

List of Subjects in 40 CFR Part 63

Environmental protection, Air emissions control, Hazardous air pollutants, Combustion turbines.

Dated: April 13, 2000.

Robert Perciasepe,

Assistant Administrator, Office of Air and Radiation.

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GENERAL SERVICES ADMINISTRATION**41 CFR Parts 301-51, 301-52, 301-54, 301-70, 301-71 and 301-76**

[FTR Amendment 92]

RIN 3090-AH24

Federal Travel Regulation; Mandatory Use of the Travel Charge Card

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: This final rule amends Federal Travel Regulation (FTR) Amendment 90 published in the **Federal Register** on Wednesday, January 19, 2000 (65 FR 3054) concerning payment by the Government of expenses connected with official Government travel. This final rule further implements the requirements of Public Law 105-264.

DATES: This final rule is effective April 21, 2000, and applies to payment of expenses in connection with official Government travel performed on or after May 1, 2000.

FOR FURTHER INFORMATION CONTACT: Jim Harte, Office of Governmentwide Policy, Travel and Transportation Management Policy Division, at (202) 501-1538.

SUPPLEMENTARY INFORMATION:**A. Background**

Pursuant to Public Law 105-264, subsection 2(a), the Administrator of General Services is required to issue regulations requiring Federal employees to use the travel charge card established pursuant to the United States Travel and Transportation Payment and Expense Control System, or any Federal contractor-issued travel charge card, for all payments of expenses of official Government travel. Additionally, Public Law 105-264 requires the Administrator of General Services to issue regulations on reimbursement of travel expenses and collection of delinquent amounts upon written request of a Federal contractor.

The General Services Administration (GSA), after an analysis of additional data, has:

(1) Determined that certain relocation expenses (excluding en route travel and househunting expenses) are not technically "travel" expenses and, therefore, are not covered under the provisions of the statute.

(2) Established the date of May 1, 2002, for agencies to reach a seven-calendar day limit for reviewing travel claims.

(3) Permitted an agency to either calculate late payment fees using the Prompt Payment Act Interest Rate or a flat amount based on an agency average of travel claims, but not less than the prompt payment amount.

(4) Deleted health insurance from consideration as disposable pay.

B. Regulatory Flexibility Act

This final rule is not required to be published in the **Federal Register** for notice and comment; therefore, the Regulatory Flexibility Act does not apply.

C. Executive Order 12866

GSA has determined that this final rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 501 *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This final rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Parts 301-51, 301-52, 301-54, 301-70, 301-71, and 301-76

Government employees, Travel and transportation expenses.

For the reasons set forth in the preamble, 41 CFR Chapter 301 is amended as follows:

PART 301-51—PAYING TRAVEL EXPENSES

1. The authority citation for 41 CFR part 301-51 continues to read as follows:

Authority: 5 U.S.C. 5707. Subpart A is issued under the authority of Sec. 2, Pub. L.

105-264, 112 Stat. 2350 (5 U.S.C. 5701 note); 40 U.S.C. 486(c).

2. Section 301-51.2 is amended by adding paragraph (l) to read as follows:

§ 301-51.2 What official travel expenses and/or classes of employees are exempt from the mandatory use of the Government contractor-issued travel charge card?

* * * * *

(l) Relocation allowances prescribed in chapter 302 of this title, except en-route travel and househunting trip expenses.

PART 301-52—CLAIMING REIMBURSEMENT

3. The authority citation for 41 CFR part 301-52 continues to read as follows:

Authority: 5 U.S.C. 5707; 40 U.S.C. 486(c); Sec. 2, Pub. L. 105-264, 112 Stat. 2350 (5 U.S.C. 5701 note).

4. Sections 301-52.17 and 301-52.18 are revised to read as follows:

§ 301-52.17 Within how many calendar days after I submit a proper travel claim must my agency reimburse my allowable expenses?

