

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

PART 219—SMALL BUSINESS PROGRAMS

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AUTHORITY: 41 U.S.C. 1303 and CFR chapter 1.

SOURCE: 56 FR 36353, July 31, 1991, unless otherwise noted.

219.000 Scope of part.

This part also implements 10 U.S.C. 2323, which—

(1) Is applicable to DoD through fiscal year 2009; and

(2) Establishes goals for awards to small disadvantaged business (SDB) concerns, historically black colleges and universities (HBCUs), and minority institutions (MIs). See 226.370 for policy on contracting with HBCU/MIs.

[72 FR 20762, Apr. 26, 2007]

219.001 Definitions.

Small disadvantaged business concern is defined:

(1) At FAR 52.219-23(a) (i.e., a firm is considered a small disadvantaged business (SDB) concern by receiving certification by the Small Business Administration and meeting the other listed criteria), except as specified in paragraph (2) of this definition.

(2) At FAR 52.219-23(a) or 52.219-1(b)(2) for the following purposes (i.e., a firm is considered an SDB concern by either receiving certification by the Small Business Administration and meeting the other listed criteria or self-representing its status for general statistical purposes):

(i) A higher customary progress payment rate for SDB concerns (see 232.501-1(a)(i) and 252.232-7004(c)).

(ii) A lower threshold for inclusion of customary progress payments in contracts with SDB concerns (see 232.502-1).

(iii) The prompt payment policy for SDB concerns in 232.903 and 232.905(2).

(iv) Reporting contract actions with SDB concerns in the Federal Procurement Data System (FPDS).

[63 FR 64429, Nov. 20, 1999, as amended at 74 FR 37645, July 29, 2009]

Subpart 219.2—Policies

219.201 General policy.

(d) For the defense agencies, the director of the Office of Small Business Programs must be appointed by, be responsible to, and report directly to the director or deputy director of the defense agency.

(8) The responsibility for assigning small business technical advisors is

delegated to the head of the contracting activity.

(10) Contracting activity small business specialists perform this function by—

(A) Reviewing and making recommendations for all acquisitions (including orders placed against Federal Supply Schedule contracts) over \$10,000, except those under the simplified acquisition threshold that are totally set aside for small business concerns in accordance with FAR 19.502-2. Follow the procedures at PGI 219.201(d)(10) regarding such reviews.

(B) Making the review before issuance of the solicitation or contract modification and documenting it on DD Form 2579, Small Business Coordination Record; and

(C) Referring recommendations that have been rejected by the contracting officer to the Small Business Administration (SBA) procurement center representative. If an SBA procurement center representative is not assigned, see FAR 19.402(a).

(11) Also conduct annual reviews to assess—

(A) The extent of consolidation of contract requirements that has occurred (see 207.170); and

(B) The impact of those consolidations on the availability of small business concerns to participate in procurements as both contractors and subcontractors.

(e) For information on the appointment and functions of small business specialists, see PGI 219.201(e).

(f) The Directors, Office of Small Business Programs, of the military departments and defense agencies are responsible for determining whether use of the price evaluation adjustment to achieve a small disadvantaged business goal has caused non-SDB firms in a particular North American Industry Classification System Industry Subsector to bear an undue burden or other inappropriate effect. A copy of each determination shall be forwarded to the Office of Small Business Programs, Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics), simultaneously with submittal to

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the Office of Federal Procurement Policy.

[56 FR 36353, July 31, 1991, as amended at 63 FR 41973, Aug. 6, 1998; 64 FR 2598, Jan. 15, 1999; 65 FR 39705, June 27, 2000; 65 FR 50149, Aug. 17, 2000; 65 FR 63807, Oct. 25, 2000; 69 FR 55987, Sept. 17, 2004; 71 FR 44927, Aug. 8, 2006; 73 FR 46813, Aug. 12, 2008; 75 FR 45074, Aug. 2, 2010]

219.202 Specific policies.

219.202-1 Encouraging small business participation in acquisitions.

See PGI 205.207(d)(ii) for information on how to advertise a small business event on the Government point of entry.

[76 FR 76319, Dec. 7, 2011, as amended at 77 FR 76937, Dec. 31, 2012]

219.202-5 Data collection and reporting requirements.

