

(d) *Reports.* (1) The Contractor shall report semiannually for the six-month periods ending March 31 and September 30, the information in paragraphs (d)(1)(i) through (v) of this section within 30 days after the end of the reporting period. Submit the report at <https://www.esrs.gov>.

(i) A list of contracts covered under its comprehensive small business subcontracting plan, to include the Commercial and Government Entity (CAGE) code and Data Universal Numbering System (DUNS) number.

(ii) The amount of first-tier subcontract dollars awarded during the six-month period covered by the report to covered small business concerns, with the information set forth separately by—

(A) North American Industrial Classification System (NAICS) code;

(B) Major defense acquisition program, as defined in 10 U.S.C. 2430(a);

(C) Contract number, if the contract is for maintenance, overhaul, repair, servicing, rehabilitation, salvage, modernization, or modification of supplies, systems, or equipment, and the total value of the contract, including options, exceeds \$100 million; and

(D) Military department.

(iii) Total number of subcontracts active under the Test Program that would have otherwise required a subcontracting plan.

(iv) Costs incurred in negotiating, complying with, and reporting on its comprehensive subcontracting plan.

(v) Costs avoided through the use of a comprehensive subcontracting plan.

(2) The Contractor shall—

(i) Ensure that subcontractors with subcontracting plans agree to submit an Individual Subcontract Report (ISR) and/or Summary Subcontract Report (SSR) using the Electronic Subcontracting Reporting System (eSRS).

(ii) Provide its contract number, its DUNS number, and the email address of the Contractor's official responsible for acknowledging or rejecting the ISR to all first-tier subcontractors, who will be required to submit ISRs, so they can enter this information into the eSRS when submitting their reports.

(iii) Require that each subcontractor with a subcontracting plan provide the prime contract number, its own DUNS number, and the email address of the subcontractor's official responsible for acknowledging or rejecting the ISRs to its subcontractors with subcontracting plans who will be required to submit ISRs.

(iv) Acknowledge receipt or reject all ISRs submitted by its subcontractors using eSRS.

(3) The Contractor shall submit SSRs using eSRS at <http://www.esrs.gov>. The reports shall provide information on subcontract awards to small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns. Purchases from a corporation, company, or subdivision that is an affiliate of the prime Contractor or subcontractor are not included in these reports. Subcontract award data

reported by prime contractors and subcontractors shall be limited to awards made to their immediate next-tier subcontractors. Credit cannot be taken for awards made to lower-tier subcontractors unless the Contractor or subcontractor has been designated to receive a small business or small disadvantaged business credit from a member firm of the Alaska Native—Corporations or an Indian tribe. Only subcontracts involving performance in the U.S. or its outlying areas should be included in these reports.

(i) This report may be submitted on a corporate, company, or subdivision (*e.g.*, plant or division operating as a separate profit center) basis, as negotiated in the comprehensive subcontracting plan with the Defense Contract Management Agency.

(ii) This report encompasses all subcontracting under prime contracts and subcontracts with the Department of Defense, regardless of the dollar value of the subcontracts, and is based on the negotiated comprehensive subcontracting plan.

(iii) The report shall be submitted semiannually for the six months ending March 31 and the twelve months ending September 30. Reports are due 30 days after the close of each reporting period.

(iv) The authority to acknowledge receipt or reject the SSR resides with the Defense Contract Management Agency.

(e) The failure of the Contractor or subcontractor to comply in good faith with the clause of this contract entitled "Utilization of Small Business Concerns," or an approved plan required by this clause, shall be a material breach of the contract.

(f) *Liquidated damages.* The Contracting Officer designated to manage the comprehensive subcontracting plan will exercise the functions of the Contracting Officer, as identified in paragraphs (f)(1) through (4), on behalf of all DoD departments and agencies that awarded contracts covered by the Contractor's comprehensive subcontracting plan.

(1) To determine the need for liquidated damages, the Contracting Officer will conduct a compliance review during the fiscal year after the close of the fiscal year for which the plan is applicable. The Contracting Officer will compare the approved percentage or dollar goals to the total, actual subcontracting dollars covered by the plan.

(2) If the Contractor has failed to meet its approved subcontracting goal(s), the Contracting Officer will provide the Contractor written notice specifying the failure, advising of the potential for assessment of liquidated damages, and permitting the Contractor to demonstrate what good faith efforts have been made. The Contracting Officer may take the Contractor's failure to respond to the notice within 15 working days (or longer period at the Contracting Officer's discretion) as an admission that no valid explanation exists.

