

the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

27. In the NPRM the Commission sought comment on whether section 628(c)(2)(D) should cease to be effective, pursuant to the sunset provision in section 628(c)(5), or whether section 628(c)(2)(D) should be retained. Thus, the NPRM invited comments on a number of issues that may significantly impact small entities. In this Report and Order, the Commission discusses the effect that section 628(c)(2)(D) has had on the video programming marketplace and provides justification for retention of the provision. In enacting the exclusivity prohibition contained in section 628(c)(2)(D), the underlying rationale was that vertically integrated programming suppliers had the incentive and ability to favor in an unfair manner, affiliated cable operators in programming arrangements. Thus, the prohibition served to guard against such a practice and helped to encourage competition and diversity. While the provision has succeeded to a certain extent in achieving its objectives, the video landscape has not changed markedly since the inception of the exclusivity protection provision. Cable MSOs continue to hold market power, and while DBS has increased its subscribership levels in recent years, the levels do not compare to cable. Other smaller video competitors, such as MMDS, OVS, SMATV and HDS, have not fared as well and represent a small percentage of MVPD subscribership. These competitive MVPDs argue that they continue to face hurdles in seeking access to critical programming because cable MSOs continue to control essential video programming services and are concerned about the potential loss of such programming absent the section 628(c)(2)(D) prohibition. In its Initial Regulatory Flexibility Analysis Comments, while it supports extending the exclusivity prohibition, ACA suggests that an additional alternative that would achieve the objective of the statute and minimize the impact on small entities is exemption from coverage of the rule, or any part thereof, for small entities.

28. In this Report and Order we discuss the present state of competition among MVPDs and the availability of vertically integrated programming in the section entitled Incentive and Ability. We conclude that while there is a wide variety of programming services

available from non-vertically integrated providers in recent years, nevertheless the market dominance of cable remains a concern because of the threat that cable MSOs will engage in exclusive arrangements and deprive competitive MVPDs and their subscribers of "must have," vertically integrated programming.

29. We considered the possibility of sunseting section 628(c)(2)(D). However, we recognized that the marketplace had not progressed to the point where there were assurances that there is significant enough competition in the cable industry to forestall the domination by cable of "must have" programming. Therefore, we retain section 628(c)(2)(D) because it prohibits, in areas served by a cable operator, exclusive contracts for satellite cable programming or satellite broadcast programming between vertically integrated programming vendors and cable operators. The decision reached in this Report and Order to retain the prohibition against engaging in exclusive contracts allows for greater competition and diversity, which provides for increased participation by various competitive MVPDs and programming suppliers, a number of which are smaller entities. Therefore we conclude that our decision to retain section 628(c)(2)(D) benefits smaller entities as well as larger entities.

#### Report to Congress

30. The Commission will send a copy of the Report and Order, including this RFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the Commission will send a copy of the Report and Order, including FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Report and Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

#### Ordering Clauses

31. Accordingly, *it is ordered* that, pursuant to authority found in sections 4(i), 303(r) and 628 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r) and 548, the Commission's rules *are hereby amended* as set forth in the rule changes.

32. *It is further ordered* that the rule adopted herein *will become effective* August 14, 2002.

33. *It is further ordered* that the Commission's Consumer and Government Affairs Bureau *shall send* a copy of this Report and Order, including the Final Regulatory Flexibility

Analysis, to the Chief Counsel of the Small Business Administration.

#### List of Subjects in 47 CFR Part 76

Administrative practice and procedure and Cable television.

Federal Communications Commission.

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

#### Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 76 as follows:

#### PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

1. The authority citation for Part 76 continues to read as follows:

**Authority:** 47 U.S.C. 151, 152, 153, 154, 301, 302, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

2. Section 76.1002 is amended by revising paragraph (c)(6) to read as follows:

#### § 76.1002 Specific unfair practices prohibited.

\* \* \* \* \*

(c) \* \* \*

(6) *Sunset provision.* The prohibition of exclusive contracts set forth in paragraph (c)(2) of this section shall cease to be effective on October 5, 2007, unless the Commission finds, during a proceeding to be conducted during the year preceding such date, that said prohibition continues to be necessary to preserve and protect competition and diversity in the distribution of video programming.

\* \* \* \* \*

[FR Doc. 02-19182 Filed 7-29-02; 8:45 am]

BILLING CODE 6712-02-P

#### DEPARTMENT OF DEFENSE

#### 48 CFR Parts 204, 215, 219, 225, and 252 and Appendix G to Chapter 2

#### 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 activity names and addresses, reference numbers, clause titles, and clause dates.

**EFFECTIVE DATE:** July 30, 2002.

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

**List of Subjects in 48 CFR Parts 204, 215, 219, 225, and 252**

Government procurement.

