following points: 45°32′29″ N 122°47′32″ W following the shoreline to 45°33′45″ N 122°26′54″ W then south to 45°33′29″ N 122°26′37″ W following the shoreline to 45°33′29″ N 122°27′32″ W back to the point of origin.

(ii) *Enforcement period.* Annually on July 4.

(15) City of Cascade Locks 4th of July, Cascade Locks, OR

(i) *Location.* All water of the Columbia River extending out to a 2000′ radius from the launch site at 45°40′16″ N 122°53′38″ W.

(ii) *Enforcement period.* Annually on July 4.

(16) Arlington Chamber of Commerce Fireworks, Arlington, OR

(i) *Location.* All water of the Columbia River extending out to a 500′ radius from the launch site at 45°43′23″ N 122°12′08″ W.

(ii) *Enforcement period.* Annually on July 4.

(17) Western Display 4th of July Party, Vancouver, WA

(i) *Location.* All water of the Columbia River extending out to a 500′ radius from the launch site at 45°35′46″ N 122°32′22″ W.

(ii) *Enforcement period.* Annually on July 4.

(18) Ilwaco July 4th Committee Fireworks, Ilwaco, WA

(i) *Location.* All water of the Columbia River extending out to a 700′ radius from the launch site at 46°18′17″ N 124°01′55″ W.

(ii) *Enforcement period.* Annually on July 4.

(19) Florence Chamber 4th of July, Florence, OR

(i) *Location.* All water of the Siuslaw River enclosed by the following points: 43°57′58″ N 124°06′29″ W following the shoreline to 43°58′08″ N 124°05′42″ W then south to 43°57′53″ N 124°05′31″ W following the shoreline to 43°57′48″ N 124°06′29″ W back to the point of origin.

(ii) *Expected date.* Annually on July 4th.

(b) *Regulations.* In accordance with the general regulations in Section 165.23 of this part, no person or vessel may enter or remain in this zone unless authorized by the Captain of the Port or his designated representatives.

Dated: April 27, 2004.

Paul D. Jewell,

Captain, U.S. Coast Guard, Captain of the Port.

[FR Doc. 04–10813 Filed 5–12–04; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R07–OAR–2004–MO–0001; FRL–7661–3]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Missouri for the purpose of establishing updated non-regulatory language describing the St. Louis Inspection and Maintenance (I/M) program.

DATES: Comments on this proposed action must be received in writing by June 14, 2004.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R07–OAR–2004–MO–0001, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *Agency Web site: http://docket.epa.gov/rmepub/.* RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select ''quick search,'' then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. *E-mail:* Alan Banwart at *banwart.alan@epa.gov.*

4. *Mail:* Alan Banwart, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

5. *Hand Delivery or Courier.* Deliver your comments to Alan Banwart, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Please see the direct final rule which is located in the rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Alan Banwart at (913) 551–7819, or by e-mail at *banwart.alan@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register.**

Dated: April 16, 2004.

James B. Gulliford,

Regional Administrator, Region 7.

[FR Doc. 04–10875 Filed 5–12–04; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

48 CFR Part 219 and Appendix I to Chapter 2

[DFARS Case 2003–D013]

Defense Federal Acquisition Regulation Supplement; DoD Pilot Mentor-Protégé Program

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to update policy pertaining to the DoD Pilot Mentor-Protégé Program. The proposed changes authorize the Director, Small and Disadvantaged Business Utilization, of each military department or defense agency to approve mentor firms and mentor-protégé agreements.

DATES: Comments on the proposed rule should be submitted to the address shown below on or before July 12, 2004, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments directly on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm.* As an alternative,

respondents may e-mail comments to: *dfars@osd.mil.* Please cite DFARS Case 2003–D013 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Mr. Thaddeus Godlewski, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2003–D013.

At the end of the comment period, interested parties may view public comments on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf.*

FOR FURTHER INFORMATION CONTACT: Mr. Thaddeus Godlewski, (703) 602–2022.

SUPPLEMENTARY INFORMATION:

A. Background

This rule proposes changes to the DoD Pilot Mentor-Protégé Program to authorize the Director, Small and Disadvantaged Business Utilization (SADBU), of each military department or defense agency to approve contractors as mentor firms and to approve mentor-protégé agreements. The Director, Office of the Secretary of Defense, SADBU, will retain policy and oversight responsibility for the offices participating in the Program and will remain the principal budget authority for the Program. This rule also updates procedures for implementation of the Program to reflect current Program requirements.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the changes in the rule relate primarily to administrative aspects of the DoD Pilot Mentor-Protégé Program. The basic principles of the Program have not changed. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003–D013.