(3) If, after consideration of all relevant information, the Contracting Officer determines that the Contractor failed to make a good faith effort to comply with the comprehensive subcontracting plan, the Contracting Officer will issue a final decision to the Contractor to that effect and require the

Contractor to pay liquidated damages to the Government in the amount identified in the comprehensive subcontracting plan.

(4) The Contractor shall have the right of appeal under the clause in this contract entitled "Disputes" from any final decision of the Contracting Officer.

(g) The Contractor shall include in subcontracts that offer subcontracting opportunities, are expected to exceed \$700,000 (\$1.5 million for construction of any public facility), and are required to include the clause at 52.219–8, Utilization of Small Business Concerns—

(1) FAR 52.219–9, Small Business Subcontracting Plan, and 252.219–7003 Small Business Subcontracting Plan (DoD Contracts)—Basic;

(2) 52.219–9, Small Business Subcontracting Plan, with its Alternate III, and 252.219–7003, Small Business Subcontracting Plan (DoD Contracts)—Alternate I, to allow for submission of SF 294s in lieu of ISRs; or

(3) 252.219–7004, Small Business Subcontracting Plan (Test Program), in subcontracts with subcontractors that participate in the Test Program described in DFARS 219.702–70.

(End of clause)

[FR Doc. 2016–22573 Filed 9–22–16; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 219 and Appendix I to Chapter 2

[Docket DARS–2016–0033]

RIN 0750–AJ05

Defense Federal Acquisition Regulation Supplement: Amendment to Mentor-Protégé Program (DFARS Case 2016–D011)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2016 that provides amendments to the DoD Pilot Mentor-Protégé Program.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before November 22, 2016, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2016–D011, using any of the following methods:

○ *Federal eRulemaking Portal:* <http://www.regulations.gov>. Search for

“DFARS Case 2016–D011.” Select “Comment Now” and follow the instructions provided to submit a comment. Please include “DFARS Case 2016–D011” on any attached documents.

○ *Email:* osd.dfars@mail.mil. Include DFARS Case 2016–D011 in the subject line of the message.

○ *Fax:* 571–372–6094.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Jennifer Johnson, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Johnson, telephone 571–372–6100.

SUPPLEMENTARY INFORMATION:

I. Background

This rule proposes to revise the DFARS to implement section 861 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2016 (Pub. L. 114–92). Section 861 provides several amendments to the DoD Pilot Mentor-Protégé Program (“the Program”). In particular, section 861 provides for contractors who participate in the Program as mentors to report all technical or management assistance provided; any new awards of subcontracts to the protégé firm, including the value of such subcontracts; any extensions, increases in the scope of work, or additional, unreported payments to the protégé firm; the amount of any progress payments or advance payments made to the protégé firm for performance under any subcontract made under the Program; any loans made to the protégé firm; all Federal contracts awarded to the mentor and protégé firms as a joint venture; any assistance the mentor firm obtained for the protégé firm from small business development centers established under 15 U.S.C. 648, entities providing procurement technical assistance under 10 U.S.C. chapter 142, or historically Black colleges or universities or minority institutions of higher education; whether the terms of the mentor-protégé agreement have changed; and a narrative describing the success assistance provided under the Program has had in addressing the

protégé firm’s developmental needs, the impact on DoD contracts, and addressing any problems encountered. These reporting requirements apply retroactively to mentor-protégé agreements in effect on November 25, 2015, date of enactment of the NDAA for FY 2016. The new reporting requirements will provide information to DoD’s Office of Small Business Programs to support decisions regarding continuation of particular mentor-protégé agreements.

In addition, section 861—

- Adds new eligibility criteria;
- Limits the number of mentor-protégé agreements to which a protégé firm may be a party;
- Limits the period of time during which a protégé firm may participate in mentor-protégé agreements under the Program;
- Adds new elements to mentor-protégé agreements addressing the benefits of the agreement to DoD and goals for additional awards for which the protégé firm can compete outside the Program;
- Removes business development assistance using mentor firm personnel and cash in exchange for an ownership interest in the protégé firm from the types of assistance that a mentor firm may provide to a protégé firm;
- Prohibits reimbursement of any fee assessed by the mentor firm for certain services provided to the protégé firm while participating in a joint venture with the protégé firm;
- Revises the definitions of the terms “small business concern” and “disadvantaged small business concern;”
- Adds definitions for “severely disabled individual” and “affiliated;” and
- Extends the Program for three years.