Your agency must reimburse you within 30 calendar days after you submit a proper travel claim to your agency's designated approving office. Your agency must ensure that it uses a satisfactory recordkeeping system to track submission of travel claims. For example, travel claims submitted by mail, in accordance with your agency's policy, could be annotated with the time and date of receipt by your agency. Your agency could consider travel claims electronically submitted to the designated approving office as submitted on the date indicated on an e-mail log, or on the next business day if submitted after normal working hours. However, claims for the following relocation allowances are exempt from this provision:

(a) Transportation and storage of household goods and professional books, papers and equipment;

(b) Transportation of mobile home;

(c) Transportation of a privately owned vehicle;

(d) Temporary quarters subsistence expense, when not paid as lump sum;

(e) Residence transaction expenses;

(f) Relocation income tax allowance;

(g) Use of a relocation services company;

(h) Home marketing incentive payments; and

(i) Allowance for property management services.

§ 301–52.18 Within how many calendar days after I submit a travel claim must my agency notify me of any error that would prevent payment within 30 calendar days after submission?

Your agency must notify you as soon as practicable after you submit your travel claim of any error that would prevent payment within 30 calendar days after submission and must provide the reason(s) why your travel claim is not proper. However, not later than May 1, 2002, agencies must achieve a maximum time period of seven working days for notifying you that your travel claim is not proper.

5. Section 301–52.20 is revised to read as follows:

§ 301–52.20 How are late payment fees calculated?

Your agency must either:

(a) Calculate late payment fees using the prevailing Prompt Payment Act Interest Rate beginning on the 31st day after submission of a proper travel claim and ending on the date on which payment is made; or

(b) Reimburse you a flat fee of not less than the prompt payment amount, based on an agencywide average of travel claim payments; and

(c) In addition to the fee required by paragraphs (a) and (b) of this section, your agency must also pay you an amount equivalent to any late payment charge that the card contractor would have been able to charge you had you not paid the bill.

PART 301–54—COLLECTION OF UNDISPUTED DELINQUENT AMOUNTS OWED TO THE CONTRACTOR ISSUING THE INDIVIDUALLY BILLED TRAVEL CHARGE CARD

6. The authority citation for 41 CFR part 301–54 continues to read as follows:

Authority: 5 U.S.C. 5707; 40 U.S.C. 486(c); Sec. 2, Pub. L. 105–264, 112 Stat. 2350 (5 U.S.C. 5701 note).

7. Section 301–54.2 is revised to read as follows:

§ 301–54.2 What is disposable pay?

Disposable pay is your compensation remaining after the deduction from your earnings of any amounts required by law to be withheld. These deductions do not include discretionary deductions such as savings bonds, charitable contributions, *etc.* Deductions may be made from any type of pay you receive from your agency, *e.g.*, basic pay, special pay, retirement pay, or incentive pay.

PART 301–70—INTERNAL POLICY AND PROCEDURE REQUIREMENTS

8. The authority citation for 41 CFR part 301–70 continues to read as follows:

Authority: 5 U.S.C. 5707; 40 U.S.C. 486(c); Sec. 2, Pub. L. 105–264, 112 Stat. 2350 (5 U.S.C. 5701 note).

9. Section 301–70.704 is amended by adding a note at the end of the section to read as follows:

§ 301–70.704 What expenses and/or classes of employees are exempt from the mandatory use of the Government contractor-issued travel charge card?

* * * * *

Note to § 301–70.704: Relocation allowances prescribed in chapter 302 of this title, except en-route travel and househunting trip expenses are not covered by this requirement.

PART 301–71—AGENCY TRAVEL ACCOUNTABILITY REQUIREMENTS

10. The authority citation for 41 CFR part 301–71 continues to read as follows:

Authority: 5 U.S.C. 5707; 40 U.S.C. 486(c); Sec. 2, Pub. L. 105–264, 112 Stat. 2350 (5 U.S.C. 5701 note).

