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SMALL BUSINESS ADMINISTRATION

13 CFR Parts 121 and 125

Government Contracting Programs

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA) is finalizing its regulations to address contract bundling due to changes set forth in the Small Business Reauthorization Act of 1997. This rule implements the statutory amendments that recognize that the consolidation of contract requirements may be necessary and justified, in some cases. It also implements the statutory requirement that each Federal agency, to the maximum extent practicable, take steps to avoid unnecessary and unjustified bundling of contract requirements that precludes small business participation as prime contractors as well as to eliminate obstacles to small business participation as prime contractors. In addition, this rule restates SBA's current authority to appeal to the head of a procuring agency decisions made by the agency that SBA believes to adversely affect small businesses.

DATES: This rule is effective July 26, 2000.

FOR FURTHER INFORMATION CONTACT: Anthony Robinson, Office of Government Contracting, (202) 205–6465.

SUPPLEMENTARY INFORMATION: Section 15(a) of the Small Business Act, 15 U.S.C. 644(a), authorizes SBA to appeal to the head of a procuring agency certain decisions made by the agency that SBA believes adversely affects small businesses, including proposed procurements that include ''goods or services currently being performed by a small business'' and which are in a ''quantity or estimated dollar value the magnitude of which renders small business prime contract participation unlikely.'' Section 413(b)(1) of Public Law 105–135 added an appeal right to section 15(a) of the Small Business Act for ''an unnecessary or unjustified bundling of contract requirements.'' It left intact, however, SBA's current appeal rights. In this regard, the Joint Explanatory Statement of the bundling provisions contained in Public Law 105–135 as set forth in the Congressional Record specifically provided that ''[n]othing in [the bundling amendments] is intended to amend or change in any way the existing obligations imposed on a procuring activity or the authority granted to the Small Business Administration under section 15(a) of the Small Business Act.'' 143 Cong. Rec. S11522, S11526 (daily ed. Oct. 31, 1997).

On October 25, 1999, SBA published an interim rule with request for comments in the **Federal Register** requesting public comments on implementation of Sections 411–417 of the Small Business Reauthorization Act of 1997 (Public Law 105–135, 111 Stat. 2617). *See* 64 FR 57366, October 25, 1999. The statutory amendments recognize that the consolidation of contract requirements may be necessary and justified, in some cases. The rule requires that each Federal agency, to the maximum extent practicable, take steps to avoid unnecessary and unjustified bundling of contract requirements that preclude small business participation as prime contractors. The rule also requires each agency to eliminate obstacles to small business participation as prime contractors.

The comment period for the interim rule (64 FR 57366) closed on December 27, 1999. Consistent with the statutory amendments, the interim rule defined ''bundling,'' identified the circumstances under which such ''bundling'' may be necessary and justified, and permitted SBA to appeal bundling actions that it believes to be unnecessary and unjustified to the head of the procuring agency. The rule also restated SBA's current authority to appeal to the head of an agency other procurement decisions made by procuring activities that SBA believes will adversely affect small business. SBA received 19 comments in response to the interim rule. The comments are comprised of three from Government agencies, four from trade associations, ten from small businesses, and two from members of Congress.

Most of the comments, particularly those from small business, did not offer specific changes to the rule, but rather strongly endorsed the government taking action against contract bundling. Since these comments offered no specific changes, SBA responds by noting the strong opposition to contract bundling by the small business community.

The four comments from trade associations focused on the impact of bundling requirements on the architect and engineering industry. Specifically, these comments were concerned with the consolidation of architect and engineering services with requirements from other industries. The bundling statute and SBA's rule permit various contract requirements to be consolidated provided that the consolidation results in substantial benefits. The statute does not limit the scope and diversity of consolidated contracts. As long as there are measurably substantial benefits, a procuring agency is authorized to consolidate or bundle contract requirements. Thus, this rule also does not limit the scope and diversity of consolidated contracts.

