

§ 301-76.2 What is disposable pay?

Disposable pay is the part of the employee's compensation remaining after the deduction of any amounts required by law to be withheld. These deductions do not include discretionary deductions such as savings bonds, charitable contributions, etc. Deductions may be made from any type of pay, e.g., basic pay, special pay, retirement pay, or incentive pay.

Dated: April 13, 2000.

David J. Barram,

Administrator of General Services.

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DEPARTMENT OF ENERGY**48 CFR Parts 919 and 952**

RIN 1991-AB45

Acquisition Regulations: Mentor-Protege Program

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is amending its acquisition regulations to encourage DOE prime contractors to assist small disadvantaged firms certified by the Small Business Administration under Section 8(a) of the Small Business Act (8(a)), other small disadvantaged businesses, Historically Black Colleges and Universities and other minority institutions of higher learning, women-owned small businesses and small business concerns owned and controlled by service disabled veterans in enhancing their capabilities to perform contracts and subcontracts for DOE and other Federal agencies. The program seeks to foster long-term business relationships between DOE prime contractors and these small business entities and minority institutions of higher learning and to increase the overall number of these small business entities and minority institutions that receive DOE contract and subcontract awards.

EFFECTIVE DATE: This rule will take effect May 22, 2000.

FOR FURTHER INFORMATION CONTACT:

Eugene Tates, Mentor-Protege Program, U.S. Department of Energy, Office of Small and Disadvantaged Business Utilization, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586-4556; or Robert M. Webb, U.S. Department of Energy, Office of Procurement and Assistance Management, 1000 Independence

Avenue, SW, Washington, DC 20585, (202) 586-8264.

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 the National Environmental Policy Act
 - F. Review Under Executive Order 13132
 - G. Review Under the Unfunded Mandates Reform Act of 1995
 - H. Treasury and General Government Appropriation Act, 1999
 - I. Congressional Notification

I. Background

On June 9, 1995, DOE published final guidelines for its Mentor-Protege Pilot Initiative (60 FR 30529). The purpose of the Initiative was to develop a program that encouraged DOE prime contractors to help energy-related small disadvantaged, 8(a), and women-owned small businesses in enhancing their business and technical capabilities to ensure full participation in the mission of DOE. In addition, the Initiative sought to foster the establishment of long term business relationships between these small business entities and DOE prime contractors and to increase the overall number of these small business entities eligible to receive DOE contract and subcontract awards. In order to achieve the goal of the Initiative, DOE prime contractors entered into formal agreements with qualified small businesses to provide developmental assistance. In many cases, this assistance has enabled small businesses to benefit from the vast wealth of knowledge acquired by large, successful firms doing business with DOE.

The success of the DOE business mentoring relationships and the continuing need to develop small disadvantaged business, 8(a) firms and women-owned small businesses capabilities to perform contracts and subcontracts for DOE led DOE to propose the creation of a permanent DOE Mentor-Protege Program. DOE published a notice of proposed rulemaking on December 6, 1999 (64 FR 68072), which proposed a program having the same goals and objectives as the original DOE Mentor-Protege Pilot Initiative. Some refinements were proposed to provide additional incentives for prime contractor participation in the Mentor-Protege Program. After carefully considering the public comments received on the notice

of proposed rulemaking, DOE today publishes a final rule.

II. Resolution of Comments

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

Comment: It is unclear whether or not DOE would reimburse Mentors for costs incurred by providing developmental assistance to Protege firms.

Response: The Mentor-Protege rule is clear on this issue. DOE has stated throughout the rule that developmental assistance costs are allowable if they are incurred by the Mentor in the performance of a DOE contract spelled out in the Mentor-Protege Agreement and are otherwise allowable in accordance with the cost principles applicable to that contract.

Comment: Do existing Mentor-Protege Agreements developed under the DOE Mentor-Protege Pilot Initiative have to be amended when this rule becomes effective?

Response: Existing agreements do not have to be amended. The new rule applies only to new agreements.

Comment: The rule does not cover small business concerns owned and controlled by service disabled veterans.

