

970.5245-1

- (1) All or substantially all of the Contractor's business; or
 - (2) All or substantially all of the Contractor's operations at any one facility or separate location to which this contract is being performed; or
 - (3) A separate and complete major industrial operation in connection with the performance of this contract; or
 - (4) A separate and complete major construction, alteration, or repair operation in connection with performance of this contract; or
 - (5) A separate and discrete major task or operation in connection with the performance of this contract.
- (k) The Contractor shall include this clause in all cost reimbursable subcontracts.

(End of clause)

Alternate I (AUG 2016).As prescribed in 970.4501-1(b), when the award is to a nonprofit contractor, replace para-

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graph (j) of the basic clause with the following paragraph (j):

- (j) The term "contractor's managerial personnel" as used in this clause means the Contractor's directors, officers and any of its managers, superintendents, or other equivalent representatives who have supervision or direction of all or substantially all of—
- (1) The Contractor's business; or
 - (2) The Contractor's operations at any one facility or separate location at which this contract is being performed; or
 - (3) The Contractor's Government property system and/or a Major System Project as defined in DOE Order 413.3B, or successor version (Version in effect on effective date of contract).

[65 FR 81009, Dec. 22, 2000, as amended at 74 FR 36378, 36380, July 22, 2009; 77 FR 74389, Dec. 14, 2012; 81 FR 45978, July 15, 2016]

PARTS 971-999 [RESERVED]

CHAPTER 10—DEPARTMENT OF THE TREASURY

SUBCHAPTER A—GENERAL

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SUBCHAPTER A—GENERAL

PART 1000 [RESERVED]

PART 1001—DEPARTMENT OF THE TREASURY ACQUISITION REGU- LATION (DTAR) SYSTEM

Subpart 1001.1—Purpose, Authority, Issuance

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- 1001.101 Purpose.
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- 1001.301 Policy.
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- 1001.403 Individual deviations.
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Subpart 1001.6—Career Development, Contracting Authority and Responsibilities

- 1001.670 Contract clause.

AUTHORITY: 41 U.S.C. 1707.

SOURCE: 76 FR 42057, July 18, 2011, unless
otherwise noted.

Subpart 1001.1—Purpose, Authority, Issuance

1001.101 Purpose.

This subpart establishes Chapter 10, the Department of the Treasury Acquisition Regulation (DTAR), within Title 48 of the Federal Acquisition Regulation (FAR) System. The DTAR contains policies and procedures that supplement FAR coverage and directly affect the contractual relationship between the Department of the Treasury and its business partners (e.g., prospective offerors/bidders and contractors). When FAR coverage is adequate, there will be no corresponding DTAR coverage.

1001.104 Applicability.

The DTAR applies to all acquisitions of supplies and services, which obligate appropriated funds. For acquisitions made from non-appropriated funds, the Senior Procurement Executive will determine the rules and procedures that will apply. The DTAR does not apply to the acquisitions of the U.S. Mint.

1001.105 Issuance.

1001.105-1 Publication and code ar- rangement.

The DTAR and its subsequent changes will be published in the FEDERAL REGISTER and codified in the Code of Federal Regulations (CFR). The DTAR will be issued as 48 CFR Chapter 10.

1001.105-2 Arrangement of regula- tions.

(a) *References and citations.* The DTAR is divided into the same parts, subparts, sections, subsections, and paragraphs as the FAR except that 10 or 100 will precede the DTAR citation so that there are four numbers to the left of the first decimal. Reference to DTAR material must be made in a manner similar to that prescribed by FAR 1.105-2(c).

1001.105-3 Copies.

Copies of the DTAR in FEDERAL REGISTER or CFR form may be purchased from the Superintendent of Documents, Government Printing Office (GPO), Washington, DC 20402.

1001.106 OMB Approval under the Pa- perwork Reduction Act.

OMB has assigned the following control numbers that must appear on the upper right corner of the face page of each solicitation, contract, modification, and order: OMB Control No. 1505-0081 (Offeror submissions), OMB Control No. 1505-0080 (Contractor submissions), OMB Control No. 1505-0107 (Protests). OMB regulations and OMB's approval and assignment of control numbers are conditioned upon Treasury bureaus not requiring more than three copies (including the original) of any

1001.301

document of information. OMB has granted a waiver to permit the Department to require up to eight copies of proposal packages, including proprietary data, for solicitations, provided that contractors who submit only an original and two copies will not be placed at a disadvantage.

Subpart 1001.3—Agency Acquisition Regulations

1001.301 Policy.

(a)(1) The DTAR (48 CFR Chapter 10) is issued for Treasury implementation in accordance with the authority cited in FAR 1.301(b). The DTAR supplements the Federal Acquisition Regulation by establishing uniform policies for all acquisition activities throughout the Department of the Treasury, except for the United States Mint.

1001.304 Agency control and compliance procedures.

(a) The DTAR is under the direct oversight and control of Treasury's Office of the Procurement Executive (OPE), which is responsible for the evaluation, review, and issuance of all Department-wide acquisition regulations and guidance.