When a procuring activity intends to proceed with a ''bundled'' requirement, it must document that the bundling is necessary and justified. If it cannot do so, the procuring activity cannot go forward with the intended consolidation. In order for bundling to be necessary and justified, the consolidation must achieve ''measurably substantial benefits.'' In finalizing this rule, SBA again examined the interim rule's two-tier approach to determining what constitutes measurably substantial benefits. SBA continues to believe that the two-tier approach represents a reasonable application of determining what ''measurably substantial benefits'' means. Pursuant to the statutory language, benefits must be ''substantial.'' SBA believes that benefits equivalent to 10% of the contract value (including options) is a substantial benefit relative to the amount of the contract where the contract value is $75 million or less. Similarly, SBA believes that benefits equivalent to at least $7.5

million or 5% of the contract value (including options) is a substantial benefit in absolute dollars where the contract value exceeds $75 million. SBA notes that most bundled requirements that SBA has reviewed over the past four years have had a contract value (including options) that was less than $75 million. Thus, most bundled contracts will be subject to a 10% savings test. The remainder of the contracts will be subject to a minimum absolute savings of $7.5 million.

This final rule clarifies the two-tier approach to achieve this result of a minimum savings for contracts having a value (including options) between $75 million and $150 million. The interim rule required agencies to achieve a benefit equivalent to at least 5% of the contract value (including options) for any contract having a value exceeding $75 million, but without specifying a minimum savings of $7.5 million. Under the interim rule, for contracts having a value between $75 million and $150 million, the required benefits could have ranged from $3.25 million to $7.5 million. Thus, contracts having a value between $75 million and $150 million required less of a benefit than contracts having a value between $32.5 million and $75 million. For example, an agency needed to demonstrate a $6 million benefit for a contract having a $60 million value, while it had to show only a $4 million benefit for a contract having a value of $80 million. SBA believes that this result would have been illogical. As such, SBA has amended this provision to require that an agency must show a benefit of 5% or $7.5 million, whichever is greater, for any bundled contract having a value that exceeds $75 million. Contracts awarded in reliance on the interim rule which met the 5% benefits test but would not satisfy this minimum savings test will be unaffected by this final rule.

One commenter suggested that the ''critical to the agency's mission success'' exemption (125.2(d)(3)(iii)(B)) could be subject to abuse. SBA does not agree. SBA believes that because these exemptions are made at the agency's highest procurement levels, abuses of this authority are unlikely.

The interim final rule included a provision addressing the application of the regulation to procurements that are awarded in accordance with a cost comparison conducted under OMB Circular A–76 (''Performance of Commercial Functions''). We did not receive any comments on this provision. The final rule retains the provision, with clarifying revisions.

Circular A–76 establishes a cost-comparison process for evaluating whether a commercial activity that is conducted by a Federal agency should be performed in-house or by contract. This process compares the estimated cost of in-house performance by the ''Most Efficient Organization'' (MEO) with the cost of contract performance as determined by offers that are submitted in response to an A–76 solicitation. Under the Circular, the simple fact that contract performance is found to be *less costly* than in-house performance by the MEO is not sufficient to justify a conversion from in-house to contract performance. Instead, an activity will not be converted to contract performance (i.e., it will be retained in-house) unless the savings will exceed 10 percent or $10 million over the performance period, whichever is less.

Under the A–76 cost-comparison process, the required MEO (which is also required by statute at 10 U.S.C. 2461 for the Department of Defense) may include a mix of Federal employees and contract support. In other words, the scope of an A–76 cost comparison, the solicitation, and the in-house MEO may consist of a workload performed by Federal employees and one or more existing contractors. Thus, it is possible under an A–76 cost comparison process that activities that have been performed by Federal employees (along with activities performed under two or more small business contracts) will be converted to performance under one contract awarded to a large business. In such cases, the methodology of the A–76 process will have ensured that the Federal Government will derive ''measurably substantial benefits'' from the conversion. This occurs in two ways. First, through the agency's development of a management plan and the in-house MEO (which concludes in the MEO's written ''certification''), significant and measurable savings and performance enhancements can be achieved even before competing with any private offeror. Second, through the cost comparison itself, measurable savings and performance enhancements are quantified, and a decision to convert requires substantial savings (10 percent or $10 million over the performance period, whichever is less).

SBA has added clarifying language to the rule so that it is clear that a bundling analysis is not required when an agency conducts a similar analysis under an A–76 study.

Compliance With Executive Orders 13132, 12988 and 12866, the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), and the Paperwork Reduction Act (44 U.S.C. Chapter 3501 et seq.)

