Subpart 926.70—Implementation of Section 3021 of the Energy Policy Act of 1992

Parent topic: PART 926—OTHER SOCIOECONOMIC PROGRAMS

926.7001 Policy.

(a) Section 3021(a) of the Energy Policy Act of 1992, as amended, specifies that the Department of Energy (DOE) shall, to the extent practicable, provide that not less than 10 percent of the total combined amounts obligated for competitively awarded contracts and subcontracts under the Energy Policy Act be expended with—

(1) Small business concerns controlled by socially and economically disadvantaged individuals or by women;

(2) Historically Black colleges and universities;

(3) Colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Americans; or

(4) Qualified HUBZone small business concerns, as defined at FAR 2.101.

(b) The four groups in paragraph (a) of this section are collectively referred to in this section as “Energy Policy Act target groups.”

(c) Awards of Energy Policy Act procurements should be in the following descending order of preference—

(1) Competitive awards pursuant to a set-aside for small disadvantaged business;

(2) Competitive awards to small businesses owned and controlled by socially and economically disadvantaged individuals and by women for Energy Policy Act requirements under the Small Business Administration's section 8(a) program; and

(3) Competitive awards that provide an evaluation preference in accordance with 926.7006 to offerors from the Energy Policy Act target groups.

(d) The DOE implementation of Section 3021 requirements with regard to the award of subcontracts under Energy Policy Act procurements is discussed at 926.7006.

(e) Competitive procedures, for purposes of Energy Policy Act implementation, consist of awards under set-asides to small disadvantaged business and firms certified as 8(a) Small Business Administration and competitive procedures in accordance with 48 CFR subpart 15.6 and subpart 915.6.

926.7002 Responsibilities.

Offices initiating procurement requests have primary responsibility to identify potential contract

requirements falling within the scope of section 3021 of the Energy Policy Act. Identification shall occur at the earliest possible point in time in the acquisition cycle, but not later than the submission of the procurement request to the contracting officer. For purposes of Section 3021, a contract requirement is any award that directly satisfies an Energy Policy Act program or requirement.

926.7003 Review of the procurement request.

Any Energy Policy Act procurement, including basic research contracts with educational institutions, shall be reviewed in accordance with the Small Business and 8(a) Program Review Procedures in order to ensure that full consideration is given to the potential for making Energy Policy Act awards.

926.7004 Size standard for Energy Policy Act procurements.

The size standard for Energy Policy Act engineering services procurements shall be Exception 2 under North American Industry Classification System code 541330, Engineering Services.

926.7005 Preferences under the Energy Policy Act.

Solicitations for all competitive Energy Policy Act procurements not for 8(a) firms and in excess of the simplified acquisition threshold shall provide for an evaluation preference for offers received from entities from among the Energy Policy Act target groups. The evaluation criteria shall provide that in instances in which two or more proposals being considered for final selection are ranked as essentially equal after consideration of all technical and cost evaluation factors, and if one of these proposals is from an offeror from among an Energy Policy Act target group that offeror will be selected for award.

926.7006 Goal measurement and reporting requirements.

(a) *General.* The following types of contract awards for Energy Policy Act procurements shall be counted toward achievement by DOE of the 10 percent goal—

(1) Any award set-aside for small, disadvantaged business;

(2) Any competitive section 8(a) award;

(3) Any competitive award to one of the four target groups under an unrestricted procurement;

(4) Any award to one of the four target groups conducted under simplified acquisition procedures in excess of the micro-purchase threshold; and

(5) Any competitively awarded subcontract to one of the four target groups under a prime award.

(b) *Prime contract awards.* Award values and dollars obligated under prime contracts and modifications to prime contracts for Energy Policy Act requirements shall be reported through the

Department of Energy Procurement and Assistance Data System.

(c) *Subcontract awards.* The contractor shall be required to report, on an annual Federal Government fiscal year basis, its progress against Section 3021 goals by providing the actual dollar value of subcontract payments and the relationship of those payments to the incurred contract cost. If the contract includes reporting requirements under 48 CFR 52.219-9, Small Business and Small Disadvantaged Business Subcontracting Plan, the contractor's progress against the Section 3021 goals shall be included as an addendum to Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and/or SF 295, Summary Subcontract Report, as applicable, for the period that corresponds to the end of the Federal Government fiscal year.

926.7007 Solicitation provisions and contract clauses.

(a) The contracting officer shall insert the provision at 952.226-70, Subcontracting Goals under Section 3021(a) of the Energy Policy Act of 1992 (Pub. L. 102-486) (Energy Policy Act), in solicitations for Energy Policy Act procurements.

(b) The contracting officer shall insert the clause at 952.226-71, Utilization of Energy Policy Act Target Entities, in contracts for the Energy Policy Act requirements with an award value in excess of the simplified acquisition threshold.

(c) The contracting officer shall insert the clause at 952.226-72, Energy Policy Act Subcontracting Goals and Reporting Requirements, in contracts for Energy Policy Act requirements with an award value in excess of $750,000 ($1,500,000 in the case of construction).

(d) The contracting officer shall insert the provision at 952.226-73, Energy Policy Act Target Group Representation, in solicitations for Energy Policy Act procurements.

(e) The contracting officer shall insert the clause at 48 CFR 52.219-14, Limitation on Subcontracting, in contracts for Energy Policy Act requirements with an entity from among the Energy Policy Act target groups.