORMATION CONTACT:** Dee Emmerich, Office of Acquisition and Property Management, (202) 208-3348.

**SUPPLEMENTARY INFORMATION:** Under the auspices of the National Performance Review, a thorough review of the Department of the Interior Acquisition Regulation (DIAR) was conducted. The review revealed unnecessary and outdated regulations, and some excessively burdensome procedures.

In the interests of streamlining processes and improving relationships with contractors, nonessential portions of the DIAR are being removed from the CFR. The eight sections being removed from part 1415 deal with exclusively internal procedures so codification is not necessary. Section 1415.106 is retained without change.

When the DIAR was issued in 1984 as a supplement to the Federal Acquisition Regulation (FAR), FAR Part 26, Other Socioeconomic Programs, did not exist. There being no alternative at the time, Interior-unique guidance on contracting under Indian preference procedures was

issued as a supplement to FAR Part 4, Administrative Matters. Therefore, the guidance formerly located at 1404.70 has been removed, is being replaced in new subpart 1426.70 with only editorial changes to cross-references and so forth. The clauses formerly located at 1452.204 are relocated to 1452.226.

The removal of sections 1428.101 and 1428.104, regarding central maintenance of bid bond information, will simplify DOI's internal management and eliminate unnecessary paperwork. Editorial revisions have been made to 1428.306 and 1428.311. 1452.228-70(b) was revised to relieve contractors of the requirement to use registered mail and to specify that a certificate of insurance constitutes adequate proof of insurance.

The title of 1452.228-73 was edited. There were no changes to 1452.228-7, 1452.228-71, or 1452.227-72.

**Required Determinations**

The Department believes that public comment is unnecessary because the material being removed is outdated or deals exclusively with internal procedures. Therefore, in accordance with 5 U.S.C. 553(b)(B), the Department finds good cause to publish this document as a final rule. This rule was not subject to Office of Management and Budget review under Executive Order 12866. This rule does not contain a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Department has determined that this rule will not have a significant economic impact on a substantial number of small entities because no requirements are being added for small businesses and no protections are being withdrawn. The Department has determined that this rule does not constitute a major Federal action having a significant impact on the human environment under the National Environmental Policy Act of 1969. The Department has certified that this rule meets the applicable standards provided in Sections 2(a) and 2(b)(2) of Executive Order 12778.

List of Subjects in 48 CFR Parts 1415, 1426, 1428 and 1452

Government procurement, Reporting and recordkeeping requirements.

Dated: August 8, 1995.

Robert J. Lamb,

*Acting Assistant Secretary, Policy Management and Budget.*

Chapter 14 of Title 48 of the Code of Federal Regulations is amended as follows:

1. The authority citation for 48 CFR Parts 1415 and 1452 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c) and 5 U.S.C. 301.

#### **PART 1415—[AMENDED]**

2. Part 1415 is amended by removing subparts 1415.4, 1415.5, 1415.6, 1415.8 and 1415.9.

3. Part 1426 is added to subchapter D to read as follows:

#### **PART 1426—OTHER SOCIO-ECONOMIC PROGRAMS**

##### **Subpart 1426.70—Indian Preference**

- 1426.7000 Scope of subpart.
- 1426.7001 Definitions.
- 1426.7002 Statutory requirements.
- 1426.7003 Applicability and contract clause.
- 1426.7004 Compliance enforcement.
- 1426.7005 Tribal preference requirements.

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c) and 5 U.S.C. 301); Pub. L. 93-638, 88 Stat. 2205 (25 U.S.C. 450e(b)).

##### **Subpart 1426.70—Indian Preference**

###### **1426.7000 Scope of subpart.**

This subpart prescribes policies and procedures for implementation of section 7(b) of the Indian Self-Determination and Education Assistance Act (Public Law 93-638, 88 Stat. 2205, 25 U.S.C. 450e(b)).

###### **1426.7001 Definitions.**

For purposes of this subpart the following definitions shall apply:

*Indian* means a person who is a member of an Indian Tribe. If the contractor has reason to doubt that a person seeking employment preference is an Indian, the contractor shall grant the preference but shall require the individual within thirty (30) days to provide evidence from the Tribe concerned that the person is a member of the Tribe.

*Indian organization* means that governing body of any Indian Tribe or entity established or recognized by such governing body in accordance with the Indian Financing Act of 1974 (Pub. L. 93-262, 88 Stat. 77; 25 U.S.C. 1451).

*Indian-owned economic enterprise* means any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit provided that such Indian ownership shall constitute not less than 51 percent of the enterprise.

*Indian reservation* includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations

under the provisions of the Alaska Native Claims Settlement Act, (Pub. L. 92-203, 85 Stat. 688; 43 U.S.C. 1601 *et seq.*).

