the request for loss mitigation does the cease communication prohibition apply to communicating about the specific loss mitigation action.[29]

The Bureau notes that this interpretation provides a safe harbor from FDCPA section 805(c) for servicers that are debt collectors with respect to a particular mortgage loan communicating with the borrower in connection with a borrower's initiation of communications concerning loss mitigation. Preceding a borrower's loss mitigation application and during the evaluation process, a servicer may respond to borrower inquiries about potentially available loss mitigation options and provide information regarding any available option. Similarly, if that borrower submits a loss mitigation application, the servicer's reasonable diligence obligations under § 1024.41(b)(1) require the servicer to request additional information from the borrower, including by contacting the borrower, and these communications by the servicer to complete a loss mitigation application do not fall within the cease communication prohibition. The servicer may also seek information that will be necessary to evaluate the borrower for loss mitigation, though the servicer may not seek a payment unrelated to the purpose of loss mitigation. Once the borrower's loss mitigation application is complete, a servicer's communications with a borrower in accordance with the procedures in § 1024.41 are not subject to liability under FDCPA section 805(c) because they arise from the borrower's application for loss mitigation.

The Bureau recognizes that, in order for a borrower to engage in meaningful loss mitigation discussions with a servicer, the servicer may discuss repayment options, the borrower's ability to make a payment, and how much the borrower can afford to pay as a part of a loss mitigation option for which the servicer is considering the borrower. Furthermore, the Bureau understands that any offer for a loan modification or repayment plan is likely to include a specific payment amount the borrower must pay under the terms of the loss mitigation agreement. Such communications, as long as for the purpose of loss mitigation, are permissible because they should not be understood as within the scope of the cease communication request.

The Bureau emphasizes, however, that the cease communication prohibition continues to apply to a servicer's communications with a borrower about payment of the mortgage loan that are outside the scope of loss mitigation conversations. The Bureau's interpretation does not protect a servicer that is a debt collector with respect to a mortgage loan and is using borrower-initiated communications concerning loss mitigation as a pretext for debt collection in circumvention of a borrower's invoked cease communication right under FDCPA section 805(c) with regard to that loan. Seeking to collect a debt under the guise of a loss mitigation conversation is not exempt from liability under FDCPA section 805(c) under this interpretation. Thus, in subsequently communicating with a borrower concerning loss mitigation, the servicer is strictly prohibited from making a request for payment that is not immediately related to any specific loss mitigation option. Some examples of impermissible communications include initiating conversations with the borrower related to repayment of the debt that are not for the purposes of loss mitigation, demanding that the borrower make a payment, requesting that the borrower bring the account current or make a partial payment on the account, or attempting to collect the outstanding balance or arrearage, unless such communications are immediately related to a specific loss mitigation option.[30] Additionally, all other provisions of the FDCPA, including the prohibitions contained in FDCPA sections 805 through 808, continue to apply.[31]

III. Regulatory Requirements

This rule articulates the Bureau's interpretation of the FDCPA. It is exempt from notice and comment rulemaking requirements under the Administrative Procedure Act pursuant to 5 U.S.C. 553(b). Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis.[32] The Bureau has determined that this rule does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring OMB approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Dated: August 2, 2016.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2016–18902 Filed 10–18–16; 8:45 am]

BILLING CODE 4810–AM–P

[29] *See* Bureau of Consumer Fin. Prot., Implementation Guidance for Certain Mortgage Servicing Rules, CFPB Bulletin 2013–12 (Oct. 15, 2013), *available at http://files.consumerfinance.gov/f/201310_cfpb_mortgage-servicing_bulletin.pdf.*

[30] *See* 53 FR 50097, 50103 (Dec. 13, 1988) (Section 805(c)–2 of the Federal Trade Commission's (FTC) Official Staff Commentary on FDCPA section 805(c)) (''A debt collector's response to a 'cease communication' notice from a consumer may not include a demand for payment, but is limited to the three statutory exceptions [under FDCPA section 805(c)(1) through (3)].'').

[31] For example, servicers that are debt collectors must not: Engage in conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt; use any false, deceptive, or misleading representation or means in connection with the collection of a debt; or use unfair or unconscionable means to collect or attempt to collect any debt.

[32] 5 U.S.C. 603(a) and 604(a).

