

(B) specifies the number of participants in each such program, including the number of participants that are—

- (i) small business concerns;
- (ii) small business concerns owned and controlled by service-disabled veterans;
- (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.

(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.)

PRIOR PROVISIONS

A prior section 2[45] of Pub. L. 85-536 was renumbered section 2[47] and is set out as a note under section 631 of this title.

§ 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 construction 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.)

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.

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) do not apply.”

CHAPTER 14B—SMALL BUSINESS INVESTMENT PROGRAM

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