Response: DOE has revised the rule to include small business concerns owned and controlled by service disabled veterans, as defined in the Veterans Entrepreneurship and Small Business Development Act of 1999, Pub. L. No. 106-50.

Comment: Which small disadvantaged businesses, other than 8(a) firms, are eligible to participate in the Program?

Response: All small disadvantaged businesses that meet the eligibility requirements in paragraphs (a)(2)-(4) of § 919.7007 are eligible to participate.

Comment: Why, under § 919.7008(d) of the rule, does DOE only permit protests regarding the small business size of a firm, and not a firm's status as a small disadvantaged business, etc.?

Response: Small disadvantaged business status cannot be protested under this rule because the DOE Mentor-Protege Program is not limited to small disadvantaged businesses. Even if a firm is not a small disadvantaged business, it could still qualify as a small business.

Comment: A prospective Mentor should be required under § 919.7005 to provide evidence that the business is currently performing a DOE contract which contains a subcontracting plan.

Response: DOE can identify its current contractors, so there is no need for such a requirement.

Comment: DOE should allow designees of the chief executive officers of Mentor and Protege firms to execute the Mentor-Protege Agreements.

Response: DOE agrees that delegation is appropriate for larger, Mentor firms, but it would not be necessary for smaller, Proteges. Therefore, in § 919.7009, DOE allows the Mentor firm's chief executive officer to designate another company official to execute the Mentor-Protege Agreement.

Comment: DOE should delete the procedure in proposed § 919.7010(f) for completing performance in the case of withdrawal or termination by either party to the Agreement.

Response: DOE has deleted the procedure for completing performance because the terms of awarded subcontracts will still be binding in the event of Agreement termination.

Comment: DOE's request for a description of developmental assistance to be provided to Protege firms under proposed § 919.7010(c) is duplicated by DOE's request for an explanation of how the developmental assistance will increase subcontracting opportunities for the Protege under proposed § 919.7010(j).

Response: DOE disagrees with this comment. The mere description of the planned developmental assistance required by paragraph (c) does not explain how such assistance is expected to increase subcontracting opportunities of the Protege firm. These are separate provisions that need to be discussed separately in the Agreement.

Comment: Under what specific conditions could DOE terminate its recognition of a Mentor-Protege Agreement?

Response: DOE does not attempt to specify in this rule the conditions or situations that would warrant termination of DOE's recognition of an approved DOE Mentor-Protege agreement. That is left for case-by-case decision.

Comment: Which contracting officer is responsible for oversight if the Mentor has more than one DOE contract?

Response: The contracting officer for each contract identified in the Mentor-Protege Agreement, under § 919.7010(k), is the official responsible for oversight of the contract under his/her responsibility.

Comment: DOE should delete the word "field" as used in § 919.7013 in the term "field technical program manager" because technical program managers could be located in either the field or DOE headquarters.

Response: DOE agrees and deletes the word "field" from § 919.7013 and § 919.7010(j).

Comment: The proposed rule would add an unnecessary layer of requirements, administered from DOE Headquarters, on contractors who already have programs that accomplish the goals of improving relationships with small, small disadvantaged, women-owned, and minority institutions.

Response: DOE disagrees and thinks the program established by these regulations provides additional incentives for its contractors to provide assistance to the potential Protege firms. The program's reporting requirements in § 919.7013 are necessary for proper program evaluation.

Comment: DOE should change the Protege eligibility requirement in § 919.7007(a)(3) that a firm must have been in business for at least two years to no more than one year. In today's high-tech economy, a one-year old company is considered "established."

Response: The highly technical nature of DOE's global mission requires that a Protege have at least two years of business experience.

III. Procedural Requirements

A. Review Under Executive Order 12866

Today's regulatory action has been determined not to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," (58 FR 51735, October 4, 1993). Accordingly, this rule was not 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. DOE has completed the required review and determined that this final rule meets the relevant standards of Executive Order 12988.

C. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, 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. However, the analysis requirement does not apply if the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. The entities to which this rulemaking would apply are large business and small business firms that receive a form of incentive for assuming the role of Mentor to 8(a) firms, other small disadvantaged businesses, small women-owned businesses, Historically Black Universities and Colleges, and other minority institutions of higher learning, and small business concerns owned and controlled by disabled veterans. It is expected that under this rule the protege entities would directly benefit from the forms of mentoring provided for in the rule. There would not be an adverse economic impact on contractors or subcontractors. Accordingly, DOE certifies that this rule would not have a significant economic impact on a substantial number of small entities, and therefore, no regulatory flexibility analysis has been prepared.

D. Review Under the Paperwork Reduction Act

This rule would require DOE contractors serving as mentors to submit semi-annual progress reports to the DOE Mentor-Protege Program Manager at DOE Headquarters (see § 919.7013). The information in the progress reports is necessary to determine if the schedules and developmental assistance levels contained in Mentor-Protege Agreements are being met. Performance under the Agreements is the basis for

awarding incentive fees to mentor firms. DOE 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 the National Environmental Policy Act

DOE has concluded that this rule falls into a class of actions which would not individually or cumulatively have significant impact on the human environment, as determined by DOE's regulations (10 CFR part 1021, subpart D) implementing the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, this rule is categorically excluded from NEPA review because the amendments to the DEAR would be strictly procedural (categorical exclusion A6). Therefore, this rule does not require an environmental impact statement or environmental assessment pursuant to NEPA.

F. Review Under Executive Order 13132

Executive Order 13132 (64 FR 43255, August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have other federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. DOE has examined today's rule and has determined that it does not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132.

G. 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.

H. Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriation, 1999 (Pub. L. 105-277) requires Federal Agencies to issue a Family Policymaking Assessment for any proposed rule that may affect family well being. Today's rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Congressional Notification

As required by 5 U.S.C. 801, DOE will submit to Congress a report regarding the issuance of today's final rule. The report will state that it has been determined that the rule is not a "major rule," as defined by 5 U.S.C. 804.

List of Subjects in 48 CFR Parts 919 and 952

Government procurement.

Issued in Washington, DC on April 17, 2000.

Richard H. Hopf,

Director, Office of Procurement and Assistance Management.

For the reasons set out in the preamble, Chapter 9 of Title 48 of the Code of Federal Regulations is amended as set forth below.

PART 919—SMALL BUSINESS PROGRAMS

1. The authority citation for Parts 919 and 952 is revised to read as follows:

Authority: 40 U.S.C. 486 (c); 42 U.S.C. 7101, *et seq.*; 42 U.S.C. 2201; 50 U.S.C. 2401, *et seq.*

2. A new subpart 919.70 is added in Subchapter D to read as follows:

Subpart 919.70—The Department of Energy Mentor-Protege Program

Sec.

- 919.7001 Scope of subpart.
- 919.7002 Definitions.
- 919.7003 General policy.
- 919.7004 General prohibitions.
- 919.7005 Eligibility to be a Mentor.
- 919.7006 Incentives for DOE contractor participation.
- 919.7007 Eligibility to be a Protege.
- 919.7008 Selection of Proteges.
- 919.7009 Process for participation in the program.
- 919.7010 Contents of Mentor-Protege Agreement.
- 919.7011 Developmental assistance.
- 919.7012 Review and approval process of agreement by OSDDBU.
- 919.7013 Reports.

919.7014 Solicitation provision.

Subpart 919.70—The Department of Energy Mentor-Protege Program

919.7001 Scope of subpart.

The Department of Energy (DOE) Mentor-Protege Program is designed to encourage DOE prime contractors to assist small disadvantaged firms certified by the Small Business Administration (SBA) under Section 8(a) of the Small Business Act (8(a)), other small disadvantaged businesses, women-owned small businesses, Historically Black Colleges and Universities, and other minority institutions of higher learning, and small business concerns owned and controlled by service disabled veterans in enhancing their capabilities to perform contracts and subcontracts for DOE and other Federal agencies. The program seeks to foster long-term business relationships between these small business entities and DOE prime contractors, and to increase the overall number of these small business entities that receive DOE contract and subcontract awards.