Subpart 1001.4—Deviations from the FAR

1001.403 Individual deviations.

The SPE is authorized to approve individual contract FAR and DTAR deviations.

1001.404 Class deviations.

(a) The SPE is authorized to approve class FAR and DTAR deviations.

Subpart 1001.6—Career Development, Contracting Authority and Responsibilities

1001.670 Contract clause.

Contracting Officers must insert a clause substantially similar to the clause in section 1052.201-70, Contracting Officer's Representative (COR) Appointment and Authority, in all solicitations and contracts. Exceptions to the requirement for inclusion of the COR clause and the appointment of a

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COR may be made at the discretion of the BCPO.

[76 FR 42057, July 18, 2011, as amended at 80 FR 11595, Mar. 4, 2015]

PART 1002—DEFINITIONS OF WORDS AND TERMS

Subpart 1002.1—Definitions

Sec.

1002.101 Definitions.

1002.70 Abbreviations.

AUTHORITY: 41 U.S.C. 1707.

SOURCE: 76 FR 42057, July 18, 2011, unless otherwise noted.

Subpart 1002.1—Definitions

1002.101 Definitions.

Bureau means any one of the following Treasury organizations:

(1) Alcohol and Tobacco Tax and Trade Bureau (TTTB);

(2) Bureau of Engraving & Printing (BEP);

(3) Bureau of the Fiscal Service (formerly Bureau of Public Debt and Financial Management Service);

(4) Departmental Offices (DO);

(5) Financial Crimes Enforcement Network (FinCEN);

(6) Office of the Inspector General (OIG);

(7) Internal Revenue Service (IRS);

(8) Office of the Comptroller of the Currency (OCC);

(9) Special Inspector General for the Troubled Asset Relief Program (SIGTARP);

(10) Treasury Inspector General for Tax Administration (TIGTA); or

(11) United States Mint.

[80 FR 11595, Mar. 4, 2015]

1002.70 Abbreviations.

BCPO Bureau Chief Procurement Officer

COR Contracting Officer's Representative

HCA Head of the Contracting Activity

IPP Invoice Processing Platform

OPE Office of the Procurement Executive

OSDBU Office of Small and Disadvantaged Business Utilization

Department of the Treasury

1002.70

SPE Senior Procurement Executive

[76 FR 42057, July 18, 2011, as amended at 77 FR 40304, July 9, 2012; 80 FR 11595, Mar. 3, 2015]

SUBCHAPTER B—ACQUISITION PLANNING

PART 1009—CONTRACTOR QUALIFICATIONS

AUTHORITY: 41 U.S.C. 418b.

SOURCE: 76 FR 42057, July 18, 2011, unless otherwise noted.

Subpart 1009.2—Qualifications Requirements

1009.204–70 Contractor publicity.

31 U.S.C. 333(a) prohibits the use of Treasury names, abbreviations, or

symbols, in connection with, or as a part of, any advertisement, solicitation, business activity, or product, in a manner that may imply endorsement by Treasury. Bureaus shall insert a clause substantially the same as 1052.210–70 Contractor Publicity in all solicitations and contracts.

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

PART 1016—TYPES OF CONTRACTS

AUTHORITY: 41 U.S.C. 1707.

SOURCE: 76 FR 42057, July 18, 2011, unless otherwise noted.

Subpart 1016.5—Indefinite-Delivery Contracts

1016.505 Ordering.

(b)(8) The HCA shall designate a task and delivery order ombudsman in accordance with bureau procedures and

provide a copy of the designation to the agency task and delivery order ombudsman. Bureau task and delivery order ombudsmen shall review complaints from contractors concerning task and delivery orders placed by the contracting activity and ensure they are afforded a fair opportunity to be considered, consistent with the procedures in the contract. In the absence of a designation, the Bureau advocate for competition will serve in that capacity.

[80 FR 1159, Mar. 4, 2015]

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

PART 1019—SMALL BUSINESS PROGRAMS

Subpart 1019.2—Policies

Sec.

1019.202 Specific policies.

1019.202–70 Treasury’s Mentor-Protégé Program

Subpart 1019.7—The Small Business Subcontracting Program

1019.705 Responsibilities of the Contracting Officer Under the Subcontracting Assistant Program.

1019.705–4 Reviewing the Subcontracting Plan.

Subpart 1019.8—Contracting With the Small Business Administration (The 8(a) Program)

1019.81 Preparing the contracts.

1019.811 Preparing the contracts.

1019.811–3 Contract clauses.

AUTHORITY: 41 U.S.C. 1707.

SOURCE: 76 FR 42057, July 18, 2011, unless otherwise noted.

Subpart 1019.2—Policies

1019.202 Specific policies.

1019.202–70 The Treasury Mentor Protégé Program.

(a)–(b) [Reserved]

(c) *Non-affiliation.* For purposes of the Small Business Act, a protégé firm may not be considered an affiliate of a mentor firm solely on the basis that the protégé firm is receiving developmental assistance referred to in paragraph (m) of this section, from such mentor firm under the Mentor-Protégé Program.

