

303(q), 303(r), and the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, this Notice of Proposed Rulemaking is hereby adopted.

55. It is further ordered that pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before January 22, 2007 and reply comments on or before February 20, 2007.

56. It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. E6-19742 Filed 11-21-06; 8:45 am]

BILLING CODE 6712-01-P

## AGENCY FOR INTERNATIONAL DEVELOPMENT

### 48 CFR Part 719

RIN 0412-AA58

#### Mentor-Protégé Program

**AGENCY:** U.S. Agency for International Development (USAID).

**ACTION:** Proposed rulemaking.

**SUMMARY:** The United States Agency for International Development (USAID) is proposing to amend its acquisition regulations to formally encourage USAID prime contractors to assist small disadvantaged firms certified by the Small Business Administration under Section 8(a) of the Small Business Act, other small disadvantaged business, Historically Black Colleges and Universities and other minority institutions of higher learning, and women-owned small business in enhancing their capabilities to perform contracts and subcontracts for USAID and other Federal agencies. The program seeks to provide a Mentor-Protégé Program that assists qualified small business to receive developmental assistance from USAID prime contractors in order to increase the base of small business eligible to perform USAID contracts and subcontracts. The program also seeks to foster long-term business relationships between USAID prime contractors and small business entities and minority institutions of

higher learning and to increase the overall number of small business entities and minority institutions that receive USAID grants, cooperative agreements, contracts, and subcontract awards.

**DATES:** Written comments on the proposed rulemaking must be received on or before December 8, 2006.

**ADDRESSES:** Submit comments, identified by the title of the proposed action, Regulatory Information Number (RIN), your name, title, organization, postal address, telephone number, and e-mail address in the text of the message. Accepted methods of submission include the following: Federal eRulemaking portal: <http://www.regulations.gov>. Follow the instructions for submitting comments; facsimile: 202-216-3056; mail: addressed to, Rockefeller P. Herisse, Ph.D. U.S. Agency for International Development, Attn. Mentor-Protégé Rulemaking, Office of Small and Disadvantaged Business Utilization, 1300 Pennsylvania Avenue, NW, Washington, DC 20523-7800, and E-mail: [rherisse@usaid.gov](mailto:rherisse@usaid.gov). All comments will be made available for public review without change, including any personal information provided, from three (3) days after receipt to finalization of action <http://www.usaid.gov/policy/regulations/index.html>.

With respect to proposed reporting requirements and the Paperwork Reduction Act, comments should be addressed to Office of Information and Regulatory Affairs, NEOB—Rm. 10202, 725 17th Street, NW., Washington DC 20503 Rm. 10202, or to Beverly Johnson, Office of Administrative Services, Information and Records Division, 1300 Pennsylvania Ave, NW., Washington, DC 20523 (202)-712-1365 or by e-mail to [bjohnson@usaid.gov](mailto:bjohnson@usaid.gov).

#### FOR FURTHER INFORMATION CONTACT:

Tracy A. Scrivner, Mentor-Protégé Rulemaking, Office of Small and Disadvantaged Business Utilization, U.S. Agency for International Development, 1300 Pennsylvania Avenue, NW., Washington, DC 20523, (202) 712-4983 or by e-mail to [tscrivner@usaid.gov](mailto:tscrivner@usaid.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

##### II. Section By Section Analysis

##### 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 Executive Order 12612
- F. Review Under the Unfunded Mandates Reform Act of 1995

## I. Background

On December 8, 1995, the Office of Small and Disadvantaged Business Utilization (OSDBU) commissioned a thorough assessment of existing Mentor-Protégé programs and the feasibility of such a program for USAID. The assessment concluded that opportunities exist in such programs to actually encourage meaningful and successful business development between Mentors and Protégés. Mentor-Protégé arrangements represent opportunities for creating access for small and disadvantaged business to USAID contracts and awards. Both OSDBU and the Office of Acquisition and Assistance (OAA) believe that Mentor-Protégé programs will afford small and disadvantaged business opportunities to develop their capacity and competencies. Review and analysis of existing Mentor-Protégé programs in the private and public sector conclude that they are effective against the problems related to small business and minority sub-contracting.