C. Paperwork Reduction Act

The information collection requirements of the DoD Pilot Mentor Protégé Program have been approved by the Office of Management and Budget under Control Number 0704–0332.

List of Subjects in 48 CFR Part 219

Government procurement.

Michele P. Peterson,
Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR Part 219 and Appendix I to Chapter 2 as follows:

1. The authority citation for 48 CFR Part 219 and Appendix I to subchapter I continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 219—SMALL BUSINESS PROGRAMS

2. Section 219.7100 is amended by revising the first sentence to read as follows:

§ 219.7100 Scope.

This subpart implements the Pilot Mentor-Protégé Program (hereafter referred to as the ''Program'') established under Section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Pub. L. 101–510; 10 U.S.C. 2302 note). * * *

3. Section 219.7102 is amended by revising paragraphs (a) and (d) to read as follows:

§ 219.7102 General.

* * * * *

(a) Mentor firms that are prime contractors with at least one active subcontracting plan negotiated under FAR Subpart 19.7 or under the DoD Comprehensive Subcontracting Test Program.

* * * * *

(d) Incentives that DoD may provide to mentor firms, including—

(1) Reimbursement for developmental assistance costs through—

(i) A separately priced contract line item on a DoD contract; or

(ii) A separate contract, upon written determination by the cognizant Component Director, Small and Disadvantaged Business Utilization (SADBU), that unusual circumstances justify reimbursement using a separate contract; or

(2) Credit toward applicable subcontracting goals, established under a subcontracting plan negotiated under FAR Subpart 19.7, or under the DoD Comprehensive Subcontracting Test Program for developmental assistance costs that are not reimbursed.

4. Section 219.7103–1 is revised to read as follows:

219.7103–1 General.

The procedures for application, acceptance, and participation in the Program are in Appendix I, Policy and Procedures for the DoD Pilot Mentor-Protégé Program. The Director, SADBU, of each military department or defense agency has the authority to approve contractors as mentor firms, approve mentor-protégé agreements, and forward approved mentor-protégé agreements to the contracting officer when funding is available.

5. Section 219.7103–2 is amended as follows:

a. By revising paragraphs (d), (e), and (f); and

b. In paragraph (h), in the parenthetical, by removing ''I–112'' and adding in its place ''I–113''. The revised text reads as follows:

219.7103–2 Contracting officer responsibilities.

* * * * *

(d) Modify applicable contract(s) to establish a contract line item for reimbursement of developmental assistance costs if—

(1) A DoD program manager or the cognizant Component Director, SADBU, has made funds available for that purpose; and

(2) The contractor has an approved mentor-protégé agreement.

(e) Negotiate and award a separate contract for reimbursement of developmental assistance costs only if—

(1) Funds are available for that purpose;

(2) The contractor has an approved mentor-protégé agreement; and

(3) The cognizant Component Director, SADBU, has made a determination in accordance with 219.7102(d)(1)(ii).

(f) Not authorize reimbursement for costs of assistance furnished to a protégé firm in excess of $1,000,000 in a fiscal year unless a written determination from the cognizant Component Director, SADBU, is obtained.

* * * * *

219.7105 [Amended]

6. Section 219.7105 is amended by removing ''I–111'' and adding in its place ''I–112''.

219.7106 [Amended]

7. Section 219.7106 is amended in the first sentence by removing ''I–112'' and adding in its place ''I–113''.

8. Appendix I to Chapter 2 is revised to read as follows:

Appendix I—Policy and Procedures for the DOD Pilot Mentor-Protege Program

I–100 Purpose.

(a) This Appendix I to 48 CFR Chapter 2 implements the Pilot Mentor-Protégé Program (hereafter referred to as the ''Program'') established under Section 831 of Pub. L. 101–510, the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2302 note). The purpose of the Program is to—

(1) Provide incentives to major DoD contractors, performing under at least one active approved subcontracting plan negotiated with DoD or another Federal agency, to assist protégé firms in enhancing their capabilities to satisfy DoD and other contract and subcontract requirements;

(2) Increase the overall participation of protégé firms as subcontractors and suppliers under DoD contracts, other Federal agency contracts, and commercial contracts; and

(3) Foster the establishment of long-term business relationships between protégé firms and such contractors.

