

Subpart 19.2 - Policies

Parent topic: [Part 19 - Small Business Programs](#)

19.201 General policy.

(a) It is the policy of the Government to provide maximum practicable opportunities in its *acquisitions* to small business, veteran-owned small business, service-disabled veteran-owned small business, *HUBZone* small business, small disadvantaged business, and *women-owned small business concerns*. Such *concerns* must also have the maximum practicable opportunity to participate as subcontractors in the contracts awarded by any *executive agency*, consistent with efficient contract performance. The Small Business Administration (SBA) counsels and assists small business *concerns* and assists *contracting* personnel to ensure that a fair proportion of contracts for *supplies* and services is placed with small business.

(b) Heads of *contracting activities* are responsible for effectively implementing the small business programs within their activities, including achieving program goals. They are to ensure that *contracting* and technical personnel maintain knowledge of small business program requirements and take all reasonable action to increase participation in their activities' *contracting* processes by these businesses.

(c) The Small Business Act requires each agency with *contracting* authority to establish an *Office of Small and Disadvantaged Business Utilization* (see section 15(k) of the Small Business Act). For the Department of Defense, in accordance with section 904 of [Public Law 109-163 \(10 U.S.C. 144 note\)](#), the *Office of Small and Disadvantaged Business Utilization* has been redesignated as the Office of Small Business Programs. Management of the office is the responsibility of an officer or employee of the agency who, in carrying out the purposes of the Act—

(1) Is known as the Director of the *Office of Small and Disadvantaged Business Utilization*, or for the Department of Defense, the Director of the Office of Small Business Programs;

(2) Is appointed by the *agency head*;

(3) Is responsible to and reports directly to the *agency head* or the deputy to the *agency head* (except that for the Department of Defense, the Director of the Office of Small Business Programs reports to the Secretary or the Secretary's designee);

(4) Is responsible for the agency carrying out the functions and duties in sections 8, 15, 31, 36, and 44 of the Small Business Act;

(5) Works with the SBA *procurement* center representative (PCR) (or, if a PCR is not assigned, see [19.402\(a\)](#)) to identify proposed *solicitations* that involve *bundling* and work with the agency *acquisition* officials and SBA to revise the *acquisition* strategies for such proposed *solicitations* to increase the probability of participation by small businesses;

(6) Assists small business *concerns* in obtaining payments under their contracts, late payment interest penalties, or information on contractual payment provisions;

(7) Has supervisory authority over agency personnel to the extent that their functions and duties relate to sections 8, 15, 31, 36, and 44 of the Small Business Act;

(8) Assigns a small business technical advisor to each *contracting activity* within the agency to which the SBA has assigned a representative (see 19.402)—

(i) Who is a full-time employee of the *contracting activity*, well qualified, technically trained, and familiar with the *supplies* or services contracted for by the activity; and

(ii) Whose principal duty is to assist the SBA's assigned representative in performing functions and duties relating to sections 8, 15, 31, 36, and 44 of the Small Business Act;

(9) Cooperates and consults on a regular basis with the SBA in carrying out the agency's functions and duties in sections 8, 15, 31, 36, and 44 of the Small Business Act;

(10) Makes recommendations in accordance with agency procedures as to whether a particular *acquisition should* be awarded under subpart [19.5](#) as a small business set-aside, under subpart [19.8](#) as a section 8(a) award, under subpart [19.13](#) as a *HUBZone* set-aside, under subpart [19.14](#) as a set-aside service-disabled veteran-owned small business (SDVOSB) *concerns* eligible under the SDVOSB Program, or under subpart [19.15](#) as a set-aside for economically disadvantaged women-owned small business (EDWOSB) *concerns* or women-owned small business (WOSB) *concerns* eligible under the WOSB Program;

(11) Conducts annual reviews to assess the—

(i) Extent to which small businesses are receiving a fair share of Federal *procurements*, including contract opportunities under the programs administered under the Small Business Act;

(ii) Adequacy of consolidated or bundled contract documentation and justifications; and

(iii) Actions taken to mitigate the effects of necessary and justified consolidation or *bundling* on small businesses.

