

PART 926—OTHER SOCIOECONOMIC PROGRAMS

Authority: 42 U.S.C. 7101 and 50 U.S.C. 2401

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Subpart 926.5—Drug-Free Workplace

926.500 Scope of subpart.

Use 926.570, Workplace Substance Abuse Programs at DOE Sites in lieu of FAR subpart 26.5 (as implemented by DOE/NNSA class deviation), as specified in 926.570-1.

926.570 Workplace substance abuse programs at DOE sites.

(a) The Department of Energy (DOE) has established policies, criteria, and procedures for contractors to develop and implement programs that help maintain a workplace free from the use of illegal drugs.

(b) Regulations concerning DOE's contractor workplace substance abuse programs are promulgated at 10 CFR part 707, Workplace Substance Abuse Programs at DOE Sites.

926.570-1 Applicability.

The policies, criteria, and procedures specified in 10 CFR part 707 apply to contracts for work performed at sites owned or controlled by DOE and operated under the authority of the Atomic Energy Act of 1954, as amended, where such work—

(a) Has a value of \$25,000 or more; and

(b) Has been determined by DOE to involve—

(1) Access to or handling of classified information or special nuclear materials;

(2) High risk of danger to life, the environment, public health and safety or national security;
or

(3) The transportation of hazardous materials to or from a DOE site.

926.570-2 Solicitation provision and contract clause.

(a) Insert the provision at 970.5226-4, Agreement Regarding Workplace Substance Abuse Programs at DOE Sites, in solicitations where the work to be performed by the contractor will occur on sites owned or controlled by DOE and operated under the authority of the Atomic Energy Act of 1954, as amended, as specified in 926.570-1.

(b) Insert the clause at 970.5226-5, Workplace Substance Abuse Programs at DOE Sites, in contracts where the work to be performed by the contractor will occur on sites owned or controlled by DOE and operated under the authority of the Atomic Energy Act of 1954, as amended, as specified in 926.570-1.

926.570-3 Suspension of payments, termination of contract, and debarment and suspension actions.

(a) Comply with the procedures of FAR 26.505-1 (as implemented by DOE/NNSA class deviation) regarding the suspension of contract payments, the termination of the contract for default, and the debarment and suspension of a contractor relative to failure to comply with 970.5226-5, Workplace Substance Abuse Programs at DOE Sites.

(b) For purposes of 10 CFR part 707, the specific causes for suspension of contract payments, termination of the contract for default, and debarment and suspension of the contractor are—

(1) The contractor fails to either comply with the requirements of 10 CFR part 707 or perform in a manner consistent with its approved program;

(2) The contractor has failed to comply with the terms of the clause at 970.5226-5, Workplace Substance Abuse Programs at DOE Sites; or

(3) Such a number of contractor employees having been convicted of violations of criminal drug statutes for violations occurring on the DOE-owned or -controlled site, as to indicate that the contractor has failed to make a good faith effort to provide a drug free workplace.

Subpart 926.70—Implementation of Section 3021 of the Energy Policy Act of 1992

926.7001 Policy.

(a) Section 3021(a) of the Energy Policy Act of 1992, as amended, specifies that the Department of Energy (DOE) shall, to the extent practicable, provide that not less than 10 percent of the total combined amounts obligated for competitively awarded contracts and subcontracts under the Energy Policy Act be expended with—

(1) Small business concerns controlled by socially and economically disadvantaged individuals or by women;

(2) Historically Black colleges and universities;

(3) Colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Americans; or

(4) Qualified HUBZone small business concerns, as defined at FAR 2.101.

(b) The four groups in paragraph (a) of this section are collectively referred to in this section as “Energy Policy Act target groups.”

(c) Awards of Energy Policy Act procurements should be in the following descending order of preference—

(1) Competitive awards pursuant to a set-aside for small disadvantaged business;

(2) Competitive awards to small businesses owned and controlled by socially and economically disadvantaged individuals and by women for Energy Policy Act requirements under the Small Business Administration's section 8(a) program; and

(3) Competitive awards that provide an evaluation preference in accordance with 926.7006 to offerors from the Energy Policy Act target groups.

(d) The DOE implementation of Section 3021 requirements with regard to the award of subcontracts under Energy Policy Act procurements is discussed at 926.7006.

