

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

PART 519—SMALL BUSINESS PROGRAMS

Subpart 519.5—Set-Asides for Small Business

Sec.
519.508 Solicitation provisions for contract clauses.

Subpart 519.7—The Small Business Subcontracting Program

519.708 Contract clauses.
519.708-70 Solicitation provisions.

Subpart 519.8—Contracting With the Small Business Administration (The 8(a) Program)

519.870 Direct 8(a) contracting.
519.870-8 Contract clauses.

Subpart 519.12—Small Disadvantaged Business Participation Program

519.1202 Evaluation factor or subfactor.
519.1202-2 Applicability.

Subpart 519.70—GSA Mentor-Protégé Program

519.7001 Scope of subpart.
519.7002 Definitions.
519.7003 General policy.
519.7004 Incentives for prime contractors.
519.7005 Measurement of program success.
519.7006 Mentor firms.
519.7007 Protégé firms.
519.7008 Selection of protégé firms.
519.7009 Application process.
519.7010 Agreement contents.
519.7011 Application review.
519.7012 Developmental assistance.
519.7013 Obligation.
519.7014 Internal controls.
519.7015 Reports.
519.7016 Program review.
519.7017 Contract clauses.

AUTHORITY: 40 U.S.C. 486(c).

SOURCE: 64 FR 37219, July 9, 1999, unless otherwise noted.

Subpart 519.5—Set-Asides for Small Business

519.508 Solicitation provisions for contract clauses.

Insert 552.219-70, Allocation of Orders—Partially Set-Asides Items, in solicitations and requirements type sup-

ply contracts that are partially set aside for small business.

Subpart 519.7—The Small Business Subcontracting Program

519.708 Contract clauses.

519.708-70 Solicitation provisions.

Insert the following provisions as directed:

(a) 552.219-71, Notice to Offerors of Subcontracting Plan Requirements, on the cover page of solicitations containing the clause at FAR 52.219-9, Small Business Subcontracting Plan.

(b) 552.219-72, Preparation, Submission, and Negotiations of Subcontracting Plans, in solicitations requiring submission of the subcontracting plan with initial offers.

(c) 552.219-73, Goals for Subcontracting Plan as follows:

(1) Use the basic provision in sealed bid solicitations containing FAR 52.219-9 if you are able to establish realistic target goals.

(2) Use Alternate I in:

(i) sealed bid solicitations if you cannot establish target goals.

(ii) Negotiated solicitations that include FAR 52.219-9, but do not include 552.219-72.

Subpart 519.8—Contracting With the Small Business Administration (The 8(a) Program)

519.870 Direct 8(a) contracting.

519.870-8 Contract clauses.

(a) Insert the following clauses in solicitations, contracts, and orders issued under the MOU:

(1) Insert the clause at 552.219-74, Section 8(a) Direct Award.

(2) Insert the clause at FAR 52.219-14, Limitation on Subcontracting.

(3) Insert the clause at FAR 52.219-18, Notification of Competition Limited to Eligible 8(a) Concerns, Substitute the following paragraph for paragraph (c) of the clause. Add the word “Deviation” at the end of the clause title.

General Services Administration

519.7003

(c) Any award resulting from this solicitation will be made directly by the Contracting Officer to the successful 8(a) offeror selected through the evaluation criteria set forth in this solicitation.

(b) Do not use the clauses at FAR 52.219-11, Special 8(a) Contract Conditions, FAR 52.219-12, Special 8(a) Subcontract Conditions, or FAR 52.219-17, Section 8(a) Award.

Subpart 519.12—Small Disadvantaged Business Participation Program

519.1202 Evaluation factor or subfactor.

519.1202-2 Applicability.

In addition to the exception in FAR 19.1202-2, do not evaluate the extent of participation of SDB concerns in performance of multiple award schedule contracts when all fair and reasonable offers from responsible sources are accepted.

Subpart 519.70—GSA Mentor-Protégé Program

SOURCE: 74 FR 41063, Aug. 14, 2009, unless otherwise noted.

519.7001 Scope of subpart.

The GSA Mentor-Protégé Program is designed to encourage and motivate GSA prime contractors to assist small businesses concerns, small disadvantaged businesses concerns, women-owned small businesses concerns, veteran-owned small business entities concerns, service-disabled veteran-owned small businesses concerns, and HUBZone small businesses concerns, and enhance their capability of performing successfully on GSA contracts and subcontracts, foster the establishment of long-term business relationships between these small business entities and GSA prime contractors, and increase the overall number of small business entities that receive GSA contract and subcontract awards.