(12) Provides a copy of the assessment made under paragraph (c)(11) of this section to the *Agency Head* and SBA Administrator;

(13) Provides to the *chief acquisition officer* and *senior procurement executive* advice and comments on *acquisition strategies*, *market research*, and justifications related to consolidation of contract requirements;

(14) When notified by a small business *concern* prior to the award of a contract that the small business *concern* believes that a *solicitation*, request for proposal, or request for quotation unduly restricts the ability of the small business *concern* to compete for the award—

(i) Submits the notification by the small business *concern* to the *contracting officer* and, if necessary, recommends ways in which the *solicitation*, request for proposal, or request for quotation *may* be altered to increase the opportunity for competition; and

(ii) Informs the advocate for competition of such agency (as established under 41 U.S.C 1705 or [10 U.S.C. 3249](#)) of such notification;

(15) Ensures agency purchases using the Governmentwide purchase card that are greater than the *micro-purchase threshold* and less than the *simplified acquisition threshold* were made in compliance with the Small Business Act and were properly recorded in accordance with [subpart 4.6](#) in the Federal *Procurement Data System*;

(16) Assists small business contractors and subcontractors in finding resources for education and training on compliance with *contracting* regulations;

(17) Reviews all subcontracting plans required by [19.702\(a\)](#) to ensure the plan provides maximum practicable opportunity for small business *concerns* to participate in the performance of the contract; and

(18) Performs other duties listed at [15 U.S.C. 644\(k\)](#).

(d) Small business specialists *shall* be appointed and act in accordance with agency regulations.

(1) The *contracting activity shall* coordinate with the small business specialist as early in the *acquisition planning* process as practicable, but no later than 30 days before the issuance of a *solicitation*, or prior to placing an order without a *solicitation* when the *acquisition* meets the dollar thresholds set forth at [7.107-4\(a\)\(1\)](#). See also [7.104\(d\)](#).

(2) The small business specialist *shall* notify the agency's Director of the *Office of Small and Disadvantaged Business Utilization*, and for the Department of Defense, the Director of the Office of Small Business Programs, when the criteria relating to substantial *bundling* at [7.107-4\(a\)\(1\)](#) are met.

(3) The small business specialist *shall* coordinate with the *contracting activity* and the SBA PCR on all determinations and findings required by [7.107](#) for consolidation or *bundling* of contract requirements.

19.202 Specific policies.

In order to further the policy in [19.201](#) (a), *contracting* officers *shall* comply with the specific policies listed in this section and *shall* consider recommendations of the agency Director of the *Office of Small and Disadvantaged Business Utilization*, or for the Department of Defense, the Director of the Office of Small Business Programs, or the Director's designee, as to whether a particular *acquisition should* be awarded under subpart [19.5](#), [19.8](#), [19.13](#), [19.14](#), or [19.15](#). Agencies *shall* establish procedures including dollar thresholds for review of *acquisitions* by the Director or the Director's designee for the purpose of making these recommendations. The *contracting officer shall* document the contract file whenever the Director's recommendations are not accepted, in accordance with [19.506](#).

19.202-1 Encouraging small business participation in acquisitions.

Small business *concerns shall* be afforded an equitable opportunity to compete for all contracts that they can perform to the extent consistent with the Government's interest. When applicable, the *contracting officer shall* take the following actions:

(a) Divide proposed *acquisitions of supplies* and services (except *construction*) into reasonably small lots (not less than economic production runs) to permit *offers* on quantities less than the total requirement.

(b) Plan *acquisitions* such that, if practicable, more than one small business *concern may* perform the work, if the work exceeds the amount for which a *surety may* be guaranteed by SBA against loss under [15 U.S.C. 694b](#) (see definition of "Applicable Statutory Limit" at [13 CFR 115.10](#)).

(c) Ensure that delivery schedules are established on a realistic basis that will encourage small business participation to the extent consistent with the actual requirements of the Government.

(d) Encourage prime contractors to subcontract with small business *concerns* (see [subpart 19.7](#)).

