

BILLING CODE: 5001-06

**DEPARTMENT OF DEFENSE**

**Office of the Secretary**

**32 CFR Part 251**

**[Docket ID: DOD-2014-OS-0058]**

**RIN 0790-AJ28**

**National Language Service Corps (NLSC)**

**AGENCY:** Under Secretary of Defense for Personnel and Readiness, DoD.

**ACTION:** Proposed rule.

**SUMMARY:** This rule establishes in the Code of Federal Regulations the National Language Services Corps (NLSC) by describing the program and its responsibilities per the January 2013 National Defense Authorization Act which authorized the Secretary of Defense to establish the NLSC as a permanent organization. The NLSC responds to federal agencies' needs for language skills in emergencies or surge requirements. Once a federal agency identifies a need, NLSC members are advised of the potential assignment. If an individual is interested and available, they go through a screening and selection process as discussed in the rule. The decision to use NLSC rests with the requesting agency and support agreements must be established before work can begin.

**DATES:** Comments must be received by **[insert date 60 days from date of publication]**.

**ADDRESSES:** You may submit comments, identified by docket number and/or RIN number and title, by any of the following methods:

- Federal Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Mail: Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria VA 22350-3100.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this Federal Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** John Demboski, 571-256-0654.

**SUPPLEMENTARY INFORMATION:**

**Executive Summary**

I. Purpose of the regulatory action

a. Purpose. NLSC may support DoD or other U.S. departments or agencies, in need of foreign language services, with requirements of less than 1 year. The NLSC will provide capable, federally-hired individuals to rapidly respond to critical national needs and assist DoD and other U.S. departments and agencies with surge or emergency requirements.

b. Succinct statement of legal authority for the regulatory action.

Authority: Applicable authorities include: 5 U.S.C. 3109 which authorizes the employment of experts and consultants on a temporary or intermittent basis; 18 U.S.C. 202 which defines “special Government employee;” 31 U.S.C. 1535 which authorizes the head of an agency or major organizational unit within an agency to place an order with a major organizational unit within the same agency or another agency for services; 50 U.S.C. 1913 which authorized the Secretary of Defense to establish and maintain the National Language Service Corps.

II. Summary of the Major Provisions of the Regulatory Action in Question

The major provisions of this regulatory action include:

- a. Outlining NLSC membership criteria, member recruitment, appointment, and activation.
- b. Describing eligibility requirements for federal employees to participate in NLSC.

### III. Costs and Benefits

The Department of Defense and other federal departments and agencies have benefited from NLSC support utilizing high-level language skills of members not otherwise available to meet their organizations' short-term, immediate needs. The NLSC has established a means to access and maintain contact with citizens who are highly skilled in foreign languages. Since initial efforts in fiscal year 2007, the average annual cost to build, pilot and fully operationalize the NLSC has been \$6.3 million. Current membership includes more than 5,000 members with skills in 315 foreign languages and dialects ready to serve national needs when called upon. Members hired to support missions have included the self-employed, retirees or students just entering the workforce, who proudly want to serve their nation. NLSC provides an opportunity to earn wages using their high-level language skills. As of June 2014, NLSC members have provided more than 28,000 hours of highly skilled foreign language support to 34 federal agencies and departments and their components.

#### SUPPLEMENTARY INFORMATION:

##### Background

In 2003, Congress tasked the Defense Language and National Security Education Office (DLNSEO), then known as the National Security Education Program (NSEP), with exploring the feasibility of establishing an organization of Americans with skills in critical languages that would serve in times of emergency or national need. NSEP prepared a feasibility study and follow-up planning that led to Congressional action in 2006. In the 2007 National Defense

Authorization Act, the U.S. Congress included language directing the Secretary of Defense to initiate a pilot program that established a Civilian Linguist Reserve Corps. The government has since renamed that organization as the NLSC.

