the results of the reviewed plant and animal metabolism studies.

Currently, there are existing tolerances for residues of diuron on peppermint, hay at 2 ppm. The petitioner proposed tolerances be established on mint at 1.5 ppm. The EPA has determined that the preferred commodity terms are spearmint, tops and peppermint, tops and based on the residue field trial data the appropriate tolerance level for spearmint and peppermint should be 1.5 ppm. The EPA has also determined the preferred commodity terms should be cactus and fish - freshwater finfish, farm raised.

Therefore, these tolerances are established for combined residues of diuron (3-(3,4-dichlorophenyl)-1,1-dimethylurea and its metabolites convertible to 3,4-dichloroaniline on cactus at 0.05 ppm, spearmint, tops at 1.5 ppm, peppermint, tops at 1.5 ppm and fish - freshwater finfish, farm raised at 2.0 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000) do not apply to this rule. In addition, This rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 31, 2007.

Donald R. Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.106 is amended by redesignating the text in paragraph (a) as (a)(1); by adding paragraph (a)(2); and by adding text to paragraph (c) to read as follows:

§ 180.106 Diuron; tolerances for residues.

(a) (1) * * *

(2) Tolerances are established for the combined residues of the herbicide diuron (3-(3,4-dichlorophenyl)-1,1-dimethylurea and its metabolites convertible to 3,4-dichloroaniline, in or on the following raw agricultural commodities:

Commodity	Parts per million
Fish - freshwater finfish, farm raised	2.0
Peppermint, tops	1.5
Spearmint, tops	1.5

* * * * *

(c) *Tolerances with regional registrations*. Tolerances with a regional registration as defined in § 180.1(n) are established for the combined residues of the herbicide diuron (3-(3,4-dichlorophenyl)-1,1-dimethylurea and its metabolites convertible to 3,4-dichloroaniline) in or on the raw agricultural commodities:

Commodity	Parts per million
Cactus	0.05

* * * * *

[FR Doc. E7–11205 Filed 6–12–07; 8:45 am]

BILLING CODE 6560–50–S

AGENCY FOR INTERNATIONAL DEVELOPMENT

48 CFR Parts 719 and 752

RIN 0412–AA58

Mentor-Protégé Program

AGENCY: U.S. Agency for International Development (USAID).

ACTION: Final Rule.

SUMMARY: The United States Agency for International Development (USAID) is issuing this final rule to amend its acquisition regulations to formally encourage USAID prime contractors to assist small business, including veteran-owned small business, service-disabled veteran-owned small business, HUBZone, small socially and

economically disadvantaged business, and women-owned small business, in enhancing their capabilities to perform contracts and subcontracts for USAID and other Federal agencies. The program seeks to increase the base of small business eligible to perform USAID contracts and subcontracts. The program also seeks to foster long-term business relationships between USAID prime contractors and small business entities and to increase the overall number of small business entities that receive USAID contracts, and subcontract awards.

DATES: *Effective Date:* This rule will take effect July 13, 2007.

FOR FURTHER INFORMATION CONTACT: Rockfeler P. Herisse, Ph.D., U.S. Agency for International Development, Attn. Mentor-Protégé Program, Office of Small and Disadvantaged Business Utilization, 1300 Pennsylvania Avenue, NW., Washington, DC 20523–7800, Telephone: 202–712–0064, and E-mail: *rherisse@usaid.gov.*

SUPPLEMENTARY INFORMATION:

I. Background
II. Resolution of Comments
III. Procedural Requirements
A. Review Under Executive Order 12866
B. Review Under Executive Order 12988
C. Review Under the Regulatory Flexibility Act
D. Review Under the Paperwork Reduction Act
E. Review Under Executive Order 12612
F. Review Under the Unfunded Mandates Reform Act of 1995

I. Background

On November 22, 2006, the U.S. Agency for International Development (USAID) published a notice of proposed rulemaking (71 FR 67518), which proposed to develop a program that encouraged USAID prime contractors to assist small business, including veteran-owned small business, service-disabled small business, HUBZone, small socially and economically disadvantaged business, and women-owned small business in enhancing their capabilities to perform contracts and subcontracts for USAID and other Federal agencies. Comments on this proposed rule were extended to and closed on February 22, 2007 (71 FR 70939).

