

in each craft involved in the performance of the contract work. All solicitations for construction contracts shall reference the affirmative action requirements and the offeror's obligation to make good faith efforts to employ women in craft positions.

(3) Pursuant to the OFCCP order dated August 30, 1976, agencies shall develop "Special Bid Conditions" for use on high impact projects in non-plan areas. These special bid conditions will include mandatory goals and timetables for the utilization of minorities. The Procurement Executive using the criteria issued by OFCCP will determine those projects that are "high impact." The contracting officer is responsible for compliance with policies and procedures contained in the OFCCP "Construction Compliance Program Operations Manual." Language for inclusion in solicitations or contracts contained in the manual may be modified, provided all of the requirements are retained. The contracting officer shall develop the goals and timetables and shall confer with the appropriate OFCCP regional office. The Office of Civil Rights will provide assistance as necessary, when requested. Special bid conditions will be submitted by the contracting officer to the appropriate OFCCP regional office for approval unless otherwise directed by the Procurement Executive. When special bid conditions are applicable, adequate presolicitation lead time should be allowed for submission of the special bid conditions to OFCCP national and regional offices.

(c) An attempt to limit in any major respect the equal opportunity requirements included in an invitation for bids or request for proposals for a construction contract shall constitute grounds for a determination that the offeror does not qualify as a responsible offeror and for rejection of the bid or proposal. In the case of construction acquisition by DOE prime contractors, this determination shall be made only with the approval of the DOE contracting officer.

[49 FR 11998, Mar. 28, 1984, as amended at 56 FR 41965, Aug. 26, 1991, 58 FR 36365, July 7, 1993; 59 FR 9106, Feb. 25, 1994]

922.807 Exemptions.

(c) Contracting officer requests for exemption from E.O. 11246 should be directed to the Procurement Executive for submission to the Director, OFCCP.

PART 923—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG FREE WORKPLACE

Subpart 923.4—Use of Recovered Materials

Sec.

923.405 Procedures [DOE supplemental coverage—paragraph (e)].

923.471 [Reserved]

Subpart 923.5—Workplace Substance Abuse Programs

923.570 Workplace substance abuse programs at DOE sites.

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923.7001 Nuclear safety.

923.7002 Worker Safety and Health.

923.7003 Contract clauses.

AUTHORITY: 42 U.S.C. 7101 *et seq.*; 41 U.S.C. 418b; 50 U.S.C. 2401 *et seq.*

Subpart 923.4—Use of Recovered Materials

923.405 Procedures [DOE supplemental coverage—paragraph (e)].

(e) When acquiring items designated in the EPA Comprehensive Procurement Guidelines, the EPA recommended percentage of recovered/recycled content or range of content contained in the Recovered Materials Advisory Notice (RMAN) shall be specified in the solicitation and contract as the minimum percentage of recovered/recycled content or range of content. Acquisition of a product with recycled

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content exceeding the RMAN recommended content or range of content is encouraged if the product performs acceptably.

[68 FR 6358, Feb. 7, 2003]

923.471 [Reserved]

Subpart 923.5—Workplace Substance Abuse Programs

SOURCE: 57 FR 32676, July 22, 1992, unless otherwise noted.

923.570 Workplace substance abuse programs at DOE sites.

(a) The Department of Energy (DOE), as part of its overall responsibilities to protect the environment, maintain public health and safety, and safeguard the national security, 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.

923.570-1 Applicability.

(a) The policies, criteria, and procedure specified in 10 CFR part 707, Workplace Substance Abuse Programs at DOE Sites, 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:

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

(2) Has been determined by DOE to involve:

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

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

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

(b) Except as otherwise provided for in this subpart, contracts subject to the requirements of 10 CFR part 707

and this subpart shall not be subject to FAR 23.5, Drug Free Workplace.

[57 FR 32676, July 22, 1992; 57 FR 41974, Sept. 14, 1992]

923.570-2 Solicitation provision and contract clause.

(a) The contracting officer shall insert the provision at 48 CFR 970.5223-3, 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 48 CFR 923.570-1, Applicability.

(b) The contracting officer shall insert the clause at 48 CFR 970.5223-4, 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 923.570-1, Applicability.

[57 FR 32676, July 22, 1992, as amended at 62 FR 42074, Aug. 5, 1997; 65 FR 81007, Dec. 22, 2000]

923.570-3 Suspension of payments, termination of contract, and debarment and suspension actions.

(a) The contracting officer shall comply with the procedures of FAR 23.506 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 48 CFR 970.5223, 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 provision at 48 CFR 970.5204-57; or