(i) By reason of involuntary termination of employment with the financial institution or with an entity that is treated as the same employer as the financial institution under § 30.1 (Q–1) of this part; or

(ii) In connection with any bankruptcy filing, insolvency, or receivership of the financial institution or of an entity that is treated as the same employer as the financial institution under § 30.1 (Q–1) of this part.

(2) *Involuntary termination.* (i) An involuntary termination from employment means a termination from employment due to the independent exercise of the unilateral authority of the employer to terminate the SEO's services, other than due to the SEO's implicit or explicit request to terminate employment, where the SEO was willing and able to continue performing services. An involuntary termination from employment may include the financial institution's failure to renew a contract at the time such contract expires, provided that the SEO was willing and able to execute a new contract providing terms and conditions substantially similar to those in the expiring contract and to continue providing such services. In addition, a SEO's voluntary termination from employment constitutes an involuntary termination from employment if the termination from employment constitutes a termination for good reason due to a material negative change in the SEO's employment relationship. See 26 CFR 1.409A–1(n)(2).

(ii) A severance from employment by a SEO is by reason of involuntary termination even if the SEO has voluntarily terminated employment in any case where the facts and circumstances indicate that absent such voluntary termination the financial institution would have terminated the SEO's employment and the SEO had knowledge that he or she would be so terminated.

(c) *Payments on account of an applicable severance from employment.* (1) *Definition.* A payment on account of an applicable severance from employment means a payment that would not have been payable if no applicable severance from employment had occurred (including amounts that would otherwise have been forfeited if no applicable severance from employment had occurred) and amounts that are accelerated on account of the applicable severance from employment. See 26 CFR 1.280G–1, Q&A–24(b), for rules regarding the determination of the amount that is on account of an acceleration.

(2) *Excluded amounts.* Payments on account of an applicable severance from employment do not include amounts paid to a SEO under a tax qualified retirement plan.

§ 30.10 Q–10: Are there other conditions that are required under the executive compensation and corporate governance standards in section 111(b)(1) of EESA?

The financial institution must agree, as a condition to participate in the CPP, that no deduction will be claimed for federal income tax purposes for remuneration that would not be deductible if 26 U.S.C. 162(m)(5) were to apply to the financial institution. For this purpose, during the period that the Treasury holds an equity or debt position in the financial institution acquired under the CPP:

(a) The financial institution (including entities in its controlled group) is treated as an ''applicable employer,''

(b) Its SEOs are treated as ''covered executives,'' and

(c) Any taxable year that includes any portion of that period is treated as an ''applicable taxable year,'' each as defined in 26 U.S.C. 162(m)(5), except that the dollar limitation and the remuneration for the taxable year are prorated for the portion of the taxable year that the Treasury holds an equity or debt position in the financial institution under the CPP.

§ 30.11 Q–11: How does section 111(b) of EESA operate in connection with an acquisition, merger, or reorganization?

(a) *Special rules for acquisitions, mergers, or reorganizations.* In the event that a financial institution (target) that had sold troubled assets to the Treasury through the CPP is acquired by an entity that is not related to target (acquirer) in an acquisition of any form, acquirer will not become subject to section 111(b) of EESA merely as a result of the acquisition. For this purpose, an acquirer is related to target if stock or other interests of target are treated (under 26 U.S.C. 318(a) other than paragraph (4) thereof) as owned by acquirer. With respect to the target, any employees of target who are SEOs prior to the acquisition will be subject to section 111(b)(2)(C) of EESA until after the first anniversary following the acquisition.

(b) Example. In 2008, financial institution A sells $100 million of troubled assets to the Treasury through the CPP. In January 2009, financial institution B, which is not otherwise subject to section 111(b) of EESA, acquires financial institution A in a stock purchase transaction, with the result that financial institution A becomes a wholly owned subsidiary of financial institution B. Based on the rules in paragraph (a) of this § 30.11 (Q–11), the SEOs of financial institution B are not subject to section 111(b) of EESA solely as a result of the acquisition of financial institution A in January 2009. The SEOs of financial institution A at the time of the acquisition are subject to section 111(b)(2)(C) of EESA until January 2010, the first anniversary following the acquisition.

Dated: October 14, 2008.

Neel Kashkari,

Interim Assistant Secretary for Financial Stability.