Successful Mentor-Protégé arrangements represent opportunities for creating access for small business to USAID contracts and awards let through negotiated procurements. USAID received comments on the proposed rule suggesting the Agency clarify the eligible participants in the Program and the types of incentives USAID may provide to prime contractors for providing developmental assistance to protégés. After careful consideration of the public comments received on the notice of proposed rulemaking, USAID today publishes a final rule.

II. Resolution of Comments

Fourteen comments were received in response to the proposed rule. The comments and USAID's responses are as follows:

Comment: USAID's implementation of its Mentor-Protégé Program must be narrowly tailored within SBA's statutory and regulatory constraints, absent USAID-specific statutory authority.

Response: USAID agrees that its Mentor-Protégé Program must stay within SBA regulations and USAID-specific statutory authority.

USAID received two comments related to Minority Serving Institutions in the proposed rule.

Comment 1 states: We support the inclusion of Minority Serving Institutions (MSIs) as eligible protégés but recommend that the expanded description of MSIs in this (the Purpose) section be deleted since it is specifically covered as a definition in section 719.273–2(b) and in FAR 2.101–2.

Comment 2 states: We support the inclusion of Minority Serving Institutions (MSIs) as eligible mentors, but question USAID's authority to use MSIs as small business concern protégés.

Response: USAID intended to include MSIs in the scope of this program. However, doing so would be outside its statutory authority. USAID agrees that it does not currently have the statutory authority for this provision and has deleted this requirement from the Mentor-Protégé Program regulations. References to MSIs as mentors or protégés have been deleted from the final rule.

USAID received two comments related to the treatment of ''affiliation'' in the proposed rule.

Comment 1 states: We appreciate the affirmation included in this (Purpose) section that a protégé firm is not considered an affiliate of a mentor solely because of the developmental assistance the protégé receives under the Program but recommend that this statement be moved to section 719.273–2(a) where it more appropriately relates to the definition of a ''small business.''

Comment 2 states: We do not believe that [USAID] has the authority to waive the SBA's affiliation requirements, as set forth in 13 CFR 121.103.

Response: USAID does not intend to establish affiliate relationships or waive the SBA affiliation requirements, as doing so is not within the USAID statutory authority. The final rule is clarified in section 719.273–2.

Comment: We strongly support the formulation that a mentor may have more than one protégé providing that each relationship complies with the terms and conditions of the regulations and the mentor can demonstrate that it has the capacity to provide developmental assistance appropriate to the specific protégé. However, this language is already more appropriately addressed in sections 719.273–4(b) and 719.273–5(b) and thus should be deleted from this [Purpose] section.

Response: USAID agrees with this comment and has modified the final rule.

Comment: The commenter cites a portion of section 719.273–1 which concludes with a statement that USAID reserves the right ''to limit the total number of protégés participating'' in the Program. The Agency has not disclosed why it has an interest in establishing limits on participation in the program. It is also unclear whether this statement means that the Agency would limit the number of protégés a mentor could have or whether it is intended to operate as an overall limit of the number of mentor firms in the Program. For example, [Section] 719.273–5(b) states that USAID reserves the right to limit the number of protégés participating under each mentor firm * * * By contrast, in the Paperwork Reduction Act discussion in the Background section accompanying the rule the Agency ''estimates'' that there would be a total of thirty firms required to complete the application form. Regardless, we believe the issue of any Agency imposed limits, if there are to be any, is more appropriately addressed elsewhere in the substantive provisions of the rule.