*Indian Tribe* means an Indian Tribe, band, nation, or other recognized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (Pub. L. 92-203, 85 Stat. 688; 43 U.S.C. 1601), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

*On or near an Indian reservation* means on a reservation or the distance within that area surrounding an Indian reservation(s) that a persons seeking employment could reasonably be expected to commute to and from in the course of a work day.

###### **1426.7002 Statutory requirements.**

Section 7(b) of the Indian Self-Determination and Education Assistance Act requires that any contract or subcontract entered into pursuant to that Act, the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 452), as amended, (the Johnson-O'Malley Act), or any other Act authorizing contracts with Indian organizations or for the benefit of Indians shall require that, to the greatest extent feasible:

- (a) Preferences and opportunities for training and employment in connection with the administration of such contracts shall be given to Indians, and
- (b) Preference in the award of subcontracts in connection with the administration of such contracts shall be given to Indian organizations and to Indian-owned economic enterprises as defined in section 3 of the Indian Financing Act of 1974 (Sec. 3, Pub. L. 93-262; 88 Stat. 77; 25 U.S.C. 1452).

###### **1426.7003 Applicability and contract clause.**

(a) The Contracting Officer (CO) shall insert the clause at 1452.226-70, Indian Preference—Department of the Interior, in solicitations issued and contracts awarded by

- (1) The Bureau of Indian Affairs,
  - (2) A contracting activity other than the Bureau of Indian Affairs when the contract is entered into pursuant to an act specifically authorizing contracts with Indian organizations and
  - (3) A contracting activity other than the Bureau of Indian Affairs where the work to be performed is specifically for the benefit of Indians and is in addition to any incidental benefits which might otherwise accrue to the general public.
- (b) The CO shall insert the clause at 1452.226-71, Indian Preference

Program—Department of the Interior, in all solicitations issued and contracts awarded by a contracting activity which may exceed \$50,000, which contain the clause required by paragraph (a) of this section and where it is determined by the CO, prior to solicitation, that the work under the contract will be performed in whole or in part on or near an Indian reservation(s). The Indian Preference Program clause may also be included in solicitations issued and contracts awarded by a contracting activity which may not exceed \$50,000, but which contain the clause required by paragraph (a) of this section and which, in the opinion of the CO, offer substantial opportunities for Indian employment, training or subcontracting.

###### **1426.7004 Compliance enforcement.**

(a) The CO is responsible for conducting periodic reviews of the contractor to ensure compliance with the requirements of the clauses prescribed in 1426.7003. These reviews may be conducted with the assistance of the Indian Tribe(s) concerned.

(b) Complaints of noncompliance with the requirements of the clauses prescribed under 1426.7003 which are received in writing by the contracting activity shall be promptly investigated by the CO and a written disposition of the complaint shall be prepared.

###### **1426.7005 Tribal preference requirements.**

(a) Where the work under a contract is to be performed on an Indian reservation, the CO may supplement the clause at 1452.226-71, Indian Preference Program—Department of the Interior, by adding specific Indian preference requirements of the Tribe on whose reservation the work is to be performed. The supplemental requirements shall be jointly developed for the contract by the CO and the Tribe. Supplemental preference requirements must represent a further implementation of the requirements of section 7(b) of Public Law 93-638 and must be approved by the SOL for legal sufficiency before being added to a solicitation and resultant contract. Any supplemental preference requirements to be added to the clause at 1452.226-71 shall be included in the solicitation and clearly identified in order to ensure uniform understanding of the additional requirements by all prospective bidders or offerors.

(b) Nothing in this subpart shall be interpreted to preclude Tribes from independently developing and enforcing their own tribal preference requirements. Such independently developed tribal preference requirements shall not, except as

provided in paragraph (a) of this section, become a requirement in contracts covered under this subpart 1426.70 and must not hinder the Government's right to award contracts and to administer their provisions.

4. Part 1428 is revised to read as follows:

## **PART 1428—BONDS AND INSURANCE**

### **Subpart 1428.3—Insurance**

Sec.

1428.301 Policy.

1428.306 Insurance under fixed-price contracts.

1428.306-70 Insurance for aircraft service contracts.

1428.311 Solicitation provision and contract clause on liability insurance under cost-reimbursement contracts.

1428.311-2 Contract clause.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c) and 5 U.S.C. 301.

### **Subpart 1428.3—Insurance**

#### **1428.301 Policy.**

It is the policy of DOI to insure its own risks only when such action is in the best interest of the Government. Circumstances where contractors are required to carry insurance are listed under FAR 28.301 and 28.306. In these circumstances, the CO shall insert the clause at 1452.228-70, Liability Insurance—Department of the Interior, in solicitations and contracts.

