

e. *Projected Life-Cycle Savings.* For each PIF project provide the estimated amount of savings the project is projected to earn over the project's economic life.

f. *Projected Life-Cycle Cost Avoidance.* For each PIF project provide the estimated amount of cost avoidance the project is projected to achieve.

2. *PEIF.* Each DoD Component that has funded PEIF projects must annually report summary information that includes:

- a. *Total Number of Projects.*
- b. *Total Funds Provided.*
- c. *Total Amount Obligated.*
- d. *Total Projected Life-Cycle Savings.*
- e. *Total Projected Life-Cycle Cost Avoidance.*

3. *CSI.* Each DoD Component that has funded CSI projects must annually report summary information that includes:

- a. *Total Number of Projects.*
- b. *Total Funds Provided.*
- c. *Total Amount Obligated.*
- d. *Total Projected Life-Cycle Savings.*
- e. *Total Projected Life-Cycle Cost Avoidance.*

4. *PIA* Post-Investment assessments, articles, pictures, and brief description of projects and their results are encouraged and may be attached to the annual report or submitted throughout the year.

PART 165—RECOUPMENT OF NON-RECURRING COSTS ON SALES OF U.S. ITEMS

- Sec.
- 165.1 Purpose.
 - 165.2 Applicability and scope.
 - 165.3 Definitions.
 - 165.4 Policy.
 - 165.5 Responsibilities.
 - 165.6 Procedures.
 - 165.7 Waivers (including reductions).

AUTHORITY: 31 U.S.C. 9701.

SOURCE: 58 FR 16497, Mar. 29, 1993, unless otherwise noted.

§ 165.1 Purpose.

This part updates policy to conform with Public Law 90-629, "Arms Export Control Act," October 22, 1968, as amended for calculating and assessing nonrecurring cost recoupment charges on sales of items developed for or by the Department of Defense to non-U.S. Government customers.

§ 165.2 Applicability and scope.

(a) This part applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Unified and Specified Com-

mands, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components").

(b) The provisions of this part do not apply to sales of excess property when accountability has been transferred to property disposal activities and the property is sold in open competition to the highest bidder.

(c) The policies and procedures provided for in this part shall apply to all sales on or after January 13, 1993, and supersede application thresholds and charges previously established. Previous versions continue to govern sales made during applicable effective dates. Such previously established non-recurring cost recoupment thresholds and charges shall be eliminated or revised in accordance with this part.

§ 165.3 Definitions.

(a) *Cost pool.* Represents the total cost to be distributed across the specific number of units. The nonrecurring research, development, test, and evaluation cost pool comprises the costs described in paragraph (f), of this section. The nonrecurring production cost pool comprises costs described in paragraph (e), of this section.

(b) *Foreign military sale.* A sale by the U.S. Government of defense items or defense services to a foreign government or international organization under authority of the "Arms Export Control Act," Public Law No. 90-629 (1968) as amended. Except as waived by the Under Secretary of Defense for Policy, Foreign Military Sales are the only sales subject to nonrecurring cost recoupment charges.

(c) *Major defense equipment.* Any item of significant military equipment on the United States Munitions List having a nonrecurring research, development, test, and evaluation cost of more than 50 million dollars or a total production cost of more than 200 million dollars. The determination of whether an item meets the major defense equipment dollar threshold for research, development, test, and evaluation shall be based on DoD obligations recorded to the date the equipment is offered for sale. Production costs shall include costs incurred by the Department of

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Defense. Production costs for the foreign military sales program and known direct commercial sales production are excluded.

(d) *Model*. A basic alpha-numeric designation in a weapon system series; e.g., a ship hull series, an equipment or system series, an airframe series, or a vehicle series. For example, the F5A and the F5F are different models in the same F–5 system series.

(e) *Nonrecurring production costs*. Those one-time costs incurred in support of previous production of the model specified and those costs specifically incurred in support of the total projected production run. Those nonrecurring cost include DoD expenditures for preproduction engineering; rate and special tooling; special test equipment; production engineering; product improvement; destructive testing; and pilot model production, testing, and evaluation. That includes costs of any engineering change proposals initiated before the date of calculations of the nonrecurring costs recoupment charge. Nonrecurring production costs do not include DoD expenditures for machine tools, capital equipment, or facilities for which contractor rental payments are made or waived in accordance with the DoD FAR Supplement.