**Michele P. Peterson,**  
*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, 48 CFR parts 204, 215, 219, 225, and 252 and Appendix G to Chapter 2 are amended as follows:

1. The authority citation for 48 CFR Parts 204, 215, 219, 225, and 252 and Appendix G to subchapter I continues to read as follows:

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

**PART 204—ADMINISTRATIVE MATTERS**

2. Section 204.7202-1 is amended in paragraph (a) by revising the last sentence to read as follows:

**204.7202-1 CAGE codes.**

(a) \* \* \* DoD 4000.25-5-M, Military Standard Contract Administration Procedures (MILSCAP), and Volume 7 of DoD 4100.39-M, Federal Logistics Information System (FLIS) Procedures Manual, prescribe use of CAGE codes.  
\* \* \* \* \*

**PART 215—CONTRACTING BY NEGOTIATION**

**215.407-4 [Amended]**

3. Section 215.407-4 is amended as follows:

a. In paragraph (b)(2), in the first and last sentences, by removing “5000.2R” and adding in its place “5000.2”; and

b. In paragraph (c)(2)(A) introductory text, in the second parenthetical, by removing “31.001” and adding in its place “2.101”.

**215.407-5-70 [Amended]**

4. Section 215.407-5-70 is amended in paragraph (a)(2) by removing “31.001” and adding in its place “2.101”.

**PART 219—SMALL BUSINESS PROGRAMS**

**219.708 [Amended]**

5. Section 219.708 is amended in paragraphs (b)(1)(A) and (B) by removing “FAR 52.219-9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan”

and adding in its place “FAR 52.219-9, Small Business Subcontracting Plan”.

**PART 225—FOREIGN ACQUISITION**

**225.103 [Amended]**

6. Section 225.103 is amended in paragraph (b)(iii)(C) by removing “Chief of the Technical Operations Division” and adding in its place “Director, Pharmaceuticals Group”.

**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

**252.212-7001 [Amended]**

7. Section 252.212-7001 is amended as follows:

a. By revising the clause date to read “(JUL 2002)”; and

b. In paragraph (c), in entry “252.247-7023” by removing “(MAR 2000)” and adding in its place “(MAY 2002)”.

8. Appendix G to Chapter 2 is amended in Part 3 by removing entry “N68558” and adding, in alphabetical order, entries “N62558” and “N65886” to read as follows:

**Appendix G—Activity Address Numbers**

\* \* \* \* \*

**Part 3—Navy Activity Address Numbers**

\* \* \* \* \*

N62558, 3H Officer-in-Charge, Naval Regional Contracting Center, Detachment London, PSC 821, Box 45, FPO AE 09421-1300

\* \* \* \* \*

N65886, (MAJ00019), GV Commanding Officer, Naval Air Depot, Naval Air Station, Contracts Management Office, Building 101, Wasp Street, Jacksonville, FL 32212-0016

\* \* \* \* \*

9. Appendix G to Chapter 2 is amended in Part 5 by revising entry “F29650” to read as follows:

**Part 5—Air Force Activity Address Numbers**

\* \* \* \* \*

F29650, R3 377 CONS, 2000 Wyoming Boulevard SE, Kirtland AFB, NM 87117-5606

\* \* \* \* \*

10. Appendix G to Chapter 2 is amended by revising Parts 7 through 13 to read as follows:

**Part 7—Defense Information Systems Agency Activity Address Numbers**

DCA100, VC DITCO-NCR, ATTN: DTN, 701 South Courthouse Road, Arlington, VA 22204-2199 (ZD10)

DCA200, VP Defense Information Technology Contracting Organization, Contracting Directorate, ATTN: AQSS, 2300 East Drive, Scott AFB, IL 62225-5406 (ZD11)

DCA300, 1F DITCO-Pacific, ATTN: AQP, 1080 Vincennes Avenue, Suite 100, Pearl Harbor, HI 96860-4535 (ZD13)

DCA400, WK DITCO-Europe, ATTN: AQE, Unit 4235, Box 375, APO AE 09136-5375 (ZD14)

DCA500, KH DITCO-Alaska, ATTN: AQA, 10441 Kuter Avenue, Suite 209 Elmendorf AFB, AK 99506-2615 (ZD15)

**Part 8—National Imagery and Mapping Agency Activity Address Numbers**

NMA100, BQ National Imagery and Mapping Agency, Contracting Support for Information Services, ATTN: ACI/D-88, 4600 Sangamore Road, Bethesda, MD 20816-5003 (ZM10)

NMA201, Y2 National Imagery and Mapping Agency, Contracting Support for Acquisition Directorate, ATTN: ACA/N-43, 4600 Sangamore Road, Bethesda, MD 20816-5003 (ZM21)

MA301, V2 National Imagery and Mapping Agency, Contracting Support for Directorate of Operations, ATTN: ACME/D-5, 4600 Sangamore Road, Bethesda, MD 20816-5003 (ZM31)