[FR Doc. E8–24781 Filed 10–15–08; 11:15 am]

BILLING CODE 4810–25–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

42 CFR Part 34

[Docket No. CDC–2008–0002]

RIN 0920–AA20

Medical Examination of Aliens—Revisions to Medical Screening Process

AGENCY: Centers for Disease Control and Prevention, U.S. Department of Health and Human Services.

ACTION: Correcting amendments.

SUMMARY: The Centers for Disease Control and Prevention (CDC), within the U.S. Department of Health and Human Services (HHS), published an Interim Final Rule in the **Federal Register** on October 6, 2008 (73 FR 58047), updating regulations that govern medical examinations that aliens must undergo before they may be admitted to the United States. This document corrects an omission contained in the rule.

DATES: Effective on October 20, 2008.

FOR FURTHER INFORMATION, CONTACT: Stacy M. Howard, Division of Global Migration and Quarantine, Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, 1600 Clifton Road, NE., E03, Atlanta, GA 30333; telephone 404–498–1600.

SUPPLEMENTARY INFORMATION: The Centers for Disease Control and Prevention (CDC), within the U.S. Department of Health and Human Services (HHS), published an Interim Final Rule in the **Federal Register** of October 6, 2008, FR Doc. E8–23485, (73 FR 58047) updating regulations that govern medical examinations that aliens must undergo before they may be

admitted to the United States. CDC inadvertently omitted an exception to the chest x-ray examination for aliens in the United States who apply for adjustment of status to permanent resident. CDC is publishing this correction to clarify that an alien of any age in the United States who applies for adjustment of status to permanent resident shall not be required to have a chest x-ray examination unless their tuberculin skin test, or an equivalent test that shows an immune response to *Mycobacterium tuberculosis,* is positive.

List of Subjects in 42 CFR Part 34

Aliens, Health care, Scope of examination, Passports and visas, Public health.

■ Accordingly, 42 CFR part 34 is corrected by making the following correcting amendments:

PART 34—MEDICAL EXAMINATION OF ALIENS

■ 1. The authority citation for part 34 continues to read as follows:

Authority: 42 U.S.C. 252; 8 U.S.C. 1182 and 1222.

■ 2. Amend § 34.3 by revising paragraph (e)(2)(iv) to read as follows:

§ 34.3 Scope of examinations.

* * * * *

(e) * * *

(2) * * *

(iv) *Exceptions.* Serologic testing for syphilis and HIV shall not be required if the alien is under the age of 15, unless there is a reason to suspect infection with syphilis or HIV. An alien, regardless of age, in the United States who applies for adjustment of status to lawful permanent resident shall not be required to have a chest x-ray examination unless their tuberculin skin test, or an equivalent test for showing an immune response to *Mycobacterium tuberculosis* antigens, is positive. HHS/CDC may authorize exceptions to the requirement for a tuberculin skin test, an equivalent test for showing an immune response to *Mycobacterium tuberculosis* antigens, or chest X-ray examination for good cause, upon application approved by the Director.

* * * * *

Dated: October 14, 2008.

Ann C. Agnew,

Executive Secretary, Department of Health and Human Services.

[FR Doc. E8–24797 Filed 10–17–08; 8:45 am]

BILLING CODE 4163–18–P

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: Final rule.

SUMMARY: DoD has issued a final rule amending 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: *Effective Date:* October 20, 2008.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Benavides, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone 703–602–1302; facsimile 703–602–7887. Please cite DFARS Case 2006–D014.

SUPPLEMENTARY INFORMATION:

A. Background

This final 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. The rule contains a solicitation provision and a contract clause addressing the evaluation factor and the obligations of a contractor awarded a contract based on the evaluation factor.

DoD published a proposed rule at 72 FR 51209 on September 6, 2007. DoD received no comments on the proposed rule. Therefore, DoD has adopted the proposed rule as a final rule without change.

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 use of the evaluation factor is discretionary and is not expected to affect a significant number of acquisitions.

C. Paperwork Reduction Act

This final rule contains a new information collection requirement. The Office of Management and Budget has approved the information collection under Control Number 0704–0446.

List of Subjects in 48 CFR Parts 215 and 252

Government procurement.

Michele P. Peterson

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR Parts 215 and 252 are amended 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 252.215–7005, 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 252.215–7005, Evaluation Factor for Employing or Subcontracting with Members of the