Response: The commenter addresses several attributes of the Program, some of which are clarified in the final rule. USAID confirms its intent to reserve the right to limit the total number of participants in the Program, as expressed in section 719.273–4, in order to insure its effective management of the Program. The formulation in section 719.273–5(b) is clear in its intent to reserve the right to limit the number of protégés participating under each mentor under the Program, in order for USAID to effectively manage the Program, to conduct due diligence on all Mentor-Protégé Agreements, and to assure the developmental assistance proposed in the Agreements is being provided by the mentor to the protégé(s). The discussion on the Paperwork Reduction Act in the Background section is intended to

provide an estimate of the number of participants from the U.S. business community to participate in the Program and was not intended to set a predetermined limit on the number of participants in the Program. USAID will monitor the number of Agreements endorsed (participants accepted into the Program) and in effect between the firms within a given period of time. These Agreements will be entered by firms in the public domain outside the controls of the USAID, but USAID imposes these measures to potentially limit participation in the Program to assure the integrity of the Mentor-Protégé Program. USAID agrees to reflect this concern in the Internal Controls section 719.273–10(a)(4) of the final rule.

Comment: Addressing the definitions in section 719.273–2, commenter noted that the categories of firms eligible to participate in the Program are already covered in a more inclusive manner as a defined term in paragraph (a) of this Section and recommended deleting the listing in paragraph (e).

Response: USAID disagrees with this comment and believes that there is merit in listing the categories of small business firms in both the new introductory paragraph of the section and in the specific definition of a Protégé.

Comment: (Referring to the last sentence of undesignated first paragraph of section 719.273–4) We recognize that the goal of the Mentor-Protégé Program is to expand the opportunities for small businesses to participate in USAID procurements. However, based on the capabilities of the prospective protégé firm and the developmental assistance it may need, it may be unreasonable to expect a prospective mentor firm to include the prospective protégé in the subcontracts at the outset of an Agreement. We believe USAID intended the scope of opportunities for prospective firms to be as broad as possible and that the Agency did not intend to restrict prospective protégés to only those firms that are already qualified as potential prime contractors or as subcontractors under a mentor's prime contract * * *. We encourage USAID to clarify this important issue of eligibility in this paragraph.

Response: USAID does not expect nor will it require a prospective mentor firm to include the prospective protégé in the subcontracts at the onset of an Agreement. USAID has clarified this issue of eligibility in the final rule.

Comment: The commenter, citing the Federal Acquisition Regulation, states that USAID relies on 15 U.S.C. 637(d)(4)(E) for its authority to provide appropriate incentives to encourage subcontracting opportunities for small business consistent with the efficient and economical performance of the contract * * * [A]lthough USAID could provide certain evaluation preferences to mentors and protégés with an approved Agreement, [commenter did] not see how USAID can provide the subcontracting credit that is set forth in the proposed rule, noting that the Department of Defense needed specific statutory authority for their Mentor-Protégé Program to provide for subcontracting credits.

Response: USAID agrees that it currently does not have statutory authority to permit credit for subcontracting and has modified the final rule accordingly, to refine the language in 719.273–3(b). We are concerned about making the Program attractive to mentors and protégés through allowable incentives under its statutory authority. After reviewing incentives offered by other U.S. Government agencies and as permitted by our regulations, we revised this section, using the Environmental Protection Agency (EPA) program as a model. Under the same Small Business Act authority cited above, EPA has provided certain ''incentives'' for mentors, as codified in 48 CFR 1552.219–71(j); their regulation states that costs incurred by the offeror in fulfilling their agreement with a protégé firm are not reimbursable as a direct cost under the contract, but if EPA is the responsible audit agency, these costs will be considered in determining indirect cost rates. In the final rule, USAID's ''incentive'' is similar to one provided by EPA.

Comment: When referencing a term such as ''small business,'' HUBZone, etc., USAID should be referring the reader to SBA's regulations rather than the FAR. The term as used in USAID's regulation should also be consistent with the term as defined in 13 CFR.

Response: USAID has modified the final rule accordingly.

We received two comments on section 719.273–4(b)(1)(ii). The first commenter noted that the section provides that the applicable NAICS code for determining small business status is the services or supplies to be provided by the Protégé to the mentor, but that ''the January 2006 application form prescribes that small business eligibility is based on the primary NAICS code for the small business concern. These two differing standards must be reconciled. We support the formulation used in the rule.'' The second commenter asked that USAID clarify that the protégé must be small for the NAICS codes assigned to the subcontract by the prime contractor (13 CFR 121.405).