II. Discussion and Analysis

This rule proposes amendments to DFARS subpart 219.71 and Appendix I, and significant revisions are summarized in the following paragraphs:

A. Subpart 219.71, Pilot Mentor-Protégé Program

- 219.7102, General. This section is amended to replace the list of Program eligibility criteria with a reference to the eligibility criteria located in Appendix I, section I–102.
- 219.7104, Developmental assistance costs eligible for reimbursement or credit. This section is amended to revise the date by which a mentor firm must incur costs under the Program in order to be eligible for reimbursement or credit toward small business subcontracting goals.

B. Appendix I, Policy and Procedures for the DoD Pilot Mentor-Protégé Program

• I–100, Purpose. This section is amended to align more closely with the language in section 861 of the NDAA for FY 2016.

• I–101, Definitions. This section is amended to add the definition of “nontraditional defense contractor” provided in section 861, and to delete the definition of “historically Black college or university” that repeated the definition in FAR 2.101.

• I–102, Participant eligibility. This section is amended to revise the mentor and protégé eligibility criteria in accordance with section 861.

• I–103, Program duration. This section is amended to revise the date by which new mentor-protégé agreements may be submitted and approved and the date by which a mentor firm must incur costs under the Program in order to be eligible for reimbursement or credit toward subcontracting goals.

• I–104, Selection of protégé firms. This section is amended to encourage mentor firms to select firms as protégés that have not received significant prime contracts from a Federal agency. In addition, this section is amended to indicate the number of mentor-protégé agreements to which a protégé firm may be a party, and to implement the time limitation specified in section 861 for a protégé firm’s participation in the Program.

• I–105, Mentor approval process. This section is amended to reflect the revised eligibility criteria.

• I–107, Elements of a mentor-protégé agreement. This section is amended to incorporate new requirements of section 861.

○ New paragraph (e) is added to require assurances in mentor-protégé agreements that the mentor and protégé firms are not affiliated as defined in section 861. In addition, the existing paragraph (e) is renumbered as paragraph (f), and the existing paragraph (f) is renumbered as paragraph (g).

○ New paragraphs (g)(3) and (4) are added to implement the section 861 requirement for mentor-protégé agreements to include the following:

- A description of the quantitative and qualitative benefits to DoD from the agreement, if applicable; and
- Goals for additional awards for which the protégé firm can compete outside the Program.

• I–109, Reimbursement agreements. This section is amended to implement the prohibition in section 861 of reimbursement of fees assessed by the mentor firm for certain services

provided to the protégé firm or reimbursement of business development expenses incurred by the mentor firm while participating in a joint venture with the protégé firm.

- I-112, Reporting requirements. This section is amended to include the new reporting requirements of section 861 and to specify that they apply retroactively in accordance with paragraph (b)(2) of section 861.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule does not add any new provisions or clauses or impact any existing provisions or clauses.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Regulatory Flexibility Act

DoD does not expect this proposed 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.* However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

This rule proposes to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 861 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2016, which provides amendments to the DoD Pilot Mentor-Protégé Program (“the Program”). Specifically, section 861 requires mentor firms to report a variety of information on the assistance they have provided to their protégé firms, the success this assistance has had in addressing the protégé firm’s developmental needs, the impact on DoD contracts, and addressing any problems encountered. The new

reporting requirements apply retroactively to mentor-protégé agreements that were in effect on the date of enactment of the NDAA for FY 2016 (enacted November 25, 2015). In addition, section 861 adds new eligibility criteria for mentor and protégé firms; limits the period of time a protégé firm can participate in the Program; limits the number of mentor-protégé agreements to which a protégé can be a party; extends the Program for three years; and makes several other amendments.

The objectives of this rule are to implement statutory amendments to the Program and to provide DoD’s Office of Small Business Programs with information to support decisions regarding continuation of particular mentor-protégé agreements. The legal basis for the amendments is section 861 of the NDAA for FY 2016.

The rule will apply to small entities that participate in the Program. There are currently 85 small entities participating in the Program as protégé firms and six small entities participating as mentors.