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 121, 124, and 126

RIN 3245–AG24

Small Business Mentor Protégé Programs; Correction

AGENCY: U.S. Small Business Administration.

ACTION: Correcting amendments.

SUMMARY: The U.S. Small Business Administration (SBA) published a final rule in the **Federal Register** on July 25, 2016 (81 FR 48557), amending its regulations to establish a new Government-wide mentor-protégé program for all small business concerns, consistent with SBA's mentor-protégé program for Participants in SBA's 8(a) Business Development (BD) program. The rule also made several additional changes to current size, 8(a), Office of Hearings and Appeals, and HUBZone regulations, concerning among other things, ownership and control, changes in primary industry, economic disadvantage of a Native Hawaiian Organization (NHO), standards of review, and interested party status for some appeals. This document makes several technical corrections to that final rule, including correcting citations, eliminating a paragraph that conflicts with a new provision added by that final rule, and making conforming amendments.

DATES: Effective October 19, 2016.

FOR FURTHER INFORMATION CONTACT: Michael McLaughlin, Office of Policy, Planning & Liaison, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416; 202–205–5353; *michael.mclaughlin@sba.gov.*

SUPPLEMENTARY INFORMATION: The final rule published on July 25, 2016, at 81 FR 48557, contained several errors,

including inadvertent oversights and omissions that must be corrected in order to ensure consistency within the regulations and to avoid public uncertainty or confusion. First, a correction is needed because the amendment in instruction 5 on page 48579, column one, should have also applied to § 121.702(b)(1)(i), not just paragraph (a)(1). Specifically, the instruction should have read: ''Amend §§ 121.702(a)(1)(i) and (b)(1)(i) by adding the words 'an Indian tribe, ANC or NHO (or a wholly owned entity of such tribe, ANC or NHO),' before the words 'or any combination of these.' '' The final rule amended the requirements for the Small Business Innovation Research (SBIR) Program to specifically recognize that a small business concern owned and controlled by an Indian tribe, Alaska Native Corporation (ANC) or a Native Hawaiian Organization (NHO) may be eligible to participate in the SBIR Program. Historically, the eligibility requirements for the SBIR Program have been consistent with those for SBA's Small Business Technology Transfer (STTR) Program. While the final rule amended the eligibility requirements for the SBIR Program in § 124.702(a)(1)(i), it inadvertently did not make the same corresponding change to the STTR Program. As such, this correction is necessary to add that same clarifying language to the STTR eligibility requirements as that added to the SBIR requirements.

Second, a correction is needed to delete § 124.110(g)(2). After this correction, a corresponding correction to the numbering also needs to occur that would eliminate paragraph (g)(1) as a separate paragraph and move the substance of paragraph (g)(1) to the end of the introductory text of paragraph (g). In response to public comment, SBA changed the way in which SBA requires an applicant concern to demonstrate the economic disadvantage status of a NHO. *See* § 124.110(c) (81 FR 48580–48581). Section 124.110(g)(2) had meaning only with respect to the way SBA previously required an applicant concern to demonstrate the economic disadvantage status of an NHO. SBA mistakenly did not remove § 124.110(g)(2) when it made the change to § 124.110(c). This correction is needed to remove the paragraph because it is now inconsistent with the July 25, 2016 final rule.

Third, a correction is needed to make a conforming change to § 124.112. The final rule eliminated the requirement from § 124.203 that an applicant must submit IRS Form 4506T in every case, and clarified that SBA may request additional documentation during the 8(a) application process when necessary. However, the final rule did not make the conforming change that the IRS Form 4506T is not needed in every case for an annual review as well, but, rather, may be requested on a case-by-case basis during an annual review by SBA.

Fourth, due to the change made to § 121.103(h), which eliminated the ability of a joint venture to be populated with individuals intended to perform contracts awarded to the joint venture, a conforming correction is needed to § 124.513(c), which references populated joint ventures. Specifically, § 124.513(c)(4) provided that in the case of a populated separate legal entity joint venture, 8(a) Participant(s) must receive profits from the joint venture commensurate with their ownership interests in the joint venture. Because SBA eliminated populated joint ventures, that provision is now superfluous and needs to be deleted.