Determine the premium percentage to be entered in the Federal Procurement Data System (FPDS) as follows:

(1) For small disadvantaged business or historically black college and university/minority institution set-asides, divide the difference between the fair market price and the award price by the fair market price.

(2) For price evaluation adjustment awards (see FAR Subpart 19.11), divide the difference between the low responsive offer and the award price by the low responsive offer.

(3) For partial small business set-asides with preferential consideration for small disadvantaged business concerns, divide the difference between the award price on the non-set-aside portion and the award price on the set-aside portion by the award price on the non-set-aside portion.

(b) Within 60 days after the end of each fiscal year, departments and agencies shall submit the report to the Secretary of Defense, who will report to the SBA on behalf of all DoD departments and agencies. Reports must include—

(i) Justification for failure to meet goals established by the Office of the Secretary of Defense; and

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(ii) Planned actions for increasing participation by such firms in future contract awards.

[56 FR 36353, July 31, 1991, as amended at 63 FR 41973, Aug. 6, 1998; 65 FR 63804, Oct. 25, 2000; 74 FR 37645, July 29, 2009]

Subpart 219.3—Determination of Small Business Status for Small Business Programs

219.301-2 Rerepresentation by a contractor that represented itself as a small business concern.

Follow the procedures at PGI 204.606(4)(vii) for reporting modifications for rerepresentation actions.

[76 FR 76320, Dec. 7, 2011]

219.301-3 Rerepresentation by a contractor that represented itself as other than a small business concern.

Follow the procedures at PGI 204.606(4)(vii) for reporting modifications for rerepresentation actions.

[76 FR 76320, Dec. 7, 2011]

219.303 Determining North American Industry Classification System (NAICS) codes and size standards.

Contracting officers shall follow the procedures for “Correctly Identifying Size Status of Contractors” in the OUSD (AT&L) DPAP memorandum dated July 21, 2010.

[76 FR 3536, Jan. 20, 2011]

Subpart 219.4—Cooperation With the Small Business Administration

219.401 General.

(b) The contracting activity small business specialist is the primary activity focal point for interface with the SBA.

Subpart 219.5—Set-Asides for Small Business

219.502 Setting aside acquisitions.

219.502-1 Requirements for setting aside acquisitions.

Do not set aside acquisitions for—

(1) Supplies which were developed and financed, in whole or in part, by

Canadian sources under the U.S.-Canadian Defense Development Sharing Program; or

(2) Architect-engineer services for military construction or family housing projects of \$350,000 or more (10 U.S.C. 2855), including indefinite delivery and indefinite quantity contracts if the value of all anticipated orders is expected to total \$350,000 or more.

[58 FR 28465, May 13, 1993, as amended at 69 FR 31909, June 8, 2004; 75 FR 45074, Aug. 2, 2010]

219.502-2 Total set-asides.

(a) Unless the contracting officer determines that the criteria for set-aside cannot be met, set aside for small business concerns acquisitions for—

(i) Construction, including maintenance and repairs, under \$2.5 million;

(ii) Dredging under \$1.5 million; and

(iii) Architect-engineer services for military construction or family housing projects of under \$350,000.

[58 FR 28465, May 13, 1993, as amended at 69 FR 31909, June 8, 2004; 71 FR 75892, Dec. 19, 2006; 75 FR 45074, Aug. 2, 2010]

219.502-3 Partial set-asides.

(c)(1) If the North American Industry Classification System Industry Subsector of the acquisition is one in which use of a price evaluation adjustment for small disadvantaged business concerns is currently authorized (*see* FAR 19.201(b)), apply the adjustment to the non-set-aside portion.

[65 FR 50149, Aug. 17, 2000]

219.505 Rejecting Small Business Administration recommendations.

(b) The designee shall be at a level no lower than chief of the contracting office.

Subpart 219.6—Certificates of Competency and Determinations of Responsibility

219.602 Procedures.

When making a nonresponsibility determination for a small business concern, follow the procedures at PGI 219.602.

[72 FR 20762, Apr. 26, 2007]

Subpart 219.7—The Small Business Subcontracting Program

219.702 Statutory requirements.

(1) Section 834 of Public Law 101-189, as amended (15 U.S.C. 637 note), requires DoD to establish a test program to determine whether comprehensive subcontracting plans on a corporate, division, or plant-wide basis will reduce administrative burdens while enhancing subcontracting opportunities for small and small disadvantaged business concerns. See PGI 219.702 for the requirements of the test program.

