

List of Subjects in 48 CFR Parts 215 and 216

Government procurement.

Michele P. Peterson,
Editor, *Defense Acquisition Regulations System.*

■ Therefore, 48 CFR parts 215 and 216 are amended as follows:

■ 1. The authority citation for 48 CFR parts 215 and 216 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 215—CONTRACTING BY NEGOTIATION

■ 2. Section 215.304 is amended by adding paragraph (c)(iii) to read as follows:

215.304 Evaluation factors and significant subfactors.

(c) * * *

(iii) In accordance with 10 U.S.C. 2436, consider the purchase and use of capital assets (including machine tools) manufactured in the United States, in source selections for all major defense acquisition programs, as defined in 10 U.S.C. 2430, when it is pertinent to the best value determination.

PART 216—TYPES OF CONTRACTS

■ 3. Section 216.470 is amended as follows:

■ a. In the introductory text by removing the dash and adding a colon in its place;

■ b. By redesignating paragraphs (1) through (5) as paragraphs (a) through (e) respectively; and

■ c. By revising newly designated paragraph (a) to read as follows:

216.470 Other applications of award fees.

* * * * *

(a) The Government wishes to motivate and reward a contractor for—

(1) Purchase and use of capital assets (including machine tools) manufactured in the United States, on major defense acquisition programs; or

(2) Management performance in areas which cannot be measured objectively and where normal incentive provisions cannot be used. For example, logistics support, quality, timeliness, ingenuity, and cost effectiveness are areas under the control of management which may be susceptible only to subjective measurement and evaluation.

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DEPARTMENT OF DEFENSE**48 CFR Part 219 and Appendix I to Chapter 2**

[DFARS Case 2004-D028]

Defense Federal Acquisition Regulation Supplement; DoD Pilot Mentor-Protege Program

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Sections 841 and 842 of the National Defense Authorization Act for Fiscal Year 2005. Section 841 extends the length of the DoD Pilot Mentor-Protege Program for 5 additional years. Section 842 expands the Program to permit service-disabled veteran-owned small business concerns and HUBZone small business concerns to participate in the Program as protege firms.

DATES: Effective Date: May 24, 2005.

Comment Date: Comments on the interim rule should be submitted to the address shown below on or before July 25, 2005 to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2004-D028, using any of the following methods:

○ Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

○ Defense Acquisition Regulations Web site: <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. Follow the instructions for submitting comments.

○ E-mail: dfars@osd.mil. Include DFARS Case 2004-D028 in the subject line of the message.

○ Fax: (703) 602-0350.

○ Mail: Defense Acquisition Regulations Council, Attn: Ms. Deborah Tronic, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062.

○ Hand Delivery/Courier: Defense Acquisition Regulations Council, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202-3402.

All comments received will be posted to <http://emissary.acq.osd.mil/dar/dfars.nsf>.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Tronic, (703) 602-0289.

SUPPLEMENTARY INFORMATION:**A. Background**

This interim rule amends DFARS Subpart 219.71 and Appendix I to implement Sections 841 and 842 of the

National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108-375). Section 841 extends, through September 30, 2010, the period during which companies may enter into agreements under the DoD Pilot Mentor-Protege Program; and extends, through September 30, 2013, the period during which mentor firms may incur costs that are eligible for reimbursement or credit under the Program. Section 842 expands the Program to permit service-disabled veteran-owned small business concerns and HUBZone small business concerns to participate in the Program as protege firms.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD has prepared an initial regulatory flexibility analysis consistent with 5 U.S.C. 603. The analysis is summarized as follows:

This interim rule amends the DFARS to implement new statutory requirements pertaining to the DoD Pilot Mentor-Protege Program. The rule extends the length of the Program for 5 additional years, and expands the Program to permit service-disabled veteran-owned small business concerns and HUBZone small business concerns to participate in the Program as protege firms. The Program provides incentives for DoD contractors to assist protege firms in enhancing their capabilities and increasing their participation in Government and commercial contracts. Presently, there are 5,737 service-disabled veteran-owned small business concerns and 12,281 HUBZone small business concerns registered in the Central Contractor Registration database; and presently, there are 134 active mentor-protege agreements. Each protege firm must provide data to its mentor firm, annually for submission to the Government, regarding the progress of the protege firm in employment, revenues, and participation in DoD contracts. The rule does not duplicate, overlap, or conflict with any other Federal rules. The rule is expected to have a beneficial impact on service-disabled veteran-owned small business concerns and HUBZone small business concerns. There are no known significant alternatives to the rule. Participation in the DoD Pilot Mentor-Protege Program is voluntary.

DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be

submitted separately and should cite DFARS Case 2004–D028.

C. Paperwork Reduction Act

The information collection requirements of the DoD Pilot Mentor-Protege Program have been approved by the Office of Management and Budget under Control Number 0704–0332, for use through May 31, 2007.

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. This interim rule implements Sections 841 and 842 of the National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108–375). Section 841 extends the length of the DoD Pilot Mentor-Protege Program for 5 additional years. Section 842 expands the Program to permit service-disabled veteran-owned small business concerns and HUBZone small business concerns to participate in the Program as protege firms. Sections 841 and 842 became effective upon enactment on October 28, 2004. Comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Part 219

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR part 219 and Appendix I to chapter 2 are amended as follows:

■ 1. The authority citation for 48 CFR part 219 and Appendix I to subchapter I continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 219—SMALL BUSINESS PROGRAMS

■ 2. Section 219.7102 is amended as follows:

■ a. In paragraph (b)(1)(iv) by removing “or”; and

■ b. By adding paragraphs (b)(1)(vi) and (vii) to read as follows:

219.7102 General.

* * * * *

(b) * * *

(1) * * *

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

(vii) HUBZone small business concerns;

* * * * *

219.7104 [Amended]

■ 3. Section 219.7104 is amended in the last sentence of paragraph (b) and in paragraph (d) by removing “2008” and adding in its place “2013”.

Appendix I—Policy and Procedures for the DoD Pilot Mentor-Protege Program

I-101.6 [Amended]

■ 4. Appendix I to chapter 2 is amended in the heading of section I-101.6 by removing “(WOSB)”.

■ 5. Appendix I to chapter 2 is amended by adding sections I-101.7 and I-101.8 to read as follows:

I-101.7 HUBZone small business.

A qualified HUBZone small business concern as determined by the Small Business Administration in accordance with 13 CFR part 126.

I-101.8 Service-disabled veteran-owned small business.

A small business concern owned and controlled by service-disabled veterans as defined in Section 8(d)(3) of the Small Business Act (15 U.S.C. 637(d)(3)).

■ 6. Appendix I to chapter 2 is amended in section I-102 by revising paragraph (b)(1) to read as follows:

I-102 Participant eligibility.

* * * * *

(b) * * *

(1) An SDB, a women-owned small business, a HUBZone small business, a service-disabled veteran-owned small business, or an eligible entity employing the severely disabled;

* * * * *

■ 7. Appendix I to chapter 2 is amended in section I-103 by revising paragraph (a) and paragraph (b) introductory text to read as follows:

I-103 Program duration.

(a) New mentor-protege agreements may be submitted and approved through September 30, 2010.

(b) Mentors incurring costs prior to September 30, 2013, pursuant to an approved mentor-protege agreement may be eligible for—

* * * * *

■ 8. Appendix I to chapter 2 is amended in section I-104 by revising paragraph (a) to read as follows:

I-104 Selection of protege firms.

(a) Mentor firms will be solely responsible for selecting protege firms. Mentor firms are encouraged to identify and select concerns that are defined as emerging SDB, women-owned small business, HUBZone small business, service-disabled veteran-owned small business, or an eligible entity employing the severely disabled.

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■ 9. Appendix I to chapter 2 is amended in section I-105 by revising the first sentence of paragraph (b)(7) to read as follows:

I-105 Mentor approval process.

* * * * *

(b) * * *

(7) The total dollar amount and percentage of subcontracts that the company awarded to all SDB, women-owned small business, HUBZone small business, and service-disabled veteran-owned small business firms under DoD contracts and other Federal agency contracts during the 2 preceding fiscal years. * * *

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■ 10. Appendix I to chapter 2 is amended in section I-107 by revising paragraph (b) to read as follows:

I-107 Elements of a mentor-protege agreement.

* * * * *

(b) The NAICS code(s) that represent the contemplated supplies or services to be provided by the protege firm to the mentor firm and a statement that, at the time the agreement is submitted for approval, the protege firm, if an SDB, a women-owned small business, a HUBZone small business, or a service-disabled veteran-owned small business concern, does not exceed the size standard for the appropriate NAICS code;

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 041110317–4364–02; I.D. 051805B]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason quota transfer.

SUMMARY: NMFS announces that the State of North Carolina is transferring 8,206 lb (3,722 kg) of commercial summer flounder quota to the Commonwealth of Virginia from its 2005 quota. By this action, NMFS adjusts the quotas and announces the revised commercial quota for each state involved.

DATES: Effective May 19, 2005 through December 31, 2005, unless NMFS