919.7002 Definitions.

Historically Black Colleges and Universities (HBCUs) means an institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2.

Other minority institutions of higher learning means an institution determined by the Secretary of Education to meet the requirements of 20 U.S.C. 1067k.

Small business concern owned and controlled by service-disabled veterans means a small business concern as defined in Public Law 106-50, Veterans Entrepreneurship and Small Business Development Act of 1999.

Small disadvantaged business means a small business concern owned and controlled by socially and economically disadvantaged individuals that meets the requirements of 13 CFR part 124, subpart B.

Women-owned small business means a small business concern that meets the requirements of 15 U.S.C. 637(d)(3)(D).

919.7003 General policy.

(a) DOE contractors eligible under 48 CFR 919.7005 may enter into agreements with businesses certified by the SBA in the 8(a) Program, other small disadvantaged businesses, women-owned small businesses, HBCUs, other minority institutions of higher learning, and small business concerns owned and controlled by service disabled veterans to provide those firms appropriate

developmental assistance to enhance the capabilities of Proteges.

(b) Costs incurred by a Mentor to provide developmental assistance, as described in 919.7011, are allowable only to the extent that they are incurred in performance of a contract identified in the Mentor-Protege Agreement and are otherwise allowable in accordance with the cost principles applicable to that contract.

(c) Headquarters Office of Small and Disadvantaged Business Utilization (OSDBU) is the DOE Program Manager for the Mentor-Protege Program.

919.7004 General prohibitions.

DOE will not reimburse the costs of a Mentor in providing any form of developmental assistance to a Protege except as provided in 919.7003(b).

919.7005 Eligibility to be a Mentor.

To be eligible for recognition by DOE as a Mentor, an entity must be performing at least one contract for DOE.

919.7006 Incentives for DOE contractor participation.

(a) Under cost-plus-award fee contracts, approved Mentor firms may earn award fees associated with their performance as a Mentor. The award fee plan may include provision for the evaluation of the contractor's utilization of 8(a) firms, other small disadvantaged businesses, women-owned small businesses, HBCUs, other minority institutions of higher learning and small business concerns owned and controlled by service disabled veterans. DOE may evaluate the Mentor's performance in the DOE Mentor-Protege Program under any Mentor-Protege Agreement(s) as a separate element of the award fee plan.

(b) Mentors shall receive credit for subcontracts awarded pursuant to their Mentor-Protege Agreements toward subcontracting goals contained in their subcontracting plan.

919.7007 Eligibility to be a Protege.

(a) To be eligible for selection as a Protege, a firm must:

(1) Be a small business certified under Section 8(a) of the Small Business Act by SBA, other small disadvantaged business, a women-owned small business, HBCU, or any other minority institution of higher learning, or a small business concern owned and controlled by service disabled veterans;

(2) Be eligible for receipt of government contracts;

(3) Have been in business for at least two (2) years prior to application for enrollment into the Mentor-Protege Program; and

(4) Be able to certify as a small business according to the Standard Industrial Code for the services or supplies to be provided by the Protege under its subcontract with the Mentor.

(b) A prospective Mentor may rely in good faith on written representations by a prospective Protege that the Protege meets the requirements in paragraph (a) of this section.

919.7008 Selection of Proteges.

(a) A Mentor firm is solely responsible for selecting one or more Protege entities from firms eligible under 48 CFR 919.7007.

(b) A Mentor may have more than one Protege; however, a Protege may have only one Mentor.

(c) The selection of Protege firms by Mentor firms may not be protested, except as provided in paragraph (d) of this section.

(d) Only protests regarding the small business size status of a firm to be a Protege will be considered and shall be submitted to the DOE Office of Small and Disadvantaged Business Utilization for resolution. If that office is unable to resolve a protest, it will refer the matter to the Small Business Administration for resolution in accordance with 13 CFR part 121.

