

Appeal." Your appeal letter must include a copy of your original request for amendment and the denial letter, along with any additional documentation or argument you wish to submit in favor of amending the records. It must be signed by you or your officially designated representative.

(g) *Responses to appeals.* The General Counsel, or his or her designee, will normally render a decision on the appeal within thirty working days after proper receipt of the written appeal by the General Counsel. If additional time to make a determination is necessary you will be advised in writing of the need for an extension.

(1) *Amendment appeal granted.* If on appeal the General Counsel, or his or her designee, determines that amendment of the record should take place, you will be notified as soon as possible of the Foundation's decision. The notification will describe the amendment made and include a copy of the amended record, in disclosable form.

(2) *Amendment appeal denied—Statement of disagreement.* If on appeal the General Counsel, or his or her designee, upholds a denial of a request for amendment of records, you will be notified in writing of the reasons why the appeal was denied and advised of your right to seek judicial review of the decision. The letter will also notify you of your right to file with the Foundation a concise statement setting forth the reasons for your disagreement with the refusal of the Foundation to amend the record. The statement should be sent to the Privacy Act Officer, who will ensure that a copy of the statement is placed with the disputed record. A copy of the statement will be included with any subsequent disclosure of the record.

(h) *Records not subject to amendment.* The following records are not subject to amendment:

(1) Transcripts of testimony given under oath or written statements made under oath;

(2) Transcripts of grand jury proceedings, judicial proceedings, or quasi-judicial proceedings, which are the official record of those proceedings;

(3) Pre-sentence records that originated with the courts; and

(4) Records in systems of records that have been exempted from amendment under Privacy Act, 5 U.S.C. 552a(j) or (k) by notice published in the **Federal Register**.

§ 613.5 Exemptions.

(a) *Fellowships and other support.* Pursuant to 5 U.S.C. 552a(k)(6), the Foundation hereby exempts from the application of 5 U.S.C. 552a(c)(3) and

(d) any materials which would reveal the identity of references of fellowship or other award applicants or nominees, or reviewers of applicants for Federal contracts (including grants and cooperative agreements) contained in any of the following systems of records:

(1) "Fellowships and Other Awards,"

(2) "Principal Investigator/Proposal File and Associated Records,"

(3) "Reviewer/Proposal File and Associated Records," and

(4) "Reviewer/Fellowship and Other Awards File and Associated Records."

(b) *OIG Files Compiled for the Purpose of a Criminal Investigation and for Related Purposes.* Pursuant to 5 U.S.C. 552a(j)(2), the Foundation hereby exempts the system of records entitled "Office of Inspector General Investigative Files," insofar as it consists of information compiled for the purpose of a criminal investigation or for other purposes within the scope of 5 U.S.C. 552a(j)(2), from the application of 5 U.S.C. 552a, except for subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10) and (11), and (i).

(c) *OIG and ACA Files Compiled for Other Law Enforcement Purposes.* Pursuant to 5 U.S.C. 552a(k)(2), the Foundation hereby exempts the systems of records entitled "Office of Inspector General Investigative Files" and "Antarctic Conservation Act Files" insofar as they consist of information compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2), from the application of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

(d) *Investigations of Scientific Misconduct.* Pursuant to 5 U.S.C. 552a(k)(2) and (k)(5), the Foundation hereby exempts from the application of 5 U.S.C. 552a(c)(3) and (d) any materials which would reveal the identity of confidential sources of information contained in the following system of records: "Debarment/Scientific Misconduct Files."

(e) *Personnel Security Clearances.* Pursuant to 5 U.S.C. 552a(k)(5), the Foundation hereby exempts from the application of 5 U.S.C. 552a(c)(3) and (d) any materials which would reveal the identity of confidential sources of information contained in the following system of records: "Personnel Security."

(f) *Applicants for Employment.* Records on applicants for employment at NSF are covered by the Office of Personnel Management (OPM) government-wide system notice "Recruiting, Examining and Placement Records." These records are exempted as claimed in 5 CFR 297.501(b)(7).