In January 2013, President Barack Obama signed the National Defense Authorization Act which authorized the Secretary of Defense to establish the NLSC as a permanent organization. The NLSC operates under this authority with DLNSEO as its parent agency. DLNSEO provides strategic direction and programmatic oversight to the Military Departments, Defense field activities and the Combatant Commands on present and future requirements related to language, regional expertise, and culture.

The NLSC does not offer permanent full-time or part-time jobs. The NLSC responds to federal agencies' needs for language skills in emergencies or surge requirements. For this reason, the NLSC does not maintain any postings or offer any job location services. Once a federal agency identifies a need, NLSC members are advised of the potential assignment. If an individual is interested and available, they go through a screening and selection process as discussed in this rule. The decision to use NLSC rests with the requesting agency and support agreements must be established before support can begin.

The NLSC's charter is to provide short-term surge capability or to fill short term recurrent support that other existing capabilities cannot reasonably fill. Members have filled requirements that range from 15 minutes on the phone to 60 days in the field. If needed/desired, it is possible for members to provide recurrent, short term support, such as for periodic exercises for up to approximately six months (130 work days or 1,040 hours, whichever comes first) in the member's service year.

The NLSC uses the Federal Interagency Language Roundtable Proficiency Guidelines (<http://govtilr.org/Skills/ILRscale1.htm>) (the “ILR Scale”) in speaking, reading, and listening as a basis for determining eligibility for Membership. The NLSC’s goal is 3/3/3 proficiency (speaking/reading/listening) in at least one foreign language and in English.

Initial non-English language proficiency is assessed by asking all NLSC applicants to complete a series of self-assessments to provide an indication of where they fall on the ILR scale. Members of the NLSC will normally undergo formal proficiency testing to verify the self-assessments prior to participating in an assignment. Several factors may require formal proficiency testing, including the need for the NLSC and requesting agencies to have formally-tested members available for assignments.

Initial English language assessment will not normally be conducted for applicants who graduated from an accredited high school and spent at least three years in the US while attending high school. If an individual did not do so, he or she may be asked to undergo the same self-assessment process as for non-English language skills. Finally, a number of members may be asked to undergo formal proficiency testing in English.

## **REGULATORY PROCEDURES**

### **Executive Order 12866, “Regulatory Planning and Review” and Executive Order 13563, “Improving Regulation and Regulatory Review”**

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting

flexibility. This rule has been designated a “significant regulatory action,” although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB).

**Sec. 202, Pub. L. 104-4, “Unfunded Mandates Reform Act”**

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4) requires agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. In 2014, that threshold is approximately \$141 million. This document will not mandate any requirements for State, local, or tribal governments, nor will it affect private sector costs.

**Public Law 96-354, “Regulatory Flexibility Act” (5 U.S.C. 601)**

The Department of Defense certifies that this proposed rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

**Public Law 96-511, “Paperwork Reduction Act” (44 U.S.C. Chapter 35)**

Section 251.6(c)(1)-(c)(3) of this proposed rule contain information collection requirements. DoD has submitted the following proposal to 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.

Type of Request: Reinstatement.

**Existing OMB Control Number: 0704-0449, “National Language Service Corps.”**

**Title: DD Form 2932, “National Language Service Corps Application”**

Number of Respondents: 1,500

Responses per Respondent: 1

Annual Responses: 1,500

Average Burden Per Response: 18 minutes

Annual Burden Hours: 450 hours

Needs and Uses: Verification and mission-related use

**Title: DD Form 2933, “National Language Service Corps (NLSC) Detailed Skills Self-Assessment”**

Number of Respondents: 1,000

Responses per Respondent: 1

Annual Responses: 1,000

Average Burden Per Response: 18 minutes

Annual Burden Hours: 300 hours

Needs and Uses: Verification and mission-related use

**Title: DD Form 2934, “National Language Service Corps (NLSC) Global Skills Self-Assessment”**

Number of Respondents: 1,000

Responses per Respondent: 1

Annual Responses: 1,000

Average Burden Per Response: 18 minutes

Annual Burden Hours: 300 hours

Needs and Uses: Verification and mission-related use

**Title: Phone call to review responses on forms**

Total annual respondents: 1,000

Frequency of response: 1

Total annual responses: 1,000

Burden per response: 10 minutes

Total burden hours: 167 hours

Needs and Uses: Verification and mission-related use

OMB Desk Officer: Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra 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 National Language Service Corps, P.O. Box 12221, Arlington, VA 22219. 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.