519.7002 Definitions.

The definitions of small business concern, small disadvantaged business concern, HUBZone small business con-

cern, women-owned small business concern, veteran-owned small business concern, and service-disabled veteran-owned small business concern are the same as found in FAR 2.101. Also see 13 CFR 121, 124, 125 and 126.

(a) *Mentor* as used in the GSA Mentor-Protégé Program, is a prime contractor that elects, on a specific GSA contract, to promote and develop small business subcontractors by providing developmental assistance designed to enhance the business success of the protégé.

(b) *Mentor-Protégé Program Manager* means an employee in the Office of Small Business Utilization (OSBU) (E) designated by the Associate Administrator of OSBU to manage the Mentor-Protégé Program.

(c) *Protégé* as used in the GSA Mentor-Protégé Program is a small business concern that is the recipient of developmental assistance pursuant to a mentor-protégé arrangement on a specific GSA contract.

519.7003 General policy.

(a) A large business prime contractor that meets the requirements at section 519.7006, and is approved as a mentor firm by the Mentor-Protégé Program Manager, may enter into an Agreement with a small business concern, small disadvantaged business concern, women-owned small business concern, veteran-owned small business concern, service-disabled veteran-owned small business concern or HUBZone small business concern that meets the requirements for being a protégé (see 519.7007) in order to provide appropriate developmental assistance to enhance the capabilities of the protégé to perform successfully as a subcontractor and supplier.

(b) A small business prime contractor that is capable of providing developmental assistance to protégés, may also be approved as a mentor.

(c) An active mentor-protégé arrangement requires the protégé to either be a current or newly selected subcontractor under the mentor's prime contract with GSA.

(d) A small business concern's status as a protégé under a GSA contract shall not have an effect on its ability

519.7004

to seek other prime contracts or subcontracts.

(e) Potential Mentors may submit an application for admittance to the Mentor-Protégé Program at any time as long as the requirements at section 519.7006 are met.

(f) The determination of affiliation is a function of the SBA.

519.7004 Incentives for prime contractors.

(a) Under the Small Business Act, 15 U.S.C. 637(d)(4)(E), the GSA is authorized to provide appropriate incentives to prime contractors in order to encourage subcontracting opportunities for small business concerns consistent with the efficient and economical performance of the contract. This authority is limited to negotiated procurements, including the GSA Multiple Award Schedule contracts and the GSA Governmentwide Acquisition Contracts. It does not include orders under any GSA contracts.

(b) Costs incurred by a mentor to provide developmental assistance, as described in section 519.7012 to fulfill the terms of their agreement(s) with a protégé firm(s), are not reimbursable as a direct cost under a GSA contract. If GSA is the mentor's responsible audit agency under FAR 42.703-1, GSA will consider these costs in determining indirect cost rates. If GSA is not the responsible audit agency, mentors are encouraged to enter into an advance agreement with their responsible audit agency on the treatment of such costs when determining indirect cost rates.

(c) In addition to paragraph (b) of this section, contracting officers may give mentors evaluation credit during the source selection process for subcontracts awarded under their subcontracting plans pursuant to their Mentor-Protégé Agreements. (See FAR 15.101-1). Therefore:

(1) Contracting officers may evaluate proposals with subcontracting plans containing Mentor-Protégé Agreements more favorably than proposals with subcontracting plans that do not include Mentor-Protégé Agreements; and

(2) Contracting officers may assess the prime contractor's compliance with

48 CFR Ch. 5 (10-1-09 Edition)

the subcontracting plans submitted in previous contracts as a factor in evaluating past performance under certain circumstances (see FAR 15.304(c)(3) and 15.305(a)(2)(v)) and determining contractor responsibility FAR section 19.705-5(a)(1).

(d) *OSBU Mentoring Award*. A non-monetary award may be presented annually to the mentoring firm providing the most effective developmental support of a protégé. The Mentor-Protégé Program Manager will recommend an award winner to the Administrator of GSA.

(e) *OSBU Mentor-Protégé Annual Conference*. At the conclusion of each year in the Mentor-Protégé Program, mentor firms will be invited to brief contracting officers, program leaders, office directors, and other guests on their experience and progress under the Program. Participation is voluntary.