(b) Under the Program, eligible companies approved as mentor firms will enter into mentor-protégé agreements with eligible protégé firms to provide appropriate developmental assistance to enhance the capabilities of the protégé firms to perform as subcontractors and suppliers. DoD may provide the mentor firm with either cost reimbursement or credit against applicable subcontracting goals established under contracts with DoD or other Federal agencies.

(c) DoD will measure the overall success of the Program by the extent to which the Program results in—

(1) An increase in the dollar value of contract and subcontract awards to protégé firms (under DoD contracts, contracts awarded by other Federal agencies, and commercial contracts) from the date of their entry into the Program until 2 years after the conclusion of the agreement;

(2) An increase in the number and dollar value of subcontracts awarded to a protégé firm (or former protégé firm) by its mentor firm (or former mentor firm);

(3) An increase in the employment level of protégé firms from the date of entry into the Program until 2 years after the completion of the agreement.

(d) This policy sets forth the procedures for participation in the Program applicable to companies that are interested in receiving—

(1) Reimbursement through a separate contract line item in a DoD contract or a separate contract with DoD; or

(2) Credit toward applicable subcontracting goals for costs incurred under the Program.

I–101 Definitions

I–101.1 Historically Black College or University

An institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. The term also means any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

I–101.2 Minority Institution of Higher Education

An institution of higher education with a student body that reflects the composition specified in section 312(b)(3), (4), and (5) of the Higher Education Act of 1965 (20 U.S.C. 1058(b)(3), (4), and (5)).

I–101.3 Eligible Entity Employing the Severely Disabled

A business entity operated on a for-profit or nonprofit basis that—

(a) Uses rehabilitative engineering to provide employment opportunities for severely disabled individuals and integrates severely disabled individuals into its workforce;

(b) Employs severely disabled individuals at a rate that averages not less than 20 percent of its total workforce;

(c) Employs each severely disabled individual in its workforce generally on the basis of 40 hours per week; and

(d) Pays not less than the minimum wage prescribed pursuant to section 6 of the Fair Labor Standards Act (29 U.S.C. 206) to those employees who are severely disabled individuals.

I–101.4 Severely Disabled Individual

An individual who has a physical or mental disability which constitutes a substantial handicap to employment and which, in accordance with criteria prescribed by the Committee for the Purchase from the Blind and Other Severely Handicapped established by the first section of the Act of June 25, 1938 (41 U.S.C. 46; popularly known as the ''Javits-Wagner-O'Day Act'') is of such a nature that the individual is otherwise prevented from engaging in normal competitive employment.

I–101.5 Small Disadvantaged Business (SDB)

A small business concern that is—

(a) An SDB concern as defined at 219.001, paragraph (1) of the definition of ''small disadvantaged business concern'';

(b) A business entity owned and controlled by an Indian tribe as defined in Section 8(a)(13) of the Small Business Act (15 U.S.C. 637(a)(13)); or

(c) A business entity owned and controlled by a Native Hawaiian Organization as defined in Section 8(a)(15) of the Small Business Act.

I.101.6 Women-Owned Small Business (WOSB)

A small business concern owned and controlled by women as defined in Section 8(d)(3)(D) of the Small Business Act (15 U.S.C. 637(d)(3)(D)).

I–102 Participant Eligibility

(a) To be eligible to participate as a mentor, an entity must be—

(1) An entity other than small business, unless a waiver to the small business exception has been obtained from the Director, Small and Disadvantaged Business Utilization (SADBU), OUSD (AT&L), that is a prime contractor to DoD with an active subcontracting plan; or

(2) A graduated 8(a) firm that provides documentation of its ability to serve as a mentor; and

(3) Approved to participate as a mentor in accordance with I–105.

(b) To be eligible to participate as a protégé, an entity must be—

(1) An SDB, a WOSB, or an eligible entity employing the severely disabled;

(2) Eligible for the award of Federal contracts; and

(3) A small business according to the Small Business Administration (SBA) size standard for the North American Industry Classification System (NAICS) code that represents the contemplated supplies or services to be provided by the protégé firm to the mentor firm if the firm is representing itself as a qualifying entity under the definition at I–101.5(a) or I–101.6.

(c) Mentor firms may rely in good faith on a written representation that the entity meets the requirements of paragraph (a) of this section, except for a protégé's status as a small disadvantaged business concern (see FAR 19.703(b)).

