PART 1819—SMALL BUSINESS PROGRAMS

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Source: 62 FR 36707, July 9, 1997, unless otherwise noted.

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Parent topic: SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

1819.001 Definitions.

High-Tech as used in this part means research and/or development efforts that are within or advance the state-of-the-art in a technology discipline and are performed primarily by professional engineers, scientists, and highly skilled and trained technicians or specialists.

Subpart 1819.2—Policies

1819.201 General policy.

(a)(i) NASA is committed to providing to small, veteran-owned small business, service-disabled veteran-owned small business, HUBZone, small disadvantaged, and women-owned small business concerns, maximum practicable opportunities to participate in Agency acquisitions at the prime contract level. The participation of NASA prime contractors in providing subcontracting opportunities to such entities is also an essential part of the Agency's commitment. The participation of these entities is emphasized in high-technology areas where they have had low involvement level.

(ii) NASA annually negotiates Agency small business prime and subcontracting goals with the Small Business Administration pursuant to section 15(g) of the Small Business Act (15 U.S.C. 644). In addition, representatives from the Office of Small Business Programs, Office of Procurement, and Program Offices will collaborate to reduce barriers to entry and to increase opportunities for small business concerns, identified in paragraph (a)

(i) of this section, and Historically Black Colleges and Universities or Minority Institutions.

1819.302 Protesting a small business representation or rerepresentation.

(h) When the contracting officer determines in writing that an award must be made to protect the public interest, the contracting officer shall notify the Headquarters Office of Procurement, Program Operations Division, the Headquarters Office of Small Business Programs, and the SBA.

Subpart 1819.7—The Small Business Subcontracting Program

1819.708 Contract clauses. (NASA supplements paragraph (b))

(b)

(1) The contracting officer shall use the clause at FAR 52.219-9 with its Alternate II when contracting by negotiation.

1819.708-70 NASA solicitation provision and contract clause.

(a) The contracting officer shall insert the provision at 1852.219-73, Small Business Subcontracting Plan, in invitations for bids containing the clause at FAR 52.219-9 with its Alternate I. Insert in the last sentence the number of calendar days after request that the offeror must submit a complete plan.

(b) The contracting officer shall insert the clause at 1852.219-75, Individual Subcontracting Reports, in solicitations and contracts containing the clause at FAR 52.219-9, except for contracts covered by an approved commercial subcontracting plan.

1819.811-3 Contract clauses.

(a) The contracting officer shall insert the clause at 1852.219-11, Special 8(a) Contract Conditions, in contracts and purchase orders awarded directly to the 8(a) contractor when the acquisition is accomplished using the procedures of FAR 19.811-1(a) and (b).

(d) The contracting officer shall insert the clause at 1852.219-18, Notification of Competition Limited to Eligible 8(a) Concerns, in competitive solicitations and contracts when the acquisition is accomplished using the procedures of FAR 19.805.

(1) The clause at 1852.219-18 with Alternate I to the FAR clause at 52.219-18 will be used when competition is to be limited to 8(a) concerns within one or more specific SBA districts pursuant to FAR 19.804-2.

(2) The clause at 1852.219-18 with Alternate II to the FAR clause at 52.219-18 will be used when the acquisition is for a product in a class for which the Small Business Administration has waived the nonmanufacturer rule (see FAR 19.102(f)(4) and (5)).

(e) Follow the prescription at FAR 19.811-3(e).

Subpart 1819.10 [Reserved]

Subparts 1819.70—1819.71 [Reserved]

Subpart 1819.72—NASA Mentor-Protégé Program

Source: 74 FR 25672, May 29, 2009, unless otherwise noted.

1819.7201 Scope of subpart.

(a) This subpart implements the NASA Mentor-Protégé Program (hereafter referred to as the Program) as authorized by the Small Business Administration in accordance with 13 CFR 125.10. The purpose of the program is to:

(1) Provide incentives to NASA contractors, performing under at least one active, approved subcontracting plan negotiated with NASA, to assist protégés in enhancing their capabilities to perform as viable NASA contractors, other Government contractors, and commercial suppliers on contract and subcontract requirements.

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

(3) Foster the establishment of long-term business relationships between protégés and mentors.

(b) Under the Program, eligible entities approved as mentors will enter into mentor-protégé agreements (MPA) with eligible protégés to provide appropriate developmental assistance to enhance the capabilities of the protégés to perform as subcontractors and suppliers. NASA may provide the mentor award fee incentives. Additionally, this subpart explains the calculated subcontracting credit for a mentor-protégé program pursuant to FAR 52.219-9, Small Business Subcontracting Plan.

1819.7202 Eligibility.

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

(1) A large business prime contractor or research institution performing with at least one approved subcontracting plan (other than a commercial plan) negotiated with NASA, pursuant to FAR subpart 19.7. A contractor may apply to become a mentor if they currently are not performing under a NASA contract, as long as they are currently performing another Federal agency contract with an approved subcontracting plan. However, the NASA MPA will not be approved until the mentor company is performing under a NASA contract with an approved subcontracting plan.