(2) Comprehensive subcontracting plans shall not be subject to application of liquidated damages during the period of the test program (Section 402, Pub. L. 101-574).

(3) The test program for negotiation of comprehensive small business subcontracting plans expires on December 31, 2014.

[72 FR 20762, Apr. 26, 2007, as amended at 77 FR 11368, Feb. 24, 2012]

219.703 Eligibility requirements for participating in the program.

(a) Qualified nonprofit agencies for the blind and other severely disabled, that have been approved by the Committee for Purchase from People Who Are Blind or Severely Disabled under 41 U.S.C. chapter 85, are eligible to participate in the program as a result of 10 U.S.C. 2410d and section 9077 of Pub. L. 102-396 and similar sections in subsequent Defense appropriations acts. Under this authority, subcontracts awarded to such entities may be counted toward the prime contractor's small business subcontracting goal.

(2)(A) To be eligible as an SDB subcontractor, a concern must meet the definition in 219.001.

(B) To be eligible as a historically black college or university or minority institution subcontractor, such entity must meet the definition in the clause at 252.219-7003, Small Business Subcontracting Plan (DoD Contracts).

(b) A contractor may also rely on the written representation as to status of—

(i) A historically black college or university or minority institution; or

219.704

(ii) A qualified nonprofit agency for the blind or other severely disabled approved by the Committee for Purchase from People Who Are Blind or Severely Disabled.

[57 FR 42630, Sept. 15, 1992, as amended at 58 FR 28465, May 13, 1993; 60 FR 13075, Mar. 10, 1995; 60 FR 41157, Aug. 11, 1995; 60 FR 61596, Nov. 30, 1995; 61 FR 50535, Sept. 26, 1996; 63 FR 11530, Mar. 9, 1998; 63 FR 41974, Aug. 6, 1998; 64 FR 51076, Sept. 21, 1999; 64 FR 62986, Nov. 18, 1999; 72 FR 20762, Apr. 26, 2007; 76 FR 58137, Sept. 20, 2011; 77 FR 35880, June 15, 2012]

219.704 Subcontracting plan requirements.

(1) The goal for use of small disadvantaged business concerns shall include subcontracts with historically black colleges and universities and minority institutions (see Subpart 226.70), in addition to subcontracts with small disadvantaged business concerns. Subcontracts with historically black colleges and universities and minority institutions do not have to be included in the small disadvantaged business goal in commercial items subcontracting plans.

(2) In those subcontracting plans which specifically identify small businesses, prime contractors shall notify the administrative contracting officer of any substitutions of firms that are not small business firms, for the small business firms specifically identified in the subcontracting plan. Notifications shall be in writing and shall occur within a reasonable period of time after award of the subcontract. Contractor-specified formats shall be acceptable.

(3) See 215.304 for evaluation of offers in acquisitions that require a subcontracting plan.

[72 FR 20762, Apr. 26, 2007]

219.705 Responsibilities of the contracting officer under the subcontracting assistance program.

219.705-4 Reviewing the subcontracting plan.

(d) Challenge any subcontracting plan that does not contain positive goals and consider the extent to which an offeror plans to use competition restricted to historically black colleges and universities or minority institutions. A small disadvantaged business

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goal of less than five percent must be approved one level above the contracting officer.

[56 FR 36353, July 31, 1991, as amended at 63 FR 41974, Aug. 6, 1998; 69 FR 67855, Nov. 22, 2004]

219.706 Responsibilities of the cognizant administrative contracting officer.

(a)(i) The contract administration office also is responsible for reviewing, evaluating, and approving master subcontracting plans.

(ii) The small business specialist supports the administrative contracting officer in evaluating a contractor's performance and compliance with its subcontracting plan.

219.708 Contract clauses.

(b)(1)(A) Except as provided in paragraph (b)(1)(B) of this section, use the clause at 252.219-7003, Small Business Subcontracting Plan (DoD Contracts)—

(1) In solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, that contain the clause at FAR 52.219-9, Small Business Subcontracting Plan.

(2) With its Alternate I in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, that use Alternate III of 52.219-9, Small Business Subcontracting Plan.

