

respects identical to that contained in Appendix E hereto, which provides assurances that \$2.5 billion will be available for band reconfiguration, notwithstanding the financial condition of Nextel, or its successor(s).

- Nextel shall specify on the initial letter of credit and any subsequent letters of credit, a Trustee, acceptable to the Commission, which shall draw upon and disburse funds in accordance with the terms thereof and the Transition Administrator's instructions. Further, on the occasion of a material breach by Nextel of its obligations hereunder, as declared by the Commission, said trustee shall receive the remaining balance of the letter(s) of credit to hold in trust and disburse in accordance with the terms of this *Report and Order*. Said funds shall be devoted exclusively to reconfiguration of the 800 MHz band except as otherwise provided in this *Report and Order*.

- Nextel shall deliver an opinion letter from counsel clearly stating, subject only to customary assumptions, limitations and qualifications, that in a proceeding under Title 11 of the United States Code, 11 U.S.C. Section 101 *et seq.* (the "Bankruptcy Code"), in which Nextel is the debtor, the bankruptcy court would not treat the Letter of Credit or proceeds of the Letter of Credit as property of Nextel's bankruptcy estate under Section 541 of the Bankruptcy Code. The scope of the opinion letter must also cover such other opinions as the Commission shall request. The opinion letter must contain detailed legal analysis of the basis of counsel's opinion. A draft opinion letter must be submitted for review and approval by the Commission's Office of General Counsel prior to issuance of the letter. Bankruptcy counsel, and, if applicable, counsel's firm, must have a Martindale-Hubbell rating of "A/V" and must satisfy the Commission in all other respects.

- Nextel shall provide a letter or letters, in content satisfactory to the Commission, from any and all parties having a financial or equitable interest in any existing or proposed 800 MHz system, whether in the United States, Mexico or Canada, and connected in any way to Nextel by way of being a subsidiary, partner, or otherwise; to the effect that such parties are bound to perform the obligations imposed on Nextel herein to the extent such obligations are necessary or desirable in the completion of reconfiguration of the 800 MHz band.

- Nextel shall obtain the Commission's approval of all documents it submits pursuant to this paragraph.

- Nextel shall file with the Commission an acknowledgement that meets the requirements of paragraph 87 *supra*."

4. The Commission extends the deadline contained in paragraph 345 of the *Order* (as numbered in the *Second Erratum* released October 6, 2004). Paragraph 345, as numbered, provides that that "within thirty days of the publication of this *Report and Order* in the **Federal Register**, Nextel and Southern LINC shall deliver to the Commission an agreement for the channel distribution for all 800 MHz

licensees in the areas shown in Appendix G."

5. The Commission extends the Broadcast Auxiliary Service (BAS) relocation deadlines set out in paragraph 346 of the *Order* (as numbered in the *Second Erratum* released October 6, 2004). Paragraph 346 provides that, Nextel's modified licenses authorizing operations within the 1.9 GHz band are conditioned on several requirements, including:

"Nextel shall certify to the Commission that all BAS facilities have been relocated within thirty months after the effective date of this *Report and Order*. If Nextel fails to meet this benchmark, for reasons that Nextel could reasonably have avoided, the Commission will determine whether forfeitures should be imposed and/or whether Nextel licenses, including, but not limited to, its 1.9 GHz licenses, should be revoked."

6. The Commission extends the BAS relocation deadlines set forth in Paragraph 352 of the *Order* (as numbered in the *Second Erratum* released on October 6, 2004). Paragraph 352 provides that, "as a condition on Nextel's 1.9 GHz licenses, Nextel shall, as described herein, relocate all BAS licensees in the 1990–2025 MHz band within thirty months after the effective date of this *Report and Order*." In this connection, Section 352 provides that Nextel shall comply with certain requirements, which include, but are not limited to:

- "Nextel shall file with the Commission and copy the MSS licensees within thirty days after the effective date of this *Report and Order* its plan for the relocation of BAS operations in the markets that will be relocated during stage one (*i.e.*, relocations made within eighteen months after the effective date of this *Report and Order*)."
 - "Nextel shall follow a negotiation period for stage one relocations that ends May 31, 2005 and that ends March 31, 2006 for stage two relocations (*i.e.*, relocations made within thirty months after the effective date of this *Report and Order*)."
 - "Nextel shall file progress reports within twelve months and twenty-four months after the effective date of this *Report and Order* on the status of the transition, including identifying the markets that will be relocated during stage one, and all remaining markets that will be relocated during stage two."
 - "Nextel shall certify to the Commission that all BAS facilities have been relocated within thirty months after the effective date of this *Report and Order*. If Nextel fails to meet this benchmark, for reasons that Nextel could reasonably have avoided, the Commission will determine whether forfeitures should be imposed and/or whether Nextel licenses, including, but not limited to, its 1.9 GHz licenses, should be revoked."
 - "Nextel shall be entitled to seek reimbursement from MSS licensees that have entered the band for the MSS licensee's pro

rata share of Nextel's costs to clear the top thirty markets and relocate all fixed BAS facilities, regardless of market size, incurred during the thirty-six month reconfiguration process. Nextel shall be required to inform the Commission and MSS licensees on whether it will or will not seek reimbursement from MSS licensees within twelve months after the effective date of this *Report and Order*."