(2) Eligible for receipt of Government contracts. An entity will not be approved for participation in the program if, at the time of submission of the application to the NASA Mentor Protégé Program Office (MPPO), the entity is debarred or suspended from contracting with the Federal Government pursuant to FAR subpart 9.4.

(b) To be eligible to participate as a protégé, an entity must be eligible for award of Federal contracts in accordance with FAR subpart 9.4, *i.e.,* entities cannot be suspended or debarred at the time of application for the program and must be classified as one of more of the following entities or socio-economic categories as defined by FAR part 2:

(1) Small disadvantaged business;

(2) Women-owned small or economically disadvantaged women-owned concern;

(3) Veteran-owned or service-disabled veteran-owned small business concern;

(4) Historically underutilized business zone concern;

(5) Historically Black College and University or Minority-Serving Institution;

(6) Current NASA Small Business Innovation Research (SBIR)/Small Business Technology Transfer (STTR) Phase II Company; or

(7) An entity participating in the AbilityOne Program.

(c) A protégé firm may self-certify to a mentor firm that it meets the requirements set forth in paragraph (b) of this section. Mentors may rely in good faith on written representations by potential protégés that they meet the specified eligibility requirements.

1819.7203 Mentor-protégé advanced payments.

If advance payments are contemplated, the mentor must first have the advance payments approved by the contracting officer in accordance with FAR subpart 32.4.

1819.7204 Agreement submission and approval process.

(a) To participate in the Program, entities approved as mentors, will submit a complete agreement package to the contracting officer, contracting officer's representative (COR), and the cognizant Small Business Specialist (SBS) at the NASA Center. The submission package must include the following:

(1) A signed MPA;

(2) A signed protégé application;

(3) The estimated cost of the developmental assistance to be provided, broken out per year and per task, in a separate cost volume; and

(4) A signed letter of endorsement of the agreement by the contracting officer and the contracting officer representative.

(b) The NASA MPPO may require additional information as requested upon agreement submission.

(c) The mentor-protégé agreement must be approved by the Assistant Administrator, NASA OSBP, prior to the mentor incurring eligible costs for developmental assistance provided to the protégé.

1819.7205 Award Fee Program.

(a) Mentors may be eligible to earn a separate award fee associated with the provision of developmental assistance to NASA SBIR/STTR Phase II Protégés only. The award fee will be assessed at each award fee determination period.

(b) The overall developmental assistance performance of NASA contractors, in promoting the use of small businesses as subcontractors, will be a required evaluation factor in award fee plans.

(c) Evaluation criteria to determine the award fee should include:

(1) Benefit of the agreement to NASA;

(2) Active participation in the Program;

(3) The amount and quality of developmental assistance provided;

(4) Success of the protégés in increasing their business as a result of receiving developmental assistance; and

(5) Accomplishment of any other activity as related to the mentor-protégé relationship.

(d) The Award Fee Program is an addition to the credit agreement, reference 1819.7206. Participants that are eligible for award fee may also receive credit under their individual contract's award fee plan.

1819.7206 Credit agreement.

In a MPA (as referenced in section 6 “Agreements” of the MPP Guidebook), a mentor receives credit toward its subcontracting goals. The credit agreement only applies to mentors with an Individual Subcontract Plan.

(a) Costs incurred under a credit agreement are applied on a one-to-one basis toward applicable subcontracting goals, under a Federal agency subcontracting plan (FAR subpart 19.7).

(b) The credit is reported on the mentor's individual subcontracting report (ISR) in the comments section twice a year and in the Summary Subcontract Report (SSR) once a year. The MPPO will verify the dollars contained in the annual reports.

1819.7207-1819.7211 [Reserved]

1819.7212 Reporting requirements.

(a) Mentors must report on the progress made under active MPA annually throughout the term of the agreement.

(b) Reports are due 30 days after the end of each 12-month period of performance commencing with the start of the agreement.

(c) Each annual report must include the following data on performance under the MPA:

(1) Expenditures by the mentor.

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

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

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

(d) Annually the protégé must provide an independently developed progress report using the annual

report template, on the progress made during the prior twelve months by the protégé in employment, revenues, and participation in NASA contracts during each year of the Program participation term. The protégé must also provide an additional post-agreement report for each of the two years following the expiration of the Program participation term.

(e) The protégé annual report required by paragraph (d) of this section must be submitted separately from the mentor's annual report submission.

(f) Reports for all agreements must be submitted to the NASA Mentor Protégé Program Manager, the mentor's cognizant administrative Contracting Officer, and their Small Business Specialist.

(g) Templates for the annual report and the Post-Agreement report and guidance for their submission are available at: *https://www.nasa.gov/osbp/mentor-protege-program*.