The rule imposes new reporting requirements on mentor firms, including mentors who are small businesses, regarding assistance they have provided to their protégé firms and the success this assistance has had. Although protégé firms are not required to submit these reports, the mentor firms will need to obtain supporting information from the protégé firms in order to ascertain the success of the assistance provided.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2016–D011), in correspondence.

VI. Paperwork Reduction Act

The rule contains information collection requirements that require the approval of the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. chapter 35). OMB Control Number 0704–0332, Defense Federal Acquisition Regulation Supplement (DFARS) Appendix I, is currently in place for the DoD Mentor Protégé program. This proposed rule, DFARS Case 2016–D011, however, requires revision of OMB 0704–0332 to

increase the burden hours to accommodate the increased reporting requirements resulting from this rule. Accordingly, DoD has submitted a request to OMB for approval of a revised information collection requirement as discussed below.

A. Public Reporting Burden for This Collection of Information is Estimated To Average Three Hours per Response, Including the Time for Reviewing Instructions, Searching Existing Data Sources, Gathering and Maintaining the Data Needed, and Completing and Reviewing the Collection of Information

The annual reporting burden is estimated as follows:

Respondents: 127.
Responses per respondent: 2 approximately.

Total annual responses: 255.
Preparation hours per response: 2 hours.

Total response Burden Hours: 595.

B. Request for Comments Regarding Paperwork Burden

Written comments and recommendations on the proposed information collection, including suggestions for reducing this burden, should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503, or email Jasmeet_K_Seehra@omb.eop.gov, with a copy to the Defense Acquisition Regulations System, Attn: Ms. Jennifer Johnson, OUSD (AT&L) DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060. Comments can be received from 30 to 60 days after the date of this notice, but comments to OMB will be most useful if received by OMB within 30 days after the date of this notice.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the DFARS, and will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Acquisition

Regulations System, Attn: Ms. Jennifer Johnson, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301-3060, or email osd.dfars@mail.mil. Include DFARS Case 2016-D011 in the subject line of the message.

List of Subjects in 48 CFR Parts 219 and Appendix I to Chapter 2

Government procurement.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 219 and appendix I to chapter 2 are proposed to be amended as follows:

■ 1. The authority citation for 48 CFR part 219 and appendix I to chapter 2 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 219—SMALL BUSINESS PROGRAMS

219.7100 [Amended]

- 2. Amend section 219.7100 by—
- a. Removing “Section 831” and adding “section 831” in its place; and
 - b. Adding the phrase “, as amended through November 25, 2015” to the end of the first sentence.
- 3. Amend section 219.7102 by—
- a. Revising paragraph (a);
 - b. Removing paragraph (b); and
 - c. Redesignating paragraphs (c) and (d) as paragraphs (b) and (c), respectively.

The revision reads as follows:

219.7102 General.

* * * * *

(a) Mentor firms and protégé firms that meet the criteria in Appendix I, section I-102.

* * * * *

219.7103-2 [Amended]

- 4. Amend section 219.7103-2, in paragraph (e)(3), by removing “219.7102(d)(1)(ii)” and adding “219.7102(c)(1)(ii)” in its place.

219.7104 [Amended]

- 5. Amend section 219.7104 by—
- a. In paragraph (b)—
 - i. Removing “Advance agreements are encouraged.”;
 - ii. Removing “before October 1, 2018” and adding “not later than September 30, 2021” in its place; and
 - b. In paragraph (d), removing “before October 1, 2018” and adding “not later than September 30, 2021” in its place.

Appendix I to Chapter 2—Policy and Procedures for The DOD Pilot Mentor Protégé Program