This program is similar to those established by other federal agencies such as the Department of State, Department of Energy and the Environmental Protection Agency. An assessment of the best practices in Mentor-Protégé programs identified certain clear benefits for all parties involved. A successful Program can enable USAID to receive a lower price offer from less expensive Mentor-Protégé teams. USAID acknowledges that a structured Mentor-Protégé Program provides an opportunity for dual benefits where small and disadvantaged business are developed to become prime contractors and technically capable sub-contractors. More importantly, the Program provides a degree of confidence to Program Officers that the Mentor firm stands behind the work of the Protégé firm. Therefore, risks associated with the performance of the small and disadvantaged business are mitigated.

## II. Section-by-Section Analysis

This rulemaking proposes to add a new Subpart 273 and amend Part 719 of the AIDAR to provide a Mentor-Protégé Program that assists qualified small business to receive developmental assistance from USAID prime contractors in order to increase the base of small business eligible to perform on USAID grants, contracts and subcontracts.

Proposed sections 719.273-2 and 719.273-4 define which types of entities are eligible to participate as Protégé in the Program. Those entities would

include Historically Black Colleges and Universities and other minority institutions of higher learning in addition to 8(a) firms, other small disadvantaged business, and women-owned small business. Proposed section 719.273-3 provides the USAID's Mentor-Protégé Program policy. Costs incurred by a Mentor to provide developmental assistance are not chargeable to the contract but can be used to offset subcontract goals to the extent that they are incurred during the performance of a contract identified in the Mentor-Protégé Agreement, and have not been credited or reimbursed by the Government. This is an exception to the general rule that USAID will not reimburse Mentors for providing developmental assistance to Protégés, which is set out in proposed section 719.273-3(b). Proposed section 719.273-4 outlines requirements for Mentor eligibility.

Proposed section 719.273-3 states the incentives for Mentoring firms. Proposed section 719.273-4 outlines Protégé eligibility requirements. Proposed section 719.273-5 provides that selection of a Protégé is solely at the discretion of the proposed Mentor. Section 719.273-6 describes the process by which USAID contractors may seek to participate in this program as Mentors.

Proposed section 719.273-7 provides the minimum requirements of a proposed Mentor-Protégé agreement. Proposed section 719.273-8 describes forms of developmental assistance. Proposed section 719.273-7 describes the review process leading to USAID's approval of a proposed Mentor-Protégé agreement. Proposed section 719.273-10 describes the various reports that this program requires. Proposed section 719.273-11 provides for the inclusion of a provision discussing the Mentor-Protégé program in all solicitations exceeding \$550,000 (\$1,000,000 for construction) that offer subcontracting opportunities. Proposed section 752.219-XX provides for the inclusion of a provision discussing the establishment of the Mentor-Protégé Program.

### III. Procedural Requirements

#### A. Review Under Executive Order 12866

This proposed rule has been determined to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993). Accordingly, this proposed rule was 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. USAID has completed the required review and determined that these proposed regulations meet the relevant standards of Executive Order 12988.

#### C. Review Under the Regulatory Flexibility Act

This proposed rule has been reviewed under the Regulatory Flexibility Act of 1980, Public Law 96-354, that 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. 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 business, small women-owned business, Historically Black Colleges and Universities, and other minority institutions of higher education. It is the expectation that at such time as this rule is finalized, those Protégé entities would

directly benefit from the forms of Mentoring described in this proposed rule. USAID believes there would not be an adverse economic impact on small contractors or subcontractors, but requests comment from the public on other possible impacts this rule may have on small entities. Comments will be used as a factual basis upon which USAID would certify that this rule will not have a significant economic impact on a substantial number of small entities.

