PART 919—SMALL BUSINESS PROGRAMS

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Source: 49 FR 11997, Mar. 28, 1984, unless otherwise noted.

Subpart 919.2—Policies

919.201 General policy.

Subpart 919.5—Set-Asides for Small Business

919.501 General.

919.502 Setting aside acquisitions.

919.502-2 Total small business set-asides.

919.503 Setting aside a class of acquisitions for small business.

Subpart 919.6—Certificates of Competency and Determinations of Eligibility

919.602-1 Referral.

Subpart 919.7—The Small Business Subcontracting Program

919.705-6 Postaward responsibilities of the contracting officer.

Subpart 919.8—Contracting With the Small Business Administration (The 8(a) Program)

919.805-2 Procedures.

Subpart 919.70—The Department of Energy Mentor-Protege Program

919.7001 Scope of subpart.

919.7002 Definitions.

919.7003 General policy.

919.7004 General prohibitions.

919.7005 Eligibility to be a Mentor.

919.7006 Incentives for DOE contractor participation.

919.7007 Eligibility to be a Protege.

919.7008 Selection of Proteges.

919.7009 Process for participation in the program.

919.7010 Contents of Mentor-Protege Agreement.

919.7011 Developmental assistance.

919.7012 Review and approval process of agreement by OSDBU.

919.7013 Reports.

919.7014 Solicitation provision.

Parent topic: SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

Subpart 919.2—Policies

919.201 General policy.

(c) The Director, Office of Small and Disadvantaged Business Utilization, Headquarters, is responsible for the administration of the Department of Energy (DOE) small, small disadvantaged, and women-owned small business programs. The Executive Director, Federal Energy Regulatory Commission, is responsible for the administration of the Commission's small, small disadvantaged, and women-owned small business programs. This includes responsibility for developing, implementing, executing, and managing these programs, providing advice on these programs, and representing DOE before other Government agencies on matters primarily affecting small, small disadvantaged, and women-owned small businesses. The Heads of Contracting Activities (HCAs) shall appoint a small business specialist.

Subpart 919.5—Set-Asides for Small Business

919.501 General.

(c) The Department has established an internal comprehensive review and screening process for acquisitions exceeding the simplified acquisition threshold. The review is intended to enhance the prospect of participation by small business, small disadvantaged business, and women-owned small business concerns.

(g) The policy prescribed by 48 CFR 19.501, which requires that a product or service acquired by a successful small business set-aside shall continue to be acquired on a set-aside basis, is applicable to DOE on a contracting activity-wide basis. The small and disadvantaged business specialist at a contracting activity shall maintain a list of such small business set-aside awards.

919.502 Setting aside acquisitions.

919.502-2 Total small business set-asides.

In considering set-asides in the area of architect engineer contracts, contracting personnel must first consider the special procedures required by the Brooks Act, Pub. L. 92-582 pertaining to this type acquisition.

919.503 Setting aside a class of acquisitions for small business.

By agreement with Small Business Administration (SBA), the DOE has established a class set-aside for construction acquisitions not exceeding $3 million, including new construction and repair and alteration of structures. Lists of other class set-asides shall be maintained by all DOE contracting offices. These lists shall be updated at least annually.

Subpart 919.6—Certificates of Competency and Determinations of Eligibility

919.602-1 Referral.

(a)(2) The contracting officer shall coordinate with the small business specialist and the SBA procurement center representative prior to referring a determination of nonresponsibility of a small business to the SBA Area Office.

Subpart 919.7—The Small Business Subcontracting Program

919.705-6 Postaward responsibilities of the contracting officer.

A copy of the notification to the SBA of awards of contracts, amendments or modifications that contain subcontracting plans, as required by 48 CFR 19.705-6(a), shall be provided to the Office of Small and Disadvantaged Business Utilization.

Subpart 919.8—Contracting With the Small Business Administration (The 8(a) Program)

919.805-2 Procedures.

Acquisitions involving section 8(a) competition must comply with source selection procedures set forth in 48 CFR chapter 1 in accordance with 13 CFR part 124.

Subpart 919.70—The Department of Energy Mentor-Protege Program

Source: 65 FR 21369, Apr. 21, 2000, unless otherwise noted.

919.7001 Scope of subpart.

The Department of Energy (DOE) Mentor-Protege Program is designed to encourage DOE prime contractors to assist small disadvantaged firms certified by the Small Business Administration (SBA) under Section 8(a) of the Small Business Act (8(a)), other small disadvantaged businesses, women-owned small businesses, Historically Black Colleges and Universities, and other minority institutions of higher learning, and small business concerns owned and controlled by service disabled veterans in enhancing their capabilities to perform contracts and subcontracts for DOE and other Federal agencies. The program seeks to foster long-term business relationships between these small business entities and DOE prime contractors, and to increase the overall number of these small business entities that receive DOE contract and subcontract awards.