You may also submit comments, identified by docket number and title, by the following method:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

*Instructions:* All submissions received must include the agency name, docket number and title for this Federal Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the

Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to John Demboski, National Language Service Corps, P.O. Box 12221, Arlington, VA 22219; phone number (703) 588-0868.

### **Executive Order 13132, “Federalism”**

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This proposed rule will not have a substantial effect on State and local governments.

List of Subjects in 32 CFR Part 251

Foreign languages, Manpower training programs.

Accordingly 32 CFR part 251 is proposed to be added to read as follows:

### **PART 251—NATIONAL LANGUAGE SERVICE CORPS (NLSC)**

Sec.

251.1 Purpose.

251.2 Applicability.

251.3 Definitions.

251.4 Policy.

251.5 Responsibilities.

251.6 Procedures.

Authority: 5 U.S.C. 3109, 18 U.S.C. 202, 31 U.S.C. 1535, 50 U.S.C. 1913.

#### **§251.1 Purpose.**

This part:

- (a) Implements the responsibilities of the Secretary of Defense in 50 U.S.C. 1913 by establishing the NLSC program.
- (b) Establishes policy, assigns responsibilities, and provides procedures for the management of the NLSC program.
- (c) Assigns responsibility to the National Security Education Board (NSEB) to oversee and coordinate the activities of the NLSC (as provided and determined by the Secretary of Defense pursuant to 50 U.S.C. 1903 and 1913 with policy and funding oversight provided by the Under Secretary of Defense for Personnel and Readiness (USD(P&R)) in accordance with DoD Directive 5124.02, “Under Secretary of Defense for Personnel and Readiness (USD(P&R))” (available at <http://www.dtic.mil/whs/directives/corres/pdf/512402p.pdf>).

### **§251.2 Applicability.**

This part applies to Office of the Secretary of Defense, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the DoD (referred to collectively in this part as “the DoD Components”) and Federal agencies.

### **§251.3 Definitions.**

Unless otherwise noted, these terms and their definitions are for the purposes of this part.

Consultant. Defined in 5 CFR part 304.

Excepted service. Appointments in the excepted service are civil service appointments within the Federal Government that do not confer competitive status and are excepted from competitive service by or pursuant to statute, by the President, or by the Office of Personnel Management, and which are not in Senior Executive Service.

Foreign language. Any language other than English.

Language proficiency. The U.S. Government relies on the Interagency Language Roundtable (ILR) scale to determine language proficiency. According to the ILR scale:

- (1) 0 is No Proficiency
- (2) 0+ is Memorized Proficiency
- (3) 1 is Elementary Proficiency
- (4) 1+ is Elementary Proficiency, Plus
- (5) 2 is Limited Working Proficiency
- (6) 2+ is Limited Working Proficiency, Plus
- (7) 3 is General Professional Proficiency
- (8) 3+ is General Professional Proficiency, Plus
- (9) 4 is Advanced Professional Proficiency
- (10) 4+ is Advanced Professional Proficiency, Plus
- (11) 5 is Functional Native Proficiency

Special government employee (SGE). Defined in 18 U.S.C. 202.

**§251.4 Policy.**

It is DoD policy that:

- (a) The NLSC provides DoD, or other U.S. departments or agencies, with U.S. citizens with high levels of foreign language proficiency for short-term temporary assignments providing foreign language services.
- (b) The NLSC is authorized to employ U.S. citizens as language consultants pursuant to 50 U.S.C. 1913, 5 U.S.C. 3109, and 5 CFR part 304.