Response: In the final rule, USAID indicates that the protégé must be small for the NAICS codes designated by the mentor, based on the supplies or services the protégé may provide to the mentor under a subcontract, in cases where there is a subcontract. USAID is not limiting protégé eligibility to only those small businesses that have a subcontract with the mentor, so we do not want the final rule to appear to make such a limitation. The comment about the application form is outside the scope of the proposed and this final rule.

Comment: The Summary of the proposed rule is not in agreement with the language in the proposed regulation and may be misleading.

Response: USAID agrees and has modified the rule to harmonize the summary and the language of the regulation.

Comment: The clause reference 752.219–270 should be 752.219–70.

Response: USAID agrees and deleted the number ''2'' from clause reference 752.219–70.

Comment: In section 719.273–4 Eligibility of Mentor and Protégé Firms (b)(2), please clarify that the applicable certifications must be in accordance with SBA's Program regulations contained in 13 CFR 124 and 126.

Response: USAID agrees and has modified the final rule accordingly.

III. Procedural Requirements

A. Review Under Executive Order 12866

Today's regulatory action has been determined to be a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Accordingly, this final rule was subject to review under that Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

B. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) Write regulations to minimize litigation; and (3) Provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a),

section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the subject law's preemptive effect, if any; (2) Clearly specifies any effect on existing Federal law or regulation; (3) Provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) Specifies the retroactive effect, if any; (5) Adequately defines key terms; and (6) Addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. USAID has completed the required review and determined that these proposed regulations meet the relevant standards of Executive Order 12988.

C. Review Under the Regulatory Flexibility Act

This final rule has been reviewed under the Regulatory Flexibility Act of 1980, Public Law 96–354, that requires preparation of an initial regulatory flexibility analysis for any rule that must be proposed for public comment and that is likely to have significant economic impact on a substantial number of small entities. Small entities include small business, small organizations, and small governmental jurisdictions.

For purposes of assessing the impact of today's rule on small entities, small entity is defined as: (1) A small business that meets the definition of a small business found in the Small Business Act and codified in 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town school district or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities.'' (5 U.S.C. 603 and 604) Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. In fact, the purpose of the USAID Mentor-Protégé Program is to increase small business accessibility to USAID contracting. This rule streamlines USAID internal operating procedures and will therefore not have a significant economic impact on small entities.

D. Review Under the Paperwork Reduction Act

This rule requires USAID Mentor-Protégé Program participants to submit an application (see section 719.273–7) and annual progress reports to the USAID Mentor-Protégé Program Manager at USAID Headquarters (see section 719.273–10). The information in the reports is necessary to determine the value of the developmental assistance and if the schedules and developmental assistance levels contained in Mentor-Protégé Agreements are being met. Performance under the Agreements is the basis for providing proper recognition to Mentor firms. USAID submitted the proposed collection of information to the Office of Management and Budget for review and approval under the Paperwork Reduction Act, 44 U.S.C. 3501, et seq. The Office of Management and Budget has not yet approved the collection of information in this rule.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number (5 CFR 1320.5(b)).

E. Review Under Executive Order 12612

Executive Order 12612, (52 FR 41685, October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the Federal Government and the States, or in the distribution of power and responsibilities among the various levels of Government. If there are sufficient substantial direct effects, then the Executive Order requires the preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action. States would not be directly subject to this rule, since they are not among the class of entities described as Mentors or Protégés. USAID has determined that this rule would not have a substantial direct effect on the institutional interests or traditional functions of the States.

F. Review Under the Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) generally requires a Federal agency to perform a detailed assessment of costs and benefits of any rule imposing a federal mandate with costs to State, local or tribal governments, or to the private sector of $100 million or more. This rulemaking would only affect private sector entities, and the impact is less than $100 million.

List of Subjects in 48 CFR Part 719

Government procurement.

■ For the reasons set out in the preamble, USAID amends 48 CFR Chapter 7 as set forth below:

PART 719—SMALL BUSINESS PROGRAMS

■ 1. The authority citation for part 719 is revised to read as follows:

Authority: 42 U.S.C. 7254, 40 U.S.C. 486(c), 42 U.S.C. 2201.

