

Pub. L. 111-3, set out as a note under section 1396 of Title 42, The Public Health and Welfare.

### § 657q. Consolidation of contract requirements

#### (a) Definitions

In this section—

(1) the term “Chief Acquisition Officer” means the employee of a Federal agency appointed or designated as the Chief Acquisition Officer for the Federal agency under section 1702(a) of title 41;

(2) the term “consolidation of contract requirements”, with respect to contract requirements of a Federal agency, means a use of a solicitation to obtain offers for a single contract or a multiple award contract—

(A) to satisfy 2 or more requirements of the Federal agency for goods or services that have been provided to or performed for the Federal agency under 2 or more separate contracts lower in cost than the total cost of the contract for which the offers are solicited; or

(B) to satisfy requirements of the Federal agency for construction projects to be performed at 2 or more discrete sites; and

(3) the term “senior procurement executive” means an official designated under section 1702(c) of title 41 as the senior procurement executive for a Federal agency.

#### (b) Policy

The head of each Federal agency shall ensure that the decisions made by the Federal agency regarding consolidation of contract requirements of the Federal agency are made with a view to providing small business concerns with appropriate opportunities to participate as prime contractors and subcontractors in the procurements of the Federal agency.

#### (c) Limitation on use of acquisition strategies involving consolidation

##### (1) In general

The head of a Federal agency may not carry out an acquisition strategy that includes a consolidation of contract requirements of the Federal agency with a total value of more than \$2,000,000, unless the senior procurement executive or Chief Acquisition Officer for the Federal agency, before carrying out the acquisition strategy—

(A) conducts market research;

(B) identifies any alternative contracting approaches that would involve a lesser degree of consolidation of contract requirements;

(C) makes a written determination that the consolidation of contract requirements is necessary and justified;

(D) identifies any negative impact by the acquisition strategy on contracting with small business concerns; and

(E) ensures that steps will be taken to include small business concerns in the acquisition strategy.

##### (2) Determination that consolidation is necessary and justified

###### (A) In general

A senior procurement executive or Chief Acquisition Officer may determine that an

acquisition strategy involving a consolidation of contract requirements is necessary and justified for the purposes of paragraph (1)(C) if the benefits of the acquisition strategy substantially exceed the benefits of each of the possible alternative contracting approaches identified under paragraph (1)(B).

#### (B) Savings in administrative or personnel costs

For purposes of subparagraph (A), savings in administrative or personnel costs alone do not constitute a sufficient justification for a consolidation of contract requirements in a procurement unless the expected total amount of the cost savings, as determined by the senior procurement executive or Chief Acquisition Officer, is expected to be substantial in relation to the total cost of the procurement.

#### (C) Notice

Not later than 7 days after making a determination that an acquisition strategy involving a consolidation of contract requirements is necessary and justified under subparagraph (A), the senior procurement executive or Chief Acquisition Officer shall publish a notice on a public website that such determination has been made. Any solicitation for a procurement related to the acquisition strategy may not be published earlier than 7 days after such notice is published. Along with the publication of the solicitation, the senior procurement executive or Chief Acquisition Officer shall publish a justification for the determination, which shall include the information in subparagraphs (A) through (E) of paragraph (1).

#### (3) Benefits to be considered

The benefits considered for the purposes of paragraphs (1) and (2) may include cost and, regardless of whether quantifiable in dollar amounts—

(A) quality;

(B) acquisition cycle;

(C) terms and conditions; and

(D) any other benefit.

(Pub. L. 85-536, §2[44], as added Pub. L. 111-240, title I, §1313(a)(2), Sept. 27, 2010, 124 Stat. 2538; amended Pub. L. 112-239, div. A, title XVI, §1671(a), (b), (c)(2), Jan. 2, 2013, 126 Stat. 2084, 2085; Pub. L. 113-291, div. A, title VIII, §822(b), Dec. 19, 2014, 128 Stat. 3436; Pub. L. 114-92, div. A, title VIII, §863(b), (c), Nov. 25, 2015, 129 Stat. 926, 927.)

#### PRIOR PROVISIONS

A prior section 2[44] of Pub. L. 85-536 was renumbered section 2[49] and is set out as a note under section 631 of this title.

#### AMENDMENTS

2015—Subsec. (c)(1). Pub. L. 114-92, §863(c), substituted “The head” for “Subject to paragraph (4), the head” in introductory provisions.

Subsec. (c)(2)(C). Pub. L. 114-92, §863(b), added subpar. (C).