11. Section 301–71.204 is revised to read as follows:

§ 301–71.204 Within how many calendar days after the submission of a proper travel claim must we reimburse the employee's allowable expenses?

You must reimburse the employee within 30 calendar days after the employee submits a proper travel claim to the agency's designated approving office. You must use a satisfactory recordkeeping system to track submission of travel claims. For example, travel claims submitted by mail, in accordance with agency policy, could be annotated with the time and date of receipt by the agency. You could consider travel claims electronically submitted to the designated approving office as submitted on the date indicated on an e-mail log, or on the next business day if submitted after normal working hours. However, claims for the following relocation allowances are exempt from this provision:

- (a) Transportation and storage of household goods and professional books, papers and equipment;
- (b) Transportation of mobile home;
- (c) Transportation of a privately owned vehicle;
- (d) Temporary quarters subsistence expense, when not paid as lump sum;
- (e) Residence transaction expenses;

(f) Relocation income tax allowance;

(g) Use of a relocation services company;

(h) Home marketing incentive payments; and

(i) Allowance for property management services.

12. Section 301–71.208 is revised to read as follows:

§ 301–71.208 Within how many calendar days after submission of a proper travel claim must we notify the employee of any errors in the claim?

You must notify the employee as soon as practicable after the employee's submission of the travel claim of any error that would prevent payment within 30 calendar days after submission and provide the reason(s) why the claim is not proper. However, not later than May 1, 2002, you must achieve a maximum time period of seven working days for notifying an employee that his/her travel claim is not proper.

13. Section 301–71.210 is revised to read as follows:

§ 301–71.210 How do we calculate late payment fees?

Late payment fees are calculated either by:

(a) Using the prevailing Prompt Payment Act Interest Rate beginning on the 31st day after submission of a proper travel claim and ending on the date on which payment is made; or

(b) A flat fee, of not less than the prompt payment amount, based on an agencywide average of travel claim payments; and

(c) In addition to the fee required by paragraphs (a) and (b) of this section, you must also pay an amount equivalent to any late payment charge that the card contractor would have been able to charge had the employee not paid the bill. Payment of this additional fee will be based upon the effective date that a late payment charge would be allowed under the agreement between the employee and the card contractor.

PART 301–76—COLLECTION OF UNDISPUTED DELINQUENT AMOUNTS OWED TO THE CONTRACTOR ISSUING THE INDIVIDUALLY BILLED TRAVEL CHARGE CARD

14. The authority citation for 41 CFR part 301–76 continues to read as follows:

Authority: 5 U.S.C. 5707; 40 U.S.C. 486(c); Sec. 2, Pub. L. 105–264, 112 Stat. 2350 (5 U.S.C. 5701 note).

15. Section 301–76.2 is revised to read as follows:

§ 301-76.2 What is disposable pay?

Disposable pay is the part of the employee's compensation remaining after the deduction of any amounts required by law to be withheld. These deductions do not include discretionary deductions such as savings bonds, charitable contributions, etc. Deductions may be made from any type of pay, e.g., basic pay, special pay, retirement pay, or incentive pay.

Dated: April 13, 2000.

David J. Barram,

Administrator of General Services.

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DEPARTMENT OF ENERGY**48 CFR Parts 919 and 952****RIN 1991-AB45****Acquisition Regulations: Mentor-Protege Program**

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is amending its acquisition regulations to encourage DOE prime contractors to assist small disadvantaged firms certified by the Small Business Administration under Section 8(a) of the Small Business Act (8(a)), other small disadvantaged businesses, Historically Black Colleges and Universities and other minority institutions of higher learning, women-owned small businesses and small business concerns owned and controlled by service disabled veterans in enhancing their capabilities to perform contracts and subcontracts for DOE and other Federal agencies. The program seeks to foster long-term business relationships between DOE prime contractors and these small business entities and minority institutions of higher learning and to increase the overall number of these small business entities and minority institutions that receive DOE contract and subcontract awards.

EFFECTIVE DATE: This rule will take effect May 22, 2000.