1819.7213 Reporting allowances.

The mentor may include its developmental expenditures from the annual report, reference 1819.7212, in its reported dollars in its Summary Subcontracting Report (SSR) in the Electronic Subcontracting Reporting System (eSRS).

(a) If the protégé is also the mentor's immediate next-tier subcontractor under a NASA contract that contains a subcontracting plan, the mentor may also include its developmental expenditures in its Individual Subcontracting Report (ISR) for that contract. Expenditures may be applied to each socio-economic subcategory on the SSR and ISR for which the protégé qualifies.

(b) Developmental expenditures included in SSR's and ISR's must also be separately reported and explained (including the actual dollar amount) in the “Remarks” section of each report.

(c) Expenditures for AbilityOne protégés cannot be included in SSR's or ISR's since there is no such reporting category for SSR's or ISR's.

1819.7214 [Reserved]

1819.7215 Solicitation provision and contract clauses.

(a) The contracting officer shall insert the clause at 1852.219-77, NASA Mentor-Protégé Program, in any contract that includes the clause at FAR 52.219-9, Small Business Subcontracting Plan.

(b) The contracting officer shall insert the clause at 1852.219-79, Mentor Requirements and Evaluation, in contracts where the prime contractor is a participant in the NASA Mentor-Protégé Program.

Subpart 1819.73—Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR)

Programs

1819.7301 Scope of subpart.

The Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Programs were established and issued under the authority of the Small Business Act codified at 15 U.S.C. 631, as amended, and the Small Business Innovation Development Act of 1982 (Pub. L. 97-219), codified with amendments at 15 U.S.C. 638, as amended. The Small Business Act requires that the Small Business Administration (SBA) issue SBIR and STTR Program Policy Directives for the general conduct of the SBIR/STTR Programs within the Federal Government. The statutory purpose of the SBIR Program is to strengthen the role of innovative small business concerns (SBCs) in federally-funded research or research and development (R/R&D). Specific program purposes are to: Stimulate technological innovation; use small business to meet Federal R/R&D needs; foster and encourage participation by socially and economically disadvantaged SBCs, and by SBCs that are 51-percent owned and controlled by women, in technological innovation; and increase private sector commercialization of innovations derived from Federal R/R&D, thereby increasing competition, productivity and economic growth. Federal agencies participating in the SBIR/STTR Programs (SBIR/STTR agencies) are obligated to follow the guidance provided by the SBA Policy Directive. NASA is required to ensure its policies, regulations, and guidance on the SBIR/STTR Programs are consistent with SBA's Policy Directive. Contracting officers are required to insert the applicable clauses identified in 1819.7302 in all SBIR and STTR contracts.

1819.7302 NASA contract clauses.

(a) Contracting officers shall insert the clause at 1852.219-80, Limitation on Subcontracting—SBIR Phase I Program, in all Phase I contracts awarded under the Small Business Innovation Research (SBIR) Program established pursuant to Public Law 97-219 (the Small Business Innovation Development Act of 1982).

(b) Contracting officers shall insert the clause at 1852.219-81, Limitation on Subcontracting—SBIR Phase II Program, in all Phase II contracts awarded under the Small Business Innovation Research (SBIR) Program established pursuant to Public Law 97-219 (the Small Business Innovation Development Act of 1982).

(c) Contracting officers shall insert the clause at 1852.219-82, Limitation on Subcontracting—STTR Program, in all contracts awarded under the Small Business Technology Transfer (STTR) Program established pursuant to Public Law 97-219 (the Small Business Innovation Development Act of 1982). Occasionally, deviations from this requirement may be approved. Any deviations from this requirement shall be approved in writing by the contracting officer after coordination with the Agency SBIR Program Manager/Coordinator.

(d) Contracting officers shall insert the clause at 1852.219-83, Limitation of the Principal Investigator—SBIR Program, in all contracts awarded under the Small Business Innovation Research (SBIR) Program established pursuant to Public Law 97-219 (the Small Business Innovation Development Act of 1982). Occasionally, deviations from this requirement may be approved. Any deviations from this requirement shall be approved in writing by the contracting officer after coordination with the Agency SBIR Program Manager/Coordinator.

(e) Contracting officers shall insert the clause at 1852.219-84, Limitation of the Principal Investigator—STTR Program, in all contracts awarded under the Small Business Technology Transfer (STTR) Program established pursuant to Public Law 97-219 (the Small Business Innovation Development Act of 1982). Occasionally, deviations from this requirement may be approved. Any deviations from this requirement shall be approved in writing by the contracting officer after coordination with the Agency SBIR Program Manager/Coordinator.

(f) Contracting officers shall insert the clause at 1852.219-85, Conditions for Final Payment—SBIR and STTR Contracts, in all Phase I and Phase II contract awarded under the Small Business Technology Transfer (STTR) Program and the Small Business Innovation Research (SBIR) Program established pursuant to Public Law 97-219 (The Small Business Innovation Development Act of 1982.)