

**CLASS DEVIATION
DETERMINATION AND FINDINGS
DEPARTMENT OF ENERGY ACQUISITION REGULATION (DEAR)
MENTOR PROTÉGÉ PARTICIPATION
DEAR 919.70 and 952.219-70**

Purpose

The objective of this class deviation is to revise the existing class deviation concerning the Department of Energy's (DOE) Mentor-Protégé Program to update various aspects of the Program, including clarifying the eligibility criteria by adding a preference for socioeconomic small business categories for protégés, adding term limitations for Mentor-Protégé Program agreements, providing details regarding the Office of Small and Disadvantaged Business Utilization's (OSDBU) criteria for evaluating and assessing proposed Mentor-Protégé Program agreements, as well as making other necessary administrative changes.

Background

The DOE's rules and regulations for the Mentor-Protégé Program are in accordance with the Department of Energy Acquisition Regulation (DEAR), within Title 48 Code of Federal Regulations (CFR) Part 919, Subpart 919.70.

The Small Business Administration (SBA) issued a regulation establishing a government-wide mentor-protégé program for all small business concerns and stipulated that a Federal department or agency cannot carry out its own agency-specific mentor-protégé program for small businesses unless the head of the department or agency submitted a plan for such a program to SBA and received the SBA Administrator's approval. SBA approved DOE's Mentor-Protégé Program on February 20, 2018, and shortly thereafter, the SBA also approved DOE's request to revise the eligibility criteria for the DOE Mentor-Protégé Program by opening Program participation to all small business concerns, thus better aligning DOE's Program with SBA's "All Small" Small Business Mentor-Protégé Program.

Accordingly, on February 21, 2019, DOE issued a deviation to the requirements at 48 CFR 919.70 concerning various aspects of the Mentor-Protégé Program, including the eligibility criteria for protégés. More specifically, whereas 48 CFR 919.70 restricted the firms eligible to be protégés under Mentor-Protégé Program agreements to businesses certified by the SBA in the 8(a) Program, other small disadvantaged businesses (SDBs), women-owned small businesses (WOSB), Historically Black College and Universities and other minority institutions of higher learning (HBCU/MIs), and small business concerns owned and controlled by service disabled veterans (SDVOSBs), the deviation opened protégé eligibility to all small business concerns.

Findings

Over time, it became evident that some contractors were entering into long-term non-competitive mentor-protégé agreements with experienced firms and were therefore not fulfilling the intended goals of the Mentor-Protégé Program – i.e., to provide firms with appropriate developmental assistance to enhance their capabilities, including their ability to successfully compete for business with the Federal Government as prime contractors.

To remedy these concerns, DOE is revising various aspects of its Mentor-Protégé Program, including the eligibility criteria, to express a preference for socioeconomic small business concerns (HUBZone, SDVOSB-owned, businesses owned and controlled by socially and economically disadvantaged individuals (SDB), economically disadvantaged women-owned small business (EDWOSB) / woman-owned small business (WOSB) concerns, as well as HBCUs/MIs), limiting the term of agreements to two (2) years, with a possible extension not to exceed five (5) years, subject to the approval of DOE's OSDBU and the contracting officer, and establishing criteria that OSDBU will consider in reviewing and evaluating proposed Mentor-Protégé Program agreements.

Determination

It is hereby determined that an updated class deviation to revise the DEAR to clarify the eligibility criteria by adding a preference for socioeconomic small business concerns, as well as term limitations and evaluation criteria for the DOE Mentor-Protégé Program agreements is appropriate pending formal amendment of the DEAR. This class deviation is effective upon the date of signature and will remain in effect until cancelled or until the DEAR is amended.

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Attachment: DEAR Deviation text