

the appeal. The decision of the agency head shall be final.—

(f) A request to suspend action on an acquisition need not be honored if the contracting officer determines that proceeding to contract award and performance is in the public interest. The contracting officer shall include in the contract file a statement of the facts justifying the determination, and shall promptly notify the SBA representative of the determination and provide a copy of the justification.—

(g) Procedures for rejecting SDB set-aside recommendations are different for DOD, NASA, and Coast Guard and are set forth in agency supplements.

#### 19.506 Withdrawing or modifying set-asides.—

(a) If, before award of a contract involving a set-aside, the contracting officer considers that award would be detrimental to the public interest (e.g., payment of more than a fair market price), the contracting officer may withdraw the set-aside determination whether it was unilateral or joint. The contracting officer shall initiate a withdrawal of an individual set-aside by giving written notice to the agency small business specialist and the SBA procurement center representative, if one is assigned, stating the reasons. In a similar manner, the contracting officer may modify a unilateral or joint class set-aside to withdraw one or more individual acquisitions.—

(b) If the agency small business specialist does not agree to a withdrawal or modification, the case shall be promptly referred to the SBA representative (if one is assigned) for review. If an SBA representative is not assigned, disagreements between the agency small business specialist and the contracting officer shall be resolved using agency procedures. However, the procedures are not applicable to automatic dissolutions of set-asides (see 19.507) or dissolution of set-asides under \$100,000.—

(c) The contracting officer shall prepare a written statement supporting any withdrawal or modification of a set-aside and include it in the contract file.

#### 19.507 Automatic dissolution of a set-aside.—

(a) If a set-aside acquisition or portion of an acquisition is not awarded, the unilateral or joint determination to set the acquisition aside is automatically dissolved for the unawarded portion of the set-aside. The required supplies and/or services for which no award was made may be acquired by sealed bidding or negotiation, as appropriate.—

(b) Before issuing a solicitation for the items called for in a set-aside that was dissolved, the contracting officer shall ensure that the delivery schedule is realistic in the light of all relevant factors, including the capabilities of small or small disadvantaged business concerns.

#### 19.508 Solicitation provisions and contract clauses.—

(a)–(b) [Reserved] —

(c) The contracting officer shall insert the clause at 52.219–6, Notice of Total Small Business Set-Aside, in solicitations and contracts involving total small business set-asides (see 19.503–3). The clause at 52.219–6 with its Alternate I will be used when the acquisition is for a product in a class for which the Small Business Administration has determined that there are not small business manufacturers in the Federal market in accordance with 19.503–3(e).—

(d) The contracting officer shall insert the clause at 52.219–7, Notice of Partial Small Business Set-Aside, in solicitations and contracts involving partial small business set-asides (see 19.503–4). The clause at 52.219–7 with its Alternate I will be used when the acquisition is for a product in a class for which the Small Business Administration has determined that there are not small business manufacturers in the Federal market in accordance with 19.503–3(e).—

(e) The contracting officer shall insert the clause at 52.219–14, Limitations on Subcontracting, in solicitations and contracts expected to exceed \$100,000 for supplies, services, and construction, if any portion of the requirement is to be set aside for small or small disadvantaged business, or if the contract is to be awarded under subpart 19.8.—

(f) The contracting officer shall insert the clause at 52.219–15, Notice of Participation by Organizations for the Handicapped, in solicitations and contracts issued through September 30, 1995, involving total or partial small business set-asides.—

(g) The contracting officer shall insert the clause at 52.219–00, Notice of Total Small Disadvantaged Business Set-Aside, in solicitations and contracts involving total small disadvantaged business set-asides (see 19.503–2). The clause at 52.219–00 with its Alternate I will be used when the acquisition is for a product in a class for which the contracting officer has determined that there are not small disadvantaged business manufacturers or processors in accordance with 19.503–2(c).—

#### Subpart 19.7—Subcontracting With Small Business, Small Disadvantaged Business and Women-Owned Small Business Concerns

39. The title of Subpart 19.7 is revised to read as set forth above.—

40. Section 19.702 is amended by revising the introductory text and paragraph (b)(4) to read as follows:

#### 19.702 Statutory requirements.—

Any contractor receiving a contract for more than the simplified acquisition threshold in 13.000 shall agree in the contract that small business concerns, small disadvantaged business concerns and women-owned small business concerns shall have the maximum practicable opportunity to participate in contract performance consistent with its efficient performance. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, small disadvantaged business concerns and women-owned small business concerns.

\* \* \* \* \*

(b) \* \* \*

(4) For modifications to contracts that do not contain the clause at 52.219–8, Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns (or equivalent prior clauses).

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41. Section 19.703 is amended by revising paragraph (a) introductory text, (a)(1), and (b) to read as follows:

#### 19.703 Eligibility requirements for participating in the program.

(a) To be eligible as a subcontractor under the program, a concern must represent itself as a small business concern, small disadvantaged business concern or a woman-owned small business concern.

(1) To represent itself as a small business concern or a woman-owned small business concern, a concern must meet the appropriate definition in 19.001.

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(b) A contractor acting in good faith may rely on the written representation of its subcontractor regarding the subcontractor's status. The contractor, the contracting officer, or any other interested party can challenge a subcontractor's size status representation by filing a protest, in accordance with 13 CFR 121.1601 through 121.1608. Protests challenging a subcontractor's disadvantaged status representation shall be filed in