The Office of Management and Budget reviewed this rule as a ''significant'' regulatory action under Executive Order 12866.

SBA has determined that this final rule may have a significant beneficial economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. SS 601–612. The rule can potentially apply to all small businesses that are performing or may want to perform on the prime contract opportunities of the Federal Government. While there is no precise estimate of the number of small entities or the extent of the economic impact, SBA believes that a significant number of small businesses would be affected. SBA has submitted a complete Final Regulatory Flexibility Analysis of this final rule to the Chief Counsel for Advocacy of the Small Business Administration. For a copy of this analysis, please contact Anthony Robinson at (202) 205–6465.

For the purpose of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA certifies that this rule would not impose new reporting or record keeping requirements.

For purposes of Executive Order 13132, SBA certifies that this rule does not have any federalism implications warranting the preparation of a Federalism Assessment.

For purposes of Executive Order 12978, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in section 2 of this order.

List of Subjects

13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Individuals with disabilities, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

13 CFR Part 125

Government contracts, Government procurement, Reporting and recordkeeping requirements, Small businesses, Technical assistance.

For the reasons stated in the preamble, SBA adopts the interim rule amending 13 CFR parts 121 and 125 which was published at 64 FR 57366 on October 25, 1999, as final with the following changes:

PART 121—SMALL BUSINESS SIZE REGULATIONS

1. The authority citation for 13 CFR part 121 continues to read as follows:

Authority: 15 U.S.C. 632(a), 634(b)(6), 637(a), 644(c), and 662(5); and Sec. 304, Pub. L. 103–403, 108 Stat. 4175, 4188.

2. In 121.103 currently in effect, revise paragraph (f)(3)(i).

§ 121.103 What is affiliation?

* * * * *

(f) * * *

(3) * * * (i) A joint venture or teaming arrangement of two or more business concerns may submit an offer as a small business for a Federal procurement without regard to affiliation under this paragraph (f) so long as each concern is small under the size standard corresponding to the SIC code assigned to the contract, provided:

(A) The procurement qualifies as a ''bundled'' requirement, at any dollar value, within the meaning of § 125.2(d)(1)(i) of this chapter; or

(B) The procurement is other than a ''bundled'' requirement within the meaning of § 125.2(d)(1)(i) of this chapter, and:

(*1*) For a procurement having a revenue-based size standard, the dollar value of the procurement, including options, exceeds half the size standard corresponding to the SIC code assigned to the contract; or

(*2*) For a procurement having an employee-based size standard, the dollar value of the procurement, including options, exceeds $10 million.

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PART 125—GOVERNMENT CONTRACTING PROGRAMS

1. The authority citation for 13 CFR part 125 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), 637 and 644; 31 U.S.C. 9701, 9702.

2. In § 125.2, revise paragraphs (a), (b) and (d) to read as follows:

§ 125.2 Prime contracting assistance.

(a) *General.* Small business concerns must receive any award or contract, or any contract for the sale of Government property, that SBA and the procuring or disposal agency determine to be in the interest of:

(1) Maintaining or mobilizing the Nation's full productive capacity;

(2) War or national defense programs;

(3) Assuring that a fair proportion of the total purchases and contracts for property, services and construction for the Government in each industry category are placed with small business concerns; or

(4) Assuring that a fair proportion of the total sales of Government property is made to small business concerns.

(b) *PCR and procuring activity responsibilities.* (1) SBA Procurement Center Representatives (PCRs) are generally located at Federal agencies and buying activities which have major contracting programs. PCRs review all acquisitions not set-aside for small businesses to determine whether a set-aside is appropriate.

(2) A procuring activity must provide a copy of a proposed acquisition strategy (e.g., Department of Defense Form 2579, or equivalent) to the applicable PCR (or to the SBA Office of Government Contracting Area Office serving the area in which the buying activity is located if a PCR is not assigned to the procuring activity) at least 30 days prior to a solicitation's issuance whenever a proposed acquisition strategy:

(i) Includes in its description goods or services currently being performed by a small business and the magnitude of the quantity or estimated dollar value of the proposed procurement would render small business prime contract participation unlikely;

(ii) Seeks to package or consolidate discrete construction projects; or

(iii) Meets the definition of a bundled requirement as defined in paragraph (d)(1)(i) of this section.