(g) *Statistical records.* Pursuant to 5 U.S.C. 552a(k)(4), the Foundation

hereby exempts the systems of records entitled "Doctorate Records Files," "Doctorate Work History Files," and "National Survey of Recent College Graduates & Follow-up Files" from the application of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

(h) *Other records.* The Foundation may also assert exemptions for records received from another agency that could properly be claimed by that agency in responding to a request.

§ 613.6 Other rights and services.

Nothing in this subpart shall be construed to entitle any person, as of right, to any service or to the disclosure of any record to which such person is not entitled under the Privacy Act.

Amy Northcutt,

Deputy General Counsel.

[FR Doc. 05-14656 Filed 7-25-05; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

45 CFR Part 650

RIN 3145-AA44

Minor Amendments To Rule on Inventions and Patents Resulting From Grants, Cooperative Agreements, and Contracts

AGENCY: National Science Foundation.

ACTION: Final rule.

SUMMARY: This final rule will amend the NSF Patents regulation to require grantees to use an electronic reporting and management system for inventions made with NSF assistance.

DATES: *Effective Date:* These changes are effective July 29, 2005.

FOR FURTHER INFORMATION CONTACT: Robin Clay Fritsch, NSF Patent Assistant, at patents@nsf.gov or on (703) 292-8060 (voice) or (703) 292-9041 (facsimile).

Background

This amendment revises the current NSF patent regulation published as part 650 of title 45 of the Code of Federal Regulations to require NSF awardees to use the Edison Invention Information Management System maintained by the National Institutes of Health to handle NSF-assisted inventions. This is consistent with the Foundation's requirement that all proposals seeking NSF financial assistance and all reports on NSF-assisted projects be submitted electronically.

Summary of Comments and Explanation

NSF received two comments to the proposed amendments. The first comment questioned the legal transfer of money out of an account regulated by the banking industry. It has been determined that this recommendation is beyond the scope of the regulation and, so, is not included in the final. The second comment advised NSF that the commentor would prefer to continue to use paper for patent reporting. This issue is addressed in Section 650.19(b), which allows grantees to request from the NSF Patent Assistant permission to submit material in other forms.

Determinations

Regulatory Evaluation

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), I have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. I certify under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This rule would possibly affect the following entities, some of which may be small entities: NSF grantees, including those funded under our Small Business Innovation Research and Small Business Technology Transfer Programs, and recipients of subcontracts under NSF grants.

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or

impose a substantial direct cost of compliance on them. I have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. This rule would not result in such an expenditure.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

I have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

I have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use, and determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect

on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

List of Subjects in 45 CFR Part 650

Government procurement, Grant programs—science and technology, Inventions and patents, Nonprofit organizations, Small businesses.

■ Accordingly, Title 45 of the Code of Federal Regulations part 650 is amended as follows:

PART 650—PATENTS

■ 1. The authority citation for part 650 continues to read as follows:

Authority: 35 U.S.C. 200–212; 42 U.S.C. 1870(e) and 1871; and the Presidential Memorandum entitled “Government Patent Policy,” issued February 18, 1983.

■ 2. The Patent Rights clause set forth in § 650.4(a) is amended:

■ A. By revising “SEPTEMBER, 1997” in its heading to read “AUGUST, 2005.”

■ B. In the second sentence of paragraph (c)(1), by revising the words “shall be in the form of a written report” to read “will be submitted via the iEdison Invention Information Management System maintained by the National Institutes of Health”;

■ C. In paragraph (f)(5), by revising the words “forward to NSF” to read “submit electronically to NSF via the iEdison Invention Information Management System maintained by the National Institutes of Health”; and

■ D. By revising paragraph (1) to read as follows:

§ 650.4 Standard patent rights clause.

* * * * *

(1) *Communications.* All communications required by this Patents Rights clause must be submitted through the iEdison Invention Information Management System maintained by the National Institutes of Health unless prior permission for another form of submission is obtained from the Patent Assistant at patents@nsf.gov or at Office of the General Counsel, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

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■ 3. Section 650.19 is revised to read as follows:

§ 650.19 Electronic invention handling.

(a) Grantees must use the iEdison Invention Information Management System maintained by the National Institutes of Health to disclose NSF subject inventions. Detailed instructions for use of that system are provided at <http://s-edison.info.nih.gov/iEdison/> and should be followed for NSF subject inventions except that:

(1) All communications required must be provided electronically as a PDF or TIFF file through iEdison unless prior permission for another form of submission is obtained from the Patent Assistant.