(f) *Nonrecurring research, development, test, and evaluation costs*. Those costs funded by a research, development, test, and evaluation appropriation to develop or improve the product or technology under consideration either through contract or in-house DoD effort. This includes costs of any engineering change proposal started before the date of calculation of the nonrecurring cost recoupment charges as well as projections of such costs, to the extent additional effort applicable to the sale model or technology is necessary or planned. It does not include costs funded by either procurement or operation and maintenance appropriations.

(g) *Pro rata recovery of nonrecurring costs*. Equal distribution (proration) of a pool of nonrecurring cost to a specific number of units that benefit from the investment so that a DoD Component shall collect from a customer a fair (pro rata) share of the investment in

the product being sold. The production quantity base used to determine the pro rata calculation of major defense equipment includes total production.

(h) *Significant change in nonrecurring cost recoupment charge*. A significant change occurs as follows:

(1) A new calculation shows a change of 30 percent of the current system nonrecurring cost charge.

(2) The nonrecurring cost unit charge increases or decreases by 50,000 dollars or more; or

(3) Where the potential for a 5 million dollars change in recoupment exists. The total collections may be estimated based on the projected sales quantities. When potential collections increase or decrease by 5 million dollars, a significant change occurs.

(i) *“Special” research, development, test, and evaluation and nonrecurring production costs*. Costs incurred under a foreign military sale at the request of, or for the benefit of, a foreign customer to develop a special feature or unique or joint requirement. Those costs must be paid by the customer as they are incurred.

§ 165.4 Policy.

It is DoD policy that:

(a) A nonrecurring cost recoupment charge shall be imposed for sales of major defense equipment only as required by Act of Congress (e.g., Arms Export Control Act).

(b) The Under Secretary of Defense for Policy may grant a waiver to recoupment charges in accordance with § 165.7.

(c) Nonrecurring cost charges shall be based on the amount of the DoD nonrecurring investment in an item.

§ 165.5 Responsibilities.

(a) The Comptroller of the Department of Defense shall provide necessary financial management guidance.

(b) The Under Secretary of Defense (Acquisition) shall take appropriate action to revise the DoD Federal Acquisition Regulation Supplement in accordance with this part.

(c) The Under Secretary of Defense for Policy shall:

(1) Monitor the application of this part.

(2) Review and approve nonrecurring cost recoupment charges and non-recurring cost recoupment charge waiver requests received from foreign countries and international organizations for foreign military sales.

(3) Ensure publication of a listing of items developed for or by the Department of Defense to which nonrecurring cost recoupment charges are applicable.

(d) The Secretaries of the Military Departments and the Directors of the Defense Agencies shall:

(1) Determine the DoD nonrecurring investment in items developed for or by the Department of Defense and perform required pro rata calculations in accordance with this part and financial management guidance from the Comptroller of the Department of Defense.

(2) Validate and provide recommended charges to the Under Secretary of Defense for Policy. Supporting documentation will be retained until the item has been eliminated from the nonrecurring cost recoupment charge listing.

(3) Review approved nonrecurring cost recoupment charges on a biennial basis to determine if there has been a change in factors or assumptions used to compute a nonrecurring cost recoupment charge and, if there is a significant change in a nonrecurring cost recoupment charge, provide a recommended change to the Under Secretary of Defense for Policy.

(4) Collect charges on foreign military sales in accordance with DoD 7290.3-M,¹ "Foreign Military Sales Financial Management Manual" and on other sales, made prior to January 13, 1993, in accordance with DoD 7220.9-M,² "DoD Accounting Manual."

(5) Deposit collections to accounts as prescribed by the Comptroller, DoD.

(6) Request guidance from the Under Secretary of Defense for Policy, within 90 days, if an issue concerning a recoupment charge cannot be resolved.

¹Forward written requests to Defense Institute for Security Assistance Management, ATTN: DISAM-DRP, Wright-Patterson Air Force Base, Ohio 45433.

²Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

§ 165.6 Procedures.

(a) The nonrecurring cost recoupment charge to be reimbursed shall be a pro rata recovery of non-recurring cost for the applicable major defense equipment. Recovery of non-recurring cost recoupment charges shall cease upon the recovery of total DoD costs. Such charges shall be based on a cost pool as defined in §165.3. For a system that includes more than one component, a "building block" approach (i.e., the sum of nonrecurring cost recoupment charges for individual components) shall be used to determine the nonrecurring cost recoupment charge for the sale of the entire system.