2014—Subsec. (a)(1). Pub. L. 113-291, §822(b)(1), inserted “appointed or” before “designated” and substituted “section 1702(a) of title 41” for “section 16(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(a))”.

Subsec. (a)(3). Pub. L. 113-291, §822(b)(2), substituted “section 1702(c) of title 41” for “section 16(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(c))”.

2013—Subsec. (a)(2). Pub. L. 112-239, §1671(a), substituted “or a multiple award contract—” and subpars. (A) and (B) for “or a multiple award contract to satisfy 2 or more requirements of the Federal agency for goods or services that have been provided to or performed for the Federal agency under 2 or more separate contracts lower in cost than the total cost of the contract for which the offers are solicited; and”.

Subsec. (c)(1)(E). Pub. L. 112-239, §1671(b), substituted “ensures” for “certifies to the head of the Federal agency”.

Subsec. (c)(4). Pub. L. 112-239, §1671(c)(2), struck out par. (4). Prior to amendment, text read as follows:

“(A) IN GENERAL.—The Department of Defense and each military department shall comply with this section until after the date described in subparagraph (C).

“(B) RULE.—After the date described in subparagraph (C), contracting by the Department of Defense or a military department shall be conducted in accordance with section 2382 of title 10.

“(C) DATE.—The date described in this subparagraph is the date on which the Administrator determines the Department of Defense or a military department is in compliance with the Government-wide contracting goals under section 644 of this title.”

### § 657r. Mentor-protege programs

#### (a) Administration program

##### (1) Authority

The Administrator is authorized to establish a mentor-protege program for all small business concerns.

##### (2) Model for program

The mentor-protege program established under paragraph (1) shall be identical to the mentor-protege program of the Administration for small business concerns that participate in the program under section 637(a) of this title (as in effect on January 2, 2013), except that the Administrator may modify the program to the extent necessary given the types of small business concerns included as proteges.

##### (3) Puerto Rico businesses

During the period beginning on August 13, 2018, and ending on the date on which the Oversight Board established under section 2121 of title 48 terminates, the Administrator shall identify potential incentives to a covered mentor that awards a subcontract to its covered protege, including—

(A) positive consideration in any past performance evaluation of the covered mentor; and

(B) the application of costs incurred for providing training to such covered protege to the subcontracting plan (as required under paragraph (4) or (5) of section 637(d) of this title) of the covered mentor.

##### (4) Covered territory businesses

During the period beginning on January 1, 2021, and ending on the date that is 4 years after such date, the Administrator shall identify potential incentives to a covered territory mentor that awards a subcontract to its covered territory protege, including—

(A) positive consideration in any past performance evaluation of the covered territory mentor; and

(B) the application of costs incurred for providing training to such covered territory protege to the subcontracting plan (as required under paragraph (4) or (5) of section 637(d) of this title) of the covered territory mentor.

#### (b) Programs of other agencies

##### (1) Approval required

Except as provided in paragraph (4), a Federal department or agency may not carry out a mentor-protege program for small business concerns unless—

(A) the head of the department or agency submits a plan to the Administrator for the program; and

(B) the Administrator approves such plan.

##### (2) Basis for approval

The Administrator shall approve or disapprove a plan submitted under paragraph (1) based on whether the program proposed—

(A) will assist proteges to compete for Federal prime contracts and subcontracts; and

(B) complies with the regulations issued under paragraph (3).

##### (3) Regulations

Not later than 270 days after January 2, 2013, the Administrator shall issue, subject to notice and comment, regulations with respect to mentor-protege programs, which shall ensure that such programs improve the ability of proteges to compete for Federal prime contracts and subcontracts and which shall address, at a minimum, the following:

(A) Eligibility criteria for program participants, including any restrictions on the number of mentor-protege relationships permitted for each participant, except that such restrictions shall not apply to up to 2 mentor-protege relationships if such relationships—

(i) are between a covered protege and a covered mentor; or

(ii) are between a covered territory protege and a covered territory mentor.

(B) The types of developmental assistance to be provided by mentors, including how the assistance provided shall improve the competitive viability of the proteges.

(C) Whether any developmental assistance provided by a mentor may affect the status of a program participant as a small business concern due to affiliation.

(D) The length of mentor-protege relationships.

(E) The effect of mentor-protege relationships on contracting.

(F) Benefits that may accrue to a mentor as a result of program participation.

(G) Reporting requirements during program participation.

(H) Postparticipation reporting requirements.

(I) The need for a mentor-protege pair, if accepted to participate as a pair in a mentor-protege program of any Federal department or agency, to be accepted to participate as a pair in all Federal mentor-protege programs.