7. This extension does not apply to the statutory deadlines for filing petitions for reconsideration and for seeking judicial review of the *Order*. Also, the Commission is not deferring the effective date of the rules set forth in Appendix C of the initial *Order* and published elsewhere in the Rules and Regulations section of this issue, including the effective dates of technical standards and procedural mechanisms adopted in the *Order* to abate unacceptable interference.

Federal Communications Commission.

Michael J. Wilhelm,

Chief, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau, Federal Communications Commission.

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BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

48 CFR Part 211

Defense Federal Acquisition Regulation Supplement; Technical Amendments

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement to update the Internet address for DoD specifications and standards.

EFFECTIVE DATE: November 22, 2004.

FOR FURTHER INFORMATION CONTACT: Ms. Michele Peterson, Defense Acquisition Regulations Council, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0311; facsimile (703) 602–0350.

List of Subjects in 48 CFR Part 211

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

■ Therefore, 48 CFR Part 211 is amended as follows:

■ 1. The authority citation for 48 CFR Part 211 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 211—DESCRIBING AGENCY NEEDS**211.201 [Amended]**

■ 2. Section 211.201 is amended in paragraph (d) introductory text by removing “<http://assist.daps.mil>” and adding in its place “<http://assist.daps.dla.mil>”.

[FR Doc. 04–25809 Filed 11–19–04; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE**48 CFR Parts 217 and 219**

[DFARS Case 2003–D092]

Defense Federal Acquisition Regulation Supplement; Small Disadvantaged Businesses and Leader Company Contracting

AGENCY: Department of Defense (DoD).
ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to revise text pertaining to DoD review of small business subcontracting plans, and to remove text pertaining to leader company contracting. This rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

DATES: Effective November 22, 2004.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Schulz, Defense Acquisition Regulations Council, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0326; facsimile (703) 602–0350. Please cite DFARS Case 2003–D092.

SUPPLEMENTARY INFORMATION:**A. Background**

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at <http://www.acq.osd.mil/dpap/dfars/transf.htm>.

This final rule is a result of the DFARS Transformation initiative. The DFARS changes—

- Remove DFARS Subpart 217.4, which addresses the participation of small disadvantaged business concerns in leader company contracting. DoD rarely uses leader company contracting. Incentives for major DoD contractors to assist small disadvantaged business concerns are provided through the DoD Pilot Mentor-Protégé Program, in accordance with DFARS Subpart 219.71 and Appendix I.

- Lower the approval level at DFARS 219.705–4(d), from two levels above the contracting officer to one level above the contracting officer, for small business subcontracting plans that contain a small disadvantaged business goal of less than five percent.

DoD published a proposed rule at 69 FR 21996 on April 23, 2004. DoD received no comments on the proposed rule. Therefore, DoD has adopted the proposed rule as a final rule without change.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule deletes text that is seldom used and revises review procedures that are internal to DoD.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 217 and 219

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

■ Therefore, 48 CFR Parts 217 and 219 are amended as follows:

■ 1. The authority citation for 48 CFR Parts 217 and 219 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR chapter 1.

PART 217—SPECIAL CONTRACTING METHODS**Subpart 217.4—[Removed]**

■ 2. Subpart 217.4 is removed.

PART 219—SMALL BUSINESS PROGRAMS

■ 3. Section 219.705–4 is amended in paragraph (d) by revising the second sentence to read as follows:

219.705–4 Reviewing the subcontracting plan.

(d) * * * A small disadvantaged business goal of less than five percent must be approved one level above the contracting officer.

[FR Doc. 04–25825 Filed 11–19–04; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE**48 CFR Part 219**

[DFARS Case 2003–D105]

Defense Federal Acquisition Regulation Supplement; Contracting for Architect-Engineer Services

AGENCY: Department of Defense (DoD).
ACTION: Final rule.

SUMMARY: DoD has adopted as final, without change, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 1427 of the National Defense Authorization Act for Fiscal Year 2004. Section 1427 increases, from \$85,000 to \$300,000, the threshold below which acquisitions for architect-engineer services for military construction or family housing projects are set aside for small business concerns.

DATES: Effective November 22, 2004.

FOR FURTHER INFORMATION CONTACT: Mr. Euclides Barrera, Defense Acquisition Regulations Council, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0296; facsimile (703) 602–0350. Please cite DFARS Case 2003–D105.

SUPPLEMENTARY INFORMATION:**A. Background**

DoD published an interim rule at 69 FR 31909 on June 8, 2004, to implement Section 1427 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136). Section 1427 amended 10 U.S.C. 2855 to increase, from \$85,000 to \$300,000, the threshold below which acquisitions for architect-