519.7005 Measurement of program success.

The overall success of the GSA Mentor-Protégé Program encompassing all participating mentors and protégés will be measured by the extent to which it results in:

(a) An increase in the number, dollar value, and percentage of subcontracts awarded to protégés by mentor firms under GSA contracts since the date of entry into the Program. The baseline that demonstrates an increase is determined by comparing the number and total dollar amount of subcontract awards made to the identified protégé firm(s) during the two preceding fiscal years (if any) that are listed in application;

(b) An increase in the number and dollar value of contract and subcontract awards (including percentage of subcontract awards) to protégé firms since the date of the protégé's entry into the Program (under GSA contracts and contracts awarded by other Federal agencies);

(c) An increase in the number and dollar value of subcontracts awarded to a protégé firm by its mentor firm; and

(d) An increase in subcontracting with protégé firms in industry categories where they have not traditionally participated within the mentor

General Services Administration

519.7009

firm's activity (*i.e.*, the protégé is expanding its field of expertise or is increasing its opportunities in areas where it has not traditionally performed).

(e) Assessments of the semi-annual reports submitted by the mentors and "Lessons Learned" evaluation submitted by the mentors and protégés to the GSA Mentor-Protégé Program Manager.

519.7006 Mentor firms.

(a) Mentors must be:

(1) A large business prime contractor that is currently performing under an approved subcontracting plan as required by FAR 19.7 - Small business mentors are exempted; or

(2) A small business prime contractor that can provide developmental assistance to enhance the capabilities of protégés to perform as contractors, subcontractors, and suppliers;

(b) Must be eligible (not listed in the "Excluded Parties List System") for U.S. Government contracts and not excluded from the Mentor-Protégé Program under section 519.7014(b);

(c) Must be able to provide developmental assistance that will enhance the ability of protégés to perform as contractors and subcontractors; and

(d) Must provide semi-annual reports detailing the assistance provided and the cost incurred in supporting protégés.

519.7007 Protégé firms.

(a) For selection as a protégé, a firm must be:

(1) A small business concern, small disadvantaged business concern, veteran-owned small business concern, service-disabled veteran-owned small business concern, HUBZone small business concern, or women-owned small business concern;

(2) Small for the NAICS code the prime contractor/mentor assigns to the subcontract; and

(3) Eligible (not listed in the "Excluded Parties List System") for U.S. Government contracts and not excluded from the Mentor-Protégé Program under section 519.7014(b).

(b) A protégé firm may self-represent to a mentor firm that it meets the requirements set forth in paragraph (a)

of this section. Mentors may check the Central Contractor Registration (CCR) at www.ccr.gov to verify that the self-representation of the potential protégé meets the specified small business and socioeconomic category eligibility requirements (see FAR 19.703(b) and (d)). HUBZone and small disadvantaged business status eligibility and documentation requirements are determined according to 13 CFR parts 124 and 126.

(c) A protégé firm must not have another formal, active mentor-protégé relationship under GSA's Mentor-Protégé Program but may have an active mentor-protégé relationship under another agency's program.

519.7008 Selection of protégé firms.

(a) Mentor firms will be solely responsible for selecting protégé firms. Mentors are encouraged to select from a broad base of small business concerns including small disadvantaged business concerns, women-owned small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, and HUBZone small business concerns. A protégé must be either a current subcontractor or a newly selected subcontractor for the prime contractor's GSA contract.

(b) Mentor firms may have more than one protégé. GSA reserves the right to limit the number of protégés participating under each mentor firm.

(c) The selection of protégé firms by mentor firms is not protestable, except for a protest regarding the size or eligibility status of an entity selected by a mentor to be a protégé. Such protests shall be handled in accordance with FAR 19.703(b). The contracting officer shall notify the Office of Small Business Utilization (OSBU) of the protest.

519.7009 Application process.

(a) Prime contractors interested in becoming a mentor firm must apply in writing by submitting the GSA Form 3695 to the GSA Mentor-Protégé Program Manager, at GSA Office of Small Business Utilization (E), Washington, DC 20405. The Application shall include the Mentor-Protégé Agreement and will be evaluated for approval based on

519.7010

the extent to which the company plans to provide developmental assistance.

