

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. Unless otherwise authorized by USD(P), special research, development, test, and evaluation and nonrecurring production costs will not be collected after 10 years have passed since the date the original FMS customer accepted the FMS Letter of Offer and Acceptance (LOA) that included the special NC charges. The USG shall not be charged any NC recoupment charges 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) Cooperative DoD agreements, to include co-production, co-development and cooperative development agreements, shall use the policy in this part to determine the allocation basis for recouping the participant investment costs from third-party purchasers. Each respective DoD agreement shall bind all parties to the agreement to comply with the policies in this part regarding third party sales and for the distribution of recouped funds among the parties.

§ 165.7 Waivers (including reductions).

(a) Title 22, U.S.C. 2761(e)(1)(B) requires the recoupment of a proportionate amount of NCs of MDE from foreign military sales customers.

(b) Pursuant to 22 U.S.C. 2761(e)(2)(A), a waiver or reduction in the NC for a specific sale may be made if the sale will significantly advance U.S. Government interests in:

(1) Standardization with the North Atlantic Treaty Organization.

(2) Standardization with Australia, Israel, Japan, New Zealand, or the Republic of Korea in furtherance of mutual defense treaties with one or more of those countries.

(3) Foreign procurement in the United States under a co-production agreement.

(c) In accordance with 22 U.S.C. 2761(e)(2)(B), a waiver may be made if:

(1) Imposition of an NC recoupment charge likely would result in the loss of the sale; or,

(2) The sale is for an MDE also being procured for the Military Services, and will result in DoD unit cost savings

that substantially offset the revenue foregone by waiving the recoupment charge because the total quantity of purchased equipment caused a reduction in the unit cost.

(d) In accordance with 22 U.S.C. 2761(e)(2)(C), any increase in a NC charge previously approved as appropriate may be waived for a particular sale if the increase results from a correction of an estimate of the production quantity base that was used for calculating the charge.

(e) 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.

(1) Blanket waiver requests should not be submitted and shall not be considered.

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

(3) Requests for waivers shall be processed expeditiously, and approved or disapproved by USD(P) within 60 days of receipt. A waiver in whole or in part of the recoupment charge or a denial of the request shall be provided in writing.

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

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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 have been taken to encourage applications from members of groups (including minorities, women, and disabled persons) that historically have been underrepresented in science and engineering.

(3) Without regard to the geographic region in which the applicant lives or the geographic region in which the applicant intends to pursue an advanced degree.

(b) The criteria for award of NDSEG fellowships shall be:

(1) The applicant’s academic ability relative to other persons applying in the applicant’s proposed field of study.

(2) The priority of the applicant’s proposed field of study to the Department of Defense.

§ 168a.5 Responsibilities.

(a) The Deputy Director, Defense Research and Engineering (Research and Advanced Technology) [DDDR&E(R&AT)], shall:

(1) Administer this part and issue DoD guidance, as needed, for NDSEG fellowships.

(2) Designate those DoD Components that will award NDSEG fellowships,

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consistent with relevant statutory authority.

(3) Issue a regulation in accordance with 10 U.S.C. 2191 and DoD 5025.1–M.

(b) The Heads of Sponsoring Agencies, or their designees, in coordination with a representative of the Deputy Director, Defense Research and Engineering (Research and Advanced Technology) [DDDR&E(R&AT)], shall:

(1) Oversee the nationwide competition to select NDSEG fellowship recipients.

(2) Determine those science, engineering and other fields of priority interest to the Department of Defense in which NDSEG fellowships are to be awarded.

(3) Prepare a regulation, in accordance with 10 U.S.C. 2191, that prescribes.

(i) Procedures for selecting NDSEG fellows.

(ii) The basis for determining the amounts of NDSEG fellowships.

(iii) The maximum NDSEG fellowship amount that may be awarded to an individual during an academic year.

PART 169—COMMERCIAL ACTIVITIES PROGRAM

Sec.

- 169.1 Purpose.
- 169.2 Applicability and Scope.
- 169.3 Definitions.
- 169.4 Policy.
- 169.5 Responsibilities.

AUTHORITY: 5 U.S.C. 301 and 552 and Pub. L. 93–400.

SOURCE: 54 FR 13373, Apr. 3, 1989, unless otherwise noted.

§ 169.1 Purpose.

This document:

- (a) Revises 32 CFR part 169.
- (b) Updates DoD policies and assigns responsibilities for commercial activities (CAs) as required by E.O. 12615, Pub. L. 100–180, sec. 1111, and OMB Circular A–76.

§ 169.2 Applicability and scope.

This part:

- (a) Applies to the Office of the Secretary of Defense (OSD), the Military Departments, and the Defense Agencies (hereafter referred to collectively as “DoD Components”).