

Small Business Subcontracting Plan, or its Alternate I.—

(c)(1) The contracting officer may, when contracting by negotiation, insert in solicitations and contracts a clause substantially the same as the clause at 52.219-10, Incentive Subcontracting Program, when a subcontracting plan is required (see 19.702(a)(1)), and inclusion of a monetary incentive is, in the judgment of the contracting officer, necessary to increase subcontracting opportunities for small, small disadvantaged and women-owned small business concerns, and is commensurate with the efficient and economical performance of the contract; unless the conditions in paragraph (c)(3) of this section are applicable. The contracting officer may vary the terms of the clause as specified in paragraph (c)(2) of this section.

(2) Various approaches may be used in the development of small, small disadvantaged and women-owned small business concerns' subcontracting incentives. They can take many forms, from a fully quantified schedule of payments based on actual subcontract achievement to an award-fee approach employing subjective evaluation criteria (see paragraph (c)(3) of this section). The incentive should not reward the contractor for results other than those that are attributable to the contractor's efforts under the incentive subcontracting program.

(3) As specified in paragraph (c)(2) of this section, the contracting officer may include small, small disadvantaged and women-owned small business subcontracting as one of the factors to be considered in determining the award-fee in a cost-plus-award-fee contract; in such cases, however, the contracting officer shall not use the clause at 52.219-10, Incentive Subcontracting Program.

Subpart 19.9—[Removed and Reserved]

48. Subpart 19.9, consisting of sections 19.901 and 19.902, is removed and reserved.

49. Section 19.1006 is amended by revising paragraph (b)(1); in paragraph (c)(1)(i) by removing "13.105 or"; and in paragraph (c)(3) by removing "small purchase" and inserting in its place "simplified acquisition". The revised text reads as follows:

19.1006 Procedures.

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(b) * * *

(1) Solicitations for acquisitions in any of the four designated industry groups issued from January 1, 1989,

through September 30, 1996, that have an anticipated dollar value greater than \$25,000 shall not be considered for small business set-asides under subpart 19.503-3 or 19.503-4 (however, see paragraphs (b)(2) and (c)(1) of this section). Acquisitions in the designated industry groups shall continue to be considered for placement under the 8(a) program (see subpart 19.8) or as small disadvantaged business set-asides (see 19.503-2). During the period when set-asides cannot be considered for acquisitions in the four designated industry groups, the evaluation preference at 19.11 shall not be used.

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50. Subpart 19.11 is added to read as follows:

Subpart 19.11—Evaluation Preference for Small Disadvantaged Business Concerns

Sec.

19.1100 Policy.
19.1101 Applicability.
19.1102 Procedures.
19.1103 Contract clause.

19.1100 Policy.

Offers from small disadvantaged business concerns shall be given an evaluation preference in accordance with this subpart. Evaluation preference for small disadvantaged business concerns is different for DOD, NASA and Coast Guard, see agency supplements.

19.1101 Applicability.

The evaluation preference shall be used in unrestricted, competitive acquisitions where award is based on price and price-related factors. The preference may be used at the discretion of the source selection authority in other competitive acquisitions. Do not use the evaluation preference in acquisitions which are set-aside under subpart 19.5.

19.1102 Procedures.

(a) Give offers from small disadvantaged business concerns a preference in evaluation by adding a factor of 10 percent (or a different percentage not exceeding 10 percent, if required by agency regulations) to the price of all offers, except—

(1) Offers from small disadvantaged business concerns which have not waived the evaluation preference;

(2) Otherwise successful offers of eligible products under the Trade Agreements Act when the acquisition equals or exceeds the dollar threshold in (FAR) 48 CFR 25.402; or

(3) Offers where application of the factor would be inconsistent with a Memorandum of Understanding or other international agreement with a foreign government.

(b) Apply the factor on a line item by line item basis or apply it to any group on which award may be made. Add other evaluation factors such as transportation costs or rent-free use of Government facilities to the offers before applying the 10 percent factor.

(c) Do not evaluate offers using the preference when it would cause award to be made at a price which exceeds fair market price by more than 10 percent.

19.1103 Contract clause.

—Use the clause at 52.219.02, Notice of Evaluation Preference for Small Disadvantaged Business Concerns, in solicitations and contracts involving unrestricted, competitive acquisitions where award is based on price and price related factors. Use the clause with its Alternate I when the contracting officer determines that there are not small disadvantaged business manufacturers that can meet the requirements of the solicitation.

PART 20—[RESERVED]

51. Part 20 is removed and reserved.

PART 25—FOREIGN ACQUISITION

25.105 [Amended]

52. Section 25.105 is amended in paragraph (a)(1) by removing the phrase "that is not a labor surplus area concern"; and in paragraph (a)(2) by removing the phrase "or any labor surplus area concern".

25.404 [Reserved]

53. Section 25.404 is removed and reserved.

25.1002 [Amended]

54. Section 25.1002 is amended in paragraph (b)(2) by removing the text following the word "small" and inserting in its place "or small disadvantaged business set asides under 19.503-2 and 19.503-3."

PART 26—OTHER SOCIOECONOMIC PROGRAMS

26.104 [Amended]

55. Section 26.104 is amended in paragraphs (a) and (b) by removing "Business and" and inserting a comma in its place; and inserting after the word "Disadvantaged" the phrase "and Women-Owned Small".

PART 42—CONTRACT ADMINISTRATION

56. Section 42.302 is amended by revising paragraphs (a)(52) through (a)(55) to read as follows:

42.302 Contract administration functions.

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