(d) *General policy.* (1) Eligible contractors, not included on the “System for Award Management Exclusions” that are approved as mentors will enter into agreements with eligible protégés. Mentors provide appropriate developmental assistance to enhance the capabilities of protégés to perform as contractors or subcontractors.

(2) A firm’s status as a protégé under a Treasury contract shall not have an

effect on the firm’s eligibility to seek other contracts or subcontracts.

(e) *Incentives for contractor participation.* (1) Under the Small Business Act, 15 U.S.C. 637(d)(4)(E), Treasury is authorized to provide appropriate incentives in negotiated contractual actions to encourage subcontracting opportunities consistent with the efficient and economical performance of the contract. Proposed mentor-protégé efforts will be considered during the evaluation of such negotiated, competitive offers. Contracting Officers may provide, as an incentive, a bonus score, not to exceed 5% of the relative importance assigned to the non-price factors. If this incentive is used, the Contracting Officer shall include language in the solicitation indicating that this adjustment may occur.

(2) Before awarding a contract that requires a subcontracting plan, the existence of a mentor-protégé arrangement, and performance (if any) under such an existing arrangement, will be considered by the Contracting Officer in:

(i) Evaluating the quality of a proposed subcontracting plan under FAR 19.705–4; and,

(ii) Evaluating the contractor compliance with the subcontracting plans submitted in previous contracts as a factor in determining contractor responsibility under FAR 19.705–5(a)(1).

(3) The Office of Small and Disadvantaged Business Utilization (OSDBU) Mentoring Award is a non-monetary award that will be presented (annually on a fiscal year basis or as often as is appropriate) 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 Director, OSDBU.

(f) [Reserved]

(g) *Mentor firms.* A mentor firm may be either a large or small business, eligible for award of a Government contract that can provide developmental assistance to enhance the capabilities of protégés to perform as subcontractors. Mentors will be encouraged to enter into arrangements with protégés

in addition to firms with whom they have established business relationships.

(h) *Protégé firms.* (1) For selection as a protégé, a firm must be:

(i) A small business, women-owned small business, small disadvantaged business, small business owned and controlled by veteran or service disabled veteran, or qualified HUBZone small business, or a qualified 8(a) concern;

(ii) Qualified as a small business under the NAICS code for the services or supplies to be provided by the protégé under its subcontract to the mentor; and

(iii) Eligible for award of Government contracts.

(2) Except small disadvantaged businesses and qualified HUBZone small business firms, a protégé firm may self-certify to a mentor firm that it meets the requirements set forth in paragraph (h)(1) of this section. Mentors may rely in good faith on written representations by potential protégés that they meet the specified eligibility requirements. The h(1)(i), small disadvantaged business, or qualified HUBZone small business status eligibility and documentation requirements are determined according to FAR 19.304 and 19.1303, respectively.

(3) Protégés may not have multiple mentors unless approved, in writing, by the Director, OSDBU. Protégés participating in other agency mentor protégé programs in addition to the Treasury Mentor-Protégé Program should maintain a system for preparing separate reports of mentoring activity for each agency's program.

(i) *Selection of protégé firms.* (1) Mentor firms will be solely responsible for selecting protégé firms. The mentor is encouraged to identify and select the types of protégé firms listed in 1019.202-70(h). Mentor firms may have multiple protégés.

(2) The selection of protégé firms by mentor firms may not be protested. Any question regarding the size or eligibility status of an entity selected by a mentor to be a protégé must be referred solely to Treasury's OSDBU for resolution. Treasury, at its discretion, may seek an advisory opinion from the Small Business Administration (SBA).

(j) *Application process for mentor firms to participate in the program.* (1) Firms interested in becoming a mentor firm may apply in writing to Treasury's OSDBU. The application will be evaluated based upon the description of the nature and extent of technical and managerial support proposed as well as the extent of other developmental assistance in the form of equity investment, loans, joint-venture support and traditional subcontracting support.

(k) *OSDBU review and approval process of agreement.* (1) OSDBU will review the information specified in 1019.202-70(1). The OSDBU review will be completed no later than 30 calendar days after receipt.

(2) Upon completion of the review, the mentor may implement the developmental assistance program.

(3) An approved agreement will be incorporated into the mentor firm's contract(s) with Treasury.

(4) If OSDBU disapproves the agreement, the mentor may provide additional information for reconsideration. Upon finding deficiencies that OSDBU considers correctable, OSDBU will notify the mentor and provide a list of defects. Any additional information or corrections requested will be provided within 30 calendar days. The review of any supplemental material will be completed within 30 calendar days after receipt by OSDBU. When submission of additional data is required during a proposal evaluation for a new contract award, shorter timeframes for submission, review and re-evaluation for approval may be authorized by OSDBU.

(5) The agreement defines the relationship between the mentor and protégé firms only. The agreement itself does not create any privity of contract between the mentor or protégé and Treasury.

