

§ 90.42 [Amended]

■ 48. Section 90.42 is amended by removing the words “programs and activities” in the first sentence of paragraph (a) and adding, in their place, the words “programs or activities”.

§ 90.43 [Amended]

■ 49. Section 90.43 is amended by removing the word “program” in the last sentence of paragraph (c)(4).

§ 90.47 [Amended]

■ 50. Section 90.47 is amended by removing the word “Federal” in the first sentence of paragraph (c)(2).

§ 90.48 [Amended]

■ 51. Section 90.48 is amended by removing the words “program or activity” in the last sentence and adding, in their place, the words “Federal financial assistance”.

§ 90.49 [Amended]

■ 52. Section 90.49 is amended by removing the word “program” whenever it appears in paragraph (c) and adding, in its place, the words “program or activity”.

PART 91—NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM HHS

■ 53. The heading for part 91 is revised to read as set forth above.

■ 54. The authority citation for part 91 continues to read as follows:

Authority: Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 *et seq.* (45 CFR part 90).

§ 91.1 [Amended]

■ 55. Section 91.1 is amended by removing the words “programs and activities” in the last sentence and adding, in their place, the words “programs or activities”.

§ 91.2 [Amended]

■ 56. Section 91.2 is amended by removing the words “programs and activities” in the last sentence and adding, in their place, the words “programs or activities”.

§ 91.3 [Amended]

■ 57. Section 91.3 is amended by removing the word “programs” in the section heading and adding, in its place, the words “programs or activities”; and removing the words “or benefits from” in paragraph (a).

■ 58. Section 91.4 is amended by adding in alphabetical order a new definition of “Program or activity” and adding an

authority citation following the section to read as follows:

§ 91.4 Definition of terms used in these regulations.

* * * * *

Program or activity means all of the operations of—

(a)(1) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(2) The entity of such State or local government that distributes Federal financial assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(b)(1) A college, university, or other postsecondary institution, or a public system of higher education; or

(2) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system;

(c)(1) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(i) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(2) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(d) Any other entity which is established by two or more of the entities described in paragraph (a), (b), or (c) of this definition; any part of which is extended Federal financial assistance.

* * * * *

(Authority: 42 U.S.C. 6107)

§ 91.17 [Amended]

■ 59. Section 91.17 is amended by removing the word “program” whenever it appears and adding, in its place, the words “program or activity”.

§ 91.18 [Amended]

■ 60. Section 91.18 is amended by removing the word “program” and adding, in its place, the words “program or activity”.

§ 91.31 [Amended]

■ 61. Section 91.31 is amended by removing the words “programs and

activities” in the first sentence and adding, in their place, the words “programs or activities”.

§ 91.32 [Amended]

■ 62. Section 91.32 is amended by removing the word “program” in paragraph (b).

§ 91.44 [Amended]

■ 63. Section 91.44 is amended by removing the word “program” in paragraph (a)(2).

§ 91.46 [Amended]

■ 64. Section 91.46 is amended by removing the words “program and activity” in the first sentence of paragraph (b) and adding, in their place, the words “program or activity”; and by removing the word “Federal” in the first sentence of paragraph (c)(2).

§ 91.49 [Amended]

■ 65. Section 91.49 is amended by removing the words “program or activity” in paragraph (b)(2) and adding, in their place, the words “Federal financial assistance”.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[FCC 05–64; MM Docket No. 98–155; RM–9082, RM–9133]

Radio Broadcasting Services; Alva, Mooreland, Tishomingo, Tuttle and Woodward, OK

AGENCY: Federal Communications Commission, FCC.

ACTION: Final rule.