(b) A nonrecurring cost recoupment charge shall not apply when a waiver has been approved by the Under Secretary of Defense for Policy in accordance with §165.7 or when sales are financed with U.S. Government funds made available on a nonrepayable basis. Approved revised nonrecurring cost recoupment charges shall not be applied retroactively to accepted foreign military sales agreements.

(c) When major defense equipment are sold at a reduced price due to age or condition, the nonrecurring cost recoupment charge shall be reduced by the same percentage reduction.

(d) The full amount of "special" research, development, test, and evaluation and nonrecurring production costs incurred for the benefit of particular customers shall be paid by those customers. However, when a subsequent purchaser requests the same specialized features that resulted from the added "special" research, development, test, and evaluation and nonrecurring production costs, a pro rata share of those costs may be paid by the subsequent purchaser and transferred to the original customer if those special non-recurring costs exceed 50 million dollars. The pro rata share may be a unit charge determined by the DoD Component as a result of distribution of the total costs divided by the total production. Such reimbursements shall not be collected after 10 years have elapsed since acceptance of DD Form 1513, "U.S. DoD Offer and Acceptance," by the original customer, unless otherwise authorized by the Under Secretary of

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Defense for Policy. The U.S. Government shall not be charged any non-recurring costs recoupment charge if it adopts the features for its own use or provides equipment with such features under a U.S. Grant Aid or similar program.

(e) For coproduction, codevelopment and cooperative development, or cooperative production DoD agreements, the policy set forth in this part shall determine the allocation basis for recouping from the third party purchasers the investment costs of the participants. Such DoD agreements shall provide for the application of the policies in this part to sales to third parties by any of the parties to the agreement and for the distribution of recoupments among the parties to the agreement.

§ 165.7 Waivers (including reductions).

(a) The “Arms Export Control Act,” Public Law No. 90-629, as amended, requires the recoupment of a proportionate amount of nonrecurring cost of major defense equipment from foreign military sales customers but authorizes consideration of reductions or waivers for particular sales which, if made, significantly advance U.S. Government interests and the furtherance of mutual defense treaties between the United States and certain countries.

(b) Requests for waivers should originate with the foreign government and shall provide information on the extent of standardization to be derived as a result of the waiver.

(c) Blanket waiver requests should not be submitted and shall not be considered. The term “blanket waiver” refers to a nonrecurring cost recoupment charge waiver that is not related to a particular sale; for example, waivers for all sales to a country or all sales of a weapon system.

(d) A waiver request shall not be considered for a sale that was accepted without a nonrecurring cost recoupment charge waiver, unless the acceptance was conditional on consideration of the waiver request.

(e) Requests for waivers shall be processed expeditiously, and a decision normally made to either approve or disapprove the request within 60 days after receipt. A waiver in whole or in

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part of the recoupment charge or a denial of the request shall be provided in writing to the appropriate DoD Component.

PART 168a—NATIONAL DEFENSE SCIENCE AND ENGINEERING GRADUATE FELLOWSHIPS

Sec.

- 168a.1 Purpose.
- 168a.2 Applicability.
- 168a.3 Definition.
- 168a.4 Policy and procedures.
- 168a.5 Responsibilities.

AUTHORITY: 10 U.S.C. 2191.

SOURCE: 55 FR 29844, July 23, 1990, unless otherwise noted.

§ 168a.1 Purpose.

This part:

(a) Establishes guidelines for the award of National Defense Science and Engineering Graduate (NDSEG) Fellowships, as required by 10 U.S.C. 2191.

(b) Authorizes, in accordance with 10 U.S.C. 2191 and consistent with DoD 5025.1, the publication of a regulation which will be codified at 32 CFR part 168b.

§ 168a.2 Applicability.

This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, and the Defense Agencies (hereafter referred to collectively as “DoD Components”).

§ 168a.3 Definition.

Sponsoring Agency. A DoD Component or an activity that is designated to award NDSEG fellowships under § 168a.5(a).

§ 168a.4 Policy and procedures.

(a) Sponsoring Agencies, in awarding NDSEG fellowships, shall award:

(1) Solely to U.S. citizens and nationals who agree to pursue graduate degrees in science, engineering, or other fields of study that are designated, in accordance with § 168a.5(b)(2), to be of priority interest to the Department of Defense.

(2) Through a nationwide competition in which all appropriate actions