

- (iii) qualified HUBZone small business concerns;
- (iv) small business concerns owned and controlled by socially and economically disadvantaged individuals; or
- (v) small business concerns owned and controlled by women;
- (C) describes the type of assistance provided to proteges under each such program;
- (D) describes the benefits provided to mentors under each such program; and
- (E) describes the progress of proteges under each such program with respect to competing for Federal prime contracts and subcontracts.

(2) Provision of information

The head of each Federal department or agency carrying out a mentor-protege program shall provide to the Administrator, on an annual basis, the information necessary for the Administrator to submit a report required under paragraph (1).

(d) Definitions

In this section, the following definitions apply:

(1) Mentor

The term “mentor” means a for-profit business concern, of any size, that—

- (A) has the ability to assist and commits to assisting a protege to compete for Federal prime contracts and subcontracts; and
- (B) satisfies any other requirements imposed by the Administrator.

(2) Mentor-protege program

The term “mentor-protege program” means a program that pairs a mentor with a protege for the purpose of assisting the protege to compete for Federal prime contracts and subcontracts.

(3) Protege

The term “protege” means a small business concern that—

- (A) is eligible to enter into Federal prime contracts and subcontracts; and
- (B) satisfies any other requirements imposed by the Administrator.

(4) Covered mentor

The term “covered mentor” means a mentor that enters into an agreement under this chapter, or under any mentor-protege program approved under subsection (b)(1), with a covered protege.

(5) Covered protege

The term “covered protege” means a protege of a covered mentor that is a Puerto Rico business.

(6) Covered territory mentor

The term “covered territory mentor” means a mentor that enters into an agreement under this chapter, or under any mentor-protege program approved under subsection (b)(1), with a covered territory protege.

(7) Covered territory protege

The term “covered territory protege” means a protege of a covered territory mentor that is a covered territory business.

(e) Current mentor protege agreements

Mentors and proteges with approved agreement in a program operating pursuant to subsection (b)(4)(C) shall be permitted to continue their relationship according to the terms specified in their agreement until the expiration date specified in the agreement.

(f) Submission of agency plans

Agencies operating mentor protege programs pursuant to subsection (b)(4)(C) shall submit the plans specified in subsection (b)(1)(A) to the Administrator within 6 months of the promulgation of rules required by subsection (b)(3). The Administrator shall provide initial comments on each plan within 60 days of receipt, and final approval or denial of each plan within 180 days after receipt.

(Pub. L. 85-536, § 2[45], as added Pub. L. 112-239, div. A, title XVI, § 1641(2), Jan. 2, 2013, 126 Stat. 2077; amended Pub. L. 114-328, div. A, title XVIII, § 1813(e), Dec. 23, 2016, 130 Stat. 2653; Pub. L. 115-232, div. A, title VIII, § 861(d), (e), Aug. 13, 2018, 132 Stat. 1896, 1897; Pub. L. 116-283, div. A, title VIII, § 866(c), Jan. 1, 2021, 134 Stat. 3786.)

Editorial Notes

PRIOR PROVISIONS

A prior section 2[45] of Pub. L. 85-536 was renumbered section 2[49] and is set out as a note under section 631 of this title.

AMENDMENTS

2021—Subsec. (a)(4). Pub. L. 116-283, § 866(c)(1), added par. (4).

Subsec. (b)(3)(A). Pub. L. 116-283, § 866(c)(2), substituted “relationships—” and cls. (i) and (ii) for “relationships are between a covered protege and covered mentor.”

Subsec. (d)(6), (7). Pub. L. 116-283, § 866(c)(3), added pars. (6) and (7).

2018—Subsec. (a)(3). Pub. L. 115-232, § 861(d)(1), added par. (3).

Subsec. (b)(3)(A). Pub. L. 115-232, § 861(e), inserted “, except that such restrictions shall not apply to up to 2 mentor-protege relationships if such relationships are between a covered protege and covered mentor” after “each participant”.

Subsec. (d)(4), (5). Pub. L. 115-232, § 861(d)(2), added pars. (4) and (5).

2016—Subsec. (b)(3)(K). Pub. L. 114-328 added subpar. (K).