(3) Whenever any of the circumstances identified in paragraph (b)(2) of this section exist, the procuring activity must also submit to the applicable PCR (or to the SBA Office of Government Contracting Area Office serving the area in which the buying activity is located if a PCR is not assigned to the procuring activity) a written statement explaining why:

(i) If the proposed acquisition strategy involves a bundled requirement, the procuring activity believes that the bundled requirement is necessary and justified under the analysis required by paragraph (d)(3)(iii) of this section; or

(ii) If the description of the requirement includes goods or services currently being performed by a small business and the magnitude of the quantity or estimated dollar value of the proposed procurement would render small business prime contract participation unlikely, or if a proposed procurement for construction seeks to package or consolidate discrete construction projects:

(A) The proposed acquisition cannot be divided into reasonably small lots to permit offers on quantities less than the total requirement;

(B) Delivery schedules cannot be established on a basis that will encourage small business participation;

(C) The proposed acquisition cannot be offered so as to make small business participation likely; or

(D) Construction cannot be procured as separate discrete projects.

(4) In conjunction with their duties to promote the set-aside of procurements for small business, PCRs will identify small businesses that are capable of performing particular requirements, including teams of small business concerns for larger or bundled requirements (see § 121.103(f)(3) of this chapter).

(5)(i) If a PCR believes that a proposed procurement will render small business prime contract participation unlikely, or if a PCR does not believe a bundled requirement to be necessary and justified, the PCR shall recommend to the procurement activity alternative procurement methods which would increase small business prime contract participation. Such alternatives may include:

(A) Breaking up the procurement into smaller discrete procurements;

(B) Breaking out one or more discrete components, for which a small business set-aside may be appropriate; and

(C) Reserving one or more awards for small companies when issuing multiple awards under task order contracts.

(ii) Where bundling is necessary and justified, the PCR will work with the procuring activity to tailor a strategy that preserves small business prime contract participation to the maximum extent practicable.

(iii) The PCR will also work to ensure that small business participation is maximized through subcontracting opportunities. This may include:

(A) Recommending that the solicitation and resultant contract specifically state the small business subcontracting goals which are expected of the contractor awardee; and

(B) Recommending that the small business subcontracting goals be based on total contract dollars instead of subcontract dollars.

(6) In cases where there is disagreement between a PCR and the contracting officer over the suitability of a particular acquisition for a small business set-aside, whether or not the acquisition is a bundled or substantially bundled requirement within the meaning of paragraph (d) of this section, the PCR may initiate an appeal to the head of the contracting activity. If the head of the contracting activity agrees with the contracting officer, SBA may appeal the matter to the secretary of the department or head of the agency. The

time limits for such appeals are set forth in 19.505 of the Federal Acquisition Regulation (FAR) (48 CFR 19.505).

(7) PCRs will work with a procuring activity's Small Business Specialist (SBS) to identify proposed solicitations that involve bundling, and with the agency acquisition officials to revise the acquisition strategies for such proposed solicitations, where appropriate, to increase the probability of participation by small businesses, including small business contract teams, as prime contractors. If small business participation as prime contractors appears unlikely, the SBS and PCR will facilitate small business participation as subcontractors or suppliers.

* * * * *

(d) *Contract bundling*—(1) *Definitions*—(i) *Bundled requirement or bundling.* The term *bundled requirement or bundling* refers to the consolidation of two or more procurement requirements for goods or services previously provided or performed under separate smaller contracts into a solicitation of offers for a single contract that is likely to be unsuitable for award to a small business concern due to:

(A) The diversity, size, or specialized nature of the elements of the performance specified;

(B) The aggregate dollar value of the anticipated award;

(C) The geographical dispersion of the contract performance sites; or

(D) Any combination of the factors described in paragraphs (d)(1)(i) (A), (B), and (C) of this section.

(ii) *Separate smaller contract.* A separate smaller contract is a contract that has previously been performed by one or more small business concerns or was suitable for award to one or more small business concerns.

(iii) *Substantial bundling.* Substantial bundling is any contract consolidation, which results in an award whose average annual value is $10 million or more.