- 6. Amend appendix I to chapter 2 by—
- a. In section I-100, revising paragraph (a);
 - b. Removing section I-101.1;
 - c. Redesignating section I-101.2 as section I-101.1;
 - d. Adding new section I-101.2;
 - e. Revising section I-101.4;
 - f. Removing section I-101.5;
 - g. Redesignating section I-101.6 as section I-101.5;
 - h. In the newly redesignated section I-101.5, removing “Section” and adding “section” in its place;
 - i. Removing section I-101-7;
 - j. Redesignating section I-101.8 as section I-101.6;
 - k. In section I-102, revising paragraphs (a), (b), (c), and (d);
 - l. Amend section I-103 by—
 - i. In paragraph (a), removing “September 30, 2015” and adding “September 30, 2018” in its place;
 - ii. In paragraph (b), removing “September 30, 2018” and adding “September 30, 2021” in its place;
 - m. Amend section I-104 by—
 - i. Revising paragraph (a);
 - ii. In paragraph (c), removing “as defined in I-101.5”;
 - iii. In paragraph (d) removing “I-107(f)” and adding “I-106(d)” in its place;
 - iv. Revising paragraph (e);
 - n. Amend section I-105 by—
 - i. Revising paragraph (b)(1);
 - ii. In paragraphs (b)(2), (b)(3), (b)(4), (b)(5), (b)(6), removing “company’s” and “company” and adding “entity’s” and “entity”, respectively in each place they appear;
 - iii. Revising paragraph (b)(7);
 - iv. Revising paragraph (c);
 - o. Amend section I-106 by—
 - i. In paragraph (d)(1)(i), removing “business development,”;
 - ii. In paragraph (d)(1)(iii), adding “described in I-107(g)” to the end of the sentence;
 - iii. In paragraph (d)(2), removing “Award of subcontracts” and adding “Award of subcontracts to the protégé firm” in its place;
 - iv. Removing paragraph (d)(6);
 - v. Redesignating paragraph (d)(7) as (d)(6);
 - p. Amend section I-107 by—
 - i. In the introductory text, removing “will contain the following elements:” and adding “shall contain—” in its place;
 - ii. Revising paragraph (b);
 - iii. In paragraph (d), removing “I-102” and adding “I-102(a)” in its place;

- iv. Revising paragraphs (e), (f), and (g);
- q. Amend section I-109 by—
 - i. Redesignating paragraph (e) as paragraph (f);
 - ii. Adding new paragraph (e);
- r. Amend section I-110.1, in paragraph (a), by removing “DoD Comprehensive Subcontracting Plan Test Program” and adding “DoD Test Program for Negotiation of Comprehensive Small Business Subcontracting Plans” in its place; and removing “entity employing the severely disabled” and adding “entity employing severely disabled individuals” in its place;
- s. Amend section I-112.1 by—
 - i. In the section heading, removing “SF 294s” and adding “Standard Forms 294” in its place;
 - ii. In paragraph (b), removing “SDB” and adding “applicable” in its place; and removing “I-101.3 or I-101.5” and adding “I-102(b)” in its place;
 - t. Revise section I-112.2.

The revisions and additions read as follows:

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 Public Law 101-510, the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2302 note), as amended through November 25, 2015. The purpose of the Program is to provide incentives to major DoD contractors to furnish eligible small business concerns with assistance designed to—

(1) Enhance the capabilities of eligible small business concerns to perform as subcontractors and suppliers under DoD contracts and other contracts and subcontracts; and

(2) Increase the participation of such business concerns as subcontractors and suppliers under DoD contracts, other Federal Government contracts, and commercial contracts.

* * * * *

I-101.2 Nontraditional defense contractor.

An entity that is not currently performing and has not performed any contract or subcontract for DoD that is subject to full coverage under the cost accounting standards prescribed pursuant to 41 U.S.C. 1502 and the regulations implementing such section, for at least the 1-year period preceding the solicitation of sources by DoD for the procurement or transaction (10 U.S.C. 2302(9)).

* * * * *

I-101.4 Severely disabled individual.

An individual who is blind or severely disabled as defined in 41 U.S.C. 8501.

* * * * *

I-102 Participant eligibility.

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

(1) Be eligible for the award of Federal contracts;

(2) Demonstrate that it—

(i) Is qualified to provide assistance that will contribute to the purpose of the Program;

(ii) Is of good financial health and character; and

(iii) Is not on a Federal list of debarred or suspended contractors; and

(3) Be capable of imparting value to a protégé firm because of experience gained as a DoD contractor or through knowledge of general business operations and Government contracting, as demonstrated by evidence that such entity—

(i) Received DoD contracts and subcontracts equal to or greater than \$100 million during the previous fiscal year;

(ii) Is an other-than-small business, unless a waiver to the small business exception has been obtained from the Director, Small Business Programs (SBP), OUSD(AT&L);

(iii) Is a prime contractor to DoD with an active subcontracting plan; or

(iv) Has graduated from the 8(a) Business Development Program and provides documentation of its ability to serve as a mentor.