§ 657s. Limitations on subcontracting

(a) In general

If awarded a contract under section 637(a), 637(m), 644(a), 657a, or 657f of this title, a covered small business concern—

(1) in the case of a contract for services, may not expend on subcontractors more than 50 percent of the amount paid to the concern under the contract;

(2) in the case of a contract for supplies (other than from a regular dealer in such supplies), may not expend on subcontractors more than 50 percent of the amount, less the cost of materials, paid to the concern under the contract;

(3) in the case of a contract described in paragraphs (1) and (2)—

(A) shall determine for which category, services (as described in paragraph (1)) or

supplies (as described in paragraph (2)), the greatest percentage of the contract is awarded;

(B) shall determine the amount awarded under the contract for that category of services or supplies; and

(C) may not expend on subcontractors, with respect to the amount determined under subparagraph (B), more than 50 percent of that amount; and

(4) in the case of a contract which is principally for supplies from a regular dealer in such supplies, and which is not a contract principally for services or construction, shall supply the product of a domestic small business manufacturer or processor, unless a waiver of such requirement is granted—

(A) by the Administrator, after reviewing a determination by the applicable contracting officer that no small business manufacturer or processor can reasonably be expected to offer a product meeting the specifications (including period for performance) required by the contract; or

(B) by the Administrator for a product (or class of products), after determining that no small business manufacturer or processor is available to participate in the Federal procurement market.

(b) Similarly situated entities

Contract amounts expended by a covered small business concern on a subcontractor that is a similarly situated entity shall not be considered subcontracted for purposes of determining whether the covered small business concern has violated a requirement established under subsection (a) or (d).

(c) Modifications of percentages

The Administrator may change, by rule (after providing notice and an opportunity for public comment), a percentage specified in paragraphs (1) through (4) of subsection (a) if the Administrator determines that such change is necessary to reflect conventional industry practices among business concerns that are below the numerical size standard for businesses in that industry category.

(d) Other contracts

(1) In general

With respect to a category of contracts to which a requirement under subsection (a) does not apply, the Administrator is authorized to establish, by rule (after providing notice and an opportunity for public comment), a requirement that a covered small business concern may not expend on subcontractors more than a specified percentage of the amount paid to the concern under a contract in that category.

(2) Uniformity

A requirement established under paragraph (1) shall apply to all covered small business concerns.

(3) Construction projects

The Administrator shall establish, through public rulemaking, requirements similar to those specified in paragraph (1) to be applicable to contracts for general and specialty con-

struction and to contracts for any other industry category not otherwise subject to the requirements of such paragraph. The percentage applicable to any such requirement shall be determined in accordance with paragraph (1).

(e) Definitions

In this section, the following definitions apply:

(1) Covered small business concern

The term “covered small business concern” means a business concern that—

(A) with respect to a contract awarded under section 637(a) of this title, is a small business concern eligible to receive contracts under that section;

(B) with respect to a contract awarded under section 637(m) of this title—

(i) is a small business concern owned and controlled by women (as defined in that section); or

(ii) is a small business concern owned and controlled by women (as defined in that section) that is not less than 51 percent owned by 1 or more women who are economically disadvantaged (and such ownership is determined without regard to any community property law);

(C) with respect to a contract awarded under section 644(a) of this title, is a small business concern;

(D) with respect to a contract awarded under section 657a of this title, is a qualified HUBZone small business concern; or

(E) with respect to a contract awarded under section 657f of this title, is a small business concern owned and controlled by service-disabled veterans.

(2) Similarly situated entity

The term “similarly situated entity” means a subcontractor that—

(A) if a subcontractor for a small business concern, is a small business concern;

(B) if a subcontractor for a small business concern eligible to receive contracts under section 637(a) of this title, is such a concern;

(C) if a subcontractor for a small business concern owned and controlled by women (as defined in section 637(m) of this title), is such a concern;

(D) if a subcontractor for a small business concern owned and controlled by women (as defined in section 637(m) of this title) that is not less than 51 percent owned by 1 or more women who are economically disadvantaged (and such ownership is determined without regard to any community property law), is such a concern;

(E) if a subcontractor for a qualified HUBZone small business concern, is such a concern; or

(F) if a subcontractor for a small business concern owned and controlled by service-disabled veterans, is such a concern.

(Pub. L. 85-536, § 2[46], as added Pub. L. 112-239, div. A, title XVI, § 1651, Jan. 2, 2013, 126 Stat. 2079; amended Pub. L. 114-92, div. A, title VIII, § 864(b), Nov. 25, 2015, 129 Stat. 927.)