(B)(1) In prime contracts, including contracts using FAR part 12 procedures for the acquisition of commercial items, with contractors that have comprehensive subcontracting plans approved under the test program described in 219.702, use the clause at 252.219-7004, Small Business Subcontracting Plan (Test Program), instead of the clauses at 252.219-7003, Small Business Subcontracting Plan (DoD Contracts), and FAR 52.219-9, Small Business Subcontracting Plan (DoD Contracts), and FAR 52.219-9, Small Business Subcontracting Plan.

(2) However, also include in the prime contract, solely for the purpose of flowing the clauses down to subcontractors—

(i) FAR clause 52.219-9, Small Business Subcontracting Plan, and 252.219-7003; or

(ii) When the contract will not be reported in FPDS (see FAR 4.606 (c)(5)), FAR clause 52.219-9, Small Business Subcontracting Plan with its Alternate III and 252.219-7003, Small Business Subcontracting Plan (DoD Contracts), with its Alternate I.

(2) In contracts with contractors that have comprehensive subcontracting plans approved under the test program described in 219.702, do not use the clause at FAR 52.219-16, Liquidated Damages—Subcontracting Plan.

(c)(1) Do not use the clause at FAR 52.219-10, Incentive Subcontracting Program, in contracts with contractors that have comprehensive subcontracting plans approved under the test program described in 219.702.

[78 FR 37986, June 25, 2013]

Subpart 219.8—Contracting With the Small Business Administration (The 8(a) Program)

219.800 General.

(a) By Partnership Agreement (PA) between the Small Business Administration (SBA) and the Department of Defense (DoD), the SBA has delegated to the Under Secretary of Defense (Acquisition, Technology, and Logistics) its authority under paragraph 8(a)(1)(A) of the Small Business Act (15 U.S.C. 637(a)) to enter into 8(a) prime contracts, and its authority under 8(a)(1)(B) of the Small Business Act to award the performance of those contracts to eligible 8(a) Program participants. However, the SBA remains the prime contractor on all 8(a) contracts, continues to determine eligibility of concerns for contract award, and retains appeal rights under FAR 19.810. The SBA delegates only the authority to sign contracts on its behalf. Consistent with the provisions of the PA, this authority is hereby redelegated to DoD contracting officers. A copy of the PA, which includes the PA's expiration date, is available at PGI 219.800.

(b) Contracts awarded under the PA may be awarded directly to the 8(a) participant on either a sole source or

competitive basis. An SBA signature on the contract is not required.

(c) Notwithstanding the PA, the contracting officer may elect to award a contract pursuant to the provisions of FAR Subpart 19.8.

[67 FR 11436, Mar. 14, 2002, as amended at 72 FR 20762, Apr. 26, 2007]

219.803 Selecting acquisitions for the 8(a) Program.

When selecting acquisitions for the 8(a) Program, follow the procedures at PGI 219.803.

[72 FR 20762, Apr. 26, 2007]

219.804 Evaluation, offering, and acceptance.

When processing requirements under the PA, follow the procedures at PGI 219.804.

[72 FR 20762, Apr. 26, 2007]

219.804-1 Agency evaluation.

(f) The 8(a) firms should be offered the opportunity to give a technical presentation.

[63 FR 41974, Aug. 6, 1998]

219.805 Competitive 8(a).

219.805-1 General.

(b)(2)(A) For acquisitions that exceed the competitive threshold, the SBA also may accept the requirement for a sole source 8(a) award on behalf of a small business concern owned by a Native Hawaiian Organization (Section 8020 of Pub. L. 109-148).

(B) *Native Hawaiian Organization*, as used in this subsection and as defined by 15 U.S.C. 637(a)(15) and 13 CFR 124.3, means any community service organization serving Native Hawaiians in the State of Hawaii—

(1) That is a not-for-profit organization chartered by the State of Hawaii;

(2) That is controlled by Native Hawaiians; and

(3) Whose business activities will principally benefit such Native Hawaiians.

[70 FR 43073, July 26, 2005, as amended at 71 FR 34832, June 16, 2006]

219.805-2

219.805-2 Procedures.

When processing requirements under the PA, follow the procedures at PGI 219.805-2 for requesting eligibility determinations.