(1) *Agreement contents.* The contents of the agreement will contain:

(1) Names and addresses of mentor and protégé firms and a point of contact within both firms who will oversee the agreement;

(2) Procedures for the mentor firm to notify the protégé firm, OSDBU and the Contracting Officer, in writing, at least 30 days in advance of the mentor

firm's intent to voluntarily withdraw from the Mentor-Protégé Program;

(3) Procedures for a protégé firm to notify the mentor firm in writing at least 30 days in advance of the protégé firm's intent to voluntarily terminate the mentor-protégé agreement. The mentor must notify OSDBU and the Contracting Officer immediately upon receipt of such notice from the protégé;

(4) Each proposed mentor-protégé relationship must include information on the mentor's ability to provide developmental assistance to the protégé and how that assistance will potentially increase contracting and subcontracting opportunities for the protégé firm;

(5) A description of the type of developmental program that will be provided by the mentor firm to the protégé firm, to include a description of the potential subcontract work, and a schedule for providing assistance and criteria for evaluation of the protégés developmental success;

(6) A listing of the types and dollar amounts of subcontracts that may be awarded to the protégé firm;

(7) Program participation term;

(8) Termination procedures;

(9) Plan for accomplishing work should the agreement be terminated; and

(10) Other terms and conditions, as appropriate.

(m) *Developmental assistance.* The forms of developmental assistance a mentor can provide to a protégé include:

(1) Management guidance relating to financial management, organizational management, overall business management/planning, business development, and technical assistance.

(2) Loans;

(3) Rent-free use of facilities and/or equipment;

(4) Property;

(5) Temporary assignment of personnel to protégé for purpose of training; and

(6) Any other types of mutually beneficial assistance.

(n) *Obligation.* (1) Mentor or protégé firms may voluntarily withdraw from the Mentor-Protégé Program. However, such withdrawal shall not excuse the contractor from compliance with contract requirements.

(2) At the conclusion of each year in the Mentor-Protégé Program, the contractor and protégé must formally brief the Department of the Treasury team regarding program accomplishments as they pertain to the approved agreement. Individual briefings may be conducted, at the request of either party. Treasury will consider the following:

(i) Specific actions taken by the mentor, during the evaluation period, to increase the participation of protégés as suppliers to the Federal government and to commercial entities;

(ii) Specific actions taken by the mentor, during the evaluation period, to develop the technical and corporate administrative expertise of a protégé as defined in the agreement;

(iii) To what extent the protégé has met the developmental objectives in the agreement; and

(iv) To what extent the mentor firm's participation in the Mentor-Protégé Program resulted in the protégé receiving contract(s) and subcontract(s) from private firms and agencies other than the Department of the Treasury.

(v) Mentor and protégé firms must submit an evaluation to OSDBU at the conclusion of the mutually agreed upon program period, the conclusion of the contract, or the voluntary withdrawal by either party from the Mentor-Protégé Program, whichever comes first.

(vi) Protégé firms shall submit a post completion report 24 months after exiting the Mentor-Protégé Program. The post completion report will assist the Department of the Treasury in assessing the progress of Protégé firms upon completion of the program.

(o) [Reserved]

(p) *Solicitation provisions and contract clauses* (1) Insert the provision at 1052.219-73, Department of the Treasury Mentor-Protégé Program, in all unrestricted solicitations exceeding \$650,000 (\$1,500,000 for construction) that offer subcontracting possibilities.

(2) Insert the clause at 1052.219-75, Mentor Requirements and Evaluation, in solicitations and contracts where the contractor is a participant in the Treasury Mentor-Protégé Program.

[76 FR 42057, July 18, 2011, as amended at 80 FR 11596, Mar. 4, 2015]

Department of the Treasury

1022.7000

**Subpart 1019.8—Contracting With
the Small Business Administra-
tion (The 8(a) Program)**

12, Special 8(a) Subcontract Conditions;
and FAR 52.219-17, Section 8(a) Award.
[76 FR 42057, July 18, 2011, as amended at 80
FR 11596, Mar. 4, 2015]

1019.81 Preparing the contracts.

**PART 1022—MINORITY AND
WOMEN INCLUSION**

1019.811-3 Contract clauses.

AUTHORITY: 12 U.S.C. 5452.

(d)(3) Insert the clause at 1052.219-18,
Notification of Competition Limited to
Eligible 8(a) Concerns—Alternate III
(Deviation), for paragraph (c) of FAR
52.219-18, Notification of Competition
Limited to Eligible 8(a) Concerns, in
all solicitations and contracts that ex-
ceed \$100,000 and are processed under
FAR 19.8.

SOURCE: 79 FR 15554, Mar. 20, 2014, unless
otherwise noted.

(f) Insert the clause at 1052.219-72,
Section 8(a) Direct Awards, in solicita-
tions and contracts that exceed \$100,000
and are processed under FAR 19.8 for
paragraph (c) of FAR 52.219-11, Special
8(a) Contract Conditions; FAR 52.219-

**Subpart 1022.70—Fair inclusion of
minorities and women**

1022.7000 Contract clause.

Insert the clause at 1052.222-70, Mi-
nority and Women Inclusion, in all so-
licitations and contracts in support of
Departmental Offices for services that
exceed the simplified acquisition
threshold.

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

PART 1028—BONDS AND INSURANCE

Subpart 1028.3—Insurance

Sec.