NMA302, YQ National Imagery and Mapping Agency, Contracting Support for Directorate of Operations, ATTN: ACMW/L-13, 3200 South Second Street, St. Louis, MO 63118-3399 (ZM32)

NMA401, 8Y National Imagery and Mapping Agency, Washington Contracting Center, ATTN: ACW/D-6, 4600 Sangamore Road, Bethesda, MD 20816-5003 (ZM41)

NMA402, YZ National Imagery and Mapping Agency, St. Louis Contracting Center, ATTN: ACS/L-13, 3200 South Second Street, St. Louis, MO 63118-3399 (ZM42)

**Part 9—Defense Threat Reduction Agency Activity Address Numbers**

DTRA01, 8Z Defense Threat Reduction Agency (AL), DTRA Annex, 8725 John J. Kingman Road, MSC 6201, Fort Belvoir, VA 22060-6201 (ZT01)

DTRA02, 0N Defense Threat Reduction Agency, Albuquerque Support Office (ALTK), 1680 Texas Street SE, Kirtland AFB, NM 87117-5669 (ZT02)

**Part 10—Miscellaneous Defense Activities Activity Address Numbers**

MDA112, E0 T-ASA, Sacramento Contracting Office, 3230 Peacekeeper Way, Building 209, McClellan, CA 95652-2600 (ZP12)

MDA113, VE T-ASA, March Contracting Office, 1363 Z Street, Building 2730, March ARB, CA 92518-2017 (ZP13)

MDA220, BC Defense Finance and Accounting Service, Acquisition Services Directorate—Arlington, 1931 Jefferson Davis Highway, Room 905, Arlington, VA 22240-5291 (ZF22)

MDA230, SU Defense Finance and Accounting Service, Acquisition Services Directorate—Cleveland, 1240 East 9th Street, Cleveland, OH 44199-2055 (ZF23)

MDA240, 9R Defense Finance and Accounting Service, Acquisition Services Directorate—Columbus, 3990 East Broad Street, Building 21, Columbus, OH 43215-1152 (ZF24)

MDA250, SV Defense Finance and Accounting Service, Acquisition Services Directorate—Denver, 6760 East Irvington Place, Denver, CO 80279–8000 (ZF25)

MDA260, ST Defense Finance and Accounting Service, Acquisition Services Directorate—Indianapolis, 8899 East 56th Street, Building 1, Room 216, Indianapolis, IN 46249–0240 (ZF26)

MDA280, SY Defense Finance and Accounting Service, Acquisition Services Directorate—Kansas City, 1500 East 95th Street, Kansas City, MO 64197–0001 (ZF28)

MDA410, DR DoD Education Activity, ATTN: Procurement Division, 4040 North Fairfax Drive, 4th Floor, Arlington, VA 22203–1635 (ZK10)

MDA412, 9Y DoD Education Activity, European Procurement Office, CMR 443, Box 6000, APO AE 09096–9649 (ZK12)

MDA414, Y4 DoD Education Activity, Education Supplies Procurement Office, 101 Buford Road, Richmond, VA 23235–5292 (ZK14)

MDA416, YT DoD Education Activity, Pacific Procurement Division, Unit 35007, APO AP 96376 (ZK16)

MDA904 Maryland Procurement Office, ATTN: N363, 9800 Savage Road, Fort George G. Meade, MD 20755–6000 (ZD04)

MDA905, B4 Uniformed Services University of the Health Sciences, ATTN: Directorate of Contracting, 4301 Jones Bridge Road, Bethesda, MD 20814–4799 (ZD05)

MDA906, U5 TRICARE Management Activity, Contract Management Directorate, 16401 East Centretch Parkway, Aurora, CO 80011–9043 (ZD06)

MDA907 Purchasing and Contracting Office, Menwith Hill Station, APO AE 09210 (ZD07)

MDA908, 2X Virginia Contracting Activity, ATTN: DAP, PO Box 46563, Washington, DC 20050–6563 (ZD50)

MDA928 Armed Forces Radiobiology Research Institute, ATTN: Directorate of Contracting, USUHS, 4301 Jones Bridge Road, Bethesda, MD 20814–4799 (ZD28)

MDA946 Washington Headquarters Services, Real Estate and Facilities Directorate, ATTN: REFCO, The Pentagon—Butler Building, 1155 Defense Pentagon, Washington, DC 20301–1155 (ZD46)

MDA947, DP Pentagon Renovation Office, 100 Boundary Channel Drive, Arlington, VA 22202–3712 (ZD47)

MDA972, WS DARPA, Contracts Management Office, 3701 North Fairfax Drive, Arlington, VA 22203–1714 (ZD72)