[72 FR 20762, Apr. 26, 2007]

219.806 Pricing the 8(a) contract.

For requirements processed under the PA cited in 219.800—

(1) The contracting officer shall obtain certified cost or pricing data from the 8(a) contractor, if required by FAR subpart 15.4; and

(2) SBA concurrence in the negotiated price is not required. However, except for purchase orders not exceeding the simplified acquisition threshold, the contracting officer shall notify the SBA prior to withdrawing a requirement from the 8(a) Program due to failure to agree on price or other terms and conditions.

[63 FR 33588, June 19, 1998, as amended at 67 FR 11437, Mar. 14, 2002; 67 FR 49256, July 30, 2002; 77 FR 76940, Dec. 31, 2012]

219.808 Contract negotiations.

219.808-1 Sole source.

For sole source requirements processed under the PA, follow the procedures at PGI 219.808-1.

[72 FR 20762, Apr. 26, 2007]

219.811 Preparing the contracts.

When preparing awards under the PA, follow the procedures at PGI 219.811.

[72 FR 20762, Apr. 26, 2007]

219.811-3 Contract clauses.

(1) Use the clause at 252.219-7009, Section 8(a) Direct Award, instead of the clauses at FAR 52.219-11, Special 8(a) Contract Conditions, FAR 52.219-12, Special 8(a) Subcontract Conditions, and FAR 52.219-17, Section 8(a) Award, in solicitations and contracts processed in accordance with the PA cited in 219.800.

(2) Use the clause at FAR 52.219-18, Notification of Competition Limited to Eligible 8(a) Concerns, with 252.219-7010, Alternate A, in solicitations and contracts processed in accordance with the PA cited in 219.800.

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(3) Use the clause at 252.219-7011, Notification to Delay Performance, in solicitations and purchase orders issued under the PA cited in 219.800.

[63 FR 33588, June 19, 1998, as amended at 67 FR 11437, Mar. 14, 2002; 72 FR 20762, Apr. 26, 2007]

Subpart 219.11—Price Evaluation Adjustment for Small Disadvantaged Business Concerns

219.1101 General.

The determination to use or suspend the price evaluation adjustment for DoD acquisitions can be found at <http://www.acq.osd.mil/dpap/dars/classdev/index.htm>.

[72 FR 20763, Apr. 26, 2007]

219.1102 Applicability.

(b) The price evaluation adjustment also shall not be used in acquisitions that are for commissary or exchange resale.

(c) Also, do not use the price evaluation adjustment in acquisitions that use tiered evaluation of offers, until a tier is reached that considers offers from other than small business concerns.

[63 FR 41974, Aug. 6, 1998, as amended at 71 FR 53043, Sept. 8, 2006]

Subpart 219.12—Small Disadvantaged Business Participation Program

SOURCE: 63 FR 64429, Nov. 20, 1998, unless otherwise noted.

219.1203 Incentive subcontracting with small disadvantaged business concerns.

The contracting officer shall encourage increased subcontracting opportunities for SDB concerns in negotiated acquisitions by providing monetary incentives in the North American Industry Classification System Industry Subsectors for which use of an evaluation factor or subfactor for participation of SDB concerns is currently authorized (see FAR 19.201(b)). Incentives

for exceeding SDB subcontracting targets shall be paid only if an SDB subcontracting target was exceeded as a result of actual subcontract awards to SDBs, and not a result of developmental assistance credit under the Pilot Mentor-Protégé Program (see Subpart 219.71).

[63 FR 64429, Nov. 20, 1998, as amended at 65 FR 50149, Aug. 17, 2000]

219.1204 Solicitation provisions and contract clauses.

(c) The contracting officer shall, when contracting by negotiation, insert in solicitations and contracts containing the clause at FAR 52.219-25, Small Disadvantaged Business Participation Program-Disadvantaged Status and Reporting, a clause substantially the same as the clause at FAR 52.219-26, Small Disadvantaged Business Participation Program-Incentive Subcontracting, when authorized (see FAR 19.1203). The contracting officer may include an award fee provision in lieu of the incentive; in such cases, however, the contracting officer shall not use the clause at FAR 52.219-26. Do not use award fee provisions in contracts with contractors that have comprehensive subcontracting plans approved under the test program described in 219.702.

[63 FR 64429, Nov. 20, 1998, as amended at 74 FR 34265, July 15, 2009]

Subpart 219.13—Historically Underutilized Business Zone (HUBZone) Program

219.1307 Price evaluation preference for HUBZone small business concerns.

(a) Also, do not use the price evaluation preference in acquisitions that use tiered evaluation of offers, until a tier is reached that considers offers from other than small business concerns.