1028.307 Insurance under cost-reimbursement contracts.

1028.307-1 Group insurance plans.

1028.310 Contract clause for work on a Government installation.

1028.310-70 Agency contract clause for work on a Government installation.

1028.311 Solicitation provision and contract clause on liability insurance under cost-reimbursement contracts.

1028.311-2 Agency solicitation provisions and contract clauses.

AUTHORITY: 41 U.S.C. 1707.

SOURCE: 76 FR 42057, July 18, 2011, unless otherwise noted.

Subpart 1028.3—Insurance

1028.307 Insurance under cost-reimbursement contracts.

1028.307-1 Group insurance plans.

(a) Plans shall be submitted to the CO.

1028.310 Contract clause for work on a Government installation.

1028.310-70 Agency contract clause for work on a Government installation.

(a) Insert a clause substantially similar to 1052.228-70, Insurance requirements, in all solicitations and contracts that contain the clause at FAR 52.228-5.

[80 FR 11596, Mar. 4, 2015]

1028.311 Solicitation provision and contract clause on liability insurance under cost reimbursement contracts.

1028.311-2 Agency solicitation provisions and contract clauses.

Insert a clause substantially similar to 1052.228-70, Insurance requirements, in all solicitations and contracts that contain the clause at FAR 52.228-7.

[80 FR 11596, Mar. 4, 2015]

PART 1032—CONTRACT FINANCING

Subpart 1032.1—Non-Commercial Item Purchase Financing

Sec.

1032.113 Customary contract financing.

Subpart 1032.2—Commercial Item Purchase Financing

1032.202 General.

1032.202-1 Policy.

Subpart 1032.70—Electronic Submission and Processing of Payment Requests

1032.7000 Scope of subpart.

1032.7001 Definitions.

1032.7002 Policy.

1032.7003 Contract clause.

AUTHORITY: 41 U.S.C. 1707.

SOURCE: 76 FR 42057, July 18, 2011, unless otherwise noted.

Subpart 1032.1—Non-Commercial Item Purchase Financing

1032.113 Customary contract financing.

The specified arrangements are considered customary within Treasury.

Subpart 1032.2—Commercial Item Purchase Financing

1032.202 General.

1032.202-1 Policy.

(b)(2) Commercial interim payments and commercial advance payments may also be made when the contract price is at or below the simplified acquisition threshold.

Subpart 1032.70—Electronic Submission and Processing of Payment Requests

SOURCE: 77 FR 40304, July 9, 2012, unless otherwise noted.

Department of the Treasury

1033.201

1032.7000 Scope of subpart.

This subpart prescribes policies and procedures for electronic submission and processing of payment requests.

1032.7001 Definitions.

“Payment request,” as used in this subpart, is defined in the clause at 1052.232–7003, Electronic Submission of Payment Requests.

1032.7002 Policy.

(a) Contracts shall require the electronic submission of payment requests, except for—

(1) Purchases paid for with a Government-wide commercial purchase card;

(2) Classified contracts or purchases when electronic submission and processing of payment requests could compromise classified information or national security;

(b) Where a contract otherwise requires the electronic submission of invoices, the Contracting Officer may authorize alternate procedures only if the Contracting Officer makes a written determination that:

(1) The Department of the Treasury is unable to receive electronic payment requests or provide acceptance electronically;

(2) The contractor has demonstrated that electronic submission would be unduly burdensome; or

(3) The contractor is in the process of transitioning to electronic submission of payment requests, but needs additional time to complete such transition. Authorizations granted on this basis must specify a date by which the contractor will transition to electronic submission.

(c) Except as provided in paragraphs (a) and (b) of this section, Treasury of-

ficials shall process electronic payment submissions through the Treasury Invoice Processing Platform or successor system.

(d) If the requirement for electronic submission of payment requests is waived under paragraph (a)(2) or paragraph (b) of this section, the contract or alternate payment authorization, as applicable, shall specify the form and method of payment request submission.

[76 FR 42057, July 18, 2011, as amended at 80 FR 11596, Mar. 4, 2015]

1032.7003 Contract clause.

Except as provided in 1032.7002(a), use the clause at 1052.232–7003, Electronic Submission of Payment Requests, in all solicitations and contracts.

[80 FR 11596, Mar. 3, 2015]

PART 1033—PROTESTS, DISPUTES, AND APPEALS

AUTHORITY: 41 U.S.C. 418b.

SOURCE: 76 FR 42057, July 18, 2011, unless otherwise noted.

Subpart 1033.2—Disputes and Appeals

1033.201 Definitions.

Agency Board of Contract Appeals means the Civilian Board of Contract Appeals (CBCA). The CBCA is the authorized representative of the Secretary of the Treasury in hearing, considering, and determining all appeals of decisions of Contracting Officers filed by contractors pursuant to FAR Subpart 33.2. Appeals are governed by the Rules of Procedure of the CBCA.

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

PART 1034—MAJOR SYSTEM ACQUISITION

Subpart 34.0—General

Sec.

1034.001 Definitions.

1034.004 Acquisition strategy.

AUTHORITY: 41 U.S.C. 1707.

