

## Defense Federal Acquisition Regulation Supplement

### Part 252—Solicitation Provisions and Contract Clauses

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(Revised October 14, 1998)

**252.219-7000 Reserved.**

**252.219-7001 Reserved.**

**252.219-7002 Reserved.**

**252.219-7003 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (DoD Contracts).**

As prescribed in 219.708(b)(1)(A), use the following clause:

SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS  
SUBCONTRACTING PLAN (DOD CONTRACTS) (APR 1996)

This clause supplements the Federal Acquisition Regulation 52.219-9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan, clause of this contract.

(a) *Definitions.*

“Historically black colleges and universities,” as used in this clause, means institutions determined by the Secretary of Education to meet the requirements of 34 CFR Section 608.2. The term also means any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

“Minority institutions,” as used in this clause, means institutions meeting the requirements of Section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3)). The term also includes Hispanic-serving institutions as defined in Section 316(b)(1) of such Act (20 U.S.C. 1059c(b)(1)).

(b) Except for company or division-wide commercial items subcontracting plans, the term “small disadvantaged business,” when used in the FAR 52.219-9 clause, includes historically black colleges and universities and minority institutions, in addition to small disadvantaged business concerns.

(c) Work under the contract or its subcontracts shall be credited toward meeting the small disadvantaged business concern goal required by paragraph (d) of the FAR 52.219-9 clause when:

(1) It is performed on Indian lands or in joint venture with an Indian tribe or a tribally-owned corporation, and

(2) It meets the requirements of 10 U.S.C. 2323a.

(d) Subcontracts awarded to workshops approved by the Committee for Purchase from People Who are Blind or Severely Disabled (41 U.S.C. 46-48), may be counted toward the Contractor’s small business subcontracting goal.

(e) A mentor firm, under the Pilot Mentor-Protege Program established under Section 831 of Pub. L. 101-510, as amended, may count toward its small disadvantaged business goal, subcontracts awarded—

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(1) Protege firms which are qualified organizations employing the severely handicapped; and

(2) Former protege firms that meet the criteria in Section 831(g)(4) of Pub. L. 101-510.

(f) The master plan approval referred to in paragraph (f) of the FAR 52.219-9 clause is approval by the Contractor's cognizant contract administration activity.

(g) In those subcontracting plans which specifically identify small, small disadvantaged, and women-owned small businesses, the Contractor shall notify the Administrative Contracting Officer of any substitutions of firms that are not small, small disadvantaged, or women-owned small businesses for the firms listed in the subcontracting plan. Notifications shall be in writing and shall occur within a reasonable period of time after award of the subcontract. Contractor-specified formats shall be acceptable.

(End of clause)

#### **252.219-7004 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (Test Program).**

As prescribed in 219.708(b)(1)(B), use the following clause:

##### **SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS SUBCONTRACTING PLAN (TEST PROGRAM) (JUN 1997)**

(a) *Definition.* "Subcontract," as used in this clause, means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(b) The Offeror's comprehensive small business subcontracting plan and its successors, which are authorized by and approved under the test program of Section 834 of Pub. L. 101-189, as amended, shall be included in and made a part of the resultant contract. Upon expulsion from the test program or expiration of the test program, the Contractor shall negotiate an individual subcontracting plan for all future contracts that meet the requirements of Section 211 of Pub. L. 95-507.

(c) The Contractor shall submit Standard Form (SF) 295, Summary Subcontract Report, in accordance with the instructions on the form, except—

(1) One copy of the SF 295 and attachments shall be submitted to Director, Small and Disadvantaged Business Utilization, Office of the Deputy Under Secretary of Defense (International and Commercial Programs), 3061 Defense Pentagon, Room 2A338, Washington, DC 20301-3061; and

(2) Item 14, Remarks, shall be completed to include semi-annual cumulative—

(i) Small business, small disadvantaged business, and women-owned small business goals; and

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(ii) Small business and small disadvantaged business goals, actual accomplishments, and percentages for each of the two designated industry categories.

(d) The failure of the Contractor or subcontractor to comply in good faith with (1) the clause of this contract entitled “Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns,” or (2) an approved plan required by this clause, shall be a material breach of the contract.