(d) If at any time the SBA (or DoD in the case of entities employing the severely disabled) determines that a protégé is ineligible, assistance that the mentor firm furnishes to the protégé after the date of the determination may not be considered assistance furnished under the Program.

(e) A company may not be approved for participation in the Program as a mentor firm if, at the time of requesting participation in the Program, it is currently debarred or suspended from contracting with the Federal Government pursuant to FAR Subpart 9.4.

(f) If the mentor firm is suspended or debarred while performing under an approved mentor-protégé agreement, the mentor firm—

(1) May continue to provide assistance to its protégé firms pursuant to approved mentor-protégé agreements entered into prior to the imposition of such suspension or debarment;

(2) May not be reimbursed or take credit for any costs of providing developmental assistance to its protégé firm, incurred more than 30 days after the imposition of such suspension or debarment; and

(3) Must promptly give notice of its suspension or debarment to its protégé firm and the cognizant Component Director, SADBU.

I–103 Program Duration

(a) New mentor-protégé agreements may be submitted and approved through September 30, 2005.

(b) Mentors incurring costs prior to September 30, 2008, pursuant to an approved mentor-protégé agreement may be eligible for—

(1) Credit toward the attainment of its applicable subcontracting goals for unreimbursed costs incurred in providing developmental assistance to its protégé firm(s);

(2) Reimbursement pursuant to the execution of a separately priced contract line item added to a DoD contract; or

(3) Reimbursement pursuant to entering into a separate DoD contract upon

determination by the cognizant Component Director, SADBU, that unusual circumstances justify using a separate contract.

I–104 Selection of Protégé Firms

(a) Mentor firms will be solely responsible for selecting protégé firms. Mentor firms are encouraged to identify and select concerns that are defined as emerging SDB protégé firms.

(b) The selection of protégé firms by mentor firms may not be protested, except as in paragraph (c) of this section.

(c) In the event of a protest regarding the size or disadvantaged status of an entity selected to be a protégé firm as defined in I–101.5, the mentor firm must refer the protest to the SBA to resolve in accordance with 13 CFR Part 121 (with respect to size) or 13 CFR Part 124 (with respect to disadvantaged status).

(d) For purposes of the Small Business Act, no determination of affiliation or control (either direct or indirect) may be found between a protégé firm and its mentor firm on the basis that the mentor firm has agreed to furnish (or has furnished) to its protégé firm, pursuant to a mentor-protégé agreement, any form of developmental assistance described in I–107(f).

(e) A protégé firm may have only one active DoD mentor-protégé agreement.

I–105 Mentor Approval Process

(a) An entity seeking to participate as a mentor must apply to the cognizant Component Director, SADBU, to establish its initial eligibility as a mentor. This application may accompany its initial mentor-protégé agreement.

(b) The application must provide the following information:

(1) A statement that the company is currently performing under at least one active approved subcontracting plan negotiated with DoD or another Federal agency pursuant to FAR 19.702, and that the company is currently eligible for the award of Federal contracts or a statement that the entity is a graduated 8(a) firm.

(2) A summary of the company's historical and recent activities and accomplishments under its small and disadvantaged business utilization program.

(3) The total dollar amount of DoD contracts and subcontracts that the company received during the 2 preceding fiscal years. (Show prime contracts and subcontracts separately per year.)

(4) The total dollar amount of all other Federal agency contracts and subcontracts that the company received during the 2 preceding fiscal years. (Show prime contracts and subcontracts separately per year.)

(5) The total dollar amount of subcontracts that the company awarded under DoD contracts during the 2 preceding fiscal years.

(6) The total dollar amount of subcontracts that the company awarded under all other Federal agency contracts during the 2 preceding fiscal years.

(7) The total dollar amount and percentage of subcontracts that the company awarded to all SDB and WOSB firms under DoD contracts and other Federal agency contracts during the 2 preceding fiscal years. (Show DoD subcontract awards separately.) If the company presently is required to submit a Standard Form (SF) 295, Summary Subcontract Report, the request must include copies of the final reports for the 2 preceding fiscal years.

(8) Information on the company's ability to provide developmental assistance to eligible protégés.

(c) A template of the mentor application is available at: *http://www.acq.osd.mil/sadbu/mentor_protege.*

(d) Companies that apply for participation and are not approved will be provided the reasons and an opportunity to submit additional information for reconsideration.

