

remained unchanged. To reiterate, the Commission found that the public interest would not be served if the Commission were to require broadcasters, including NPR, to contribute to universal service based on the provision of non-common carrier telecommunications. In addition, by specifically mentioning ITFS licensees in its discussion for why broadcasters should not have to contribute to universal service, the Commission intended to treat ITFS licensees in the same manner as other broadcasters for universal service purposes. As such, modification of § 54.706(d) is unnecessary.

#### 4. Multipoint Distribution Service

18. Although we deny WCA's petition and do not revise our rules to include MDS licensees that lease capacity to wireless cable operators on the list of those entities exempt from universal service obligations, we clarify that MDS licensees are not required to contribute to the universal service fund on the basis of revenues derived from broadcasting services. We further clarify that MDS licensees providing interstate telecommunications to others for a fee on a non-common carrier basis will not be exempt from contribution requirements. Such a result is consistent with section 254(d) of the 1996 Act and §§ 54.706(b) and (c) of the Commission's rules. We find WCA has raised no facts that would prompt us to exempt an MDS licensee that chooses a non-common carrier status but provides services identical to a common carrier licensee, and thus competes with the common carrier, from universal service contribution obligations.

#### 5. De Minimis Exemption

19. We conclude that CTIA has presented no facts that were not previously considered by the Commission or that warrant reconsideration of the Commission's determination that underlying carriers should account for revenues from resellers that fall under the *de minimis* exemption. Section 254(d) explicitly allows the Commission to exempt carriers or classes of carriers from contribution requirements if their contributions would be *de minimis*. Moreover, contrary to CTIA's assertions, directing underlying carriers to exclude revenues from *de minimis* resellers would reduce, rather than enlarge, the total contribution base. We therefore deny CTIA's request for reconsideration of this matter.

20. We clarify, however, that CMRS carriers are required to report revenues derived from providing

telecommunications to entities qualifying for the *de minimis* exemption as end-user revenues on the appropriate lines of the Telecommunications Reporting Worksheet. Nothing in the Commission's rules or implementing orders relieves CMRS carriers of this obligation. We further clarify that our current rules do not require underlying facilities-based carriers or CMRS carriers to identify specifically on the Telecommunications Reporting Worksheet their resale customers qualifying for the *de minimis* exemption.

21. The Commission will not send a copy of this *Order on Reconsideration*, in CC Docket No. 96-45, FCC 04-237, released November 29, 2004, pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

### III. Ordering Clauses

22. Pursuant to the authority contained in sections 1-4, 201-205, 218-220, 214, 254, 303(r), 403, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. 151-154, 201-205, 218-220, 214, 254, 303(r), 403, and 410, this *Order on Reconsideration* is adopted. Pursuant to the authority contained in section 405 of the Communications Act of 1934, as amended, 47 U.S.C. 405, and 0.291 and 1.429 of the Commission's rules, 47 CFR 0.291 and 1.429, the petitions for reconsideration and supplemental notices of the petitions for reconsideration of the *First Report and Order* filed by the American Public Communications Council in CC Docket No. 96-45 is granted, in part, and denied, in part.

23. Pursuant to the authority contained in section 405 of the Communications Act of 1934, as amended, 47 U.S.C. 405, and sections 0.291 and 1.429 of the Commission's rules, 47 CFR 0.291 and 1.429, the petitions for reconsideration and supplemental notices of the petitions for reconsideration of the *First Report and Order* filed by the AMSC/Mobile Satellite Ventures Subsidiary LLC, AT&T, Puerto Rico Telephone Company, Rural Telephone Coalition, United States Telephone Association, and Wyoming Public Service Commission in CC Docket No. 96-45 are denied.

24. Pursuant to the authority contained in section 405 of the Communications Act of 1934, as amended, 47 U.S.C. 405, and sections 0.291 and 1.429 of the Commission's rules, 47 CFR 0.291 and 1.429, the petitions for reconsideration of the *Fourth Order on Reconsideration* filed by the Cellular Telecommunications

and Internet Association, Lan Neugent and Greg Weisiger, National Public Radio, Southern Education Communications Association, and Wireless Cable Association in CC Docket No. 96-45 are denied.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

[FR Doc. 04-27438 Filed 12-14-04; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 04-3815, MB Docket No. 04-192, RM-10966]

### Digital Television Broadcast Service; Honolulu, HI

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Pacifica Broadcasting Company, licensee of noncommercial educational station KALO(TV), substitutes DTV channel \*10c for DTV channel \*39c. *See* 69 FR 34112, June 18, 2004. DTV channel \*10c can be allotted to Honolulu in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates 21-23045 N. and 158-05-58 W. with a power of 25, HAAT of 577 meters and with a DTV service population of 767 thousand. With this action, this proceeding is terminated.