(c) The NLSC is exempt from DoD Instruction 5160.71, “DoD Language Testing Program” (available at [http://www.dtic.mil/whs/directives/corres/pdf/516071\\_2009\\_ch1.pdf](http://www.dtic.mil/whs/directives/corres/pdf/516071_2009_ch1.pdf)), such that the NLSC may use tests of the Defense Language Proficiency Testing System or may use and develop other tests to assess language proficiency for the purpose of employing NLSC members as language consultants.

(d) The NLSC will be available to support DoD or other U.S. departments or agencies pursuant to 50 U.S.C. 1913.

(e) The NLSC will:

(1) Collect personally identifiable information pursuant to 50 U.S.C. 1913 from individuals interested in applying for NLSC membership.

(2) Comply with DoD Instruction 8910.01, “Information Collection and Reporting” (available at <http://www.dtic.mil/whs/directives/corres/pdf/891001p.pdf>), Volume 2 of DoD Manual 8910.01, “DoD Information Collections Manual: Procedures for DoD Public Information Collections” (available at [http://www.dtic.mil/whs/directives/corres/pdf/891001m\\_vol2.pdf](http://www.dtic.mil/whs/directives/corres/pdf/891001m_vol2.pdf)), and 32 CFR part 310.

(f) Qualified and available members with requested language skills hired in accordance with 5 U.S.C. 3109 and 5 CFR part 304 and Administrative Instruction 2, “Employment of Experts and Consultants” (available at <http://www.dtic.mil/whs/directives/corres/pdf/ai002p.pdf>) will be temporarily assigned to government agencies pursuant to reimbursable agreements described in 31 U.S.C. 1535.

#### **§251.5 Responsibilities.**

(a) The USD(P&R):

- (1) Provides overall policy guidance for carrying out the responsibilities and duties of the Secretary of Defense in accordance with DoD Directive 5124.02 and 50 U.S.C. 1913.
- (2) Ensures appropriate resources are programmed for the administration and operation of the NLSC.
- (b) Under the authority, direction, and control of the USD(P&R), the Assistant Secretary of Defense for Readiness and Force Management (ASD(R&FM)):
  - (1) Through the Deputy Assistant Secretary of Defense for Readiness:
    - (i) Develops processes and polices regarding the NLSC oversight and coordination by the NSEB in accordance with 50 U.S.C. 1903 and 1913.
    - (ii) Recommends and oversees the establishment and execution of policies, programs, and goals to ensure the NLSC supports the readiness of the Military Services.
    - (iii) Oversees, and monitors compliance with the NLSC programs and processes on behalf of the Secretary of Defense to include the procedures in §251.6 of this part.
    - (iv) Ensures that functions needed to support the accomplishment of the NLSC mission are executed including engagement with DoD Components, federal agencies, and State and local governments, to identify language needs, assessment of language proficiency of its members, and skill sustainment training.
    - (v) Determines eligibility for NLSC membership.
  - (2) Hosts the annual program review identified in 50 U.S.C. 1913.
  - (3) Designates a program manager responsible for overseeing implementation of NLSC programs and processes.
- (c) Under the authority, direction, and control of the USD(P&R), the Director, Department of Defense Human Resources Activity (DoDHRA):

- (1) Implements procedures and instructions for the appointment of NLSC members in support of DoD or other U.S. departments or agencies.
- (2) Authorizes and signs interagency agreements between the NLSC and organizations outside of the DoD, and delegates authority to sign such agreements as needed.
- (3) Provides administrative support to the NLSC, including actions related to intra- and inter-agency agreements, the intra- and inter-agency transfer of funds, personnel actions, and travel requirements.
- (4) Provides fiscal management and oversight to ensure all funds provided for the NLSC are separately and visibly accounted for in the DoD budget.
- (d) DoD Components heads ensure that the use of NLSC members is considered during exercise and operational planning.

