

requirement does not affect the responsibility of agencies to make purchases from required sources of supply such as Federal Prison Industries, Industries for People who are Blind or Severely Disabled, and multiple-award Federal Supply Schedule contracts.

19.503-2 Total Small Disadvantaged Business (SDB) set-asides.

(a) The contracting officer shall set aside any acquisition over the micro-purchase threshold for small disadvantaged business participation when there is a reasonable expectation that—

(1) Offers will be obtained from at least two responsible SDB concerns offering the products of different small disadvantaged business (but see paragraph (c) of this subsection); and

(2) Awards will be made at fair market prices unless otherwise provided by law.

(b) The contracting officer shall not set aside acquisitions for small disadvantaged business concerns when:

(1) The supply or service has been successfully acquired as a small business set aside;

(2) The acquisition is reserved for the 8(a) program;

(3) The Small Business Administration has determined that no small business manufacturer exists (see 19.102(f)(4)); or

(4) As otherwise determined by the Agency Head or designee.

(c) For industries where the contracting officer finds that there are no small disadvantaged business manufacturers, the contracting officer may authorize the small disadvantaged business regular dealers to provide the product of any small business concern.

(d) The Agency head or designee is authorized to determine whether use of small disadvantaged business set-asides has caused a particular industry category to bear a disproportionate share of the contracts awarded by a particular contracting activity to achieve its small disadvantaged business goal. Upon making a determination that a particular industry is bearing a disproportionate share, the Agency Head or designee may limit the use of small disadvantaged business set-asides in the affected industry category, at the contracting activity. This limitation shall not apply to solicitations that already have been publicized as small disadvantaged business set-asides. Requests for determinations shall be forwarded through agency channels to the Agency head or designee and include—

(1) The standard industrial classification (SIC) code(s) affected;

(2) Supporting information to justify the request, including dollars and percentages by the contracting activity, under the affected SIC code(s) for the previous two fiscal years and current fiscal year to date for—

(i) Total awards;

(ii) Total awards to small businesses;

(iii) Total awards to small disadvantaged businesses; and

(iv) Awards to small disadvantaged businesses under small disadvantaged business set-asides.

(e) Small disadvantaged business set-aside requirements and procedures for DOD, NASA and Coast Guard are different and are set forth in agency supplements.

19.503-3 Total small business set-asides.

(a) Except as provided in paragraph (b), each acquisition of supplies or services that has an anticipated dollar value exceeding the micro-purchase threshold in 13.106 but not over \$100,000, is automatically reserved exclusively for small business concerns and shall be set-aside. This requirement does not preclude the award of a contract with a value not greater than \$100,000 under 19.8, Contracting with the Small Business Administration; 19.1006(c), emerging small business set-asides; or 19.503-2, as a small disadvantaged business set-aside.

(b) This requirement does not apply to acquisitions over \$25,000 during the period when set-asides cannot be considered for the four designated industry groups (see 19.1006(b)).

(c) The contracting officer shall set aside any acquisition over \$100,000 for small business participation when there is a reasonable expectation that (1) offers will be obtained from at least two responsible small business concerns offering the products of different small business concerns (but see paragraph (e) of this section); and (2) awards will be made at fair market prices. Total set-asides shall not be made unless such a reasonable expectation exists (but see 19.503-4 as to partial set-asides).

Although past acquisition history of the item or similar items is always important, it is not the only factor to be considered in determining whether a reasonable expectation exists. In making R&D small business set-asides, there must also be a reasonable expectation of obtaining from small businesses the best scientific and technological sources consistent with the demands of the proposed acquisition for the best mix of cost, performances, and schedules.—

(d) Acquisitions shall not be totally set-aside for small business concerns when (1) the supply or service has been successfully acquired as a small

disadvantaged business set-aside; or (2) the acquisition is reserved under the 8(a) program.

(e) In industries where the SBA finds that there are no small business manufacturers, it may waive the nonmanufacturers rule for regular dealers (see 19.102(f)(4)). This would permit small business regular dealers to provide any firm's product. In these cases, the contracting officer's determination in paragraph (c)(1) of this subsection will be based on offers from at least two responsible small business regular dealers offering the products of different concerns.

19.503-4 Partial small business set-asides.

(a) The contracting officer shall set aside a portion of an acquisition, except for construction, for exclusive small business participation when—

(1) A total small business or small disadvantaged business set-aside is not appropriate;

(2) The requirement is severable into two or more economic production runs or reasonable lots;

(3) One or more small business concerns are expected to have the technical competence and productive capacity to satisfy the set-aside portion of the requirement at a fair market price;

(4) The acquisition is not subject to simplified acquisition procedures; and

(5) A partial set-aside shall not be made if there is a reasonable expectation that only two concerns (one large and one small) with capability will respond with offers unless authorized by the head of a contracting activity on a case-by-case basis. Similarly, a class of acquisitions, not including construction, may be partially set aside. Under certain specified conditions, partial set-asides may be used in conjunction with multiyear contracting procedures.

(b) When the contracting officer determines that a portion of an acquisition is to be set aside, the requirement shall be divided into a set-aside portion and a non-set-aside portion, each of which shall (1) be an economic production run or reasonable lot and (2) have terms and a delivery schedule comparable to the other. When practicable, the set-aside portion should make maximum use of small business capacity.—

(c)(1) The contracting officer shall award the non-set-aside portion using normal contracting procedures.—

(2)(i) After all awards have been made on the non-set-aside portion, the contracting officer shall negotiate with eligible concerns on the set-aside portion, as provided in the solicitation, and make award. Negotiations shall be