Fifth, a correction is needed to amend an incorrect cross reference. The final rule revised § 126.615. That revised language referenced an exception contained in § 126.618(d). There is no paragraph (d). Therefore, the cross reference contained in § 126.615 is revised to read § 126.618.

Sixth, a correction is needed to correct a mistaken instruction. Instruction 2 on page 48578 purported to revise the last two sentences of the introductory text of 13 CFR 121.103(h). However, on May 31, 2016, SBA amended paragraph (h) by adding a new final sentence to the introductory text of paragraph (h). 81 FR 34243, 34258, instruction 2.c. Consequently, a sentence that SBA intended to remove remains in paragraph (h), while a sentence that SBA added on May 31, 2016 was revised. Thus, SBA is revising the introductory text of paragraph (h) to read as intended under both rules.

List of Subjects

13 CFR Part 121

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

13 CFR Part 124

Administrative practice and procedures, Government procurement, Hawaiian natives, Indians—business and finance, Minority businesses, Reporting and recordkeeping requirements, Tribally-owned concerns, Technical assistance.

13 CFR Part 126

Administrative practice and procedure, Government procurement, Penalties, Reporting and recordkeeping requirements, Small businesses.

Accordingly, 13 CFR parts 121,124, and 126 are corrected by making the following correcting amendments:

PART 121—SMALL BUSINESS SIZE REGULATIONS

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

Authority: 15 U.S.C. 632, 634(b)(6), 662, and 694a(9).

■ 2. Amend § 121.103 by revising the introductory text of paragraph (h) to read as follows:

§ 121.103 How does SBA determine affiliation?

* * * * *

(h) *Affiliation based on joint ventures.* A joint venture is an association of individuals and/or concerns with interests in any degree or proportion consorting to engage in and carry out no more than three specific or limited-purpose business ventures for joint profit over a two year period, for which purpose they combine their efforts, property, money, skill, or knowledge, but not on a continuing or permanent basis for conducting business generally. This means that a specific joint venture entity generally may not be awarded more than three contracts over a two year period, starting from the date of the award of the first contract, without the partners to the joint venture being deemed affiliated for all purposes. Once a joint venture receives one contract, SBA will determine compliance with the three awards in two years rule for future awards as of the date of initial offer including price. As such, an individual joint venture may be awarded more than three contracts without SBA finding general affiliation between the joint venture partners where the joint venture had received two or fewer contracts as of the date it submitted one or more additional offers which thereafter result in one or more additional contract awards. The same two (or more) entities may create additional joint ventures, and each new joint venture entity may be awarded up to three contracts in accordance with this section. At some point, however, such a longstanding inter-relationship or contractual dependence between the same joint venture partners will lead to a finding of general affiliation between and among them. For purposes of this provision and in order to facilitate tracking of the number of contract

awards made to a joint venture, a joint venture: Must be in writing and must do business under its own name; must be identified as a joint venture in the System for Award Management (SAM); may be in the form of a formal or informal partnership or exist as a separate limited liability company or other separate legal entity; and, if it exists as a formal separate legal entity, may not be populated with individuals intended to perform contracts awarded to the joint venture (*i.e.,* the joint venture may have its own separate employees to perform administrative functions, but may not have its own separate employees to perform contracts awarded to the joint venture). SBA may also determine that the relationship between a prime contractor and its subcontractor is a joint venture, and that affiliation between the two exists, pursuant to paragraph (h)(5) of this section. For purposes of this paragraph (h), contract refers to prime contracts, and any subcontract in which the joint venture is treated as a similarly situated entity as the term is defined in part 125 of this chapter.

* * * * *

§ 121.702 [Amended]

■ 3. Amend § 121.702(b)(1)(i) by adding the words ''an Indian tribe, ANC or NHO (or a wholly owned business entity of such tribe, ANC or NHO),'' before the words ''or any combination of these''.

PART 124—8(A) BUSINESS DEVELOPMENT/SMALL DISADVANTAGED BUSINESS STATUS DETERMINATIONS

■ 3. The authority citation for part 124 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(j), 637(a), 637(d), 644 and Pub. L. 99–661, Pub. L. 100–656, sec. 1207, Pub. L. 101–37, Pub. L. 101–574, section 8021, Pub. L. 108–87, and 42 U.S.C. 9815.