#### D. Review Under the Paperwork Reduction Act

This proposed rule would require USAID contractors serving as Mentors to submit an application (see proposed Sec. 719.273-7) and annual progress reports to the USAID Mentor-Protégé Program Manager at USAID Headquarters (see proposed Sec. 719.273-10). The information in the reports is necessary to determine the value of the developmental assistance and if the schedules and developmental assistance levels contained in Mentor-Protégé Agreements are being met. Performance under the Agreements is the basis for providing proper recognition to Mentor firms. The proposed collection of information has been submitted to the Office of Management and Budget for review and approval under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* USAID estimates the number of respondent Mentor firms to be 30 and the number of hours required for recordkeeping and preparation of the reports to be approximately 12 hours per respondent annually. The total annual burden hour from compliance is expected to be 360 hours (30 × 12 hours per year). The collection of information contained in this proposed rule is considered the least burdensome for meeting the requirements and objectives of the USAID Mentor-Protégé Program.

USAID invites public comments concerning: (1) The need for the reporting requirement; (2) the accuracy of USAID's estimate of the reporting burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents. Send comments regarding this proposed collection of information to the contact persons named in the address section of this notice.

#### E. Review Under Executive Order 12612

Executive Order 12612, (52 FR 41685, October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any

substantial direct effects on States, on the relationship between the Federal Government and the States, or in the distribution of power and responsibilities among the various levels of Government. If there are sufficient substantial direct effects, then the Executive Order requires the preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action. This proposed rule merely describes the USAID Mentor-Protégé Program. States would not be directly subject to this rule, since they are not among the class of entities described as Mentors or Protégés. USAID has determined that this proposed rule would not have a substantial direct effect on the institutional interests or traditional functions of the States.

#### *F. 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 proposed rulemaking would only affect private sector entities, and the impact is less than \$100 million.

#### **List of Subjects in 48 CFR Part 719**

Government procurement.

For the reasons set out in the preamble, USAID proposes to amend 48 CFR chapter 7 as set forth below:

#### **PART 719—SMALL BUSINESS PROGRAMS**

1. The authority citation for part 719 is revised to read as follows:

**Authority:** 42 U.S.C. 7254, 40 U.S.C. 486(c), 42 U.S.C. 2201.

2. A new subpart 719.273 is added as follows:

#### **Subpart 719.273—The U.S. Agency for International Development Mentor-Protégé Program**

- 719.273-1 Purpose.
- 719.273-2 Definitions.
- 719.273-3 Incentives for Prime Contractor Participation.
- 719.273-4 Eligibility of Mentor and Protégé Firms.
- 719.273-5 Selection of Protégé Firms.
- 719.273-6 Application Process.
- 719.273-7 OSDBU Review of Application.
- 719.273-8 Developmental Assistance.
- 719.273-9 Obligations Under the Mentor-Protégé Program.
- 719.273-10 Internal Controls.
- 719.273-11 Solicitation Provision and Contract Clause.

#### **Subpart 719.273—The United States Agency for International Development (USAID) Mentor-Protégé Program**

##### **719.273-1 Purpose.**

The USAID Mentor-Protégé Program is designed to motivate and encourage firms and institutions of higher education to provide business development assistance to small business and institutions of higher of higher education in the United States that either historically or currently have ethnic minority student enrollments of more than 25 percent. These institutions are commonly known as Minority Institutions or referred to in this document as Minority Serving Institutions (MSIs). The term “small business” includes small business, small disadvantaged business certified by the Small Business Administration under Section 8(a) of the Small Business Act, women-owned small business, HUBZone small business, veteran-owned small business, and service-disabled veteran-owned small business. The Mentor-Protégé Program is also designed to improve the performance of USAID contractors and subcontractors by providing developmental assistance to Protégé entities, fostering the establishment of long-term business relationships between small business and prime contractors and between institutions of higher education with MSIs, and increasing the overall number of small business and MSIs that receive USAID contract and subcontract awards. For purposes of the Small Business Act, a Protégé firm is not considered an affiliate of a Mentor firm solely because the Protégé firm is receiving developmental assistance from said Mentor firm under the Program. A firm’s status as a Protégé under a USAID contract shall not have an effect on the firm’s eligibility to seek other prime contracts or subcontracts. Mentors may have multiple Protégés. However, USAID reserves the right to limit the total number of Protégés participating under the Mentor-Protégé Program.