#### **1428.306 Insurance under fixed-price contracts.**

#### **1428.306-70 Insurance for aircraft services contracts.**

(a) *Policy.* The CO shall insert minimum insurance requirements in aircraft services contracts in order to protect the Government and its contractors.

(b) *Applicability.* The clauses prescribed by paragraph (c) of this section are applicable to all fixed-price contracts involving use of aircraft with either a contractor-furnished or a Government-furnished pilot except for one-time charters when Government exposure is minimal and time limitations are present.

(c) *Clauses.* The following clauses shall be used as prescribed:

(1) The CO shall insert the clause at 1452.228-71, Aircraft and General Public Liability Insurance—Department of the Interior, in solicitations and contracts when a fixed-price contract for operation of aircraft where the Government is using a contractor-furnished pilot is contemplated.

(2) The CO shall insert the clause at 1452.228-72, Liability for Loss or Damage—Department of the Interior, in

solicitations and contracts when a fixed-price contract for use of aircraft where the Government does not have a property interest and is using a Government-furnished pilot is contemplated.

(3) The CO shall insert the clause at 1452.228-73, Liability for Loss or Damage—Department of the Interior (Property Interest), in solicitations and contracts when a fixed-price contract for use of aircraft where the Government has a property interest in the aircraft and is using a Government-furnished pilot (e.g., a lease with purchase option) is contemplated.

#### **1428.311 Solicitation provision and contract clause on liability insurance under cost-reimbursement contracts.**

#### **1428.311-2 Contract clause.**

The CO shall modify the clause at FAR 52.228-7, Insurance—Liability to Third Persons, in accordance with 1452.228-7, and insert in solicitations and contracts as prescribed in FAR 28.311-2.

## **PART 1452—[AMENDED]**

### **1452.204-7 [Redesignated as 1452.226-70]**

5. 1452.204-71 is redesignated as 1452.226-70.

### **1452.204-72 [Redesignated as 1452.226-71]**

6. 1452.204-72 is redesignated as 1452.226-71.

7. 1452.228-70 is revised to read as follows:

#### **1452.228-70 Liability insurance.**

As prescribed in 1428.301, insert the following clause in all contracts where circumstances warrant the carrying of insurance by the contractor (see FAR 28.301 and 28.306):

Liability Insurance—Department of the Interior (Jul 1995)

(a) The contractor shall procure and maintain during the term of this contract and any extension thereof liability insurance in form satisfactory to the Contracting Officer by an insurance company which is acceptable to the Contracting Officer. The named insured parties under the policy shall be the Contractor and the United States of America. The amounts of the insurance shall be not less than as follows:

\$\_\_\_\_\_ each person.\*  
\$\_\_\_\_\_ each occurrence.\*  
\$\_\_\_\_\_ property damage.\*

(b) Each policy shall have a certificate evidencing the insurance coverage. The insurance company shall provide an endorsement to notify the Contracting Officer 30 days prior to the effective date of cancellation or termination of the policy or certificate; or modification of the policy or certificate which may adversely affect the

interest of the Government in such insurance. The certificate shall identify the contract number, the name and address of the Contracting Officer, as well as the insured, the policy number and a brief description of contract services to be performed. The contractor shall furnish the Contracting Officer with a copy of an acceptable insurance certificate prior to beginning the work.

\* These amounts to be set by the Contracting Officer.

[End of clause]

8. 1452.228-73 is amended by revising the introductory text to read as follows:

#### **1452.228-73 Liability for loss or damage (property interest).**

As prescribed in 1428.306-70(c)(3), insert the following clause in all fixed-price contracts involving the use of aircraft with Government-furnished pilot where the Government has a property interest in the aircraft (e.g., lease with purchase option):

\* \* \* \* \*

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## **DEPARTMENT OF TRANSPORTATION**

### **National Highway Traffic Safety Administration**

#### **49 CFR Part 571 and 572**

[Docket No. 92-28; Notice 5]

RIN No. 2127-AB85

### **Federal Motor Vehicle Safety Standards; Head Impact Protection**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Notice of technical workshop.

**SUMMARY:** This notice announces that NHTSA will hold a technical workshop to discuss issues concerning the test procedure for a recent final rule amending Standard No. 201, *Occupant Protection in Interior Impact*. Parties interested in participating in the workshop are asked to submit a list of test procedure issues they recommend for inclusion in the agenda for the workshop.

**DATES:** *Workshop:* A workshop on the test procedure for the new head impact protection rule will be held by early December, at the address listed below. Persons wishing to participate in the workshop should contact Karen Nuschler at the address or telephone number listed below by October 23, 1995. Due to space limitations, NHTSA may have to limit the number of participants per organization.