SUMMARY: This document grants an Application for Review filed by Chisholm Trail Broadcasting Co. directed to the earlier *Memorandum Opinion and Order* in this proceeding to the extent of setting aside three previous actions. See 67 FR 52876, August 14, 2002. Specifically, Channel 259C3 will now be allotted at Tishomingo, Oklahoma, Channel 259C1 will be allotted at Alva, Oklahoma, and Channel 261C1 will be allotted at Woodward, Oklahoma. The reference coordinates for the Channel 259C1 allotment at Alva, Oklahoma, are 36–35–41 and 98–15–38. The reference coordinates for the Channel 261C1 allotment at Woodward, Oklahoma, are 36–25–42 and 99–24–10. The reference coordinates for the Channel 259C3

allotment at Tishomingo, Oklahoma, are 34–21–34 and 96–33–34. With this action, the proceeding is terminated.

DATES: Effective May 9, 2005.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Media Bureau, (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Memorandum Opinion and Order* in MM Docket No. 98–155 adopted March 10, 2005, and released March 14, 2005. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Information Center at Portals 11, CY–A257, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or <http://www.BCPIWEB.com>. The Commission will not send a copy of this *Memorandum Opinion and Order* pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A), because the adopted rules are rules of particular applicability.

List of Subjects in 47 CFR Part 73

Radio, Radio Broadcasting.

■ Accordingly, 47 CFR Part 73 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Channel 260C1 and adding Channel 259C1 at Alva, by adding Tishomingo, Channel 259C3, by removing Tuttle, Channel 259C3, by removing Channel 292C1 and adding Channel 261C1 at Woodward.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

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DEPARTMENT OF DEFENSE

48 CFR Part 217

[DFARS Case 2004–D024]

Defense Federal Acquisition Regulation Supplement; Multiyear Contracting

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 8008 of the Defense Appropriations Act for Fiscal Year 2005 and Section 814 of the National Defense Authorization Act for Fiscal Year 2005. Sections 8008 and 814 establish new requirements related to the funding of multiyear contracts.

DATES: *Effective date:* May 9, 2005.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before July 8, 2005, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2004–D024, using any of the following methods:

○ Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

○ Defense Acquisition Regulations Web site: <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. Follow the instructions for submitting comments.

○ E-mail: dfars@osd.mil. Include DFARS Case 2004–D024 in the subject line of the message.

○ Fax: (703) 602–0350.

○ Mail: Defense Acquisition Regulations Council, Attn: Ms. Robin Schulze, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

○ Hand Delivery/Courier: Defense Acquisition Regulations Council, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.
All comments received will be posted to <http://emissary.acq.osd.mil/dar/dfars.nsf>.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Schulze, (703) 602–0326.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule amends DFARS Subpart 217.1 to implement Section 8008 of the Defense Appropriations Act for Fiscal Year 2005 (Pub. L. 108–287) and Section 814 of the National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108–375).

Section 8008 provides that DoD may not use fiscal year 2005 funds to award

a multiyear contract unless: (1) The Secretary of Defense has submitted to Congress a budget request for full funding of units to be procured through the contract; (2) cancellation provisions in the contract do not include consideration of recurring manufacturing costs of the contractor associated with the production of unfunded units to be delivered under the contract; (3) the contract provides that payments to the contractor under the contract shall not be made in advance of incurred costs on funded units; and (4) the contract does not provide for a price adjustment based on a failure to award a follow-on contract. These requirements have been added to the DFARS at 217.172(g) and (h).

Section 814 amended 10 U.S.C. 2306b and 10 U.S.C. 2306c to require that, for any multiyear contract with a cancellation ceiling exceeding \$100 million that is not fully funded, the agency head must give written notification to the congressional defense committees of (1) the cancellation ceiling amounts planned for each program year in the proposed multiyear contract, together with the reasons for the amounts planned; (2) the extent to which costs of contract cancellation are not included in the budget for the contract; and (3) a financial risk assessment of not including budgeting for costs of contract cancellation. These requirements have been added to the DFARS at 217.171(a)(5) and 217.172(e)(2)(ii).

In addition to implementation of the new statutory requirements, DoD has relocated text from DFARS 217.173(b) to 217.172(e) to more closely align with the structure of 10 U.S.C. 2306b(h).

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 does not expect this rule to 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 primarily addresses DoD planning and budget considerations with regard to multiyear contracts. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2004–D024.