Editorial Notes

AMENDMENTS

2015—Subsec. (a)(4). Pub. L. 114-92 substituted “which is principally for supplies from a regular dealer in such supplies, and which is not a contract principally for services or construction” for “for supplies from a regular dealer in such supplies” in introductory provisions.

Statutory Notes and Related Subsidiaries

INAPPLICABILITY OF REQUIREMENT TO REVIEW AND JUSTIFY CERTAIN CONTRACTS

Pub. L. 113-66, div. A, title XVI, §1615, Dec. 26, 2013, 127 Stat. 950, provided that: “In the case of a contract to which the provisions of section 46 of the Small Business Act (15 U.S.C. 657s) apply, the requirements under section 802 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112-239; 126 Stat. 1824; 10 U.S.C. 2304 note [now 10 U.S.C. note prec.]) do not apply.”

§ 657t. Office of Credit Risk Management**(a) Establishment**

There is established within the Administration the Office of Credit Risk Management (in this section referred to as the “Office”).

(b) Duties

The Office shall be responsible for supervising—

- (1) any lender making loans under section 7(a) [15 U.S.C. 636(a)] (in this section referred to as a “7(a) lender”);
- (2) any Lending Partner or Intermediary participant of the Administration in a lending program of the Office of Capital Access of the Administration; and
- (3) any small business lending company or a non-Federally regulated lender without regard to the requirements of section 650 of this title.

(c) Director**(1) In general**

The Office shall be headed by the Director of the Office of Credit Risk Management (in this section referred to as the “Director”), who shall be a career appointee in the Senior Executive Service (as defined in section 3132 of title 5).

(2) Duties

The Director shall be responsible for oversight of the lenders and participants described in subsection (b), including by conducting periodic reviews of the compliance and performance of such lenders and participants.

(d) Supervision duties for 7(a) lenders**(1) Reviews**

With respect to 7(a) lenders, an employee of the Office shall—

- (A) be present for and supervise any such review that is conducted by a contractor of the Office on the premise¹ of the 7(a) lender; and

- (B) supervise any such review that is not conducted on the premise¹ of the 7(a) lender.

(2) Review report timeline**(A) In general**

Notwithstanding any other requirements of the Office or the Administrator, the Ad-

ministrator shall develop and implement a review report timeline which shall—

- (i) require the Administrator to—

(I) deliver a written report of the review to the 7(a) lender not later than 60 business days after the date on which the review is concluded; or

(II) if the Administrator expects to submit the report after the end of the 60-day period described in clause (i), notify the 7(a) lender of the expected date of submission of the report and the reason for the delay; and

(ii) if a response by the 7(a) lender is requested in a report submitted under subparagraph (A), require the 7(a) lender to submit responses to the Administrator not later than 45 business days after the date on which the 7(a) lender receives the report.

(B) Extension

The Administrator may extend the time frame described in subparagraph (A)(i)(II) with respect to a 7(a) lender as the Administrator determines necessary.

(e) Enforcement authority against 7(a) lenders**(1) Informal enforcement authority**

The Director may take an informal enforcement action against a 7(a) lender if the Director finds that the 7(a) lender has violated a statutory or regulatory requirement under section 7(a) [15 U.S.C. 636(a)] or any requirement in a Standard Operating Procedures Manual or Policy Notice related to a program or function of the Office of Capital Access.

(2) Formal enforcement authority**(A) In general**

With the approval of the Lender Oversight Committee established under section 657u of this title, the Director may take a formal enforcement action against any 7(a) lender if the Director finds that the 7(a) lender has violated—

- (i) a statutory or regulatory requirement under section 7(a), including a requirement relating to credit elsewhere; or

- (ii) any requirement described in a Standard Operating Procedures Manual or Policy Notice, related to a program or function of the Office of Capital Access.

(B) Enforcement actions

An enforcement action imposed on a 7(a) lender by the Director under subparagraph (A) shall be based on the severity or frequency of the violation and may include assessing a civil monetary penalty against the 7(a) lender in an amount that is not greater than \$250,000.

(3) Appeal by lender

A 7(a) lender may appeal an enforcement action imposed by the Director described in this subsection to the Office of Hearings and Appeals established under section 634(i) of this title or to an appropriate district court of the United States.

(f) Regulations

Not later than 1 year after June 21, 2018, the Administrator shall issue regulations, after op-

¹ So in original. Probably should be “premises”.