##### **719.273-2 Definitions.**

(a) Throughout, the term “small business” includes all categories of small firms on whose behalf OSDBU is chartered to advocate, including small business, small and disadvantaged business, women-owned small business, veteran-owned and service-disabled veteran-owned small business and small business located in HUBZones, as those terms are defined in FAR 2.101.

(b) The term “MSIs” applies to Historically Black Colleges and Universities (HBCUs), Hispanic Serving Institutions (HSIs) and Tribal Colleges

and Universities (TCUs). Here the term is used interchangeably with the term Minority Institution as defined in FAR 2.101.

(c) A “Mentor” is a prime contractor that elects to promote and develop small business subcontractors by providing developmental assistance designed to enhance the business success of the Protégé. An institution of higher education may also enter into Mentor-Protégé Agreement as a Mentor with a small business or a MSI Protégé.

(d) “Program” refers to the USAID Mentor-Protégé Program as described in this Chapter.

(e) “Protégé” means a small business, small disadvantaged business, women-owned small business, HUBZone small business, veteran-owned small business or service-disabled veteran-owned small business that is the recipient of developmental assistance pursuant to a Mentor-Protégé Agreement. A MSI can also enter into a Mentor-Protégé Arrangement with a business entity.

##### **719.273-3 Incentives for Prime Contractor Participation.**

(a) Under the Small Business Act, 15 U.S.C. 637(d)(4)(E), USAID is authorized to provide appropriate incentives to encourage subcontracting opportunities for small business consistent with the efficient and economical performance of the contract. This authority is limited to negotiated procurements. FAR 19.202-1 provides additional guidance.

(b) Costs incurred by a Mentor to provide developmental assistance as described below in 719.273-8 can be used to offset established subcontracting requirements, to the extent that those costs are incurred during the performance of a contract identified in the Mentor-Protégé Agreement, and have not been previously credited or reimbursed by the Government.

(c) In addition to paragraph (b) of this section, contracting officers may give Mentors evaluation credit under FAR 15.101-1 considerations for subcontracts awarded pursuant to their Mentor-Protégé Agreements and their subcontracting plans. Therefore:

(1) Contracting officers may evaluate subcontracting plans containing Mentor-Protégé arrangements more favorably than subcontracting plans without Mentor-Protégé Agreements.

(2) Contracting officers may assess the prime contractor’s compliance with the subcontracting plans submitted in previous contracts as a factor in evaluating past performance under FAR 15.305(a)(2)(v) and determining contractor responsibility 19.705-5(a)(1).

(d) *OSDBU Mentoring Award*. A non-monetary award will be presented

annually to the Mentoring firm providing the most effective developmental support of a Protégé. The Mentor-Protégé Program Manager will recommend an award winner to the Director of the Office of Small and Disadvantaged Business Utilization (OSDBU).

(e) *OSDBU Mentor-Protégé Annual Conference.* At the conclusion of each year in the Mentor-Protégé Program, Mentor firms will be invited to brief contracting officers, program leaders, office directors and other guests on Program progress.

#### **719.273-4 Eligibility of Mentor and Protégé Firms.**

Eligible business entities approved as Mentors may enter into agreements (hereafter referred to as "Mentor-Protégé Agreement" or "Agreement" and explained in 719.273-6) with eligible Protégés. Mentors provide appropriate developmental assistance to enhance the capabilities of Protégés to perform as contractors and/or subcontractors. Eligible small business entities capable of providing developmental assistance may be approved as Mentors. Protégés may participate in the Program in pursuit of a prime contract or as subcontractors under the Mentor's prime contract with USAID.

(a) *Eligibility.* A Mentor:

(1) May be either a large or small business entity;

(2) Must be eligible for award of Government contracts;

(3) Must be able to provide developmental assistance that will enhance the ability of Protégés to perform as prime contractors or subcontractors; and

(4) Will be encouraged to enter into arrangements with entities with which it has established business relationships.