(2) *Requirement to foster small business participation.* The Small Business Act requires each Federal agency to foster the participation of small business concerns as prime contractors, subcontractors, and suppliers in the contracting opportunities of the Government. To comply with this requirement, agency acquisition planners must:

(i) Structure procurement requirements to facilitate competition by and among small business concerns, including small disadvantaged, 8(a) and women-owned business concerns; and

(ii) Avoid unnecessary and unjustified bundling of contract requirements that inhibits or precludes small business participation in procurements as prime contractors.

(3) *Requirement for market research.* In addition to the requirements of paragraph (b)(2) of this section and before proceeding with an acquisition strategy that could lead to a contract containing bundled or substantially bundled requirements, an agency must conduct market research to determine whether bundling of the requirements is necessary and justified. During the market research phase, the acquisition team should consult with the applicable PCR (or if a PCR is not assigned to the procuring activity, the SBA Office of Government Contracting Area Office serving the area in which the buying activity is located).

(4) *Requirement to notify current small business contractors of intent to bundle.* The procuring activity must notify each small business which is performing a contract that it intends to bundle that requirement with one or more other requirements at least 30 days prior to the issuance of the solicitation for the bundled or substantially bundled requirement. The procuring activity, at that time, should also provide to the small business the name, phone number and address of the applicable SBA PCR (or if a PCR is not assigned to the procuring activity, the SBA Office of Government Contracting Area Office serving the area in which the buying activity is located).

(5) *Determining requirements to be necessary and justified.* When the procuring activity intends to proceed with an acquisition involving bundled or substantially bundled procurement requirements, it must document the acquisition strategy to include a determination that the bundling is necessary and justified, when compared to the benefits that could be derived from meeting the agency's requirements through separate smaller contracts.

(i) The procuring activity may determine a consolidated requirement to be necessary and justified if, as compared to the benefits that it would derive from contracting to meet those requirements if not consolidated, it would derive measurably substantial benefits. The procuring activity must quantify the identified benefits and explain how their impact would be measurably substantial. The benefits may include cost savings and/or price reduction, quality improvements that will save time or improve or enhance performance or efficiency, reduction in acquisition cycle times, better terms and conditions, and any other benefits that individually, in combination, or in the aggregate would lead to:

(A) Benefits equivalent to 10 percent of the contract value (including options) where the contract value is $75 million or less; or

(B) Benefits equivalent to 5 percent of the contract value (including options) or $7.5 million, whichever is greater, where the contract value exceeds $75 million.

(ii) Notwithstanding paragraph (d)(5)(i) of this section, the Assistant Secretaries with responsibility for acquisition matters (Service Acquisition Executives) or the Under Secretary of Defense for Acquisition and Technology (for other Defense Agencies) in the Department of Defense and the Deputy Secretary or equivalent in civilian agencies may, on a non-delegable basis determine that a consolidated requirement is necessary and justified when:

(A) There are benefits that do not meet the thresholds set forth in paragraph (d)(5)(i) of this section but, in the aggregate, are critical to the agency's mission success; and

(B) Procurement strategy provides for maximum practicable participation by small business.

(iii) The reduction of administrative or personnel costs alone shall not be a justification for bundling of contract requirements unless the administrative or personnel cost savings are expected to be substantial, in relation to the dollar value of the procurement to be consolidated (including options). To be substantial, such cost savings must be at least 10 percent of the contract value (including options).

(iv) In assessing whether cost savings and/or a price reduction would be achieved through bundling, the procuring activity and SBA must compare the price that has been charged by small businesses for the work that they have performed and, where available, the price that could have been or could be charged by small businesses for the work not previously performed by small business.

(6) *OMB Circular A–76 Cost Comparison Analysis.* The substantial benefit analysis set forth in paragraph (d)(5)(i) of this section is not required where a requirement is subject to a Cost Comparison Analysis under OMB Circular A–76 (See 5 CFR 1310.3 for availability).

(7) *Substantial bundling.* Where a proposed procurement strategy involves a substantial bundling of contract requirements, the procuring agency must, in the documentation of that strategy, include a determination that the anticipated benefits of the proposed bundled contract justify its use, and must include, at a minimum:

(i) The analysis for bundled requirements set forth in paragraph (d)(5)(i) of this section;

(ii) An assessment of the specific impediments to participation by small business concerns as prime contractors that will result from the substantial bundling;

(iii) Actions designed to maximize small business participation as prime contractors, including provisions that encourage small business teaming for the substantially bundled requirement; and

(iv) Actions designed to maximize small business participation as subcontractors (including suppliers) at any tier under the contract or contracts that may be awarded to meet the requirements.