■ 2. A new subpart 719.273 is added as follows:

Subpart 719.273—The U.S. Agency for International Development (USAID) Mentor-Protégé Program

Sec.

719.273 The U.S. Agency for International Development Mentor-Protégé Program.
719.273–1 Purpose.
719.273–2 Definitions.
719.273–3 Incentives for Prime Contractor Participation.
719.273–4 Eligibility of Mentor and Protégé Firms.
719.273–5 Selection of Protégé Firms.
719.273–6 Application Process.
719.273–7 OSDBU Review of Application.
719.273–8 Developmental Assistance.
719.273–9 Obligations Under the Mentor-Protégé Program.
719.273–10 Internal Controls.
719.273–11 Solicitation Provision and Contract Clause.

719.273 The United States Agency for International Development (USAID) Mentor-Protégé Program.

719.273–1 Purpose.

The USAID Mentor-Protégé Program is designed to assist small business, including veteran-owned small business, service-disabled veteran-owned small business, HUBZone, small socially and economically disadvantaged business, and women-owned small business in enhancing their capabilities to perform contracts

and sub-contracts for USAID and other Federal agencies. The Mentor-Protégé Program is also designed to improve the performance of USAID contractors and subcontractors by providing developmental assistance to Protégé entities, fostering the establishment of long-term business relationships between small business and prime contractors, and increasing the overall number of small business that receive USAID contract and subcontract awards. A firm's status as a Protégé under a USAID contract shall not have an effect on the firm's eligibility to seek other prime contracts or subcontracts.

719.273–2 Definitions.

Throughout, the term ''small business'' includes all categories of small firms as defined by the Small Business Administration (SBA) on whose behalf the Office of Small and Disadvantaged Business Utilization (OSDBU) is chartered to advocate, including small business, small disadvantaged business, women-owned small business, veteran-owned and service-disabled veteran-owned small business and small business located in HUBZones, as those terms are defined in 13 CFR part 124. The determination of affiliation is a function of the SBA.

(a) A ''Mentor'' is a prime contractor that elects to promote and develop small business subcontractors by providing developmental assistance designed to enhance the business success of the Protégé.

(b) ''Program'' refers to the USAID Mentor-Protégé Program as described in this Chapter.

(c) ''Protégé'' means a small business, small disadvantaged business, women-owned small business, HUBZone small business, veteran-owned small business or service-disabled veteran owned small business that is the recipient of developmental assistance pursuant to a Mentor-Protégé Agreement.

719.273–3 Incentives for Prime Contractor Participation.

(a) Under the Small Business Act, 15 U.S.C. 637(d)(4)(E), USAID is authorized to provide appropriate incentives to encourage subcontracting opportunities for small business consistent with the efficient and economical performance of the contract. This authority is limited to negotiated procurements. FAR 19.202–1 provides additional guidance.

(b) Costs incurred by a Mentor to provide developmental assistance, as described in 719.273–8 to fulfill the terms of their agreement(s) with a Protégé firm(s), are not reimbursable as a direct cost under a USAID contract. If USAID is the mentor's responsible audit agency under FAR 42.703–1, USAID will consider these costs in determining indirect cost rates. If USAID 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 subparagraph (b) above, contracting officers may give Mentors evaluation credit under FAR 15.101–1 considerations for subcontracts awarded pursuant to their Mentor-Protégé Agreements and their subcontracting plans. Therefore:

(1) Contracting officers may evaluate subcontracting plans containing Mentor-Protégé arrangements more favorably than subcontracting plans without Mentor-Protégé Agreements.

(2) Contracting officers may assess the prime contractor's compliance with the subcontracting plans submitted in previous contracts as a factor in evaluating past performance under FAR 15.305(a)(2)(v) and determining contractor responsibility 19.705–5(a)(1).

(d) OSDBU Mentoring Award. A non-monetary award will 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 Director of the Office of Small and Disadvantaged Business Utilization (OSDBU).

(e) OSDBU 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 Program progress.

719.273–4 Eligibility of Mentor and Protégé Firms.