[71 FR 53043, Sept. 8, 2006]

Subpart 219.70 [Reserved]

Subpart 219.71—Pilot Mentor-Protége Program

SOURCE: 65 FR 6555, Feb. 10, 2000, unless otherwise noted.

219.7100 Scope.

This subpart implements the Pilot Mentor-Protégé Program (hereafter referred to as the “Program”) established under Section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2302 note). The purpose of the Program is to provide incentives for DoD contractors to assist protege firms in enhancing their capabilities and to increase participation of such firms in Government and commercial contracts.

[66 FR 47108, Sept. 11, 2001, as amended at 69 FR 74995, Dec. 15, 2004]

219.7101 Policy.

DoD policy and procedures for implementation of the Program are contained in Appendix I, Policy and Procedures for the DoD Pilot Mentor-Protége Program.

219.7102 General.

The Program includes—

(a) Mentor firms that are prime contractors with at least one active subcontracting plan negotiated under FAR Subpart 19.7 or under the DoD Comprehensive Subcontracting Test Program.

(b) Protege firms that are—
 (1)(i) small disadvantaged business concerns as defined at 219.001(1);

(ii) Business entities owned and controlled by an Indian tribe;

(iii) business entities owned and controlled by a Native Hawaiian Organization;

(iv) Qualified organizations employing the severely disabled;

(v) Women-owned small business concerns;

(vi) Service-disabled veteran-owned small business concerns; or

(vii) HUBZone small business concerns;

(2) Eligible for receipt of Federal contracts; and

(3) Selected by the mentor firm.

219.7103

(c) Mentor-protege agreements that establish a developmental assistance program for a protege firm.

(d) Incentives that DoD may provide to mentor firms, including—

(1) Reimbursement for developmental assistance costs through—

(i) A separately priced contract line item on a DoD contract; or

(ii) A separate contract, upon written determination by the cognizant Component Director, Small Business Programs (SBP), that unusual circumstances justify reimbursement using a separate contract; or

(2) Credit toward applicable subcontracting goals, established under a subcontracting plan negotiated under FAR Subpart 19.7 or under the DoD Comprehensive Subcontracting Test Program, for developmental assistance costs that are not reimbursed.

[65 FR 6555, Feb. 10, 2000; 65 FR 30191, May 10, 2000, as amended at 66 FR 47108, Sept. 11, 2001; 69 FR 74995, Dec. 15, 2004; 70 FR 29645, May 24, 2005; 73 FR 46813, Aug. 12, 2008]

219.7103 Procedures.

219.7103-1 General.

The procedures for application, acceptance, and participation in the Program are in Appendix I, Policy and Procedures for the DoD Pilot Mentor-Protégé Program. The Director, SBP, of each military department or defense agency has the authority to approve contractors as mentor firms, approve mentor-protégé agreements, and forward approved mentor-protégé agreements to the contracting officer when funding is available.

[69 FR 74995, Dec. 15, 2004, as amended at 73 FR 46813, Aug. 12, 2008]

219.7103-2 Contracting officer responsibilities.

Contracting officers must—

(a) Negotiate an advance agreement on the treatment of developmental assistance costs for either credit or reimbursement if the mentor firm proposes such an agreement, or delegate authority to negotiate to the administrative contracting officer (see FAR 31.109).

(b) Modify (without consideration) applicable contract(s) to incorporate the clause at 252.232-7005, Reimbursement of Subcontractor Advance Pay-

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ments—DoD Pilot Mentor-Protege Program, when a mentor firm provides advance payments to a protege firm under the Program and the mentor firm requests reimbursement of advance payments.

(c) Modify (without consideration) applicable contract(s) to incorporate other than customary progress payments for protege firms in accordance with FAR 32.504(c) if a mentor firm provides such payments to a protege firm and the mentor firm requests reimbursement.

(d) Modify applicable contract(s) to establish a contract line item for reimbursement of developmental assistance costs if—

(1) A DoD program manager or the cognizant Component Director, SBP, has made funds available for that purpose; and

(2) The contractor has an approved mentor-protégé agreement.