(e) Competitive procedures, for purposes of Energy Policy Act implementation, consist of awards under set-asides to small disadvantaged business and firms certified as 8(a) Small Business Administration and competitive procedures in accordance with FAR subpart 15.5 (as implemented by DOE/NNSA class deviation) and subpart [915.6](#).

926.7002 Responsibilities.

Offices initiating procurement requests have primary responsibility to identify potential contract requirements falling within the scope of section 3021 of the Energy Policy Act. Identification must occur at the earliest possible point in time in the acquisition cycle, but not later than the submission of the procurement request to the contracting officer. For purposes of Section 3021, a contract requirement is any award that directly satisfies an Energy Policy Act program or requirement.

926.7003 Review of the procurement request.

Review any Energy Policy Act procurement, including basic research contracts with educational institutions, in accordance with the Small Business and 8(a) Program Review Procedures, to ensure that full consideration is given to the potential for making Energy Policy Act awards.

926.7004 Size standard for Energy Policy Act procurements.

Use Exception 2 under North American Industry Classification System code 541330, Engineering Services, as the size standard for Energy Policy Act engineering services procurements.

926.7005 Preferences under the Energy Policy Act.

Solicitations for all competitive Energy Policy Act procurements not for 8(a) firms and in excess of the simplified acquisition threshold must provide for an evaluation preference for offers received from entities from among the Energy Policy Act target groups. The evaluation criteria must provide that in instances in which two or more proposals being considered for final selection are ranked as essentially equal after consideration of all technical and cost evaluation factors, and if one of these proposals is from an offeror from among an Energy Policy Act target group that offeror will be selected for award.

926.7006 Goal measurement and reporting requirements.

(a) *General.* The following types of contract awards for Energy Policy Act procurements will be counted toward achievement by DOE of the 10 percent goal—

(1) Any award set-aside for small, disadvantaged business;

(2) Any competitive section 8(a) award;

(3) Any competitive award to one of the four target groups under an unrestricted procurement;

(4) Any award to one of the four target groups conducted under simplified acquisition procedures in excess of the micro-purchase threshold; and

(5) Any competitively awarded subcontract to one of the four target groups under a prime award.

(b) *Prime contract awards.* Report award values and dollars obligated under prime contracts and modifications to prime contracts for Energy Policy Act requirements through the Department of Energy's contract writing system.

(c) *Subcontract awards.* The contractor must report, on an annual Federal Government fiscal year basis, its progress against Section 3021 goals by providing the actual dollar value of subcontract payments and the relationship of those payments to the incurred contract cost. If the contract includes reporting requirements under FAR 52.219-9, Small Business Subcontracting Plan, (as implemented by DOE/NNSA class deviation), include the contractor's progress against the Section 3021 goals as an addendum to Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and/or SF 295, Summary Subcontract Report, as applicable, for the period that corresponds to the end of the Federal Government fiscal year.

926.7007 Solicitation provisions and contract clauses.

(a) Insert the provision at 952.226-70, Subcontracting Goals under Section 3021(a) of the Energy Policy Act of 1992, in solicitations for Energy Policy Act procurements.

(b) Insert the clause at 952.226-71, Utilization of Energy Policy Act Target Entities, in contracts for the Energy Policy Act requirements with an award value in excess of the simplified acquisition threshold.

(c) Insert the clause at 952.226-72, Energy Policy Act Subcontracting Goals and Reporting Requirements, in contracts for Energy Policy Act requirements with an award value in excess of \$900,000 (\$2,000,000 in the case of construction).

(d) Insert the provision at 952.226-73, Energy Policy Act Target Group Representation, in solicitations for Energy Policy Act procurements.

(e) Insert the clause at FAR 52.219-14, Limitations on Subcontracting (as implemented by DOE/NNSA class deviation), in contracts for Energy Policy Act requirements with an entity from among the Energy Policy Act target groups.

Subpart 926.71—Implementation of Section 3161 of the National Defense Authorization Act for Fiscal Year 1993.

926.7101 Policy.

Consistent with the requirements of section 3161(c)(2), 50 U.S.C. 2704(c)(2), in instances where DOE has determined that a change in workforce at a DOE Defense Nuclear Facility is necessary, the Department, to the extent practicable, is required to provide employees under Department of Energy contracts whose employment in positions at such a facility is terminated with a preference in any hiring of the Department. Consistent with published DOE guidance regarding section 3161, such preference in hiring extends to hiring by DOE contractors and subcontractors.