(2) NSF does not require either an Annual Utilization Report or a Final Invention Statement and Certification.

(b) Questions on use of iEdison and requests for permission to submit material in other forms may be sent to the NSF Patent Assistant at patents@nsf.gov or at Office of the General Counsel, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Amy Northcutt,

Deputy General Counsel.

[FR Doc. 05-14657 Filed 7-25-05; 8:45 am]

BILLING CODE 7555-01-M

DEPARTMENT OF DEFENSE**48 CFR Part 219**

[DFARS Case 2004-D031]

Defense Federal Acquisition Regulation Supplement; Sole Source 8(a) Awards to Small Business Concerns Owned by Native Hawaiian Organizations

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement DoD appropriations act provisions permitting the award of sole source contracts to small business concerns owned by Native Hawaiian Organizations. The rule applies to manufacturing contracts exceeding \$5,000,000 and non-manufacturing contracts exceeding \$3,000,000 that are awarded under the Small Business Administration's 8(a) Program.

DATES: *Effective Date:* July 26, 2005.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before September 26, 2005 to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2004-D031, using any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Defense Acquisition Regulations Web Site: <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. Follow the instructions for submitting comments.
- E-mail: dfars@osd.mil. Include DFARS Case 2004-D031 in the subject line of the message.

- Fax: (703) 602-0350.
- Mail: Defense Acquisition Regulations Council, Attn: Ms. Deborah Tronic, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062.

- Hand Delivery/Courier: Defense Acquisition Regulations Council, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202-3402.
- All comments received will be posted to <http://emissary.acq.osd.mil/dar/dfars.nsf>.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Tronic, (703) 602-0289.

SUPPLEMENTARY INFORMATION:**A. Background**

Section 8021 of the DoD Appropriations Act for Fiscal Year 2004 (Pub. L. 108-87) and Section 8021 of the DoD Appropriations Act for Fiscal Year 2005 (Pub. L. 108-287) provide funding for the DoD Indian Incentive Program, which is implemented in DFARS Subpart 226.1. The appropriations act provisions also require that small business concerns owned by Native Hawaiian Organizations be provided the same status as Indian tribes and Alaska Native Corporations with regard to contract awards under the Small Business Administration's (SBA) 8(a) Program. Under the 8(a) Program, as implemented in FAR Subpart 19.8,

competition is required for manufacturing contracts exceeding \$5,000,000 and non-manufacturing contracts exceeding \$3,000,000, unless (1) there is not a reasonable expectation that at least two eligible and responsible 8(a) firms will submit offers at a fair market price, or (2) SBA accepts the requirement on behalf of a concern owned by an Indian tribe or an Alaska Native Corporation. This interim rule expands the competition exceptions to include requirements accepted on behalf of a small business concern owned by a Native Hawaiian Organization.

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 has prepared an initial regulatory flexibility analysis consistent with 5 U.S.C. 603. The analysis is summarized as follows:

This interim rule amends the DFARS to implement DoD appropriations act provisions permitting the award of sole source contracts to small business concerns owned by Native Hawaiian Organizations. The rule applies to manufacturing contracts exceeding \$5,000,000 and non-manufacturing contracts exceeding \$3,000,000 that are awarded under the Small Business Administration's 8(a) Program. The objective of the rule is to provide small business concerns owned by Native Hawaiian Organizations the same status that is provided to Indian tribes and Alaska Native Corporations under the 8(a) Program. Awards to these entities are exempted from the competition requirements that would otherwise apply to award of manufacturing contracts exceeding \$5,000,000 and non-manufacturing contracts exceeding \$3,000,000 under the Program. The legal basis for the rule is Section 8021 of the DoD Appropriations Act for Fiscal Year 2004 (Pub. L. 108-87) and Section 8021 of the DoD Appropriations Act for Fiscal Year 2005 (Pub. L. 108-287). The rule will benefit small business concerns that are owned by Native Hawaiian Organizations by permitting sole source contract awards to these concerns.

A copy of the analysis may be obtained from the point of contact specified herein. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2004-D031.