(e)

(1) Provide a copy of the proposed *acquisition* package and other reasonably obtainable information related to the *acquisition* to the SBA PCR (or, if a PCR is not assigned, see [19.402\(a\)](#)) at least 30 days prior to the issuance of the *solicitation* if—

(i) The proposed *acquisition* is for *supplies* or services currently being provided by a small business and the proposed *acquisition* is of a quantity or estimated dollar value, the magnitude of which makes it unlikely that small businesses can compete for the prime contract;

(ii) The proposed *acquisition* is for *construction* and seeks to package or consolidate discrete *construction* projects and the magnitude of this consolidation makes it unlikely that small businesses can compete for the prime contract;

(iii) The proposed *acquisition* is for a consolidated or bundled requirement. (See [7.107-5\(a\)](#) for mandatory 30-day notice requirement to incumbent small business *concerns*.) The *contracting officer shall* provide all information relative to the justification for the consolidation or *bundling*, including the *acquisition* plan or strategy, and if the *acquisition* involves substantial *bundling*, the information identified in [7.107-4](#). The *contracting officer shall* also provide the same information to the agency *Office of Small and Disadvantaged Business Utilization*: or

(iv) The *acquisition* will be reviewed at the PCR's discretion.

(2) For *acquisitions* described in paragraph (e)(1)(i) through (iii) of this section, provide a statement explaining why the—

(i) Proposed *acquisition* cannot be divided into reasonably small lots (not less than economic production runs) to permit *offers* on quantities less than the total requirement;

(ii) Delivery schedules cannot be established on a realistic basis that will encourage small business participation to the extent consistent with the actual requirements of the Government;

(iii) Proposed *acquisition* cannot be structured so as to make it likely that small businesses can compete for the prime contract;

(iv) Consolidated *construction* project cannot be acquired as separate discrete projects; or

(v) Consolidation or *bundling* is necessary and justified.

(3) Process the 30-day notification concurrently with other processing steps required prior to the issuance of the *solicitation*.

(4) If the *contracting officer* rejects the SBA PCR's recommendation made in accordance with [19.402\(c\)\(2\)](#), document the basis for the rejection and notify the SBA PCR in accordance with [19.502-8](#).

19.202-2 Locating small business sources.

The *contracting officer shall*, to the extent practicable, encourage maximum participation by small business, veteran-owned small business, service-disabled veteran-owned small business, *HUBZone* small business, small disadvantaged business, and *women-owned small business concerns* in *acquisitions* by taking the following actions:

(a) Before issuing *solicitations*, make every reasonable effort to find additional small business *concerns* (see [10.002\(b\)\(2\)](#)). This effort *should* include contacting the agency small business specialist and SBA PCR (or, if a PCR is not assigned, see [19.402\(a\)](#)).

(b) Publicize *solicitations* and contract awards through the *Governmentwide point of entry* (see [subparts 5.2](#) and [5.3](#)).

19.202-3 Equal low bids.

In the event of equal low bids (see [14.408-6](#)), awards *shall* be made first to small business *concerns* which are also *labor surplus area concerns*, and second to small business *concerns* which are not also *labor surplus area concerns*.

19.202-4 Solicitation.

The *contracting officer shall* encourage maximum response to *solicitations* by small business, veteran-owned small business, service-disabled veteran-owned small business, *HUBZone* small business, small disadvantaged business, and *women-owned small business concerns* by taking the following actions:

(a) Allow the maximum amount of time practicable for the submission of *offers*.

(b) Furnish specifications, plans, and drawings with *solicitations*, or furnish information as to where they *may* be obtained or examined.

(c) Provide to any small business *concern*, upon its request, a copy of *solicitations* with respect to any contract to be let, the name and telephone number of an agency contact to answer questions related to such prospective contract and adequate citations to each major Federal law or agency rule with which such business *concern must* comply in performing such contract other than laws or agency rules with which the small business *must* comply when doing business with other than the Government.

19.202-5 Data collection and reporting requirements.

