

present evidence relevant to the facts at issues. The contractor may appear in person or through a representative in the fact-finding proceeding.

(d) Neither the Federal Rules of Evidence nor the Federal Rules of Civil Procedure govern fact-finding. Hearsay evidence may be presented and will be given appropriate weight by the fact-finder.

(e) Witnesses may testify in person. Witnesses will be reminded of the official nature of the proceeding and that any false testimony given is subject to criminal prosecution. Witnesses are subject to cross-examination.

H-105 Timing requirements.

All timing requirements set forth in these procedures may be extended by the debarring and suspending official for good cause.

H-106 Subsequent to fact-finding.

(a) Written findings of fact will be prepared by the fact-finder as mandated by FAR 9.406-3(d)(2)(i) and 9.407-3(d)(2)(i).

(b) The fact-finder will determine the disputed fact(s) by a preponderance of the evidence. A copy of the findings of fact will be provided to the debarring and suspending official, the Government's representative, and the contractor.

(c) The debarring and suspending official will determine whether to continue the suspension or to debar the contractor based upon the entire administrative record, including the findings of fact.

(d) Prompt written notice of the debarring and suspending official's decision will be sent to the contractor and any affiliates involved, in compliance with FAR 9.406-3(e) and 9.407-3(d)(4).

[59 FR 27700, May 27, 1994]

APPENDIX I—POLICY AND PROCEDURES FOR THE DOD PILOT MENTOR-PROTEGE PROGRAM

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AUTHORITY: 41 U.S.C. 421 and 48 CFR chapter 1.

I-100 Purpose.

(a) Appendix I to 48 CFR chapter 2 implements the Pilot Mentor-Protege Program (hereinafter referred to as the "Program") established under section 831 of Pub. L. 101-510, The National Defense Authorization Act for Fiscal Year 1991, as amended. The purpose of the Program is to—

(1) Provide incentives to major DoD contractors, performing under at least one active approved subcontracting plan negotiated with DoD or other Federal agencies, to assist small disadvantaged businesses (SDBs) in enhancing their capabilities to satisfy DoD and other contract and subcontract requirements;

(2) Increase the overall participation of SDBs as subcontractors and suppliers and DoD contracts, other Federal agency contracts and commercial contracts and;

(3) Foster the establishment of long term business relationships between SDBs and such contractors.

(b) Under the Program, eligible companies approved as mentor firms will enter into mentor-protege agreements with eligible SDBs as protege firms to provide appropriate developmental assistance to enhance the capabilities of SDBs to perform as subcontractors and suppliers. According to the law, the DoD may provide the mentor firm with either cost reimbursement, credit against SDB subcontracting goals established under contracts with DoD or other Federal agencies, or a combination of credit and reimbursement.

(c) DoD will measure the overall success of the Program by the extent to which the Program results in—

(1) An increase in the dollar value of subcontracts awarded to SDBs by mentor firms under DoD contracts;

(2) An increase in the dollar value of contract and subcontract awards to protege firms (under DoD contracts, contracts awarded by other Federal agencies and under commercial contracts) since the date of their entry into the Program;

(3) An increase in the number and dollar value of subcontracts awarded to a protege firm (or former protege firm) by its mentor firm (or former mentor firm);

(4) An improvement in the participation of SDBs in DoD, other Federal agencies, and commercial contracting opportunities that can be attributed to the development of SDBs as protege firms under the Program;

(5) An increase in subcontracting with SDB concerns in industry categories where SDBs have not traditionally participated within the mentor firm's vendor base;

(6) The involvement of emerging SDBs in the Program;

(7) An expanded relationship between mentor firms and protege firms to include non-DoD programs; and

(8) The development of protege firms that are competitive as subcontractors and suppliers to DoD or in other Federal agencies or commercial markets.

(d) This policy sets forth the procedures for participation in the Program applicable to companies that are interested in receiving—

(1) A separate contract, cooperative agreement, or other agreement entered into between DoD and the mentor firm—company is interested in reimbursement through a separate contract, cooperative agreement or other agreement with DoD or, a combination of reimbursement through such agreement with DoD and credit against SDB subcontract goals for any unreimbursed costs incurred under the Program.

(2) Program Manager funded reimbursement—company has identified a DoD program manager willing to fund the Program and the company is interested in reimbursement for technical assistance costs to a protege firm(s) through a separately priced cost reimbursement contract line item added to a DoD contract, with credit against SDB subcontracting goals for any unreimbursed costs.

(3) Indirect reimbursement and credit—company is interested in receiving reimbursement for indirect costs incurred under the Program as well as credit against SDB subcontract goals for these indirect costs.

(4) Credit only—company is interested in receiving credit only against SDB subcontracting goals for costs incurred under the Program.

I-101 Definitions.

I-101.1 Emerging SDB concern.

A small disadvantaged business whose size is no greater than 50 percent of the numerical size standard applicable to the standard industrial code for the supplies or services which the protege firm provides or would provide to the mentor firm.

I-101.2 Historically black college or university.

An institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. The term also means any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

I-101.3 Minority institution of higher education.

An institution meeting the requirements of Section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3)). The term also includes Hispanic-serving institutions as defined in Section 316(b)(1) of such Act (20 U.S.C. 1059c(b)(1)).

I-102 General Procedures.

(a) At any time between October 1, 1991, and September 30, 1996, companies interested in becoming mentor firms that want to take credit only for costs incurred for providing developmental assistance to one or more protege firms, or receive credit and reimbursement of indirect costs incurred under the Program, must apply to the DoD for participation in the Program pursuant to the application process set forth at I-106(a).

(b) At any time between October 1, 1991, and September 30, 1996, companies interested in becoming mentor firms that are able to identify funding from a DoD contract program manager(s) to provide developmental assistance to one or more protege firms must apply to the DoD for participation in the Program, pursuant to the application process set forth at I-106(d).

(c) Once funding is made available by DoD, companies that are interested in becoming mentor firms that want to receive reimbursement only or a combination of reimbursement and credit for providing developmental assistance to one or more protege firms by either a separate contract, cooperative agreement or other agreement awarded for that purpose, will be solicited for participation in the Program through a program solicitation. The Program solicitation will be issued by DoD and will contain, among other things, the statement of work and the evaluation factors upon which award will be based. Companies seeking reimbursement only, or a combination of reimbursement and credit, must respond to the solicitation and will be evaluated on the quality of the proposed developmental assistance program for each protege, in accordance with the evaluation factors contained in the solicitation. Awards will be made by DoD to approved mentor firms, to provide the proposed developmental assistance to one or more identified protege firms.

I-103 Program duration.

Activities under the Program may only occur during the following periods:

(a) From October 1, 1991, until September 30, 1996, companies may apply for participation in the Program as mentor firms pursuant to I-102, General Procedures, and once approved, may enter into mentor-protege agreements, pursuant to I-107, Mentor-Protege Agreements.