919.7009 Process for participation in the program.

A prospective Mentor must submit the following to the DOE Mentor-Protege Program Manager.

(a) A statement that it is eligible, as of the date of application, for the award of Federal contracts;

(b) A statement that it is currently performing at least one contract for DOE;

(c) The DOE contract number, type of contract, period of performance (including options), title of technical program effort, name of DOE technical program manager (including contact information) and the DOE contracting activity; and

(d) An original and two copies of the Mentor-Protege Agreement signed by the chief executive officer or designee of the Mentor firm and the chief executive officer of the Protege firm.

919.7010 Contents of Mentor-Protege Agreement.

The proposed Mentor-Protege Agreement must contain:

(a) Names, addresses and telephone numbers of Mentor and Protege firms and a point of contact within each firm who will oversee the Agreement;

(b) Requirements for the Mentor firm or the Protege firm to notify the other entity, DOE Headquarters OSDBU, and

the contracting officer in writing at least 30 days in advance of the Mentor firm's or the Protege firm's intent to voluntarily terminate or withdraw from the Mentor-Protege Agreement (such termination would not terminate any existing subcontract between the Mentor and the Protege);

(c) A description of the form of developmental assistance program that will be provided by the Mentor to the Protege firm, including a description of any subcontract work, and a schedule for providing the assistance and the criteria for evaluation of the Protege's developmental success (48 CFR 919.7011);

(d) A listing of the number and types and estimated amount of subcontracts to be awarded to the Protege firm;

(e) Term of the Agreement;

(f) Procedures to be invoked should DOE terminate its recognition of the Agreement for good cause (such termination of DOE recognition would not constitute a termination of the subcontract between the Mentor and the Protege);

(g) Provision for the Mentor firm to submit to the DOE Mentor-Protege Program Manager a "lessons learned" evaluation developed by the Mentor at the conclusion of the Mentor-Protege Agreement;

(h) Provision for the submission by the Protege firm of a "lessons learned" evaluation to the DOE Mentor-Protege Program Manager at the conclusion of the Mentor-Protege Agreement;

(i) Description of how the development assistance will potentially increase subcontracting opportunities for the Protege firm;

(j) Provision for the Mentor firm to brief the DOE Mentor-Protege Program Manager, the technical program manager(s), and the contracting officer at the conclusion of each year in the Mentor-Protege Program regarding program accomplishments as pertains to the approved Agreement (where possible, this review may be incorporated into the normal program review for the Mentor's contract);

(k) Recognition that costs incurred by a Mentor to provide developmental assistance, as described in 48 CFR 919.7011, are allowable only to the extent that they are incurred in performance of a contract identified in the Mentor-Protege Agreement and are otherwise allowable in accordance with the cost principles applicable to that contract (the DOE Mentor-Protege Program has no appropriation for paying for developmental assistance); and

(l) Other terms and conditions, as appropriate.

919.7011 Developmental assistance.

(a) The forms of developmental assistance a Mentor may provide to a Protege include, but are not limited to:

- (1) Management guidance relating to:
 - (i) Financial management,
 - (ii) Organizational management,
 - (iii) Overall business management planning,
 - (iv) Business development, and
 - (v) Marketing assistance;
- (2) Engineering and other technical assistance;
- (3) Noncompetitive award of subcontracts under DOE or other Federal contracts where otherwise authorized;
- (4) Award of subcontracts in the Mentor's commercial activities;
- (5) Progress payments based on costs;
- (6) Rent-free use of facilities and/or equipment owned or leased by Mentor; and
- (7) Temporary assignment of Mentor personnel to the Protege for purposes of training.

(b) Costs incurred by a Mentor to provide developmental assistance, as described in paragraph (a) of this section, are allowable only to the extent provided at 48 CFR 919.7003(b).

919.7012 Review and approval process of agreement by OSDBU.

(a) OSDBU will review the proposed Mentor-Protege Agreement under 48 CFR 919.7010 and will complete its review and assessment no later than 30 days after receipt. OSDBU will provide a copy of its assessment to the cognizant DOE technical program manager and contracting officer for review and concurrence.