Subpart 34.0—General

1034.001 Definitions.

As used in this part—

Development, Modernization, Enhancement (DME) is the portion of an IT investment/project which deals with developing and implementing new or enhanced technology in support of an agency's mission.

Major acquisitions for development are defined as contracts, awarded in support of one or more Major IT investments with DME activities, which meet the contract threshold for fully applying FAR 34.2 procedures.

Performance-based acquisition management means a documented, systematic process for program management, which includes integration of program scope, schedule and cost objectives, establishment of a baseline plan for accomplishment of program objectives, and use of earned value techniques for performance measurement during execution of the program. A performance-based acquisition (as defined in FAR 37.101) or an acquisition with a defined quality assurance plan that includes performance standards/measures should be the basis for monitoring the contractor.

[76 FR 42057, July 18, 2011, as amended at 80 FR 11596, Mar. 4, 2015]

1034.004 Acquisition strategy.

(a) A program manager's acquisition strategy written at the system or investment level in accordance with FAR 7.103(e) shall include at a minimum:

(1) The relationship of each individual acquisition (Contract, Delivery Order, Task Order, or Interagency Agreement) to the overall investment

requirements and management structure;

(2) What work is being performed in-house (by government personnel) versus contracted out for the investment;

(3) A description of the effort, by acquisition, and the plans to include required clauses in the acquisitions;

(4) A timetable of major acquisition award and administration activities, including plans for contract transitions;

(5) An investment/system surveillance plan;

(6) Financial and human resource requirements to manage the acquisition processes through the investment lifecycle;

(7) Consideration of optimal contract types, including considerations of performance based approaches, small business utilization, Section 508, etc.; and

(8) Assurances that the acquisition strategy section and supporting acquisition plans will maximize competition, including enabling downstream competition through avoidance of vendor "lock in".

(b) The acquisition strategy shall be approved by a chartered interdisciplinary acquisition team that includes a representative of the procurement organization designated in accordance with bureau procedures.

PART 1036—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

AUTHORITY: 41 U.S.C. 418b.

SOURCE: 76 FR 42057, July 18, 2011, unless otherwise noted.

Subpart 1036.6—Architect-Engineer Services

1036.602-5 Short selection process for contracts not to exceed the simplified acquisition threshold.

Bureaus are authorized to use either process.

SUBCHAPTER G—CONTRACT MANAGEMENT

PART 1042—CONTRACT ADMINISTRATION AND AUDIT SERVICES

SOURCE: 76 FR 42057, July 18, 2011, unless otherwise noted.

1042.1500 [Reserved]

AUTHORITY: 41 U.S.C. 1707.

SUBCHAPTER H—CLAUSES AND FORMS

PART 1052—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 1052.2—Texts of Provisions and Clauses

Sec.

1052.201–70 Contracting Officer’s Representative (COR) appointment and authority.

1052.210–70 Contractor publicity.

1052.219–18 Notification of competition limited to eligible 8(a) Concerns—Alternate III (Deviation).

1052.219–72 Section 8(a) direct awards.

1052.219–73 Department of the Treasury Mentor-Protégé Program.

1052.219–75 Mentor requirements and evaluation.

1052.222–70 Minority and Women Inclusion.

1052.228–70 Insurance requirements.

1052.232–7003 Electronic submission of payment requests.

AUTHORITY: 41 U.S.C. 1707.

SOURCE: 76 FR 42057, July 18, 2011, unless otherwise noted.

Subpart 1052.2—Texts of Provisions and Clauses

EDITORIAL NOTE: At 79 FR 15554, Mar. 20, 2014, subpart 1052.2 was added, however, the amendment could not be incorporated due to inaccurate amendatory instruction.

1052.201–70 Contracting Officer’s Representative (COR) appointment and authority.

As prescribed in 1001.670–6, insert the following clause:

CONTRACTING OFFICER’S REPRESENTATIVE (COR) APPOINTMENT AND AUTHORITY (APR 2015)

(a) The COR is _____ [insert name, address and telephone number].

(b) Performance of work under this contract is subject to the technical direction of the COR identified above, or a representative designated in writing. The term “technical direction” includes, without limitation, direction to the contractor that directs or redirects the labor effort, shifts the work between work areas or locations, and/or fills in details and otherwise serves to ensure that tasks outlined in the work statement are accomplished satisfactorily.

(c) Technical direction must be within the scope of the contract specification(s)/work

statement. The COR does not have authority to issue technical direction that:

(1) Constitutes a change of assignment or additional work outside the contract specification(s)/work statement;

(2) Constitutes a change as defined in the clause entitled “Changes”;

(3) In any manner causes an increase or decrease in the contract price, or the time required for contract performance;

(4) Changes any of the terms, conditions, or specification(s)/work statement of the contract;

(5) Interferes with the contractor’s right to perform under the terms and conditions of the contract; or

(6) Directs, supervises or otherwise controls the actions of the Contractor’s employees.

(d) Technical direction may be oral or in writing. The COR must confirm oral direction in writing within five workdays, with a copy to the Contracting Officer.