FOR FURTHER INFORMATION CONTACT:

Eugene Tates, Mentor-Protege Program, U.S. Department of Energy, Office of Small and Disadvantaged Business Utilization, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586-4556; or Robert M. Webb, U.S. Department of Energy, Office of Procurement and Assistance Management, 1000 Independence

Avenue, SW, Washington, DC 20585, (202) 586-8264.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Resolution of Comments
- 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 the National Environmental Policy Act
 - F. Review Under Executive Order 13132
 - G. Review Under the Unfunded Mandates Reform Act of 1995
 - H. Treasury and General Government Appropriation Act, 1999
 - I. Congressional Notification

I. Background

On June 9, 1995, DOE published final guidelines for its Mentor-Protege Pilot Initiative (60 FR 30529). The purpose of the Initiative was to develop a program that encouraged DOE prime contractors to help energy-related small disadvantaged, 8(a), and women-owned small businesses in enhancing their business and technical capabilities to ensure full participation in the mission of DOE. In addition, the Initiative sought to foster the establishment of long term business relationships between these small business entities and DOE prime contractors and to increase the overall number of these small business entities eligible to receive DOE contract and subcontract awards. In order to achieve the goal of the Initiative, DOE prime contractors entered into formal agreements with qualified small businesses to provide developmental assistance. In many cases, this assistance has enabled small businesses to benefit from the vast wealth of knowledge acquired by large, successful firms doing business with DOE.

The success of the DOE business mentoring relationships and the continuing need to develop small disadvantaged business, 8(a) firms and women-owned small businesses capabilities to perform contracts and subcontracts for DOE led DOE to propose the creation of a permanent DOE Mentor-Protege Program. DOE published a notice of proposed rulemaking on December 6, 1999 (64 FR 68072), which proposed a program having the same goals and objectives as the original DOE Mentor-Protege Pilot Initiative. Some refinements were proposed to provide additional incentives for prime contractor participation in the Mentor-Protege Program. After carefully considering the public comments received on the notice

of proposed rulemaking, DOE today publishes a final rule.

II. Resolution of Comments

Fourteen comments were received in response to the proposed rule. The comments and DOE's responses are as follows:

Comment: It is unclear whether or not DOE would reimburse Mentors for costs incurred by providing developmental assistance to Protege firms.

Response: The Mentor-Protege rule is clear on this issue. DOE has stated throughout the rule that developmental assistance costs are allowable if they are incurred by the Mentor in the performance of a DOE contract spelled out in the Mentor-Protege Agreement and are otherwise allowable in accordance with the cost principles applicable to that contract.

Comment: Do existing Mentor-Protege Agreements developed under the DOE Mentor-Protege Pilot Initiative have to be amended when this rule becomes effective?

Response: Existing agreements do not have to be amended. The new rule applies only to new agreements.

Comment: The rule does not cover small business concerns owned and controlled by service disabled veterans.

Response: DOE has revised the rule to include small business concerns owned and controlled by service disabled veterans, as defined in the Veterans Entrepreneurship and Small Business Development Act of 1999, Pub. L. No. 106-50.

Comment: Which small disadvantaged businesses, other than 8(a) firms, are eligible to participate in the Program?

Response: All small disadvantaged businesses that meet the eligibility requirements in paragraphs (a)(2)-(4) of § 919.7007 are eligible to participate.

Comment: Why, under § 919.7008(d) of the rule, does DOE only permit protests regarding the small business size of a firm, and not a firm's status as a small disadvantaged business, etc.?

Response: Small disadvantaged business status cannot be protested under this rule because the DOE Mentor-Protege Program is not limited to small disadvantaged businesses. Even if a firm is not a small disadvantaged business, it could still qualify as a small business.

Comment: A prospective Mentor should be required under § 919.7005 to provide evidence that the business is currently performing a DOE contract which contains a subcontracting plan.

Response: DOE can identify its current contractors, so there is no need for such a requirement.