(End of clause)

#### **252.219-7005 Incentive for Subcontracting with Small Businesses, Small Disadvantaged Businesses, Historically Black Colleges and Universities, and Minority Institutions.**

As prescribed in 219.708(c)(1), use the following clause:

INCENTIVE FOR SUBCONTRACTING WITH SMALL BUSINESSES, SMALL DISADVANTAGED BUSINESSES, HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, AND MINORITY INSTITUTIONS (OCT 1998)

(a) If the Contractor exceeds the small disadvantaged business, historically black college and university, minority institution goal of its subcontracting plan, at completion of contract performance, the Contractor will receive (Insert appropriate number between 1 and 10) percent of the excess.

(b) The Contractor will not receive this incentive if the Contracting Officer determines that exceeding the goal was not due to the Contractor's efforts (e.g., a subcontractor cost overrun or award of subcontracts planned but not disclosed in the subcontracting plan). Determinations made under this paragraph are not subject to the Disputes clause.

(c) If this is a cost contract, the limitations in FAR 15.404-4 may not be exceeded.

(d) This clause does not apply if the subcontracting plan is a plant, division, or company-wide commercial items plan.

(End of clause)

#### **ALTERNATE I (DEC 1991)**

As prescribed in 219.708(c)(1), add the following paragraph (b) to the basic clause and renumber the existing paragraphs (b), (c), and (d) as (c), (d), and (e).

(b) If the Contractor exceeds the small business goal of its subcontracting plan, at completion of contract performance, the Contractor will receive (Insert appropriate number between 1 and 10) percent of the excess.

**252.219-7006 Reserved.**

**252.219-7007 Reserved.**

**252.219-7008 Reserved.**

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#### **252.219-7009 Section 8(a) Direct Award.**

As prescribed in 219.811-3(1), use the following clause:

#### SECTION 8(a) DIRECT AWARD (JUN 1998)

(a) This contract is issued as a direct award between the contracting office and the 8(a) Contractor pursuant to the Memorandum of Understanding dated May 6, 1998, between the Small Business Administration (SBA) and the Department of Defense. Accordingly, the SBA is not a party to this contract. SBA does retain responsibility for 8(a) certification, for 8(a) eligibility determinations and related issues, and for providing counseling and assistance to the 8(a) Contractor under the 8(a) Program. The cognizant SBA district office is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
*[To be completed by the Contracting Officer  
at the time of award]*

(b) The contracting office is responsible for administering the contract and for taking any action on behalf of the Government under the terms and conditions of the contract; provided that the contracting office shall give advance notice to the SBA before it issues a final notice terminating performance, either in whole or in part, under the contract. The contracting office also shall coordinate with the SBA prior to processing any novation agreement. The contracting office may assign contract administration functions to a contract administration office.

(c) The Contractor agrees that—

(1) It will notify the Contracting Officer, simultaneous with its notification to the SBA (as required by SBA's 8(a) regulations at 13 CFR 124.308), when the owner or owners upon whom 8(a) eligibility is based plan to relinquish ownership or control of the concern. Consistent with Section 407 of Pub. L. 100-656, transfer of ownership or control shall result in termination of the contract for convenience, unless the SBA waives the requirement for termination prior to the actual relinquishing of ownership and control; and

(2) It will not subcontract the performance of any of the requirements of this contract without the prior written approval of the SBA and the Contracting Officer.

(End of clause)

#### **252.219-7010 Alternate A.**

#### ALTERNATE A (JUN 1998)

As prescribed in 219.811-3(2), substitute the following paragraph (c) for paragraph (c) of the clause at FAR 52.219-18:

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(c) Any award resulting from this solicitation will be made directly by the Contracting Officer to the successful 8(a) offeror selected through the evaluation criteria set forth in this solicitation.

#### **252.219-7011 Notification to Delay Performance.**

As prescribed in 219.811-3(3), use the following clause:

##### **NOTIFICATION TO DELAY PERFORMANCE (JUN 1998)**

The Contractor shall not begin performance under this purchase order until 2 working days have passed from the date of its receipt. Unless the Contractor receives notification from the Small Business Administration that it is ineligible for this 8(a) award, or otherwise receives instructions from the Contracting Officer, performance under this purchase order may begin on the third working day following receipt of the purchase order. If a determination of ineligibility is issued within the 2-day period, the purchase order shall be considered canceled.

(End of clause)