(b) The application must contain:

(1) A statement that the mentor firm is currently performing under at least one active approved subcontracting plan (small business exempted) and the firm is eligible, as of the date of Application, for the award of Federal contracts;

(2) The number of proposed protégé arrangements;

(3) Data on all current GSA contracts, and subcontracts including the contract/subcontract number(s), type of contract(s), period of performance (including options), contract/subcontract value(s) including options, technical program effort(s) (program title), name of GSA Project Manager or Contracting Officer's Representative (including contact information), name of contracting officer(s) and contact information, and awarding GSA installation;

(4) Data on total number and dollar value of subcontracts awarded under GSA prime contracts within the past 2 years and the number and dollar value of such subcontracts awarded to entities who are proposed protégés;

(5) Information on the proposed types of developmental assistance. For each proposed mentor-protégé relationship include information on the company's ability to provide developmental assistance to the identified protégé firm and how that assistance will potentially increase subcontracting opportunities for the protégé firm, including subcontracting opportunities in industry categories where these entities are not dominant in the company's current subcontractor base; and

(6) Agreement information as listed in 519.7010.

519.7010 Agreement contents.

The contents of the Agreement must contain:

(a) Names, addresses (including facsimile, e-mail, and homepage) and telephone numbers of mentor and protégé firms and the name, telephone number, and position title within both firms of the person who will oversee the Agreement.

(b) An eligibility statement from the protégé stating that it is a small busi-

48 CFR Ch. 5 (10-1-09 Edition)

ness, its primary NAICS code, and when applicable the type of small business (small disadvantaged business concern, HUBZone small business concern, women-owned small business concern, veteran-owned small business concern, or service-disabled veteran-owned small business concern).

(c) A description of the type of developmental assistance that will be provided by the mentor firm to the protégé firm (see 519.7012).

(d) Milestones for providing the identified developmental assistance.

(e) Factors to assess the protégé firm's developmental progress under the Program.

(f) The anticipated dollar value and type of subcontracts that may be awarded to the protégé firm consistent with the extent and nature of mentor firm's business, and the period of time over which they may be awarded.

(g) *Program participation term*: State the period of time over which the developmental assistance will be performed.

(h) *Mentor termination procedures*: Describe the procedures applicable to the mentor firm when notifying the Protégé firm, in writing and at least 30 days in advance, of the mentor firm's intent to voluntarily withdraw its participation in the Program, or to terminate the Agreement.

(i) *Protégé termination procedures*: Describe the procedures applicable to the protégé firm when notifying the mentor firm, in writing at least 30 days in advance, of the protégé firm's intent to terminate the Mentor-Protégé Agreement.

(j) Plan for accomplishing contract work should the Mentor-Protégé Agreement be terminated or a party excluded under 519.7014(b). The mentor's prime contract with GSA continues even if the Mentor-Protégé Agreement or the Mentor-Protégé Program is discontinued.

(k) The protégé must agree to provide input into the mentor firm's semi-annual reports (see 519.7015). The protégé must submit a "Lessons Learned" evaluation along with the mentor firm at the conclusion of the Mentor-Protégé agreement.

General Services Administration

519.7014

(1) Other terms and conditions as specified by the Mentor-Protégé Manager on a case-by-case basis.

519.7011 Application review.

(a) The Mentor-Protégé Program Manager will review the information specified in section 519.7009(b) and 519.7010 to establish the Mentor's and Protégé's eligibility and to ensure all necessary information is included. If the application relates to a specific contract, then the Mentor-Protégé Program Manager will consult with the applicable contracting officer regarding the adequacy of the proposed Agreement, as appropriate. The Mentor-Protégé Program Manager will complete its review no later than 30 days after receipt of the application. The contracting officer must provide feedback to the Program Manager no later than 10 days after receipt of the application.

(b) After the Mentor-Protégé Program Manager completes its review and provides written approval, the Mentor may execute the Agreement and implement the developmental assistance as provided under the Agreement. The Mentor-Protégé Program Manager will provide a copy of the Mentor-Protégé Agreement to the GSA contracting officer for any GSA contracts affected by the Agreement.

(c) The Agreement defines the relationship between the Mentor and the Protégé firms only. The Agreement itself does not create any privity of contract or contractual relationship between the Mentor and GSA nor the Protégé and GSA.

(d) If the Agreement is disapproved, the Mentor may provide additional information for reconsideration. The Mentor-Protégé Program Manager will complete the review of any supplemental information no later than 30 days after its receipt. Upon finding deficiencies that GSA considers correctable, the Mentor-Protégé Program Manager will notify the Mentor and Protégé and request correction of the deficiencies to be provided within 15 days.

519.7012 Developmental assistance.

The forms of developmental assistance a mentor can provide to a protégé include:

- (a) Management guidance relating to—
 - (1) Financial management;
 - (2) Organizational management;
 - (3) Overall business management/planning; and
 - (4) Business development.
- (b) Engineering and other technical assistance.
- (c) Loans.
- (d) Rent-free use of facilities and/or equipment.
- (e) Temporary assignment of personnel to the protégé for purpose of training.
- (f) Any other types of developmental assistance approved by the GSA Mentor-Protégé Program Manager.