Agencies *shall* measure the extent of small business participation in their *acquisition* programs by taking the following actions:

(a) Require each prospective contractor to represent whether it is a small business, veteran-owned small business, service-disabled veteran-owned small business, *HUBZone* small business, small disadvantaged business, women-owned small business, EDWOSB *concern*, or WOSB *concern* eligible

under the WOSB Program (see the provision at [52.219-1](#), Small Business Program Representations).

(b) Accurately measure the extent of participation by small business, veteran-owned small business, service-disabled veteran-owned small business, *HUBZone* small business, small disadvantaged business, and *women-owned small business concerns* in Government *acquisitions* in terms of the total value of contracts placed during each fiscal year, and report data to the SBA at the end of each fiscal year (see [subpart 4.6](#)).

(c) When the contract includes the clause at [52.219-28](#), Post Award Small Business Program Rerepresentation, and the conditions in the clause for rerepresenting are met—

(1) Require a contractor that represented itself as any of the small business *concerns* identified in [19.000\(a\)\(3\)](#) prior to award of the contract to rerepresent its size and socioeconomic status (*i.e.*, 8(a), small disadvantaged business, *HUBZone* small business, service-disabled veteran-owned small business, EDWOSB, or WOSB status); and

(2) Permit a contractor that represented itself as other than a small business *concern* prior to award to rerepresent its size status.

19.202-6 Determination of fair market price.

(a) The *fair market price* shall be the price achieved in accordance with the reasonable price guidelines in [15.404-1\(b\)](#) for-

(1) Total and partial small business set-asides, and reserves (see [subpart 19.5](#));

(2) *HUBZone* set-asides (see [subpart 19.13](#));

(3) Contracts utilizing the price evaluation preference for *HUBZone* small business *concerns* (see [subpart 19.13](#));

(4) Set-asides for SDVOSB *concerns* eligible under the SDVOSB Program (see [subpart 19.14](#));

(5) Set-asides for EDWOSB *concerns* and WOSB *concerns* eligible under the WOSB Program (see [subpart 19.15](#)).

(b) For 8(a) contracts, both with respect to meeting the requirement at [19.806\(b\)](#) and in order to accurately estimate the current *fair market price*, *contracting officers* shall follow the procedures at [19.807](#).

19.203 Relationship among small business programs.

(a) *General*. There is no order of precedence among the 8(a) Program ([subpart 19.8](#)), *HUBZone* Program ([subpart 19.13](#)), *Service-Disabled Veteran-Owned Small Business (SDVOSB) Program* ([subpart 19.14](#)), or the Women-Owned Small Business (WOSB) Program ([subpart 19.15](#)).

(b) *At or below the simplified acquisition threshold*. For *acquisitions* of *supplies* or *services* that have an anticipated dollar value above the *micro-purchase* threshold, but at or below the *simplified acquisition threshold*, the requirement at [19.502-2\(a\)](#) to set aside *acquisitions* for small business

concerns does not preclude the *contracting officer* from awarding a contract to a small business under the 8(a) Program, *HUBZone* Program, SDVOSB Program, or WOSB Program.

(c) *Above the simplified acquisition threshold.* For *acquisitions* of *supplies* or *services* that have an anticipated dollar value exceeding the *simplified acquisition threshold* definition at 2.101, the *contracting officer shall* first consider an *acquisition* for the small business socioeconomic *contracting* programs (*i.e.*, 8(a), *HUBZone*, SDVOSB, or WOSB programs) before considering a small business set-aside (see 19.502-2(b)). However, if a requirement has been accepted by the SBA under the 8(a) Program, it *must* remain in the 8(a) Program unless the SBA agrees to its release in accordance with 13 CFR parts 124, 126, 127, and 128.

(d) In determining which socioeconomic program to use for an *acquisition*, the *contracting officer should* consider, at a minimum-

(1) Results of *market research* that was done to determine if there are socioeconomic firms capable of satisfying the agency's requirement; and

(2) Agency progress in fulfilling its small business goals.

(e) Small business set-asides have priority over *acquisitions* using *full and open competition*. See requirements for establishing a small business set-aside at subpart 19.5.