

a later date establishing the effective date.

77. *It is further ordered* that, pursuant to Section 5(c) of the Communications Act of 1934, as amended, 47 U.S.C. 155(c), the Enforcement Bureau and the Wireless Telecommunications Bureau are granted delegated authority to resolve any disputes arising out of the data roaming rule, as set forth in this *second report and order* and the rules in Appendix A.

78. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *second report and order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

79. *It is further ordered* that the Commission *shall send* a copy of this *second report and order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

List of Subjects

47 CFR Part 0

Organization and functions (Government agencies).

47 CFR Part 20

Communications common carriers. Federal Communications Commission.

Bulah P. Wheeler,
Deputy Manager.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 0 and 20 as follows:

PART 0—COMMISSION ORGANIZATION

■ 1. The authority citation for part 0 continues to read as follows:

Authority: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

■ 2. Amend § 0.111 by revising paragraph (a)(11) introductory text (note remains unchanged) to read as follows:

§ 0.111 Functions of Bureau.

(a) * * *

(11) Resolves other complaints against Title III licensees and permittees, including complaints under § 20.12(e) of this chapter.

* * * * *

PART 20—COMMERCIAL MOBILE SERVICES

■ 3. The authority citation for part 20 is revised to read as follows:

Authority: 47 U.S.C. 154, 160, 201, 251–254, 301, 303, 316, and 332 unless otherwise noted. Section 20.12 is also issued under 47 U.S.C. 1302.

- 4. Revise the heading to part 20 to read as set forth above.
- 5. Amend § 20.3 by adding the definition “commercial mobile data service” in alphabetical order to read as follows:

§ 20.3 Definitions.

* * * * *

Commercial mobile data service. (1) Any mobile data service that is not interconnected with the public switched network and is:

- (i) Provided for profit; and
- (ii) Available to the public or to such classes of eligible users as to be effectively available to the public.

(2) Commercial mobile data service includes services provided by Mobile Satellite Services and Ancillary Terrestrial Component providers to the extent the services provided meet this definition.

* * * * *

- 6. Amend § 20.12 by adding paragraphs (a)(3) and (e) to read as follows:

§ 20.12 Resale and roaming.

(a) * * *

(3) *Scope of Offering Roaming Arrangements for Commercial Mobile Data Services.* Paragraph (e) of this section is applicable to all facilities-based providers of commercial mobile data services.

* * * * *

(e) *Offering Roaming Arrangements for Commercial Mobile Data Services.*

(1) A facilities-based provider of commercial mobile data services is required to offer roaming arrangements to other such providers on commercially reasonable terms and conditions, subject to the following limitations:

(i) Providers may negotiate the terms of their roaming arrangements on an individualized basis;

(ii) It is reasonable for a provider not to offer a data roaming arrangement to a requesting provider that is not technologically compatible;

(iii) It is reasonable for a provider not to offer a data roaming arrangement where it is not technically feasible to provide roaming for the particular data service for which roaming is requested and any changes to the host provider's network necessary to accommodate roaming for such data service are not economically reasonable;

(iv) It is reasonable for a provider to condition the effectiveness of a roaming arrangement on the requesting

provider's provision of mobile data service to its own subscribers using a generation of wireless technology comparable to the technology on which the requesting provider seeks to roam.

(2) A party alleging a violation of this section may file a formal or informal complaint pursuant to the procedures in §§ 1.716 through 1.718, 1.720, 1.721, and 1.723 through 1.735 of this chapter, which sections are incorporated herein. For purposes of § 20.12(e), references to a “carrier” or “common carrier” in the formal and informal complaint procedures incorporated herein will mean a provider of commercial mobile data services. The Commission will resolve such disputes on a case-by-case basis, taking into consideration the totality of the circumstances presented in each case. The remedy of damages shall not be available in connection with any complaint alleging a violation of this section. Whether the appropriate procedural vehicle for a dispute is a complaint under this paragraph or a petition for declaratory ruling under § 1.2 of this chapter may vary depending on the circumstances of each case.

[FR Doc. 2011-10223 Filed 5-5-11; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 19

[FAC 2005-50; FAR Case 2011-004; Docket 2011-0004; Sequence 1]

RIN 9000-AL88

Federal Acquisition Regulation; Socioeconomic Program Parity

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to the interim rule which published in the **Federal Register** of Wednesday, March 16, 2011 (76 FR 14568). The regulations implement section 1347 of the “Small Business Jobs Act of 2010.”

DATES: Effective on May 6, 2011.

FOR FURTHER INFORMATION CONTACT: Mr. Karlos Morgan, Procurement Analyst, at (202) 501-2364. Please cite FAC 2005-50; FAR Case 2011-004.

SUPPLEMENTARY INFORMATION:**Background**

Section 1347 of the Small Business Jobs Act of 2010, clarifies the contracting officer's ability to use discretion when determining whether an acquisition will be restricted to small businesses participating in the 8(a), HUBZone, or Service-disabled veteran-owned (SDVOSB) programs. There is no order of priority among small businesses in the 8(a) Business Development program, the HUBZone program, or the SDVOSB program.

Need for Correction

As published, the regulations contain a technical error in the promulgated rule.

List of Subjects in 48 CFR Part 19

Government procurement.

Accordingly, 48 CFR part 19 is corrected by making the following correcting amendment:

PART 19—SMALL BUSINESS PROGRAMS

- 1. The authority citation for 48 CFR part 19 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

- 2. Amend section 19.502-2 by revising paragraph (b) to read as follows:

19.502-2 Total small business set-asides.

* * * * *

(b) Before setting aside an acquisition under this paragraph, refer to 19.203(c). The contracting officer shall set aside any acquisition over \$150,000 for small business participation when there is a reasonable expectation that:

(1) Offers will be obtained from at least two responsible small business concerns offering the products of different small business concerns (see paragraph (c) of this section); and

(2) Award will be made at fair market prices. Total small business set-asides shall not be made unless such a

reasonable expectation exists (see 19.502-3 as to partial set-asides).

Although past acquisition history of an item or similar items is always important, it is not the only factor to be considered in determining whether a reasonable expectation exists. In making R&D small business set-asides, there must also be a reasonable expectation of obtaining from small businesses the best scientific and technological sources consistent with the demands of the proposed acquisition for the best mix of cost, performances, and schedules.

* * * * *

Dated: May 3, 2011.

Millisa Gary,

Acting Director, Office of Governmentwide Acquisition Policy.

[FR Doc. 2011-11117 Filed 5-5-11; 8:45 am]

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