I–106 Development of Mentor-Protégé Agreements

(a) Prospective mentors and their protégés may choose to execute letters of intent prior to negotiation of mentor-protégé agreements.

(b) The agreements should be structured after completion of a preliminary assessment of the developmental needs of the protégé firm and mutual agreement regarding the developmental assistance to be provided to address those needs and enhance the protégé's ability to perform successfully under contracts or subcontracts.

(c) A mentor firm may not require a protégé firm to enter into a mentor-protégé agreement as a condition for award of a contract by the mentor firm, including a subcontract under a DoD contract awarded to the mentor firm.

(d) The mentor-protégé agreement may provide for the mentor firm to furnish any or all of the following types of developmental assistance:

(1) Assistance by mentor firm personnel in—

(i) General business management, including organizational management, financial management, and personnel management, marketing, business development, and overall business planning;

(ii) Engineering and technical matters such as production inventory control and quality assurance; and

(iii) Any other assistance designed to develop the capabilities of the protégé firm under the developmental program.

(2) Award of subcontracts under DoD contracts or other contracts on a noncompetitive basis.

(3) Payment of progress payments for the performance of subcontracts by a protégé firm in amounts as provided for in the subcontract; but in no event may any such progress payment exceed 100 percent of the costs incurred by the protégé firm for the performance of the subcontract. Provision of progress payments by a mentor firm to a protégé firm at a rate other than the customary rate for the firm must be implemented in accordance with FAR 32.504(c).

(4) Advance payments under such subcontracts. The mentor firm must administer advance payments in accordance with FAR Subpart 32.4.

(5) Loans.

(6) Investment(s) in the protégé firm in exchange for an ownership interest in the protégé firm, not to exceed 10 percent of the total ownership interest. Investments may include, but are not limited to, cash, stock, and contributions in kind.

(7) Assistance that the mentor firm obtains for the protégé firm from one or more of the following:

(i) Small Business Development Centers established pursuant to Section 21 of the Small Business Act (15 U.S.C. 648).

(ii) Entities providing procurement technical assistance pursuant to 10 U.S.C. Chapter 142 (Procurement Technical Assistance Centers).

(iii) Historically Black colleges and universities.

(iv) Minority institutions of higher education.

(e) Pursuant to FAR 31.109, approved mentor firms seeking either reimbursement or credit are strongly encouraged to enter into an advance agreement with the contracting officer responsible for determining final indirect cost rates under FAR 42.705. The purpose of the advance agreement is to establish the accounting treatment of the costs of the developmental assistance pursuant to the mentor-protégé agreement prior to the incurring of any costs by the mentor firm. An advance agreement is an attempt by both the Government and the mentor firm to avoid possible subsequent dispute based on questions related to reasonableness, allocability, or allowability of the costs of developmental assistance under the Program. Absent an advance agreement, mentor firms are advised to establish the accounting treatment of such costs and to address the need for any changes to their cost accounting practices that may result from the implementation of a mentor-protégé agreement, prior to incurring any costs, and irrespective of whether costs will be reimbursed or credited.

(f) Developmental assistance provided under an approved mentor-protégé agreement is distinct from, and must not duplicate, any effort that is the normal and expected product of the award and administration of the mentor firm's subcontracts. Costs associated with the latter must be accumulated and charged in accordance with the contractor's approved accounting practices; they are not considered developmental assistance costs eligible for either credit or reimbursement under the Program.

I–107 Elements of a mentor-protégé agreement.

Each mentor-protégé agreement will contain the following elements:

(a) The name, address, e-mail address, and telephone number of the mentor and protégé points of contact;

(b) The NAICS code(s) that represent the contemplated supplies or services to be provided by the protégé firm to the mentor firm and a statement that, at the time the agreement is submitted for approval, the protégé firm, if an SDB or WOSB concern, does not exceed the size standard for the appropriate NAICS code;

(c) A statement that the protégé firm is eligible to participate in accordance with I–102(b);

(d) A statement that the mentor is eligible to participate in accordance with I–102;

(e) A preliminary assessment of the developmental needs of the protégé firm;

(f) A developmental program for the protégé firm specifying the type of assistance the mentor will provide to the protégé and how that assistance will—

(1) Increase the protégé's ability to participate in DoD, Federal, and/or commercial contracts and subcontracts; and