Eligible business entities approved as Mentors may enter into agreements (hereafter referred to as ''Mentor-Protégé Agreement'' or ''Agreement'' and explained in section 719.273–6) with eligible Protégés. Mentors provide appropriate developmental assistance to enhance the capabilities of Protégés to perform as contractors and/or subcontractors. Eligible small business entities capable of providing developmental assistance may be approved as Mentors. Protégés may participate in the Program in pursuit of a prime contract or as subcontractors under the Mentor's prime contract with the USAID, but are not required to be a subcontractor to a USAID prime contractor or be a USAID prime contractor. Notwithstanding eligibility requirements in this section, USAID reserves the right to limit the number of participants in the Program in order to insure its effective management of the Mentor-Protégé Program.

(a) Eligibility. A Mentor:

(1) May be either a large or small business entity;

(2) Must be eligible for award of Government contracts;

(3) Must be able to provide developmental assistance that will enhance the ability of Protégés to perform as prime contractors or subcontractors; and

(4) Will be encouraged to enter into arrangements with entities with which it has established business relationships.

(b) Eligibility. A Protégé:

(1) Must be a small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone, small socially and economically disadvantaged business, and women-owned small business);

(2) Must meet the size standard corresponding to the NAICS code that the Mentor prime contractor believes best describes the product or service being acquired by the subcontract; and

(3) Eligible for award of government contracts.

(c) Protégés may have multiple Mentors. Protégés participating in Mentor-Protégé programs in addition to USAID's Program should maintain a system for preparing separate reports of Mentoring activity so that results of the USAID Program can be reported separately from any other agency program.

(d) A Protégé firm shall self-certify to a Mentor firm that it meets the requirements set forth in paragraph (b) of this section and possess related certifications granted by the Small Business Administration (e.g., HUBZone, 8(a), etc.). Mentors may rely in good faith on written representations by potential Protégés that they meet the specified eligibility requirements. HUBZone and small disadvantaged business status eligibility and documentation requirements are determined according to 13 CFR part 124.

719.273–5 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 including small disadvantaged business, women-owned small business, veteran-owned small business, service-disabled veteran-owned small business, and HUBZone firms whose core competencies support USAID's mission.

(b) Mentors may have multiple Protégés. However, to preserve the

integrity of the Program and assure the quality of developmental assistance provided to Protégés, USAID reserves the right to limit the total number of Protégés participating under each Mentor firm for the Mentor-Protégé Program.

(c) The selection of Protégé firms by Mentor firms may not be protested, except that any protest regarding the size or eligibility status of an entity selected by a Mentor shall be handled in accordance with the Federal Acquisition Regulation (FAR) and the Small Business Administration regulations.

719.273–6 Application Process.

Entities interested in becoming a Mentor firm must apply in writing to the USAID Office of Small and Disadvantaged Business Utilization (OSDBU) by submitting form AID 321–1 (OMB Control number 0412–0574 approved on 5/22/2007). The application shall contain the Mentor-Protégé Agreement and shall be evaluated for approval. Evaluations will consider the nature and extent of technical and managerial support as well as any proposed financial assistance in the form of equity investment, loans, joint-venture, and traditional subcontracting support. The Mentor-Protégé Agreement must contain:

(a) Names, addresses, phone numbers, and e-mail addresses (if available) of Mentor and Protégé firm(s) and a point of contact for both Mentor and Protégé;

(b) A description of the developmental assistance that will be provided by the Mentor to the Protégé, including a description of the work or product contracted for (if any), a schedule for providing assistance, and criteria for evaluation of the Protégé's developmental success;

(c) A listing of the number and types of subcontracts to be awarded to the Protégé;

(d) Duration of the Agreement, including rights and responsibilities of both parties (Mentor and Protégé);

(e) Termination procedures, including procedures for the parties' voluntary withdrawal from the Program. The Agreement shall require the Mentor or the Protégé to notify the other firm in writing at least 30 days in advance of its intent to voluntarily terminate the Agreement;

(f) Procedures requiring the parties to notify OSDBU immediately upon receipt of termination notice from the other party;

(g) A plan for accomplishing the work or product contracted for should the Agreement be terminated; and

(h) Other terms and conditions, as appropriate.