**§251.6 Procedures.**

- (a) NLSC purpose. (1) The purpose of the NLSC is to identify and provide U.S. citizens with foreign language skills to support DoD or other U.S. departments or agencies, in need of foreign language services, for requirements of less than 1 year.
- (2) The NLSC will provide capable, federally-hired individuals to rapidly respond to critical national needs and assist DoD and other U.S. departments and agencies with surge or emergency requirements.
- (b) NLSC membership criteria. NLSC members must:
  - (1) Be a U.S. citizen.
  - (2) Be at least 18 years of age.
  - (3) Have satisfied Selective Service requirements.
  - (4) Be proficient in English and any other language.

(c) NLSC member recruitment. The NLSC program manager will oversee recruitment of members. NLSC maintains a registry of individuals who have applied or been accepted for membership and responds to requests for foreign language services by searching the registry to identify individuals who can provide support. NLSC collects applicant information through electronically available DD forms (located at the DoD Forms Management Program website at <http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm>.) or comparable web-based applications:

(1) DD Form 2932. Contains a brief set of screening questions and is used to determine basic eligibility for NLSC membership.

(2) DD Form 2933. A language screening tool to evaluate the applicant's skills with respect to specific tasks. DD Form 2933 is used in conjunction with the screening of language skills for entry into the NLSC.

(3) DD Form 2934. Provides an overall assessment of the applicant's foreign language ability. DD Form 2934 is also used in conjunction with the screening of detailed skills for entry into the NLSC.

(d) NLSC member appointment as Federal employees. Where applicants meet NLSC membership criteria and are matched to foreign language services requirements, the NLSC program manager ensures actions are initiated to temporarily hire applicants and members for forecasted and actual support requests.

(1) For Federal hiring, members follow excepted service hiring policies in accordance with 5 U.S.C. 3109, 5 CFR part 304, and 32 CFR part 310, and are appointed as language consultants in advance of participating in a support request, in accordance with AI 2.

(2) An NLSC member who is already employed by a U.S. Government agency or is under contract full-time to one agency must receive a release from the head of that agency or individual empowered to release the employee or contractor before being employed for service within the NLSC pursuant to 50 U.S.C. 1913 and must comply with applicable laws and regulations regarding compensation. Such requests will be coordinated by the NLSC with the department or agency head concerned.

(3) NLSC members will be appointed on an annual basis pursuant to 5 U.S.C. 3109, 5 CFR part 304, and 32 CFR part 310 to perform duties as language consultants. If serving less than 130 days in a consecutive 365 day period, they will be considered SGEs as defined in 18 U.S.C. 202. Concurrent appointments as an SGE may be held with other DoD Components or in another federal agency.

(4) The NLSC program manager will track the number of days each NLSC member performed services and the total amount paid to each NLSC member within the 365 day period after the NLSC member's appointment.

(e) NLSC member activation. Activation encompasses all aspects of matching and hiring NLSC members to perform short-term temporary assignments to provide foreign language services.

Under NLSC program manager oversight:

(1) Customer requirements are matched with skills of NLSC members and support is requested from DoDHRA to process necessary agreements, funding documents, and personnel actions to provide foreign language services. In accordance with paragraph (d)(3) of this section, NLSC members are temporarily hired as DoD employees.

(2) NLSC members are prepared for activation. If members are to be mobilized out of their home area, travel order requests are initiated. During the assignment, action will be taken to

coordinate with members and clients, and assess success with the requesting agency upon completion.

(3) If duty requires issuance of DoD identification (e.g., Common Access Card), such identification will be issued to and maintained by activated NSLC members in accordance with Volume 1 of DoD Manual 1000.13, “DoD Identification (ID) Cards: ID Card Life-Cycle” (available at [http://www.dtic.mil/whs/directives/corres/pdf/100013\\_vol1.pdf](http://www.dtic.mil/whs/directives/corres/pdf/100013_vol1.pdf)). Upon completion of the assignment, the identification will be retrieved in accordance with Volume 1 of DoD Manual 1000.13.

(4) Upon completion of assignments, DoDHRA will provide post-assignment support to members and reconcile funding to close project orders.

Dated: February 18, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015-03567 Filed 02/23/2015 at 8:45 am; Publication Date: 02/24/2015]