(2) Increase small business subcontracting opportunities in industry categories where eligible protégé's or other small business firms are not dominant in the company's vendor base;

(g) Factors to assess the protégé firm's developmental progress under the Program, including specific milestones for providing each element of the identified assistance;

(h) An estimate of the dollar value and type of subcontracts that the mentor firm will award to the protégé firm, and the period of time over which the subcontracts will be awarded;

(i) A statement from the protégé firm indicating its commitment to comply with the requirements for reporting and for review of the agreement during the duration of the agreement and for 2 years thereafter;

(j) A program participation term for the agreement that does not exceed 3 years. Requests for an extension of the agreement for a period not to exceed an additional 2 years are subject to the approval of the cognizant Component Director, SADBU. The justification must detail the unusual circumstances that warrant a term in excess of 3 years;

(k) Procedures for the mentor firm to notify the protégé firm in writing at least 30 days in advance of the mentor firm's intent to voluntarily withdraw its participation in the Program. A mentor firm may voluntarily terminate its mentor-protégé agreement(s) only if it no longer wants to be a participant in the Program as a mentor firm. Otherwise, a mentor firm must terminate a mentor-protégé agreement for cause;

(l) Procedures for the mentor firm to terminate the mentor-protégé agreement for cause which provide that—

(1) The mentor firm must furnish the protégé firm a written notice of the proposed termination, stating the specific reasons for such action, at least 30 days in advance of the effective date of such proposed termination;

(2) The protégé firm must have 30 days to respond to such notice of proposed termination, and may rebut any findings believed to be erroneous and offer a remedial program;

(3) Upon prompt consideration of the protégé firm's response, the mentor firm must either withdraw the notice of proposed termination and continue the protégé firm's participation, or issue the notice of termination; and

(4) The decision of the mentor firm regarding termination for cause, conforming with the requirements of this section, will be final and is not reviewable by DoD;

(m) Procedures for a protégé firm to notify the mentor firm in writing at least 30 days in advance of the protégé firm's intent to voluntarily terminate the mentor-protégé agreement;

(n) Additional terms and conditions as may be agreed upon by both parties; and

(o) Signatures and dates for both parties to the mentor-protégé agreement.

I–108 Submission and approval of mentor-protégé agreements

(a) Upon solicitation or as determined by the cognizant DoD component, mentors will submit—

(1) A mentor application pursuant to I–105, if the mentor has not been previously approved to participate;

(2) A signed mentor-protégé agreement pursuant to I–107;

(3) A statement as to whether the mentor is seeking credit or reimbursement of costs incurred;

(4) The estimated cost of the technical assistance to be provided, broken out per year;

(5) A justification if program participation term is greater than 3 years (Term of agreements may not exceed 5 years); and

(6) For reimbursable agreements, a specific justification for developmental costs in excess of $1,000,000 per year.

(b) When seeking reimbursement of costs, cognizant DoD components may require additional information.

(c) The mentor-protégé agreement must be approved by the cognizant Component Director, SADBU, prior to incurring costs eligible for credit.

(d) The cognizant DoD component will execute a contract modification or a separate contract, if justified pursuant to I–103(b)(3), prior to the mentor's incurring costs eligible for reimbursement.

(e) Credit agreements that are not associated with an existing DoD program and/or component will be submitted for approval to Director, SADBU, Defense Contract Management Agency (DCMA), via the mentor's cognizant administrative contracting officer.

(f) A prospective mentor that has identified Program funds to be made available from a DoD program manager must provide the information in paragraph (a) of this section through the program manager to the cognizant Component Director, SADBU, with a letter signed by the program manager indicating the amount of funding that has been identified for the developmental assistance program.

I–109 Reimbursable agreements

The following program provisions apply to all reimbursable mentor-protégé agreements:

(a) Assistance provided in the form of progress payments to a protégé firm in excess of the customary progress payment rate for the firm will be reimbursed only if implemented in accordance with FAR 32.504(c).

(b) Assistance provided in the form of advance payments will be reimbursed only if the payments have been provided to a protégé firm under subcontract terms and conditions similar to those in the clause at FAR 52.232–12, Advance Payments. Reimbursement of any advance payments will be made pursuant to the inclusion of the clause at DFARS 252.232–7005, Reimbursement of Subcontractor Advance Payments—DoD Pilot Mentor-Protégé Program, in appropriate contracts. In requesting reimbursement, the mentor firm agrees that the risk of any financial loss due to the failure or inability of a protégé firm to repay any unliquidated advance payments will be the sole responsibility of the mentor firm.