(b) *Eligibility.* (1) A Protégé:

(i) Must be a small business, HUBZone, small disadvantaged business, women-owned small business, veteran-owned small business, small disadvantaged veteran-owned small business (as those terms are defined in FAR 2.101) or a Minority Serving Institution (MSI) (as defined in 719.273-2);

(ii) Must be small as determined by NAICS code for the services or supplies to be provided by the Protégé to the Mentor; and

(iii) Eligible for award of government contracts.

(2) A Protégé firm may self-certify to a Mentor firm that it meets the requirements set forth in paragraph (b) of this section. Mentors may rely in good faith on written representations by

potential Protégés that they meet the specified eligibility requirements. Small disadvantaged business status eligibility and documentation requirements are determined according to FAR 19.304. HUBZone status eligibility and documentation requirements are determined according to FAR 19.1303.

(c) Protégés may have multiple Mentors. Protégés participating in Mentor-Protégé programs in addition to USAID's Program should maintain a system for preparing separate reports of Mentoring activity so that results of the USAID Program can be reported separately from any other agency program.

#### **719.273-5 Selection of Protégé Firms.**

(a) Mentor firms will be solely responsible for selecting Protégé firms. Mentors are encouraged to select from a broad base of MSIs and small business including small business, small disadvantaged business, women-owned small business, veteran-owned small business, service-disabled veteran-owned small business, and HUBZone firms whose core competencies support USAID's mission.

(b) Mentors may have multiple Protégés. However, USAID reserves the right to limit the total number of Protégés participating under each Mentor firm for the Mentor-Protégé Program.

(c) The selection of Protégé firms by Mentor firms may not be protested, except that any protest regarding the size or eligibility status of an entity selected by a Mentor shall be handled in accordance with the Federal Acquisition Regulation (FAR) and the Small Business Administration regulations.

#### **719.273-6 Application Process.**

Entities interested in becoming a Mentor firm must apply in writing to the USAID Office of Small and Disadvantaged Business Utilization (OSDBU) by submitting form AID XXXX (OMB Approval number xxxx-\_\_\_\_). The application shall contain the Mentor-Protégé Agreement and shall be evaluated for approval. Evaluations will consider the nature and extent of technical and managerial support as well as any proposed financial assistance in the form of equity investment, loans, joint-venture, and traditional subcontracting support. The Mentor-Protégé Agreement must contain:

(a) Names, addresses, phone numbers, and e-mail addresses (if available) of Mentor and Protégé firm(s) and a point of contact for both Mentor and Protégé;

(b) A description of the developmental assistance that will be provided by the Mentor to the Protégé, including a description of the work or product contracted for (if any), a schedule for providing assistance, and criteria for evaluation of the Protégé's developmental success.

(c) A listing of the number and types of subcontracts to be awarded to the Protégé;

(d) Duration of the Agreement, including rights and responsibilities of both parties (Mentor and Protégé);

(e) Termination procedures, including procedures for the parties' voluntary withdrawal from the Program. The Agreement shall require the Mentor or the Protégé to notify the other firm in writing at least 30 days in advance of its intent to voluntarily terminate the Agreement;

(f) Procedures requiring the parties to notify OSDBU immediately upon receipt of termination notice from the other party;

(g) A plan for accomplishing the work or product contracted for should the Agreement be terminated; and

(h) Other terms and conditions, as appropriate.

#### **719.273-7 OSDBU Review of Application.**

(a) OSDBU will review the information to establish the Mentor and Protégé eligibility and to ensure that the information that is in Section 719.273-6 is included. If the application relates to a specific contract, then OSDBU will consult with the responsible contracting officer on the adequacy of the proposed Agreement, as appropriate. OSDBU will complete its review no later than 30 calendar days after receipt of the application or after consultation with the contracting officer, whichever is later. Application for and enrollment into the Program are free and open to the public.

(b) After OSDBU completes its review and provides written approval, the Mentor may execute the Agreement and implement the developmental assistance as provided under the Agreement. OSDBU will provide a copy of the Mentor-Protégé Agreement to the USAID contracting officer for any USAID contracts affected by the Agreement.

