Subpart 1426.71 - Minority Business Reports

Parent topic: PART 1426 - OTHER SOCIOECONOMIC PROGRAMS

1426.7100 Scope of subpart.

This subpart sets forth reporting requirements established by Executive Order 12432 entitled "Minority Business Enterprise Development" and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), also known as "Superfund."

1426.7101 Definitions.

For purposes of this subpart the following definitions shall apply:

Contract means a contract or subcontract awarded pursuant to the FAR, as well as federal financial assistance, including a subcontract, cooperative agreement, grant, subagreement or subgrant.

Minority business enterprise means a business which is at least 51% owned by one or more minority individuals, or in the case of any publicly owned business, at least 51% of the voting stock is owned by one or more minority individuals. The daily business operations are likewise managed by the minority owner.

Minority individual means a U.S. citizen who has been subjected to racial or ethnic prejudice or cultural bias because of their identity as members of this group without regard to their individual qualities. Such groups include, but are not limited to: Black Americans; Hispanic Americans; Native Americans; Asian-Pacific Americans; and other groups whose members are U.S. citizens and are found to be disadvantaged by the Small Business Administration pursuant to Section 8(d) of the Small Business Act as amended (15 U.S.C. 637(d)), or the Secretary of Commerce.

(a) *Native Americans* are persons having origins in any of the original peoples of North America or the Hawaiian Islands; in particular, American Indians, Eskimos, Aleuts and Native Hawaiians.

(b) *Asian-Pacific Americans* - persons having origins from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, Taiwan, Thailand, Malaysia, Indonesia, Singapore, Brunei, Republic of the Marshall Islands, or the Federated States of Micronesia.

1426.7102 Minority Business Development Agency (MBDA-91) Plan and Reports.

1426.7102-1 Statutory basis.

Executive Order 12432, dated July 14, 1983, established the requirement for the Department of Commerce (i.e., MBDA) to collect information on acquisition and financial assistance awards to

minority businesses, as well as credit assistance to such firms.

1426.7102-2 Requirements.

(a) *MBDA-91 Plan.* The BPC is required to submit the Plan on form MBDA-91 to the OSDBU by no later than November 15 of each year. Section 1 of the form, "Procurement Program Activities," will be completed by OSDBU. Sections 2 through 5 must be completed by bureaus and offices.

(b) *MBDA-91 Reports.* The BPC must submit reports to the OSDBU within 30 days following the end of a fiscal quarter. Reports are cumulative from October 1 of the reporting fiscal year, and monetary figures should be rounded to whole dollars in each section of the report.

(c) "Negative report" means when the Bureau had no reportable activity during the quarter. Submit such a report using the MBDA-91 report form.

1426.7103 The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (Superfund Minority Contractors Utilization Report).

1426.7103-1 Statutory basis.

Paragraph 105 of CERCLA requires the President of the United States to consider the availability of qualified minority business enterprises in awarding contracts under the Act and report annually to Congress on the extent of such awards, including the efforts made to encourage the participation of such firms in programs carried out under the act. The Environmental Protection Agency has delegated responsibility for preparing the report, which includes contracts for Superfund hazardous waste clean-up awarded by other agencies.

1426.7103-2 Requirements.

The contracting offices shall report designated projects funded with EPA monies, involving the actual award of contracts, subcontracts, financial assistance instruments, subagreements, etc. by DOI. Do not include Departmental projects covered by Superfund and funded solely with Departmental appropriations. The BPC must submit one of the following reports inclusive of all projects, as applicable, to the OSDBU by no later than November 8 of each year:

(a) EPA Forms 6005-3 and 6005-3A for applicable Superfund contract awards, including partial awards to minority businesses.

(b) EPA Form 6005-3A only, for applicable Superfund contract awards when no awards were made to minority firms, to report the efforts made to promote minority business participation in the designated projects.

(c) "Negative Report" when the reporting Bureau did not award contracts using Superfund monies.