(e) The Contractor shall proceed promptly with performance resulting from the technical direction issued by the COR. If, in the opinion of the Contractor, any direction of the COR or the designated representative falls within the limitations of (c) above, the Contractor shall immediately notify the Contracting Officer no later than the beginning of the next Government work day.

(f) Failure of the Contractor and the Contracting Officer to agree that technical direction is within the scope of the contract shall be subject to the terms of the clause entitled “Disputes.”

(End of clause)

[76 FR 42057, July 18, 2011, as amended at 80 FR 11596, Mar. 4, 2015; 81 FR 2760, Jan. 19, 2016]

1052.210–70 Contractor publicity.

As prescribed in 1009.204–70, insert the following clause:

CONTRACTOR PUBLICITY (APR 2015)

The Contractor, or any entity or representative acting on behalf of the Contractor, shall not refer to the supplies or services furnished pursuant to the provisions of this contract in any news release or commercial advertising, or in connection with any news release or commercial advertising, without first obtaining explicit written consent to do so from the Contracting Officer. Should any reference to such supplies or services appear in any news release or commercial advertising issued by or on behalf of the Contractor without the required consent, the

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Government shall consider institution of all remedies available under applicable law, including 31 U.S.C. 333, and this contract. Further, any violation of this clause may be considered as part of the evaluation of past performance.

(End of clause)

[80 FR 11596, Mar. 4, 2015]

1052.219-18 Notification of competition limited to eligible 8(a) concerns—Alternate III (Deviation) (MAY 1998).

In accordance with 1019.811-3(d)(3), substitute the following for the paragraph (c) in FAR 52.219-18:

(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.

1052.219-72 Section 8(a) direct awards.

As prescribed in 1019.811-3(f), insert the following clause:

8(a) BUSINESS DEVELOPMENT PROGRAM AWARDS (JUN 2003)

(a) This purchase/delivery/task order or contract is issued by the contracting activity directly to the 8(a) program participant/contractor pursuant to the Partnership Agreement between the Small Business Administration (SBA) and the Department of the Treasury. However, the Small Business Administration is the prime contractor and retains responsibility for 8(a) certification, 8(a) eligibility determinations and related issues, and provides counseling and assistance to the 8(a) contractor under the 8(a) Business Development program. The cognizant SBA district office is:

[To be completed by the contracting officer at the time of award]

(b) The contracting officer is responsible for administering the purchase/delivery/task order or contract and taking any action on behalf of the Government under the terms and conditions of the purchase/delivery/task order or contract, to include providing the cognizant SBA district office with a signed copy of the purchase/delivery/task order or contract award within 15 days of the award. However, the contracting officer shall give advance notice to the SBA before it issues a final notice terminating performance, either in whole or in part, under the purchase order or contract. The contracting officer shall also coordinate with SBA prior to processing any novation agreement. The contracting officer may assign contract administration functions to a contract administration office.

(c) The contractor agrees:

(1) to notify the contracting officer, simultaneously with its notification to SBA (as required by SBA's 8(a) regulations), when the owner or owners upon whom 8(a) eligibility is based, plan to relinquish ownership or control of the concern. Consistent with 15 U.S.C. 637(a)(21), transfer of ownership or control shall result in termination of the contract for convenience, unless SBA waives the requirement for termination prior to the actual relinquishing of control; and,

(2) to adhere to the requirements of FAR 52.219-14, Limitations on Subcontracting.

(End of clause)

1052.219-73 Department of the Treasury Mentor-Protégé Program.

As prescribed in 1019.202-70.(p), insert the following clause:

DEPARTMENT OF THE TREASURY MENTOR-PROTÉGÉ PROGRAM (JUN 2003)

(a) Large and small businesses are encouraged to participate in the Department of the Treasury Mentor-Protégé Program. Mentor firms provide small business protégés with developmental assistance to enhance their capabilities and ability to obtain Federal contracts.

(b) Mentor firms are large prime contractors or eligible small businesses capable of providing developmental assistance. Protégé firms are small businesses as defined in 13 CFR parts 121, 124, and 126.

Developmental assistance includes technical, managerial, financial, and other mutually beneficial assistance to aid protégé. Contractors interested in participating in the Program are encouraged to contact the Department of the Treasury Office of Small and Disadvantaged Business Utilization for further information.

(End of provision)

1052.219-75 Mentor Requirements and Evaluation.

As prescribed in 1019.202-70(p), insert the following clause:

MENTOR REQUIREMENTS AND EVALUATION (AUG 2011)

(a) Mentor and protégé firms shall submit an evaluation to the Department of the Treasury's Office of Small and Disadvantaged Business Utilization (OSDBU) at the conclusion of the mutually agreed upon Program period, or the voluntary withdrawal by either party from the Program, whichever occurs first. At the conclusion of each year in the Mentor-Protégé Program, the prime contractor and protégé will formally brief the Department of the Treasury Mentor-

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Protégé Program Manager regarding program accomplishments under their mentor-protégé agreements.