(c) The Agreement defines the relationship between the Mentor and Protégé firms only. The Agreement itself does not create any privity of contract or contractual relationship between the Mentor and USAID nor the Protégé and USAID.

(1) If the Mentor responding to a solicitation wishes to receive credit for an approved program arrangement, then

the contracting officer must add the approved Mentor-Protégé Agreement to the subcontracting plan of any affected contract. OSDBU will notify the contracting officer of any changes to the Agreement, particularly if either party terminates the Agreement or OSDBU rescinds its approval of the Agreement per section 719.273-10.

(2) If the application is disapproved, the Mentor may provide additional information for reconsideration. OSDBU will complete review of any supplemental material no later than 30 days after its receipt. Upon finding deficiencies that USAID considers correctable, OSDBU will notify the Mentor and Protégé and request correction of deficiencies to be provided within 15 days.

#### **719.273-8 Developmental Assistance.**

The forms of developmental assistance a Mentor can provide to a Protégé include and are not limited to the following:

- (a) Guidance relating to—
  - (1) Financial management;
  - (2) Organizational management;
  - (3) Overall business management/planning;
  - (4) Business development; and
  - (5) Technical assistance.
- (b) Loans;
- (c) Rent-free use of facilities and/or equipment;
- (d) Property;
- (e) Temporary assignment of personnel to a Protégé for training; and
- (f) Any other types of permissible, mutually beneficial assistance.

#### **719.273-9 Obligations Under the Mentor-Protégé Program.**

(a) A Mentor or Protégé may voluntarily withdraw from the Program. However, in no event shall such withdrawal impact the contractual requirements under any prime contract.

(b) Mentor and Protégé entities shall submit to the USAID Office of Small and Disadvantaged Business Utilization (OSDBU) annual reports on progress under the Mentor-Protégé Agreement. Mentors required to submit Small Business Subcontracting Plan reports (in accordance with FAR 52.219-9) may submit the Mentor-Protégé reports as part of their subcontracting reporting obligations. USAID will evaluate annual reports by considering the following:

- (1) Specific actions taken by the Mentor during the evaluation period to increase the participation of their Protégé(s) as suppliers to the Federal Government and to commercial entities;
- (2) Specific actions taken by the Mentor during the evaluation period to develop technical and administrative

expertise of a Protégé as defined in the Agreement;

(3) The extent to which the Protégé has met the developmental objectives in the Agreement;

(4) The extent to which the Mentor's participation in the Mentor-Protégé Program impacted the Protégé's ability to receive contract(s) and subcontract(s) from private firms and Federal agencies other than USAID; and, if deemed necessary.

(5) Input from the Protégé on the nature of the developmental assistance provided by the Mentor.

(c) OSDBU will submit annual reports to the relevant contracting officer regarding participating prime contractor(s)' performance in the Program.

(d) Mentor and Protégé firms shall submit an evaluation to OSDBU at the conclusion of the mutually agreed upon Program period, the conclusion of the contract, or the voluntary withdrawal by either party from the Program, whichever comes first.

#### **719.273-10 Internal Controls.**

(a) OSDBU will oversee the Program and will work in concert with the Mentor-Protégé Program Manager and relevant contracting officers to achieve Program objectives. OSDBU will establish internal controls as checks and balances applicable to the Program. These controls will include:

- (1) Reviewing and evaluating Mentor applications for validity of the provided information;
- (2) Reviewing annual progress reports submitted by Mentors and Protégés on Protégé development to measure Protégé progress against the plan submitted in the approved Agreement; and
- (3) Reviewing and evaluating financial reports and invoices submitted by the Mentor to verify that USAID is not charged by the Mentor for providing developmental assistance to the Protégé.

(b) USAID may rescind approval of an existing Mentor-Protégé Agreement if it determines that such action is in USAID's best interest. The rescission shall be in writing and sent to the Mentor and Protégé after approval by the Director of OSDBU. Rescission of an Agreement does not change the terms of any subcontract between the Mentor and the Protégé.