**Part 11—Defense Microelectronics Activity Address Number**

DMEA90, 2P Defense Microelectronics Activity, ATTN: Contracting Office, 4234–54th Street, McClellan, CA 95652–2100 (ZD90)

**Part 12—Missile Defense Agency Activity Address Numbers**

HQ0006, SS Missile Defense Agency, Contracts Directorate, ATTN: CT, 7100 Defense Pentagon, Washington, DC 20301–7100 (ZD60)

H95001, VV Joint National Integration Center, Contract Management, 730 Irwin Avenue, Schriever Air Force Base, CO 80912–7300 (ZD61)

**Part 13—Defense Commissary Agency Activity Address Numbers**

DECA01, ZG Defense Commissary Agency, Resale Contracting Division, ATTN: DeCA/PSMC, 1300 E Avenue, Fort Lee, VA 23801–1800 (ZD81)

DECA02, ZT Defense Commissary Agency, Resale Contracting Division, ATTN: DeCA/PSMC, 1300 E Avenue, Fort Lee, VA 23801–1800 (ZD82)

DECA03, 0H Defense Commissary Agency, Eastern Region, CIBA Contracting Division, 5151 Bonney Road, Suite 201, Virginia Beach, VA 23462–4314 (ZD83)

DECA04, BE Defense Commissary Agency, Contracting Business Unit, Equip/Supply & Revenue, ATTN: DeCA/CICE, 1300 E Avenue, Fort Lee, VA 23801–1800 (ZD84)

DECA06, 0J Defense Commissary Agency, Midwest Region, ATTN: DeCA/MW/RDCC, 300 AFCCMS Way, Building 3030, San Antonio, TX 78226–1330 (ZD86)

DECA07, 0Z Defense Commissary Agency, Western/Pacific Region, ATTN: DeCA/WP/RDCC, 3401 Acacia Street, Suite 115, McClellan, CA 95652–1002 (ZD87)

DECA08, 0K Defense Commissary Agency, Contracting Business Unit, Services Division, ATTN: DeCA/CICS, 1300 E Avenue, Fort Lee, VA 23801–1800 (ZD88)

DECA09, 0U Defense Commissary Agency, European Region, ATTN: DeCA/EU/AM, Unit 3060, APO AE 09094–3060 (ZD89)

**Part 14—[Amended]**

11. Appendix G to Chapter 2 is amended in Part 14 by removing entries USZA24, USZA25, USZA90, USZA91, USZA93, and USZA98.

[FR Doc. 02–19084 Filed 7–29–02; 8:45 am]

**BILLING CODE 5001–08–P**

**DEPARTMENT OF DEFENSE**

**48 CFR Parts 209, 243, and 252**

**[DFARS Case 99–D303]**

**Defense Federal Acquisition Regulation Supplement; Institutions of Higher Education**

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

**ACTION:** Final rule.

**SUMMARY:** DoD has adopted as final, with minor changes, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 549 of the National Defense Authorization Act for Fiscal Year 2000. Section 549 amends statutory provisions pertaining to the denial of Federal contracts and grants to institutions of higher education that prevent Senior Reserve Officer Training Corps (ROTC) access or military recruiting on campus.

**EFFECTIVE DATE:** July 30, 2002.

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan Schneider, Defense Acquisition Regulations Council, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0326; facsimile (703) 602–0350. Please cite DFARS Case 99–D303.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

This rule implements Section 549 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65). Section 549 amends 10 U.S.C. 983 to prohibit DoD from providing funds by contract or grant to an institution of higher education (including any subelement of that institution) if the Secretary of Defense determines that the institution (or any subelement of the institution) has a policy or practice that prohibits, or in effect prevents, Senior ROTC units or military recruiting on campus.

DoD published an interim rule at 65 FR 2056 on January 13, 2000. Sixty-one sources submitted comments on the interim rule. After evaluating all comments, DoD converted the interim rule to a final rule with minor editorial changes. A summary of the comments and the DoD response is provided below:

*Comment:* The greatest concern expressed by respondents pertained to the extension of the prohibition to subelements of educational institutions. The respondents stated that Section 549 of Public Law 106–65 was intended to recodify prior legislation, which did not require extension of the prohibition to subelements; prior legislative history did not support extension to subelements; and the fact that the subelement language was contained in the Senate report but not in the House report, and that the Senate had receded to the House version of the bill, meant that DoD could not rely upon the Senate report as a basis for extending the rule to subelements of an institution.

*DoD Response:* Senate and House Committee reports generally are taken into consideration to determine legislative intent only when the statutory language is unclear. The final language of Section 549 of Public Law 106–65 clearly states that the policy applies to any subelement of an institution. A comparison of the previous and current legislation shows that the subelement language was a new addition to the statute resulting from the enactment of Section 549.

*Comment:* Several respondents believed that DoD did not have