919.7002 Definitions.

Historically Black Colleges and Universities (HBCUs) means an institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2.

Other minority institutions of higher learning means an institution determined by the Secretary of Education to meet the requirements of 20 U.S.C. 1067k.

Small business concern owned and controlled by service-disabled veterans means a small business concern as defined in Public Law 106-50, Veterans Entrepreneurship and Small Business Development Act of 1999.

Small disadvantaged business means a small business concern owned and controlled by socially and economically disadvantaged individuals that meets the requirements of 13 CFR part 124, subpart B.

Women-owned small business means a small business concern that meets the requirements of 15 U.S.C. 637(d)(3)(D).

919.7003 General policy.

(a) DOE contractors eligible under 48 CFR 919.7005 may enter into agreements with businesses certified by the SBA in the 8(a) Program, other small disadvantaged businesses, women-owned small businesses, HBCUs, other minority institutions of higher learning, and small business concerns owned and controlled by service disabled veterans to provide those firms appropriate developmental assistance to enhance the capabilities of Proteges.

(b) Costs incurred by a Mentor to provide developmental assistance, as described in 919.7011, are allowable only to the extent that they are incurred in performance of a contract identified in the Mentor-Protege Agreement and are otherwise allowable in accordance with the cost principles applicable to that contract.

(c) Headquarters Office of Small and Disadvantaged Business Utilization (OSDBU) is the DOE Program Manager for the Mentor-Protege Program.

919.7004 General prohibitions.

DOE will not reimburse the costs of a Mentor in providing any form of developmental assistance to a Protege except as provided in 919.7003(b).

919.7005 Eligibility to be a Mentor.

To be eligible for recognition by DOE as a Mentor, an entity must be performing at least one contract for DOE.

919.7006 Incentives for DOE contractor participation.

(a) Under cost-plus-award fee contracts, approved Mentor firms may earn award fees associated with their performance as a Mentor. The award fee plan may include provision for the evaluation of the contractor's utilization of 8(a) firms, other small disadvantaged businesses, women-owned small businesses, HBCUs, other minority institutions of higher learning and small business concerns owned and controlled by service disabled veterans. DOE may evaluate the Mentor's performance in the DOE Mentor-Protege Program under any Mentor-Protege Agreement(s) as a separate element of the award fee plan.

(b) Mentors shall receive credit for subcontracts awarded pursuant to their Mentor-Protege Agreements toward subcontracting goals contained in their subcontracting plan.

919.7007 Eligibility to be a Protege.

(a) To be eligible for selection as a Protege, a firm must—

(1) Be a small business certified under Section 8(a) of the Small Business Act by SBA, other small disadvantaged business, a women-owned small business, HBCU, or any other minority institution of higher learning, or a small business concern owned and controlled by service disabled veterans;

(2) Be eligible for receipt of government contracts;

(3) Have been in business for at least two (2) years prior to application for enrollment into the Mentor-Protege Program; and

(4) Be able to certify as a small business according to the Standard Industrial Code for the services or supplies to be provided by the Protege under its subcontract with the Mentor.

(b) A prospective Mentor may rely in good faith on written representations by a prospective Protege that the Protege meets the requirements in paragraph (a) of this section.

919.7008 Selection of Proteges.

(a) A Mentor firm is solely responsible for selecting one or more Protege entities from firms eligible under 919.7007.

(b) A Mentor may have more than one Protege; however, a Protege may have only one Mentor.

(c) The selection of Protege firms by Mentor firms may not be protested, except as provided in paragraph (d) of this section.

(d) Only protests regarding the small business size status of a firm to be a Protege will be considered and shall be submitted to the DOE Office of Small and Disadvantaged Business Utilization for resolution. If that office is unable to resolve a protest, it will refer the matter to the Small Business Administration for resolution in accordance with 13 CFR part 121.

919.7009 Process for participation in the program.

A prospective Mentor must submit the following to the DOE Mentor-Protege Program Manager—

(a) A statement that it is eligible, as of the date of application, for the award of Federal contracts;

(b) A statement that it is currently performing at least one contract for DOE;

(c) The DOE contract number, type of contract, period of performance (including options), title of technical program effort, name of DOE technical program manager (including contact information) and the DOE contracting activity; and

(d) An original and two copies of the Mentor-Protege Agreement signed by the chief executive officer or designee of the Mentor firm and the chief executive officer of the Protege firm.