719.273–7 OSDBU Review of Application.

(a) OSDBU will review the information to establish the Mentor and Protégé eligibility and to ensure that the information that is in section 719.273–6 is included. If the application relates to a specific contract, then OSDBU will consult with the responsible contracting officer on the adequacy of the proposed Agreement, as appropriate. OSDBU will complete its review no later than 30 calendar days after receipt of the application or after consultation with the contracting officer, whichever is later. Application for and enrollment into the Program are free and open to the public.

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

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

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

719.273–8 Developmental Assistance.

The forms of developmental assistance a Mentor can provide to a Protégé include and are not limited to the following:

(a) Guidance relating to—

(1) Financial management;

(2) Organizational management;

(3) Overall business management/planning;

(4) Business development; and

(5) Technical assistance.

(b) Loans;

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

(d) Property;

(e) Temporary assignment of personnel to a Protégé for training; and

(f) Any other types of permissible, mutually beneficial assistance.

719.273–9 Obligations Under the Mentor-Protégé Program.

(a) A Mentor or Protégé may voluntarily withdraw from the Program. However, in no event shall such withdrawal impact the contractual requirements under any prime contract.

(b) Mentor and Protégé entities shall submit to the USAID Office of Small and Disadvantaged Business Utilization (OSDBU) annual reports on progress under the Mentor-Protégé Agreement. USAID will evaluate annual reports by considering the following:

(1) Specific actions taken by the Mentor during the evaluation period to increase the participation of their Protégé(s) as suppliers to the Federal Government and to commercial entities;

(2) Specific actions taken by the Mentor during the evaluation period to develop technical and administrative expertise of a Protégé as defined in the Agreement;

(3) The extent to which the Protégé has met the developmental objectives in the Agreement;

(4) The extent to which the Mentor's participation in the Mentor-Protégé Program impacted the Protégé'(s) ability to receive contract(s) and subcontract(s) from private firms and Federal agencies other than USAID; and, if deemed necessary;

(5) Input from the Protégé on the nature of the developmental assistance provided by the Mentor.

(c) OSDBU will submit annual reports to the relevant contracting officer regarding participating prime contractor(s)' performance in the Program.

(d) Mentor and Protégé firms shall 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 Program, whichever comes first.

719.273–10 Internal Controls.

(a) OSDBU will oversee the Program and will work in concert with the Mentor-Protégé Program Manager and relevant contracting officers to achieve Program objectives. OSDBU will establish internal controls as checks and balances applicable to the Program. These controls will include:

(1) Reviewing and evaluating Mentor applications for validity of the provided information;

(2) Reviewing annual progress reports submitted by Mentors and Protégés on Protégé development to measure Protégé progress against the plan submitted in the approved Agreement;

(3) Reviewing and evaluating financial reports and invoices submitted

by the Mentor to verify that USAID is not charged by the Mentor for providing developmental assistance to the Protégé; and

(4) Limiting the number of participants in the Mentor-Protégé Program within a reporting period, in order to insure the effective management of the Program.

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

719.273–11 Solicitation Provision and Contract Clause.

(a) The Contracting Officer shall insert the provision at AIDAR 752.219–70 in all unrestricted solicitations exceeding $550,000 ($1,000,000 for construction) that offer subcontracting opportunities.

(b) The Contracting Officer shall insert the clause at AIDAR 752.219–71 in all contracts where the prime contractor has signed a Mentor-Protégé Agreement with USAID.

PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Add section 752.219–70 to read as follows:

752.219–70 USAID Mentor-Protégé Program.

As prescribed in 719.273–11(a), insert the following provision:

USAID Mentor-Protégé Program (July 13, 2007)

(a) Large and small business are encouraged to participate in the USAID Mentor-Protégé Program (the ''Program''). Mentor firms provide eligible small business Protégés with developmental assistance to enhance their business capabilities and ability to obtain Federal contracts.

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

(c) Developmental assistance is technical, managerial, financial, and other mutually beneficial assistance that aids Protégés. The costs for developmental assistance are not chargeable to the contract.

