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32 CFR Ch. I (7-1-11 Edition)

(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.

§ 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

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.

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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

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

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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