519.7013 Obligation.

(a) The mentor or protégé may terminate the Agreement in accordance with 519.7010. The mentor will notify the Mentor-Protégé Program Manager and the contracting officer, in writing, at least 30 days in advance of the mentor firm's intent to voluntarily withdraw from the Program or to terminate the Agreement, or upon receipt of a protégé's notice to withdraw from the Program.

(b) Mentor and protégé firms will submit a "Lessons Learned" evaluation to the GSA Mentor-Protégé Program Manager at the conclusion or termination of each Mentor-Protégé Agreement or withdrawal from the Mentor-Protégé program.

519.7014 Internal controls.

(a) The GSA Mentor-Protégé Program Manager will manage the Program. Internal controls will be established by the Mentor-Protégé Program Manager to achieve the stated Program objectives (by serving as checks and balances against undesired actions or consequences) such as:

- (1) Reviewing and evaluating mentor Applications for realism, validity and accuracy of provided information;
- (2) Monitoring each Mentor-Protégé Agreement by reviewing semi-annual progress reports submitted by mentors and protégés on protégé development

519.7015

to measure protégé progress against the master plan contained in the approved Agreement;

(3) Monitoring milestones in the Agreement (see 519.7010); and

(4) Evaluating “Lessons Learned” submitted by the Mentor and the Protégé as required by section 519.7013 to improve the GSA Mentor-Protégé Program.

(b)(1) GSA has the authority to exclude mentor or protégé firms from participating in the GSA Program.

(2) GSA may rescind approval of an existing Mentor-Protégé Agreement if it determines that such action is in GSA’s best interest. The rescission shall be in writing and sent to the Mentor and protégé after approval by the Director of OSBU. Rescission of an Agreement does not change the terms of any subcontract between the Mentor and the Protégé.

(3) Exclusion from the Program does not constitute a termination of the subcontract between the mentor and the protégé.

519.7015 Reports.

(a) Semi-annual reports shall be submitted by the mentor to the GSA Mentor-Protégé Program manager to include information as outlined in section 552.219-76(c).

(b) Protégés must agree to provide input into the mentor firm’s semi-annual reports detailing the assistance provided and goals achieved since agreement inception. However, for cost reimbursable contracts, costs associated with the preparation of these reports are unallowable costs under these Government contracts and will not be reimbursed by the Government.

(c) The GSA contracting officer, or if applicable the technical program manager, shall include an assessment of the prime contractor’s (mentor’s) performance in the Mentor-Protégé Program in a quarterly “Strengths and Weaknesses” evaluation report. A copy of this assessment will be provided to the Mentor-Protégé Program Manager and to the mentor and protégé.

519.7016 Program review.

At the conclusion of each year in the Mentor-Protégé Program (anniversary date of the Mentor-Protégé Program),

48 CFR Ch. 5 (10-1-09 Edition)

the prime contractor and protégé, as appropriate, will formally brief the GSA Mentor-Protégé Program Manager, the technical program manager, and the contracting officer regarding Mentor-Protégé Program accomplishments pertaining to the approved Agreement.

519.7017 Contract clauses.

(a) The contracting officer shall insert the clause at 552.219-75, GSA Mentor-Protégé Program, in all unrestricted solicitations (not set aside) and contracts that exceed the simplified acquisition threshold that offer subcontracting opportunities or in the case of a small business, that can offer developmental assistance to a small business protégé.

(b) The contracting officer shall insert the clause at 552.219-76, Mentor Requirements and Evaluation, in contracts anticipated to exceed the simplified acquisition threshold where the prime contractor has signed a Mentor-Protégé Agreement with GSA.

PART 522—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Sec.
522.001 Definition.

Subpart 522.1—Basic Labor Policies

522.101 Labor relations.
522.101-1 General.
522.103-5 Contract clauses.

Subpart 522.4—Labor Standards for Contracts Involving Construction

522.406 Administration and enforcement.
522.406-6 Payrolls and statements.

Subpart 522.8—Equal Employment Opportunity

522.803 Responsibilities.
522.804 Affirmative action programs.
522.804-1 Nonconstruction.
522.804-2 Construction.
522.805 Procedures.
522.807 Exemptions.

AUTHORITY: 40 U.S.C. 121(c).

SOURCE: 64 FR 37220, July 9, 1999, unless otherwise noted.