(d) Firms interested in participating in the Program are encouraged to contact the USAID Mentor-Protégé Program Manager (202–712–1500) for more information.

(End of provision)

■ 4. Add section 752.219–271 to read as follows:

752.219–71 Mentor Requirements and Evaluation.

As prescribed in AIDAR 719.273–11(b), insert the following clause:

Mentor Requirements and Evaluation (July 13, 2007)

(a) Mentor and Protégé firms shall submit an evaluation of the overall experience in the Program 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 Program, whichever occurs first. At the conclusion of each year in the Mentor-Protégé Program, the Mentor and Protégé will formally brief the USAID Mentor-Protégé Program Manager regarding Program accomplishments under their Mentor-Protégé Agreement.

(b) Mentor or Protégé shall notify OSDBU in writing, at least 30 calendar days in advance of the effective date of the firm's withdrawal from the Program.

(End of clause)

Dated: May 31, 2007.

Robert K. Egge,

Acting Director, Office of Small and Disadvantaged Business Utilization (OSDBU).

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OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Part 9903

Cost Accounting Standards Board (CAS); Applicability of Cost Accounting Standards Coverage

AGENCY: Cost Accounting Standards Board, Office of Federal Procurement Policy, OMB.

ACTION: Final rule.

SUMMARY: The Office of Federal Procurement Policy, Cost Accounting Standards (CAS) Board, has adopted, without change from the interim rule, a final rule revising the criteria applicable to United Kingdom (UK) contractors for filing a Disclosure Statement, Form No. CASB DS–1. This rulemaking is authorized pursuant to Section 26 of the Office of Federal Procurement Policy Act.

EFFECTIVE DATE: June 13, 2007.

FOR FURTHER INFORMATION CONTACT: Laura Auletta, Manager, Cost Accounting Standards Board, 725 17th Street, NW., Room 9013, Washington, DC 20503 (telephone: 202–395–3256).

SUPPLEMENTARY INFORMATION:

A. Background

On May 23, 2005, the Cost Accounting Standards Board published an interim rule with request for comment (70 FR 29457) for the purpose of revising the criteria applicable to United Kingdom (UK) contractors for filing a Disclosure Statement, Form No. CASB DS–1. The interim rule was adopted in order to comply with a specific request by the UK Ministry of Defence (MOD) to simplify the compliance process with CAS Board disclosure requirements for UK contractors.

Unlike certain other foreign contractors, UK contractors have been required to file a CASB DS–1 in accordance with CAS regulations. The MOD initially approached the Board with a request that UK contractors be permitted to use the corresponding UK form ''Questionnaire on Method of Allocation of Costs'' (QMAC), in lieu of the CASB DS–1. After a review of the content of the QMAC, the UK and U.S. representatives agreed that it did not have the same scope as the CASB DS–1. Therefore, it was agreed that to cover the gap in the coverage a ''Supplemental QMAC'' was needed.

Based upon the Board's approval of a Supplemental QMAC that is acceptable to the MOD, the MOD requested that the CAS Board allow UK contractors to submit their basic QMAC, together with the Supplemental QMAC, in lieu of the DS–1. At its meeting on February 23, 2005, the Board agreed to change the CAS requirements so that UK contractors with CAS-covered contracts may file the UK QMAC together with its Supplement in lieu of the CASB DS–1 required of U.S. contractors. In conjunction with this change, the Board also agreed to eliminate the specific paragraph addressing UK contractors at 9903.201–1(b)(12). As a result, UK contractors are subject to the requirements of 9903.201–1(b)(4), *i.e.*, contracts and subcontracts with UK contractors are exempt from CAS ''insofar as the requirements of CAS other than 9904.401 and 9904.402 are concerned.'' The May, 2005 interim rule reflected these Board approved revisions.

B. Public Comments

The Board received one set of public comments in response to the Interim Rule.

1. CAS Coverage for UK Contractors

Comment: The commenter requested confirmation that the rule requires that UK contractors comply only with CAS 401 and 402.

Response: The language in the final rule requires that all UK contractors performing U.S. Government contracts and not otherwise exempt under 48 CFR