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

(1) A small business concern;

(2) Eligible for the award of Federal contracts;

(3) Less than half the Small Business Administration (SBA) size standard for its primary North American Industry Classification System (NAICS) code;

(4) Not owned or managed by individuals or entities that directly or indirectly have stock options or convertible securities in the mentor firm; and

(5) At least one of the following:

(i) A qualified HUBZone small business concern.

(ii) A women-owned small business concern.

(iii) A service-disabled veteran-owned small business concern.

(iv) An entity owned and controlled by an Indian tribe.

(v) An entity owned and controlled by a Native Hawaiian organization.

(vi) An entity owned and controlled by socially and economically disadvantaged individuals.

(vii) A qualified organization employing severely disabled individuals.

(viii) A nontraditional defense contractor.

(ix) An entity that currently provides goods or services in the private sector that are critical to enhancing the capabilities of the defense supplier base and fulfilling key DoD needs.

(c) Mentor firms may rely in good faith on a written representation that the entity meets the requirements of paragraph (b) of this section, except that a mentor firm is required to confirm a protégé's status as a HUBZone small business concern (see FAR 19.703(d)).

(d) If at any time the SBA (or DoD in the case of entities employing severely disabled individuals) 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.

* * * * *

I-104 Selection of protégé firms.

(a) Mentor firms will be solely responsible for selecting protégé firms that qualify under I-102(b). Mentor firms are encouraged to identify and select concerns that have not previously received significant prime contract awards from DoD or any other Federal agency.

* * * * *

(e) A protégé firm may not be a party to more than one DoD mentor-protégé agreement at a time, and may only participate in the Program during the 5-year period beginning on the date the protégé firm enters into its first mentor-protégé agreement.

I-105 Mentor approval process.

* * * * *

(b) * * *

(1) A statement that the entity meets the requirements in I-102(a), specifying the criteria in I-102(a)(3) under which the entity is applying.

* * * * *

(7) The total dollar amount and percentage of subcontracts that the entity awarded to firms qualifying under I-102(b)(5)(i) through (viii) during the 2 preceding fiscal years. (Show DoD subcontract awards separately.) If the entity was required to submit a Summary Subcontract Report (SSR) in the Electronic Subcontracting Reporting System, the request must include copies of the final reports for the 2 preceding fiscal years.

* * * * *

(c) A template of the mentor application is available at: <http://www.acq.osd.mil/osbp/sb/programs/mpp/resources.shtml>.

* * * * *

I-107 Elements of a mentor-protégé agreement.

* * * * *

(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 does not exceed the size standard in I-102(b)(3);

* * * * *

(e) Assurances that—

(1) The mentor firm does not share, directly or indirectly, with the protégé firm ownership or management of the protégé firm;

(2) The mentor firm does not have an agreement, at the time the mentor firm enters into a mentor-protégé agreement, to merge with the protégé firm;

(3) The owners and managers of the mentor firm are not the parent, child, spouse, sibling, aunt, uncle, niece, nephew, grandparent, grandchild, or first cousin of an owner or manager of the protégé firm;

(4) The mentor firm has not, during the 2-year period before entering into a mentor-protégé agreement, employed any officer, director, principal stock holder, managing member, or key employee of the protégé firm;

(5) The mentor firm has not engaged in a joint venture with the protégé firm during the 2-year period before entering into a mentor-protégé agreement, unless such joint venture

was approved by SBA prior to making any offer on a contract;

(6) The mentor firm is not, directly or indirectly, the primary party providing contracts to the protégé firm, as measured by the dollar value of the contracts; and

(7) The SBA has not made a determination of affiliation or control;

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

(g) A developmental program for the protégé firm including—

(1) The type of assistance the mentor will provide to the protégé and how that assistance will—

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

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

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

(3) A description of the quantitative and qualitative benefits to DoD from the agreement, if applicable; and

(4) Goals for additional awards for which the protégé firm can compete outside the Program;

* * * * *

I-109 Reimbursable agreements.

* * * * *

(e) DoD may not reimburse any fee to the mentor firm for services provided to the protégé firm pursuant to I-106(d)(6) or for business development expenses incurred by the mentor firm under a contract awarded to the mentor firm while participating in a joint venture with the protégé firm.