(b) If OSDBU approves the Agreement, the Mentor may implement the developmental assistance program.

(c) Upon finding deficiencies that DOE considers correctable, the OSDBU will notify the Mentor and request information to be provided within 30 days that may correct the deficiencies. The Mentor may then provide additional information for reconsideration. The review of any supplemental material will be completed within 30 days after receipt by the OSDBU and the Agreement either approved or disapproved.

919.7013 Reports.

(a) Prior to performing an evaluation of a Mentor's performance under its Mentor-Protege Agreement for use in award fee evaluations, the Mentor-Protege Program Manager must consult with the cognizant DOE technical program manager and must provide a copy of the performance evaluation comments regarding the technical effort

and Mentor-Protege development to the contracting officer.

(b) The DOE Mentor-Protege Program Manager must submit semi-annual reports to the cognizant contracting officer regarding the participating Mentor's performance in the Program for use in the award fee determination process.

(c) The Mentor firm must submit progress reports to the DOE Mentor-Protege Program Manager semi-annually.

919.7014 Solicitation provision.

The cognizant contracting officer must insert the provision at 952.219-70, DOE Mentor-Protege Program, in all solicitations with an estimated value in excess of the simplified acquisition threshold.

PART 952—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. A new subsection 952.219-70, DOE Mentor-Protege Program is added as follows:

952.219-70 DOE Mentor-Protege program.

In accordance with 919.7014 insert the following provision in applicable solicitations.

DOE Mentor-Protege Program
(May 2000)

The Department of Energy has established a Mentor-Protege Program to encourage its prime contractors to assist firms certified under section 8(a) of the Small Business Act by SBA, other small disadvantaged businesses, women-owned small businesses, Historically Black Colleges and Universities and Minority Institutions, other minority institutions of higher learning and small business concerns owned and controlled by service disabled veterans in enhancing their business abilities. If the contract resulting from this solicitation is awarded on a cost-plus-award fee basis, the contractor's performance as a Mentor may be evaluated as part of the award fee plan. Mentor and Protege firms will develop and submit "lessons learned" evaluations to DOE at the conclusion of the contract. Any DOE contractor that is interested in becoming a Mentor should refer to the applicable regulations at 48 CFR 919.70 and should contact the Department of Energy's Office of Small and Disadvantaged Business Utilization.

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DEPARTMENT OF ENERGY**48 CFR Part 970**

RIN 1991-AB02

Acquisition Regulation: Financial Management Clauses for Management and Operating (M&O) Contracts

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) amends its Acquisition Regulation to designate certain Department of Energy Acquisition Regulation (DEAR) M&O contract clauses and Federal Acquisition Regulation (FAR) clauses as Standard Financial Management Clauses to be included in M&O contracts unless the Chief Financial Officer (CFO) concurs in a deviation. Additionally, this final rule will revise selected existing financial management clauses and add financial management related clauses.

DATES: This final rule is effective May 22, 2000.

FOR FURTHER INFORMATION CONTACT: Michael L. Righi, Office of Policy (MA-51), Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585; 202-586-8175 (phone); 202-586-0545 (facsimile); or michael.l.righi@pr.doe.gov (Internet).

SUPPLEMENTARY INFORMATION

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 - E. Review Under Executive Order 13132
 - F. Review Under the National Environmental Policy Act
 - G. Unfunded Mandates Reform Act of 1995
 - H. Review Under Small Business Regulatory Enforcement Fairness Act of 1996

I. Background

On November 18, 1998, the Department of Energy (DOE or Department) published in the **Federal Register** (63 FR 64024) a Notice of Proposed Rulemaking to amend the DEAR to designate certain Department of Energy Acquisition Regulation (DEAR) M&O contract clauses and Federal Acquisition Regulation (FAR) clauses as Standard Financial Management Clauses to be included in M&O contracts unless the Chief Financial Officer (CFO) concurs in a deviation. Additionally, this Notice of Proposed Rulemaking proposed to revise selected existing financial