

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for the designated petitioner as follows: Mark N. Lipp, Esq., Scott Woodworth, Esq., Wiley, Rein & Fielding LLP, 1776 K Street, NW., Washington, DC 20006.

**FOR FURTHER INFORMATION CONTACT:** Deborah A. Dupont, Media Bureau (202) 418-7072.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 07-176, adopted August 15, 2007, and released August 17, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. 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, (800) 378-3160, or via the company's Web site, <http://www.bcpweb.com>. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506 (C)(4).

The Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 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, 336.

##### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Nebraska, is amended by adding Humboldt, Channel 272C3.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

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#### DEPARTMENT OF DEFENSE

##### Defense Acquisition Regulations System

##### 48 CFR Parts 215 and 252

**RIN 0750-AF40**

##### Defense Federal Acquisition Regulation Supplement; Evaluation Factor for Use of Members of the Selected Reserve (DFARS Case 2006-D014)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 819 of the National Defense Authorization Act for Fiscal Year 2006. Section 819 authorizes DoD to use an evaluation factor that considers whether an offeror intends to perform a contract using employees or individual subcontractors who are members of the Selected Reserve.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before November 5, 2007, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2006-D014, using any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *E-mail:* [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2006-D014 in the subject line of the message.
- *Fax:* (703) 602-7887.
- *Mail:* Defense Acquisition Regulations System, Attn: Mr. Michael Benavides, OUSD (AT&L) DPAP

(DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062.

- *Hand Delivery/Courier:* Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202-3402.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Benavides, (703) 602-1302.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

This proposed rule implements Section 819 of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109-163). Section 819 authorizes DoD to use an evaluation factor that considers whether an offeror intends to perform a contract using employees or individual subcontractors who are members of the Selected Reserve and requires offerors to submit documentation supporting any stated intent to use such employees or subcontractors.

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 proposed 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 use of the evaluation factor is discretionary and is not expected to affect a significant number of acquisitions. 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 subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2006-D014.

##### C. Paperwork Reduction Act

This proposed rule contains a new information collection requirement. DoD has submitted the following proposal to the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information

collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The following is a summary of the information collection requirement.

*Title:* Defense Federal Acquisition Regulation Supplement (DFARS); Evaluation Factor for Employing or Subcontracting with Members of the Armed Forces Selected Reserve.

*Type of Request:* New requirement.

*Number of Respondents:* 100.

*Responses per Respondent:* 1.

*Annual Responses:* 100.

*Average Burden per Response:* 1 hour.

*Annual Burden Hours:* 100.

*Needs and Uses:* DoD needs this information to implement Section 819 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163). Section 819 authorizes DoD to use an evaluation factor that considers whether an offeror intends to perform a contract using employees or individual subcontractors who are members of the Selected Reserve, and requires offerors to submit documentation supporting any stated intent to use such employees or subcontractors.

*Affected Public:* Businesses or other for-profit and not-for-profit institutions.

*Frequency:* On occasion.

*Respondent's Obligation:* Required to obtain or retain benefits.

Written comments and recommendations on the proposed information collection should be sent to Ms. Hillary Fielden at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503, with a copy to the Defense Acquisition Regulations System, Attn: Mr. Michael Benavides, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Comments can be received from 30 to 60 days after the date of this notice, but comments to OMB will be most useful if received by OMB within 30 days after the date of this notice.

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Acquisition Regulations System, Attn: Mr. Michael Benavides, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062.

## List of Subjects in 48 CFR Parts 215 and 252

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

Therefore, DoD proposes to amend 48 CFR parts 215 and 252 as follows:

1. The authority citation for 48 CFR parts 215 and 252 continues to read as follows:

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

## PART 215—CONTRACTING BY NEGOTIATION

2. Sections 215.370 through 215.370-3 are added to read as follows:

### 215.370 Evaluation factor for employing or subcontracting with members of the Selected Reserve.

#### 215.370-1 Definition.

*Selected Reserve*, as used in this section, is defined in the provision at 252.215-XXXX, Evaluation Factor for Employing or Subcontracting with Members of the Selected Reserve.

#### 215.370-2 Evaluation factor.

In accordance with Section 819 of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109-163), the contracting officer may use an evaluation factor that considers whether an offeror intends to perform the contract using employees or individual subcontractors who are members of the Selected Reserve. See PGI 215.370-2 for guidance on use of this evaluation factor.

#### 215.370-3 Solicitation provision and contract clause.

(a) Use the provision at 252.215-XXXX, Evaluation Factor for Employing or Subcontracting with Members of the Selected Reserve, in solicitations that include an evaluation factor considering whether an offeror intends to perform the contract using employees or individual subcontractors who are members of the Selected Reserve.

(b) Use the clause at 252.215-YYYY, Use of Employees or Individual Subcontractors Who are Members of the Selected Reserve, in solicitations that include the provision at 252.215-XXXX. Include the clause in the resultant contract only if the contractor stated in its proposal that it intends to perform the contract using employees or individual subcontractors who are members of the Selected Reserve, and that statement was used as an evaluation factor in the award decision.

## PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Sections 252.215-XXXX and 252.215-YYYY are added to read as follows:

### 252.215-XXXX Evaluation Factor for Employing or Subcontracting with Members of the Selected Reserve.

As prescribed in 215.370-3(a), use the following provision:

#### Evaluation Factor for Employing or Subcontracting With Members of the Selected Reserve (XXX 2007)

(a) *Definition.* *Selected Reserve*, as used in this provision, has the meaning given that term in 10 U.S.C. 10143. Selected Reserve members normally attend regular drills throughout the year and are the group of Reserves most readily available to the President.

(b) This solicitation includes an evaluation factor that considers the offeror's intended use of employees, or individual subcontractors, who are members of the Selected Reserve.

(c) If the offeror, in the performance of any contract resulting from this solicitation, intends to use employees or individual subcontractors who are members of the Selected Reserve, the offeror's proposal shall include documentation to support this intent. Such documentation may include, but is not limited to—

(1) Existing company documentation, such as payroll or personnel records, indicating the names of the Selected Reserve members who are currently employed by the company; or

(2) A statement that one or more positions will be set aside to be filled by new hires of Selected Reserve members, along with verifying documentation.

(End of provision)

### 252.215-YYYY Use of Employees or Individual Subcontractors Who are Members of the Selected Reserve.

As prescribed in 215.370-3(b), use the following clause:

#### Use of Employees or Individual Subcontractors Who Are Members of the Selected Reserve (XXX 2007)

(a) *Definition.* *Selected Reserve*, as used in this clause, has the meaning given that term in 10 U.S.C. 10143. Selected Reserve members normally attend regular drills throughout the year and are the group of Reserves most readily available to the President.

(b) If the Contractor stated in its offer that it intends to use members of the Selected Reserve in the performance of this contract—

(1) The Contractor shall use employees, or individual subcontractors, who are members of the Selected Reserve in the performance of the contract to the fullest extent

consistent with efficient contract performance; and

(2) The Government has the right to terminate the contract for default if the Contractor willfully or intentionally fails to use members of the Selected

Reserve, as employees or individual subcontractors, in the performance of the contract.

(End of clause)

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