#### **719.273-11 Solicitation Provision and Contract Clause.**

(a) The Contracting Officer shall insert the provision at AIDAR 752.219-70 in all unrestricted solicitations exceeding \$550,000 (\$1,000,000 for construction) that offer subcontracting opportunities.

(b) The Contracting Officer shall insert the clause at AIDAR 752.219-71

in all contracts where the prime contractor has signed a Mentor-Protégé Agreement with USAID.

### **PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

3. The authority citation for part 752 continues to read as follows:

**Authority:** Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 566673; 3 CFR, 1979 Comp., p. 435.

4. Add section 752.219-270 to read as follows:

#### **752.219-270 USAID Mentor-Protégé Program (XXXX 2007)**

As prescribed in AIDAR 719.273-11(a), insert the following provision:

##### **USAID Mentor-Protégé Program**

(a) Large and small business are encouraged to participate in the USAID Mentor-Protégé Program (the "Program"). Mentor firms provide eligible small business Protégés with developmental assistance to enhance their business capabilities and ability to obtain Federal contracts.

(b) Mentor firms are large prime contractors or eligible small business capable of providing developmental assistance. Protégé firms can be either small business, as defined in 13 CFR Parts 121, 124, and 126 or MSIs.

(c) Developmental assistance is technical, managerial, financial, and other mutually beneficial assistance that aids Protégés. The costs for developmental assistance are not chargeable to the contract. Firms interested in participating in the Program are encouraged to contact the USAID OSDBU (202-712-1500) for more information.

(End of provision)

5. Add section 752.219-271 to read as follows:

#### **752.219-71 Mentor Requirements and Evaluation (XXXX 2007)**

As prescribed in AIDAR 719.273-11(b), insert the following clause:

##### **Mentor Requirements and Evaluation**

(a) Mentor and Protégé firms shall submit an evaluation of the overall experience in the Program to OSDBU at the conclusion of the mutually agreed upon Program period, the conclusion of the contract, or the voluntary withdrawal by either party from the Program, whichever occurs first. At the conclusion of each year in the Mentor-Protégé Program, the Mentor and Protégé will formally brief the USAID Mentor-Protégé Program Manager regarding Program accomplishments under their Mentor-Protégé Agreement.

(b) Mentor or Protégé shall notify OSDBU in writing, at least 30 calendar days in advance of the effective date of the firm's withdrawal from the Program.

(End of clause)

Dated: November 9, 2006.

**Marilyn Marton,**

*Director, Office of Small and Disadvantaged Business Utilization (OSDBU).*

[FR Doc. E6-19707 Filed 11-21-06; 8:45 am]

BILLING CODE 6116-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

#### 49 CFR Part 604

[Docket No. FTA-2005-22657]

RIN 2132-AA85

#### Charter Service Negotiated Rulemaking Advisory Committee

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice of meeting location and time of the meeting.

**SUMMARY:** This notice lists the location and time of the next Charter Bus Negotiated Rulemaking Advisory Committee (CBNRAC) meeting.

**DATES:** *Effective Date:* November 22, 2006.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Martineau, Attorney-Advisor, Office of the Chief Counsel, Federal Transit Administration, 202-366-1936 ([elizabeth.martineau@dot.gov](mailto:elizabeth.martineau@dot.gov)). Her mailing address at the Federal Transit Administration at 400 Seventh Street, SW., Room 9316, Washington, DC 20590.

#### SUPPLEMENTARY INFORMATION:

##### Meeting Location

The Residence Inn Marriott, 550 Army Navy Drive, Arlington, VA 22202.

##### Meeting Time

December 6th, 9 a.m.-4:30 p.m.

December 7th, 8:30 a.m.-4 p.m.

Issued this 16th day of November, 2006, in Washington, DC.

