

(f) The RTC, through a written determination by the Chief Executive Officer, may grant a waiver from the requirements of paragraphs (a) and (b) of this section for any contract, provided that the contractor certifies that it has determined that no eligible MWOB is available to enter into a subcontract, with respect to a contract to which paragraphs (a) and (b) of this section are otherwise applicable; provides a list of MWOB contractors contacted, including firm name, MWOB tax identification number, address, telephone number, and contact official; and provides a detailed explanation of the basis for the contractor's determination, including written documentation from the local RTC DMWP concurring in the determination that there are no eligible MWOBs available.

(g) The offeror/contractor is subject to §§ 1617.30, 1617.31 and 1617.33.

#### **§ 1617.33 Post-award oversight.**

(a) The contractor will be required to submit periodic detailed reports of substantive work and payments to MWOB subcontractors, to allow the RTC to determine the extent of compliance by the contractor with the MWOB subcontracting plan. Summary subcontracting reports will be required in accordance with RTC instructions.

(b) The RTC will evaluate the contractor's performance in relation to its implementation of the MWOB subcontracting plan. The RTC will give notice to the contractor if the contractor is failing to meet his or her commitments under the subcontracting plan. If a contractor's performance is inadequate, the contractor will be given notice in accordance with the terms and conditions of the contract. If after the compliance period elapses, the contractor has not corrected the non-compliance issue, the RTC shall initiate appropriate remedial action, that could result in the withholding of fees, contract termination, and/or referral to the Office of Ethics which may result in suspension, or exclusion of the contractor.

#### **Subpart E—Solicitation and Contract Award Guidelines**

##### **§ 1617.40 Inclusion in solicitations.**

RTC policies and guidelines will ensure, to the maximum extent possible, participation of MWOBs in each contract solicitation. In order to increase competition for MWOBs, the RTC shall implement smaller contract assignments, such as soliciting proposals for asset managers to manage small, homogeneous, geographically concentrated asset pools. For

noncompetitive contracts under \$5,000, the use of MWOB firms is encouraged.

##### **§ 1617.41 Participation by the Division of Minority and Women's Programs in the solicitation and award process.**

(a) The DMWP staff shall participate in the initial review and Statement of Work meeting with the requesting program office and the Legal Division to establish milestones, specific task descriptions, and contractor responsibilities. The DMWP shall participate in the Source Selection Plan process to assure inclusion of MWOB firms. The DMWP shall assure that the following contract requirements are fair, equitable and consistent:

(1) The selection criteria for notices or issuance of SOSs;

(2) The advertising language; and

(3) Standards for most important, more important, and important factors, and scoring criteria.

(b) The DMWP shall participate in the preparation of responses to questions received from offerors in consultation with the Contracts Office, Program Office, and Legal Division.

(c) The DMWP staff shall participate as non-voting members in the technical evaluation process. After the technical evaluation, scoring material shall be available for review and concurrence by the Program Office, Legal Division, and the DMWP.

(d) The DMWP shall concur on the assignment of technical and cost bonus points prior to selection of offerors in competitive range.

(e) To ensure inclusion by MWOBs in the contracting process, the DMWP must concur in the selection of the contractor.

(f) In the post-award phase, the DMWP shall participate in MWOB debriefings and contractor performance evaluations.

(g) The DMWP, in conjunction with OCOS, will conduct quarterly and annual site visitations of SAMDA contractors to review contractor compliance with RTC policies and procedures.

(h) The DMWP shall conduct quarterly and annual site visitations of any contractor who is subject to MWOB participation in joint ventures and subcontracting plan(s).

##### **§ 1617.42 Participation by the Division of Minority and Women's Programs in contract administration.**

The DMWP shall participate in the oversight (i.e. evaluation, rating, and other matters) relating to contract performance and compliance, specifically those matters related to the implementation of DMWP activities and

fulfillment of subcontracting plan and joint venture agreement obligations and commitments. This includes interactions between parties once payment has been made, during the resolution of any disputes or adjustments, and until the contract is formally closed. The DMWP shall participate and concur in decisions related to contract changes and modifications to assure that MWOBs are fully included in decisions related to changes and modifications to their contracts; and in conformance with the joint venture agreement and subcontracting plan terms and conditions related to MWOB eligibility. The DMWP shall:

(a) Participate and concur in the preparation of the Contract Administration Plan with the oversight managers and contract officer; the post-award conference to discuss milestones, reporting requirements, training needs, roles and responsibilities; and technical requirements of MWOB Program implementation;

(b) Participate as a contract administration team member with full responsibility for monitoring compliance of all firms with MWOB Program requirements; attending site visits and performance reviews; and providing technical oversight, assistance, training, and other direction as required;

(c) Monitor contractor payments for timeliness and accuracy of the contractor's payment to MWOB subcontractors in accordance with established and previously approved subcontracting plans;

(d) Monitor contractor fee splits for timeliness and accuracy, and verify fee distributions to MWOB joint venture participants;

(e) Review and concur on all requests for contract amendments and modifications initiated by the contractor or RTC to assure that they are not prohibitive or impediments to maximizing the levels of participation for MWOBs in potential contract opportunities; and

(f) Review and concur in all requests for the assignment and/or re-assignment of contracts to determine the impact of such assignments on RTC's MWOB goals and on the participation of minorities and women.

#### **Subpart F—Technical and Cost Bonus Points**

##### **§ 1617.50 Policy.**

In the review and evaluation of proposals submitted by firms eligible as MWOBs, MWOB joint ventures, or non-MWOBs with qualifying subcontracting