926.7102 Definition.

Eligible employee means a current or former employee of a contractor or subcontractor employed at a DOE Defense Nuclear Facility—

(1) Whose position of employment has been, or will be, involuntarily terminated (except if terminated for cause);

(2) Who has met the eligibility criteria contained in Department of Energy guidance for contractor work force restructuring, as may be amended or supplemented from time to time; and

(3) Who is qualified for a job vacancy with the Department or one of its contractors with respect to work under its contract with the Department at the time a position is available.

926.7103 Requirements.

(a) Section 3161, 50 U.S.C. 2704(c)(2), confers a continuing right to a preference in hiring to an eligible employee of Department of Energy Defense Nuclear Facilities. This right to a preference in hiring includes employment opportunities of any Department of Energy contractor, regardless of the place of performance of the contract. Accordingly, eligible former employees of contractors and subcontractors employed at Department of Energy Defense Nuclear Facilities, to the extent

practicable, must be provided a hiring preference in employment opportunities of other Department of Energy contractors for work under their contracts.

(b) Contracting officers, in concert with representatives of the field office responsible for implementation of Section 3161 at the Department of Energy Defense Nuclear Facility and local counsel, should consult with the Office of the General Counsel for Contractor Human Resources to determine applicability of Section 3161 requirements, including hiring preference requirements, for displaced workers.

926.7104 Contract clause.

Insert the clause at 952.226-74, Workforce Restructuring and Displaced Employee Hiring Preference, in contracts (both non-management and operating contracts and management and operating contracts), except for contracts for commercial products and commercial services, pursuant to 41 U.S.C. § 101 et seq., that exceed \$500,000.

PART 952—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Authority: 42 U.S.C. 2201; 2282a; 2282b; 2282c; 42 U.S.C. 7101 50 U.S.C. 2401

Source: 49 FR 12042, Mar. 28, 1984, unless otherwise noted.

[952.226-70 Subcontracting goals under section 3021\(a\) of the Energy Policy Act of 1992.](#)

[952.226-71 Utilization of Energy Policy Act target entities.](#)

[952.226-72 Energy Policy Act subcontracting goals and reporting requirements.](#)

[952.226-73 Energy Policy Act target group representation.](#)

[952.226-74 Workforce restructuring and displaced employee hiring preference.](#)

952.226-70 Subcontracting goals under section 3021(a) of the Energy Policy Act of 1992.

As prescribed in 926.7007(a) insert the following provision:

Subcontracting Goals Under Section 3021(A) of the Energy Policy Act of 1992 (DEVIATION MAR 2026)

(a) *Definition.* Energy Policy Act (EPAAct 1992) target groups, as used in this provision, has the meaning conveyed in DEAR 926.7001.

(b) Section 3021 of the EPAAct 1992 establishes a goal of award of 10 percent of the contract dollar value for prime and subcontract EPAAct 1992 awards to EPAAct 1992 target groups.

(c) The Offeror, if other than one of the three groups specified in paragraph (a) of this clause, must submit, as part of its business management proposal or, if this solicitation requires the submission of a Small Business Subcontracting Plan, then as part of that plan, unless otherwise stated in the proposal preparation instructions, individual subcontracting goals for each of the EPAAct 1992 target groups. Individual goals must be expressed in terms of a percentage of the Offeror's proposed contract dollar value. In addition, the Offeror must provide a description of the nature of the effort to be performed by each of the three groups, and, if possible, the identity of the contemplated subcontractor(s).

(d) Unless otherwise stated, such goals must be considered in the evaluation of the Business Management Proposal as discussed in Section M of this solicitation or, if applicable, as part of the evaluation of the Small Business Subcontracting Plan.

(End of provision)

952.226-71 Utilization of Energy Policy Act target entities.

As prescribed in 926.7007(b), insert the following clause:

Utilization of Energy Policy Act 1992 Target Entities (DEVIATION MAR 2026)

(a) *Definition.* Energy Policy Act (EPAAct 1992) target groups, as used in this clause, has the meaning conveyed in DEAR 926.7001.

(b) *Obligation.* In addition to its obligations under the clause of this contract entitled Utilization of Small Business Concerns FAR 52.219-8 (as implemented by DOE/NNSA class deviation)), the contractor, in performance of this contract, agrees to provide its best efforts to competitively award subcontracts to entities from among the EPAAct 1992 target groups.