■ 4. Amend § 124.110 by revising paragraph (g) to read as follows:

§ 124.110 Do Native Hawaiian Organizations have any special rules for applying to the 8(a) BD program?

* * * * *

(g) An NHO-owned firm's eligibility for 8(a) BD participation is separate and distinct from the individual eligibility of the NHO's members, directors, or managers. The eligibility of an NHO-owned concern is not affected by the former 8(a) BD participation of one or more of the NHO's individual members.

* * * * *

§ 124.112 [Amended]

■ 5. Amend § 124.112 by adding the word ''and'' at the end of paragraph (b)(8), removing paragraph (b)(9), and redesignating paragraph (b)(10) as paragraph (b)(9).

■ 6. Amend § 124.513 by revising paragraph (c)(4) to read as follows:

§ 124.513 Under what circumstances can a joint venture be awarded an 8(a) contract?

* * * * *

(c) * * *

(4) Stating that the 8(a) Participant(s) must receive profits from the joint venture commensurate with the work performed by the 8(a) Participant(s);

* * * * *

PART 126—HUBZONE PROGRAM

■ 7. The authority citation for part 126 continues to read as follows:

Authority: 15 U.S.C. 632(a), 632(j), 632(p), 644; and 657a; Pub. L. 111–240, 24 Stat. 2504.

§ 126.615 [Amended]

■ 8. Amend § 126.615 by removing ''§ 126.618(d)'' and adding in its place ''§ 126.618''.

A. John Shoraka,

Associate Administrator for Government Contracting and Business Development.

[FR Doc. 2016–25080 Filed 10–18–16; 8:45 am]

BILLING CODE 8205–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 125

RIN 3245–AG24

Small Business Mentor Protégé Programs; Correction

AGENCY: U.S. Small Business Administration.

ACTION: Final rule; correction.

SUMMARY: The U.S. Small Business Administration (SBA) published a final rule in the **Federal Register** on July 25, 2016, (81 FR 48557) to, among other things, implement provisions of the National Defense Authorization Act of 2013, which pertain to performance requirements applicable to small business and socioeconomic program set-aside contracts and small business subcontracting. That rule contained an instruction to amend portions of § 125.6 that do not exist. This document removes the amendatory instruction.

DATES: Effective October 19, 2016.

FOR FURTHER INFORMATION CONTACT: Michael McLaughlin, Office of Policy, Planning & Liaison, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416; 202–205–5353; *michael.mclaughlin@sba.gov.*

SUPPLEMENTARY INFORMATION: SBA published a final rule in the **Federal Register** on May 31, 2016 (81 FR 34243). That rule amended § 125.6. On July 25, 2016, SBA published a separate final rule in the **Federal Register** (81 FR 48557) that purported to amend § 125.6 by removing ''§ 125.15'' from the introductory text of paragraph (b) and adding in its place ''§ 125.18'' and by removing ''§ 125.15(b)(3)'' from paragraph (b)(5) and adding in its place ''§ 125.18(b)(3)''. These amendments could not be implemented as instructed because paragraph 125.6 (b) does not contain the text to be removed. These changes inadvertently failed to take into account the amendments made to § 125.6 by the final rule published on May 31, 2016. This correction removes the instruction to amend § 125.6 published on July 25, 2016, in 81 FR 48558.

In the FR Rule Doc. No. 2016–16399 in the issue of July 25, 2016, beginning on page 48557, make the following correction:

■ On page 48585, in the third column, remove amendatory instruction 34 in its entirety and the amendment to § 125.6.

A. John Shoraka,

Associate Administrator for Government Contracting and Business Development.

[FR Doc. 2016–24832 Filed 10–18–16; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Docket No. FAA–2016–9288]

Hazardous Materials: Emergency Restriction/Prohibition Order

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Emergency restriction/prohibition order.

SUMMARY: This document provides Emergency Restriction/Prohibition Order No. FAA–2016–9288, issued October 14, 2016 and effective at 12 p.m. (noon) Eastern Daylight Time (EDT), October 15, 2016 to Samsung Galaxy Note 7 Users and air carriers. The Emergency Order prohibits persons from offering for air transportation or transporting via air any Samsung Galaxy Note 7 device on their person, in carry-on baggage, in checked baggage, or as cargo; requires individuals who