**James S. Simpson,**  
*Administrator.*

[FR Doc. 06-9364 Filed 11-21-06; 8:45am]

BILLING CODE 4910-57-M

## NATIONAL TRANSPORTATION SAFETY BOARD

#### 49 CFR Part 801

#### Public Availability of Information

**AGENCY:** National Transportation Safety Board (NTSB).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The NTSB is proposing to amend 49 *Code of Federal Regulations*

(CFR) Part 801, "Public Availability of Information," to include updated information regarding the availability of NTSB records. This amendment updates the NTSB regulations that implement the Freedom of Information Act (FOIA) and Privacy Act, notifies the public of changes in the NTSB's Freedom of Information Act processing procedures and, in general, advises the public on the availability of information from NTSB accident investigations.

**DATES:** Submit comments on or before December 22, 2006.

**ADDRESSES:** Mail comments concerning this proposed rule to Gary L. Halbert, General Counsel, National Transportation Safety Board, 490 L'Enfant Plaza, SW., Washington, DC 20594-2000.

**FOR FURTHER INFORMATION CONTACT:** Gary L. Halbert, (202) 314-6080.

#### SUPPLEMENTARY INFORMATION:

##### Proposed Revision to § 801.1, Applicability

The NTSB seeks to amend § 801.1 in order to clarify the NTSB's implementation of the provisions of the Freedom of Information Act, and update the relevant statutory citations.

##### Proposed Revision to § 801.2, Policy

The NTSB seeks to amend § 801.2 in order to emphasize that persons seeking information from the NTSB need not submit a request under the FOIA, but instead should first search for information that is publicly available. Although the NTSB makes "public dockets" of investigative information available to the public at the conclusion of each investigation, the NTSB still receives hundreds of FOIA requests each year for the same or similar information. Many FOIA requesters find that the information they receive from the NTSB, beyond that already in the public docket, is not helpful to them. Section 801.2 emphasizes this point and encourages requesters to obtain the public docket of investigative information before they consider submitting a FOIA request.

##### Proposed Revision to § 801.3, Definitions

The NTSB seeks to amend § 801.3 in order to update existing definitions, and in order to include definitions for the terms, "public docket" and "non-docket," which are unique to the NTSB.

##### Proposed Revision to § 801.10, General

The NTSB seeks to amend § 801.10 to replace references to "Director, Bureau of Administration" with "Chief, Records Management Division." The NTSB no

longer has a Director, Bureau of Administration.

In addition, the NTSB seeks to amend § 801.10 in order to update the deadline by which the NTSB must respond to requests for information under the FOIA; Congress amended the FOIA in 1996 to expand the response deadline from 10 working days to 20 working days. 5 U.S.C. 552(a)(6)(A)(i). The NTSB's proposed amendment to § 801.10(b) reflects this change. In updating this provision, however, the NTSB notes that the FOIA does not require an agency to search for records, meet time deadlines, or release any records until the agency has received a FOIA request. A request for information under the FOIA must comply with published regulations before an agency is required to consider it a proper FOIA request.

The NTSB also seeks to amend § 801.10 to notify persons seeking information that the NTSB will deny requests for information related to an ongoing investigation, in accordance with the exemptions of the FOIA.

The other proposed amendments to § 801.10 clarify the general requirements for submitting a FOIA request to the NTSB.

##### Proposed Revision to § 801.11, Segregability of Records

The NTSB seeks to amend § 801.11 in order to update the title of the NTSB employee who makes a segregability determination. The amendments also clarify the NTSB's practice of segregating exempt portions of a record from non-exempt portions via redaction, when possible.

##### Proposed Revision to § 801.12, Protection of Records

The NTSB seeks to amend § 801.12 in order to provide a cross-reference to another relevant section within this title, and to add to a quotation of 18 U.S.C. 641. In general, the NTSB intends to retain the majority of this section as the NTSB originally enacted it, in order to cite the specific penalties that a person will encounter if they attempt to steal, alter, mutilate, obliterate, or destroy an agency record.

##### Proposed Addition of § 801.20, Processing of Records

The NTSB seeks to add § 801.20 to this part, in order to notify persons seeking information concerning the NTSB FOIA Office's "tracking" system for processing requests. This system allows the NTSB to process requests more efficiently; rather than allowing a complex, broad request to inhibit the processing of simpler requests, the