(b) A mentor or protégé must notify the OSDBU and the contracting officer, in writing, at least 30 calendar days in advance of the effective date of the firm’s withdrawal from the Program. A mentor firm must notify the OSDBU and the contracting officer upon receipt of a protégé’s notice of withdrawal from the Program.

(c) Contracting officers may provide, as an incentive, a bonus score, not to exceed 5% of the relative importance assigned to the non-price factors. If this incentive is used, the contracting officer shall include language in the solicitation indicating that this adjustment may occur.

(End of clause)

1052.222-70 Minority and Women Inclusion.

As prescribed in 1022.7000, insert the following clause:

MINORITY AND WOMEN INCLUSION (JAN 2016)

(a) Contractor confirms its commitment to equal opportunity in employment and contracting. To implement this commitment, the Contractor shall ensure, to the maximum extent possible consistent with applicable law, the fair inclusion of minorities and women in its workforce. The Contractor shall insert the substance of this clause in all subcontracts awarded under this contract whose dollar value exceeds \$150,000. Within ten business days of a written request from the Contracting Officer, or such longer time as the Contracting Officer determines, and without any additional consideration required from the Agency, the Contractor shall provide documentation, satisfactory to the Agency, of the actions it (and as applicable, its subcontractors) has undertaken to demonstrate its good faith effort to comply with the aforementioned provisions. For purposes of this contract, “good faith effort” may include actions by the Contractor intended to identify and, if present, remove barriers to minority and women employment or expansion of employment opportunities for minorities and women within its workforce. Efforts to remove such barriers may include, but are not limited to, recruiting minorities and women, providing job-related training, or other activity that could lead to those results.

(b) The documentation requested by the Contracting Officer to demonstrate “good faith effort” may include, but is not limited to, one or more of the following—

(1) The total number of Contractor’s employees, and the number of minority and

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women employees, by race, ethnicity, and gender (*e.g.*, an EEO-1);

(2) A list of subcontract awards under the contract that includes: Dollar amount, date of award, and subcontractor’s race, ethnicity, and/or gender ownership status;

(3) Information similar to that required in paragraph (b)(1) of this clause, with respect to each subcontractor; and/or

(4) The Contractor’s plan to ensure that minorities and women have appropriate opportunities to enter and advance within its workforce, including outreach efforts.

(c) Consistent with Section 342(c)(3) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203) (Dodd-Frank Act), a failure to demonstrate to the Director of the Agency’s Office of Minority and Women Inclusion such good faith efforts to include minorities and women in the Contractor’s workforce (and as applicable, the workforce of its subcontractors), may result in termination of the contract for default, other contractual remedies, or referral to the Office of Federal Contract Compliance Programs (OFCCP). Compliance with this clause does not, however, necessarily satisfy the requirements of Executive Order 11246, as amended, nor does it preclude OFCCP compliance evaluations and/or enforcement actions undertaken pursuant to that Executive Order.

(d) For purposes of this clause, the terms “minority,” “minority-owned business,” and “women-owned business” shall have the meanings set forth in Section 342(g) of the Dodd-Frank Act.

[81 FR 2761, Jan. 19, 2016]

1052.228-70 Insurance requirements.

As prescribed in 1028.310-70 and 1028.311-2, insert a clause substantially as follows: The contracting officer may require additional kinds of insurance (*e.g.*, aircraft public and passenger liability, vessel liability) or higher limits of coverage.

INSURANCE (APR 2015)

In accordance with FAR clause 52.228-5, entitled “Insurance—Work on a Government Installation” [or FAR clause 52.228-7 entitled, “*Insurance—Liability to Third Persons*”], insurance of the following kinds and minimum amounts shall be provided and maintained during the period of performance of this contract:

(a) *Worker’s compensation and employer’s liability.* The Contractor shall, as a minimum, meet the requirements specified at FAR 28.307-2(a).

(b) *General liability.* The Contractor shall, at a minimum, meet the requirements specified at FAR 28.307-2(b).

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(c) *Automobile liability.* The Contractor shall, at a minimum, meet the requirements specified at FAR 28.307-2(c).

(End of clause)

[80 FR 11597, Mar. 4, 2015]

1052.232-7003 Electronic submission of payment requests.

As prescribed in 1032.7003, use the following clause:

ELECTRONIC SUBMISSION OF PAYMENT
REQUESTS (APR 2015)

(a) *Definitions.* As used in this clause—

(1) “*Payment request*” means a bill, voucher, invoice, or request for contract financing payment with associated supporting documentation. The payment request must comply with the requirements identified in FAR 32.905(b), “Content of Invoices” and the ap-

plicable Payment clause included in this contract.

(b) Except as provided in paragraph (c) of this clause, the Contractor shall submit payment requests electronically using the Invoice Processing Platform (IPP). Information regarding IPP, including IPP Customer Support contact information, is available at *www.ipp.gov* or any successor site.

(c) The Contractor may submit payment requests using other than IPP only when the Contracting Officer authorizes alternate procedures in writing in accordance with Treasury procedures.

(d) If alternate payment procedures are authorized, the Contractor shall include a copy of the Contracting Officer’s written authorization with each payment request.

(End of clause)

[80 FR 11597, Mar. 4, 2015]

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