919.7010 Contents of Mentor-Protege Agreement.

The proposed Mentor-Protege Agreement must contain—

(a) Names, addresses and telephone numbers of Mentor and Protege firms and a point of contact within each firm who will oversee the Agreement;

(b) Requirements for the Mentor firm or the Protege firm to notify the other entity, DOE Headquarters OSDBU, and the contracting officer in writing at least 30 days in advance of the Mentor firm's or the Protege firm's intent to voluntarily terminate or withdraw from the Mentor-Protege Agreement (such termination would not terminate any existing subcontract between the Mentor and the Protege);

(c) A description of the form of developmental assistance program that will be provided by the Mentor to the Protege firm, including a description of any subcontract work, and a schedule for providing the assistance and the criteria for evaluation of the Protege's developmental success (919.7011);

(d) A listing of the number and types and estimated amount of subcontracts to be awarded to the Protege firm;

(e) Term of the Agreement;

(f) Procedures to be invoked should DOE terminate its recognition of the Agreement for good cause (such termination of DOE recognition would not constitute a termination of the subcontract between

the Mentor and the Protege);

(g) Provision for the Mentor firm to submit to the DOE Mentor-Protege Program Manager a “lessons learned” evaluation developed by the Mentor at the conclusion of the Mentor-Protege Agreement;

(h) Provision for the submission by the Protege firm of a “lessons learned” evaluation to the DOE Mentor-Protege Program Manager at the conclusion of the Mentor-Protege Agreement;

(i) Description of how the development assistance will potentially increase subcontracting opportunities for the Protege firm;

(j) Provision for the Mentor firm to brief the DOE Mentor-Protege Program Manager, the technical program manager(s), and the contracting officer at the conclusion of each year in the Mentor-Protege Program regarding program accomplishments as pertains to the approved Agreement (where possible, this review may be incorporated into the normal program review for the Mentor's contract);

(k) Recognition that costs incurred by a Mentor to provide developmental assistance, as described in 919.7011, are allowable only to the extent that they are incurred in performance of a contract identified in the Mentor-Protege Agreement and are otherwise allowable in accordance with the cost principles applicable to that contract (the DOE Mentor-Protege Program has no appropriation for paying for developmental assistance); and

(l) Other terms and conditions, as appropriate.

919.7011 Developmental assistance.

(a) The forms of developmental assistance a Mentor may provide to a Protege include, but are not limited to—

(1) Management guidance relating to—

(i) Financial management,

(ii) Organizational management,

(iii) Overall business management planning,

(iv) Business development, and

(v) Marketing assistance;

(2) Engineering and other technical assistance;

(3) Noncompetitive award of subcontracts under DOE or other Federal contracts where otherwise authorized;

(4) Award of subcontracts in the Mentor's commercial activities;

(5) Progress payments based on costs;

(6) Rent-free use of facilities and/or equipment owned or leased by Mentor; and

(7) Temporary assignment of Mentor personnel to the Protege for purposes of training.

(b) Costs incurred by a Mentor to provide developmental assistance, as described in paragraph (a) of this section, are allowable only to the extent provided at 919.7003(b).

919.7012 Review and approval process of agreement by OSDBU.

(a) OSDBU will review the proposed Mentor-Protege Agreement under 919.7010 and will complete its review and assessment no later than 30 days after receipt. OSDBU will provide a copy of its assessment to the cognizant DOE technical program manager and contracting officer for review and concurrence.

(b) If OSDBU approves the Agreement, the Mentor may implement the developmental assistance program.

(c) Upon finding deficiencies that DOE considers correctable, the OSDBU will notify the Mentor and request information to be provided within 30 days that may correct the deficiencies. The Mentor may then provide additional information for reconsideration. The review of any supplemental material will be completed within 30 days after receipt by the OSDBU and the Agreement either approved or disapproved.

919.7013 Reports.

(a) Prior to performing an evaluation of a Mentor's performance under its Mentor-Protege Agreement for use in award fee evaluations, the Mentor-Protege Program Manager must consult with the cognizant DOE technical program manager and must provide a copy of the performance evaluation comments regarding the technical effort and Mentor-Protege development to the contracting officer.

(b) The DOE Mentor-Protege Program Manager must submit semi-annual reports to the cognizant contracting officer regarding the participating Mentor's performance in the Program for use in the award fee determination process.

(c) The Mentor firm must submit progress reports to the DOE Mentor-Protege Program Manager semi-annually.

919.7014 Solicitation provision.

The cognizant contracting officer must insert the provision at 952.219-70, DOE Mentor-Protege Program, in all solicitations with an estimated value in excess of the simplified acquisition threshold.