(c) The primary forms of developmental assistance authorized for reimbursement under the Program are identified in I–106(d). On a case-by-case basis, Component Directors, SADBU, at their discretion, may approve additional incidental expenses for reimbursement, provided these expenses do not exceed 10 percent of the total estimated cost of the agreement.

(d) The total amount reimbursed to a mentor firm for costs of assistance furnished to a protégé firm in a fiscal year may not exceed $1,000,000 unless the cognizant Component Director, SADBU, determines in writing that unusual circumstances justify reimbursement at a higher amount. Request for authority to reimburse in excess of $1,000,000 must detail the unusual circumstances and must be endorsed and submitted by the program manager to the cognizant Component Director, SADBU.

(e) Developmental assistance costs that are incurred pursuant to an approved reimbursable mentor-protégé agreement, and have been charged to, but not reimbursed through, a separate contract, or through a separately priced contract line item added to a DoD contract, will not be otherwise reimbursed, as either a direct or indirect cost, under any other DoD contract, irrespective of whether the costs have been recognized for credit against applicable subcontracting goals.

I–110 Credit Agreements

I–110.1 Program Provisions Applicable to Credit Agreements

(a) Developmental assistance costs incurred by a mentor firm for providing assistance to a protégé firm pursuant to an approved credit mentor-protégé agreement may be credited as if the costs were incurred under a subcontract award to that protégé, for the purpose of determining the performance of the mentor firm in attaining an applicable subcontracting goal established under any contract containing a subcontracting plan pursuant to the clause at FAR 52.219–9, Small Business Subcontracting Plan, or the provisions of the DoD Comprehensive Subcontracting Plan Test Program. Unreimbursed developmental assistance costs incurred for a protégé firm that is an eligible entity employing the severely disabled may be credited toward the mentor firm's small disadvantaged business subcontracting goal, even if the protégé firm is not a small disadvantaged business concern.

(b) Costs that have been reimbursed through inclusion in indirect expense pools may also be credited as subcontract awards for determining the performance of the mentor firm in attaining an applicable subcontracting goal established under any contract containing a subcontracting plan. However, costs that have not been reimbursed because they are not reasonable,

allocable, or allowable will not be recognized for crediting purposes.

(c) Other costs that are not eligible for reimbursement pursuant to I–106(d) may be recognized for credit only if requested, identified, and incorporated in an approved mentor-protégé agreement.

(d) The amount of credit a mentor firm may receive for any such unreimbursed developmental assistance costs must be equal to—

(1) Four times the total amount of such costs attributable to assistance provided by small business development centers, historically Black colleges and universities, minority institutions, and procurement technical assistance centers.

(2) Three times the total amount of such costs attributable to assistance furnished by the mentor's employees.

(3) Two times the total amount of other such costs incurred by the mentor in carrying out the developmental assistance program.

I–110.2 Credit Adjustments

(a) Adjustments may be made to the amount of credit claimed if the Director, SADBU, OUSD(AT&L), determines that—

(1) A mentor firm's performance in the attainment of its subcontracting goals through actual subcontract awards declined from the prior fiscal year without justifiable cause; and

(2) Imposition of such a limitation on credit appears to be warranted to prevent abuse of this incentive for the mentor firm's participation in the Program.

(b) The mentor firm must be afforded the opportunity to explain the decline in small business subcontract awards before imposition of any such limitation on credit. In making the final decision to impose a limitation on credit, the Director, SADBU, OUSD(AT&L), must consider—

(1) The mentor firm's overall small business participation rates (in terms of percentages of subcontract awards and dollars awarded) as compared to the participation rates existing during the 2 fiscal years prior to the firm's admission to the Program;

(2) The mentor firm's aggregate prime contract awards during the prior 2 fiscal years and the total amount of subcontract awards under such contracts; and

(3) Such other information the mentor firm may wish to submit.

(c) The decision of the Director, SADBU, OUSD(AT&L), regarding the imposition of a limitation on credit will be final.

I–111 Agreement Terminations

(a) Mentors and/or protégés must send a copy of any termination notices to the cognizant Component Director, SADBU, that approved the agreement, and the DCMA administrative contracting officer responsible for conducting the annual review pursuant to I–113.

(b) For reimbursable agreements, mentors must also send copies of any termination to the program manager and to the contracting officer.