(e) Negotiate and award a separate contract for reimbursement of developmental assistance costs only if—

(1) Funds are available for that purpose;

(2) The contractor has an approved mentor-protégé agreement; and

(3) The cognizant Component Director, SBP, has made a determination in accordance with 219.7102(d)(1)(ii).

(f) Not authorize reimbursement for costs of assistance furnished to a protégé firm in excess of \$1,000,000 in a fiscal year unless a written determination from the cognizant Component Director, SBP, is obtained.

(g) Advise contractors of reporting requirements in Appendix I.

(h) Provide a copy of the approved Mentor-Protege agreement to the Defense Contract Management Agency administrative contracting officer responsible for conducting the annual performance review (see appendix I, section I-113).

[65 FR 6555, Feb. 10, 2000; 65 FR 30191, May 10, 2000, as amended at 65 FR 50150, Aug. 17, 2000; 66 FR 47109, Sept. 11, 2001; 69 FR 74995, Dec. 15, 2004; 73 FR 46814, Aug. 12, 2008]

219.7104 Developmental assistance costs eligible for reimbursement or credit.

(a) Developmental assistance provided under an approved mentor-protege agreement is distinct from, and must not duplicate, any effort that is the normal and expected product of the award and administration of the mentor firm's subcontracts. The mentor firm must accumulate and charge costs associated with the latter in accordance with its approved accounting practices. Mentor firm costs that are eligible for reimbursement are set forth in appendix I.

(b) Before incurring any costs under the Program, mentor firms must establish the accounting treatment of developmental assistance costs eligible for reimbursement or credit. Advance agreements are encouraged. To be eligible for reimbursement under the Program, the mentor firm must incur the costs before October 1, 2018.

(c) If the mentor firm is suspended or debarred while performing under an approved mentor-protege agreement, the mentor firm may not be reimbursed or credited for developmental assistance costs incurred more than 30 days after the imposition of the suspension or debarment.

(d) Developmental assistance costs incurred by a mentor firm before October 1, 2018, that are eligible for crediting under the Program, may be credited toward subcontracting plan goals as set forth in appendix I.

[65 FR 6555, Feb. 10, 2000; 65 FR 30191, May 10, 2000, as amended at 67 FR 77937, Dec. 20, 2002; 70 FR 29645, May 24, 2005; 76 FR 71467, Nov. 18, 2011; 77 FR 11367, Feb. 24, 2012]

219.7105 Reporting.

Mentor and protege firms must report on the progress made under mentor-protege agreements as indicated in appendix I, section I-112.

[65 FR 6555, Feb. 10, 2000, as amended at 69 FR 74996, Dec. 15, 2004]

219.7106 Performance reviews.

The Defense Contract Management Agency will conduct annual performance reviews of all mentor-protege agreements as indicated in appendix I, section I-113. The determinations made

in these reviews should be a major factor in determinations of amounts of reimbursement, if any, that the mentor firm is eligible to receive in the remaining years of the Program participation term under the agreement.

[65 FR 50150, Aug. 17, 2000, as amended at 69 FR 74996, Dec. 15, 2004]

PART 222—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Sec.
222.001 Definitions.

Subpart 222.1—Basic Labor Policies

- 222.101 Labor relations.
- 222.101-1 General.
- 222.101-3 Reporting labor disputes.
- 222.101-3-70 Impact of labor disputes on defense programs.
- 222.101-4 Removal of items from contractors' facilities affected by work stoppages.
- 222.101-70 Acquisition of stevedoring services during labor disputes.
- 222.102 Federal and State labor requirements.
- 222.102-1 Policy.
- 222.103 Overtime.
- 222.103-4 Approvals.

Subpart 222.3—Contract Work Hours and Safety Standards

- 222.302 Liquidated damages and overtime pay.

Subpart 222.4—Labor Standards for Contracts Involving Construction

- 222.402 Applicability.
- 222.402-70 Installation support contracts.
- 222.403 Statutory and regulatory requirements.
- 222.403-4 Department of Labor regulations.
- 222.404 Construction Wage Rate Requirements statute wage determinations.
- 222.404-2 General requirements.
- 222.406 Administration and enforcement.
- 222.406-1 Policy.
- 222.406-6 Payrolls and statements.
- 222.406-8 Investigations.
- 222.406-9 Withholding from or suspension of contract payments.
- 222.406-10 Disposition of disputes concerning construction contract labor standards enforcement.