* * * * *

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.

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

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

(i) Dollars obligated (for reimbursable agreements).

(ii) Expenditures.

(iii) Dollars credited, if any, toward applicable subcontracting goals as a result of developmental assistance provided to the protégé and a copy of the ISR or SF 294 and/or SSR for each contract where developmental assistance was credited.

(iv) Any new awards of subcontracts on a competitive or noncompetitive basis to the protégé firm under DoD contracts or other contracts, including the value of such subcontracts.

(v) All technical or management assistance provided by mentor firm personnel for the purposes described in I-106(d).

(vi) Any extensions, increases in the scope of work, or additional payments not previously reported for prior awards of subcontracts on a competitive or noncompetitive basis to the protégé firm under DoD contracts or other contracts, including the value of such subcontracts.

(vii) The amount of any payment of progress payments or advance payments made to the protégé firm for performance under any subcontract made under the Program.

(viii) Any loans made by the mentor firm to the protégé firm.

(ix) All Federal contracts awarded to the mentor firm and the protégé firm as a joint venture, designating whether the award was a restricted competition or a full and open competition.

(x) Any assistance obtained by the mentor firm for the protégé firm from the entities listed at I-106(d)(6).

(xi) Whether there have been any changes to the terms of the mentor-protégé agreement.

(xii) A narrative describing the following:

(A) The success assistance provided under I-106(d) has had in addressing the developmental needs of the protégé firm.

(B) The impact on DoD contracts.

(C) Any problems encountered.

(D) Any milestones achieved in the protégé firm's developmental program.

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

(3) In accordance with section 861, paragraph (b)(2), of the National Defense Authorization Act for Fiscal Year 2016 (Pub. L. 114-92), the reporting requirements specified in paragraphs (a)(2)(iv) through (a)(2)(xii)(C) of this section apply retroactively to mentor-protégé agreements that were in effect on November 25, 2015. Mentors must submit reports as described in paragraph (a) of this section.

(4) A recommended reporting format and guidance for its submission are available at: <http://www.acq.osd.mil/osbp/sb/programs/mpp/resources.shtml>.

(b) 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.

(c) The protégé report required by paragraph (b) 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.

(d) Progress reports must be submitted—

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

(2) For reimbursable agreements, to the cognizant Component Director, SBP, the

contracting officer, the DCMA administrative contracting officer, and the program manager.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 680

[Docket No. 160617541-6541-01]

RIN 0648-BG15

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Crab Rationalization Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule to implement Amendment 47 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (Crab FMP) and to make minor clarifications to regulations implementing the Crab FMP. This proposed rule addresses how individual processing quota (IPQ) use caps apply to the Bering Sea *Chionoecetes bairdi* Tanner crab fisheries: The eastern *C. bairdi* Tanner (EBT) and the western *C. bairdi* Tanner (WBT). This proposed rule would exempt EBT and WBT IPQ crab that is custom processed at a facility through contractual arrangements with the processing facility owners from being applied against the IPQ use cap of the processing facility owners, thereby allowing a facility to process more crab without triggering the IPQ use cap. This proposed exemption is necessary to allow all of the EBT and WBT Class A individual fishing quota crab to be processed at the facilities currently processing EBT and WBT crab, and would have significant positive economic effects on the fishermen, processors, and communities that participate in the EBT and WBT fisheries. This proposed rule is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the Crab FMP, and other applicable law.

DATES: Submit comments on or before October 24, 2016.

ADDRESSES: You may submit comments on this document, identified by NOAA-

NMFS-2016-0081, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/

#!docketDetail;D=NOAA-NMFS-2016-0081 click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of Amendment 47 to the Crab FMP, the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) (collectively referred to as the "Analysis"), and the Categorical Exclusion prepared for this proposed action are available from <http://www.regulations.gov> or from the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

The Environmental Impact Statement (Program EIS), RIR (Program RIR), Final Regulatory Flexibility Analysis (Program FRFA), and Social Impact Assessment prepared for the Crab Rationalization Program are available from the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Keeley Kent, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the king and Tanner crab fisheries in the U.S. exclusive economic zone of the Bering Sea and Aleutian Islands (BSAI) under the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (Crab FMP). The North Pacific Fishery Management Council (Council) prepared, and NMFS approved, the Crab FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 et seq. Regulations governing U.S.