(End of clause)

952.226-72 Energy Policy Act subcontracting goals and reporting requirements.

As prescribed in 926.7007(c), insert the following clause:

Energy Policy Act 1992 Subcontracting Goals and Reporting Requirements (DEVIATION MAR 2026)

(a) *Definition.* Energy Policy Act (EPAAct 1992) target groups, as used in this clause, has the meaning conveyed in DEAR 926.7001.

(b) *Goals.* The Contractor, in performance of this contract, agrees to provide its best efforts to award subcontracts to the following classes of entities—

(1) Small business concerns controlled by socially and economically disadvantaged individuals or by women: * * * percent;

(2) Historically Black colleges and universities: * * * percent;

(3) Colleges or universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Americans: * * * percent;

(4) Qualified HUBZone small business concerns: * * * percent.

[* * * These goals are stated in a percentage reflecting the relationship of estimated award value of subcontracts to the value of this contract and appear elsewhere in this contract.]

(c) *Reporting requirements.*

(1) The Contractor agrees to report, on an annual Federal Government fiscal year basis, its progress against the goals by providing the actual annual dollar value of subcontract payments for the preceding 12-month period, and the relationship of those payments to the incurred contract costs for the same period. Reports submitted pursuant to this clause must be received by the Contracting Officer (or designee) not later than 45 days after the end of the reporting period.

(2) If the contract includes reporting requirements under FAR 52.219-9, Small Business Subcontracting Plan, (as implemented by DOE/NNSA class deviation), the Contractor's progress against the goals stated in paragraph (b) of this clause must be included as an addendum to the Individual Subcontract Report and/or the Summary Subcontract Report using the web-based Subcontracting Plan Reporting (SPR) system at SAM.gov for the period that corresponds to the end of the Federal Government fiscal year.

(End of clause)

952.226-73 Energy Policy Act target group representation.

As prescribed in 926.7007(d), insert the following provision:

Energy Policy Act of 1992 Target Group Representation (DEVIATION MAR 2026)

(a) The Offeror is:

(1) ___ An institution of higher education that meets the requirements of 34 CFR 600.4(a), and has a student enrollment that consists of at least 20 percent—

(i) Hispanic Americans, *i.e.*, students whose origins are in Mexico, Puerto Rico, Cuba, or Central or South America, or any combination thereof; or

(ii) Native Americans, *i.e.*, American Indians, Eskimos, Aleuts, and Native Hawaiians, or any combination thereof;

(2) ___ An institution of higher learning determined to be a Historically Black College and University by the Secretary of Education pursuant to 34 CFR 608.2; or

(3) ___ A small business concern, as defined under section 3 of the Small Business Act (15 U.S.C. 632), that is owned and controlled by individuals who are both socially and economically disadvantaged within the meaning of section 8(d) of the Small Business Act (15 U.S.C. 637(d)) or by a woman or women; or

(4) Qualified HUBZone small business concerns, as defined at FAR 2.101, (as implemented by DOE/NNSA class deviation).

(b) By submission of an offer, the Offeror agrees to provide to the Contracting Officer, upon request, evidence satisfactory to the Contracting Officer that the Offeror is an entity from the Energy Policy Act target group identified.

(End of provision)

952.226-74 Workforce restructuring and displaced employee hiring preference.

As prescribed in 926.7104, insert the following clause.

Workforce Restructuring and Displaced Employee Hiring Preference (DEVIATION MAR 2026)

(a) *Definition.* Eligible employee means a current or former employee of a contractor or subcontractor at a Department of Energy Defense Nuclear Facility (1) whose position of employment was, or will be, involuntarily terminated (not for cause), (2) who meets the eligibility criteria in the Department of Energy work force restructuring guidance (as may be amended), and (3) who is qualified for a job vacancy under this contract or another contract with the Department or one of its contractors at the time the position becomes available.

(b) *Hiring Preference.* In accordance with Department of Energy work force restructuring guidance, the Contractor will, to the extent possible, give hiring preferences to eligible employees for work performed under this contract.

(c) *Flowdown.* This clause must be included in all subcontracts at any tier (except for subcontracts for commercial products and commercial services under 41 U.S.C. § 101 et seq.) expected to exceed \$500,000.