(c) Termination of a mentor-protégé agreement will not impair the obligations of the mentor firm to perform pursuant to its contractual obligations under Government contracts and subcontracts.

(d) Termination of all or part of the mentor-protégé agreement will not impair the obligations of the protégé firm to perform pursuant to its contractual obligations under any contract awarded to the protégé firm by the mentor firm.

(e) Mentors and protégés will follow provisions of the mentor-protégé agreement developed in compliance with I–107(k) through (m).

I–112 Reporting Requirements.

I–112.1 Reporting Requirements applicable to SF294/295 Reports.

(a) Amounts credited toward applicable subcontracting goal(s) for unreimbursed costs under the Program must be separately identified on the appropriate SF294/SF295 reports from the amounts credited toward the goal(s) resulting from the award of actual subcontracts to protégé firms. The combination of the two must equal the mentor firm's overall accomplishment toward the applicable goal(s).

(b) A mentor firm may receive credit toward the attainment of an SDB subcontracting goal for each subcontract awarded by the mentor firm to an entity that qualifies as a protégé firm pursuant to I–101.3 or I–101.5.

(c) For purposes of calculating any incentives to be paid to a mentor firm for exceeding an SDB subcontracting goal pursuant to the clause at FAR 52.219–26, Small Disadvantaged Business Participation Program—Incentive Subcontracting, incentives will be paid only if an SDB subcontracting goal has been exceeded as a result of actual subcontract awards to SDBs (*i.e.*, excluding credit).

I–112.2 Program Specific Reporting Requirements.

(a) Mentors must report on the progress made under active mentor-protégé agreements semiannually for the periods ending March 31st and September 30th throughout the Program participation term of the agreement. The September 30th report must address the entire fiscal year.

(b) Reports are due 30 days after the close of each reporting period.

(c) Each report must include the following data on performance under the mentor-protégé agreement:

(1) Dollars obligated (for reimbursable agreements).

(2) Expenditures.

(3) Dollars credited, if any, toward applicable subcontracting goals as a result of developmental assistance provided to the protégé and a copy of the SF294 and/or SF295 for each contract where developmental assistance was credited.

(4) The number and dollar value of subcontracts awarded to the protégé firm.

(5) Description of developmental assistance provided, including milestones achieved.

(6) Impact of the agreement in terms of capabilities enhanced, certifications received, and/or technology transferred.

(d) A recommended reporting format and guidance for its submission are available at: *http://www.acq.osd.mil/sadbu/mentor_protege.*

(e) The protégé must provide data, annually by October 31st, on the progress made during the prior fiscal year by the protégé in employment, revenues, and participation in DoD contracts during—

(1) Each fiscal year of the Program participation term; and

(2) Each of the 2 fiscal years following the expiration of the Program participation term.

(f) The protégé report required by paragraph (e) of this section may be provided as part of the mentor report for the period ending September 30th required by paragraph (a) of this section.

(g) Progress reports must be submitted—

(1) For credit agreements, to the cognizant Component Director, SADBU, that approved the agreement, and the mentor's cognizant DCMA administrative contracting officer; and

(2) For reimbursable agreements, to the cognizant Component Director, SADBU, the contracting officer, the DCMA administrative contracting officer, and the program manager.

I–113 Performance reviews.

(a) DCMA will conduct annual performance reviews of the progress and accomplishments realized under approved mentor-protégé agreements. These reviews must verify data provided on the semiannual reports and must provide information as to—

(1) Whether all costs reimbursed to the mentor firm under the agreement were reasonably incurred to furnish assistance to the protégé in accordance with the mentor-protégé agreement and applicable regulations and procedures; and

(2) Whether the mentor and protégé accurately reported progress made by the protégé in employment, revenues, and participation in DoD contracts during the Program participation term and for 2 fiscal years following the expiration of the Program participation term.

(b) A checklist for annual performance reviews is available at *http://www.acq.osd.mil/sadbu/mentor_protege.*

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 178

[Docket No. RSPA–99–5921 (HM–213A)]

RIN 2137–AD34

Hazardous Materials: Cargo Tank Rollover Damage Protection Requirements; Withdrawal of Advance Notice of Proposed Rulemaking

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Advance notice of proposed rulemaking; withdrawal and termination of rulemaking.

SUMMARY: RSPA is withdrawing an advance notice of proposed rulemaking