(8) *Significant subcontracting opportunity.* (i) Where a bundled or substantially bundled requirement offers a significant opportunity for subcontracting, the procuring agency must designate the following factors as significant factors in evaluating offers:

(A) A factor that is based on the rate of participation provided under the subcontracting plan for small business in the performance of the contract; and

(B) For the evaluation of past performance of an offeror, a factor that is based on the extent to which the offeror attained applicable goals for small business participation in the performance of contracts.

(ii) Where the offeror for such a bundled contract qualifies as a small business concern, the procuring agency must give to the offeror the highest score possible for the evaluation factors identified in paragraph (d)(5)(i) of this section.

5. In § 125.6, revise paragraph (g) to read as follows:

§ 125.6 Prime contractor performance requirements (limitations on subcontracting).

* * * * *

(g) Where an offeror is exempt from affiliation under § 121.103(f)(3) of this chapter and qualifies as a small business concern, the performance of work requirements set forth in this section apply to the cooperative effort of the team or joint venture, not its individual members.

Dated: June 20, 2000.

Aida Alvarez,

Administrator.

[FR Doc. 00–18795 Filed 7–25–00; 8:45 am]

BILLING CODE 8025–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–25–AD; Amendment 39–11832; AD 2000–15–03]

RIN 2120–AA64

Airworthiness Directives; Stemme GmbH & Co. KG Models S10–V and S10–VT Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to Stemme GmbH & Co. KG (Stemme) Models S10–V and S10–VT sailplanes. This AD supersedes AD 98–15–24, which currently requires replacing the propeller blade suspension forks with parts of improved design on Stemme S10–V sailplanes. This AD requires you to remove the propeller blade suspension forks, exchange them with the manufacturer for improved design forks, and install the improved design propeller blade suspension forks. This AD is the result of analysis that shows that the existing propeller blade suspension forks are currently cracking more rapidly than originally projected. The actions specified by this AD are intended to prevent certain propeller blade suspension forks from cracking, which could result in the loss of a propeller blade during flight with possible lateral imbalance and loss of thrust.

DATES: This AD becomes effective on August 4, 2000.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation as of August 4, 2000.

The Federal Aviation Administration (FAA) must receive any comments on this rule on or before August 25, 2000.

ADDRESSES: Submit comments in triplicate to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–25–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

You may get the service information referenced in this AD from Stemme GmbH & Co. KG, Gustav-Meyer-Allee 25, D–13355 Berlin, Germany; telephone: 49.33.41.31.11.70; facsimile: 49.33.41.31.11.73.

You may examine this information at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–25–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

Has FAA taken any action to this point? An incident where the propeller blade suspension fork failed during flight on a Stemme Model S10–V sailplane caused FAA to issue AD 98–15–24, Amendment 39–10674. This AD was published in the **Federal Register** on July 23, 1998 (63 FR 39484), and required replacing the propeller blade suspension fork, distance ring, and nut with parts of improved design on Stemme Model S10–V sailplanes.

After issuing AD 98–15–24, the Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified FAA that the improved design propeller blade suspension fork (part number (P/N) A09–10AP–V08) on one of the affected sailplanes failed during flight. Analysis of this propeller blade revealed a fracture located at the end of the threaded fastening pin. This caused FAA to issue a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Stemme Models S10–V and S10–VT sailplanes that incorporate a certain propeller blade suspension fork. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on July 21, 1999 (64 FR 39100).

The NPRM proposed to supersede AD 98–15–24 with a new AD that would require you to repetitively exchange (through the manufacturer) the P/N A09–10AP–V08 (or FAA-approved equivalent part number) propeller blade suspension fork for a fork that has passed X-ray crack testing requirements.

Was the public invited to comment on the NPRM? The FAA invited interested persons to participate in the making of the amendment. We received no comments on the proposed rule or the cost impact upon the public. However, the LBA has informed us that the existing propeller blade suspension forks are currently cracking more rapidly than originally projected.

Is there a propeller blade suspension fork design that is better than the current design? Stemme has worked