**DATES:** Effective January 21, 2005.

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Media Bureau, (202) 418-1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MB Docket No. 04-192, adopted December 2, 2004, and released December 7, 2004. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 301-816-2820, facsimile 301-816-0169, or via-e-mail [joshir@erols.com](mailto:joshir@erols.com).

This document does not contain (new or modified) information collection requirements subject to the Paperwork

Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified "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 Commission will send a copy of this Report & Order in a report to be sent to Congress and the General Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

### List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

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

#### § 73.622 [Amended]

■ 2. Section 73.622(b), the Table of Digital Television Allotments under Hawaii, is amended by removing DTV channel \*39c and adding DTV channel \*10c at Honolulu.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Division, Media Bureau.*

[FR Doc. 04-27446 Filed 12-14-04; 8:45 am]

**BILLING CODE 6712-01-P**

## DEPARTMENT OF DEFENSE

### 48 CFR Parts 203, 209, and 252

[DFARS Case 2003-D012]

#### Defense Federal Acquisition Regulation Supplement; Improper Business Practices and Contractor Qualifications Relating to Debarment, Suspension, and Business Ethics

**AGENCY:** Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to streamline and clarify text pertaining to debarment, suspension, and improper business practices. This rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

**EFFECTIVE DATE:** December 15, 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-D012.

#### 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 include—

- Consolidation of requirements for reporting violations and suspected violations of certain requirements into a new section at DFARS 203.070. This results in elimination of DFARS sections 203.103, 203.103-2, and 203.104-10; subparts 203.2, 203.3, and 203.4; and sections 203.502 and 203.570-4.

- Streamlining of text at DFARS 203.570-1 and 203.570-2 relating to prohibitions on persons convicted of fraud or other defense-contract-related felonies.

- Revision of the clause at 252.203-7001, Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies, to remove unnecessary references to first-tier subcontracts in paragraphs (b) and (d). Paragraph (g) of the clause adequately addresses requirements for flow down to first-tier subcontracts.

- Deletion of text at DFARS 203.570-3 relating to internal DoD procedures for waiver of the 5-year period for prohibitions on persons convicted of fraud or other defense-contract-related felonies; and deletion of text at DFARS 209.105-2, 209.406-3, and 209.407-3 containing internal DoD procedures for referral of matters to agency debarment and suspension officials. This text has been relocated to the new DFARS companion resource, Procedures,

Guidance, and Information (PGI), available at <http://www.acq.osd.mil/dpap/dars/pgi>.

DoD published a proposed rule at 69 FR 8146 on February 23, 2004. Two sources submitted comments on the proposed rule. A discussion of the comments is provided below:

1. *Comment:* Section 203.070, which specifies the violations or suspected violations that must be reported, should also include: the Truth in Negotiations Act (19 U.S.C. 2306(f)); the False Claims Act (31 U.S.C. 3729 *et seq.*); a reference to FAR 9.406-2(a)(3), which lists causes for debarment; and a reference to FAR 9.407-2(a)(3), which lists causes for suspension.

*DoD Response:* Do not agree. Since section 203.070 falls within the scope of FAR Part 3 and DFARS Part 203, Improper Business Practices and Personal Conflicts of Interest, the violations listed in section 203.070 are limited to those addressed in FAR Part 3 and DFARS Part 203.

2. *Comment:* In section 203.070, the reference to "DoDD 7075.5" should be corrected to read "DoDD 7050.5."

*DoD Response:* Agree. This correction has been included in the final rule.

3. *Comment:* In section 203.070(c), the reference to the gratuities clause should be corrected to read "FAR 3.203."

*DoD Response:* Agree. This correction has been included in the final rule.

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 streamlines and clarifies existing DFARS text, with no substantive change in policy.

##### 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 203, 209, and 252

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

■ Therefore, 48 CFR Parts 203, 209, and 252 are amended as follows: