19.301-1 Representation by the offeror.

(a)

(1)To be eligible for award as a small business *concern* identified in 19.000(a)(3), an *offeror* is required to represent in good faith—

(i)

(A)That it meets the small business size standard corresponding to the North American *Industry* Classification System (NAICS) code identified in the *solicitation*; or

(B)For a *multiple-award contract* where there is more than one NAICS code assigned, that it meets the small business size standard for each distinct portion or category (*e.g., line item numbers*, Special Item Numbers (SINs), sectors, functional areas, or the equivalent) for which it submits an *offer*. If the small business *concern* submits an *offer* for the entire *multiple-award contract*, it *must* meet the size standard for each distinct portion or category (*e.g., line item number*, SIN, sector, functional area, or equivalent); and

(ii)The Small Business Administration (SBA) has not issued a written determination stating otherwise pursuant to 13 CFR 121.1009.

(2)

(i)A joint venture *may* qualify as a small business *concern* if the joint venture complies with the requirements of 13 CFR 121.103(h) and 13 CFR 125.8(a) and (b) and if—

(A)Each party to the joint venture qualifies as small under the size standard for the *solicitation*; or

(B)The protégé is small under the size standard for the *solicitation* in a joint venture comprised of a mentor and protégé with an approved mentor-protégé agreement under an SBA mentor-protégé program.

(ii)A joint venture *may* qualify for an award under the socioeconomic programs as described in subparts 19.8, 19.13, 19.14, and 19.15.

(b) An *offeror* is required to represent its size and socioeconomic status *in writing* to the *contracting officer* at the time of initial *offer*, (whether or not the *offer* includes price or the price is evaluated), including *offers* for—

(1) Basic ordering agreements (see 16.703); and

(2) Blanket purchase agreements (BPAs) issued pursuant to part 13.

(c) To be eligible for an award of an order under a basic ordering agreement or a BPA issued pursuant to part 13 as a small business *concern* identified in 19.000(a)(3), the *offeror must* be a small business *concern* identified in 19.000(a)(3) at the time of award of the order.

(d) To be eligible for an award under the *HUBZone* Program (see subpart 19.13), a *HUBZone* small

business *concern must* be a *HUBZone* small business *concern* at the time of initial *offer*.

(e) *Multiple-award contract* representations:

(1) A business that represents as a small business *concern* at the time of its initial *offer* for the contract (whether or not the *offer* includes price or the price is evaluated (see 13 CFR 121.404(a)(1)(iv)), is considered a small business *concern* for each order issued under the contract (but see 19.301-2 for rerepresentations).

(2) A business that represents as a small business *concern* at the time of its initial *offer* for a distinct portion or category as set forth in paragraph (a)(1)(ii) is considered a small business *concern* for each order issued under that distinct portion or category (but see 19.301-2 for rerepresentations).

(f) The *contracting officer shall* accept an *offeror*'s representation in a specific bid or proposal that it is a small business unless (1) another *offeror* or interested party challenges the *concern*'s small business representation or (2) the *contracting officer* has a reason to question the representation. Challenges of and questions concerning a specific representation *shall* be referred to the SBA in accordance with 19.302.

(g) An *offeror*'s representation that it is a small business is not binding on the SBA. If an *offeror*'s small business status is challenged, the SBA will evaluate the status of the *concern* and make a determination, which will be binding on the *contracting officer*, as to whether the *offeror* is a small business. A *concern* cannot become eligible for a specific award by taking action to meet the definition of a small business *concern* after the SBA has determined that it is not a small business.

(h) If the SBA determines that the status of a *concern* as a small business, veteran-owned small business, service-disabled veteran-owned small business, *HUBZone* small business, small disadvantaged business, or women-owned small business has been misrepresented in order to obtain a set-aside contract, an 8(a) subcontract, a subcontract that is to be included as part or all of a goal contained in a subcontracting plan, or a prime or subcontract to be awarded as a result, or in furtherance of any other provision of Federal law that specifically references Section 8(d) of the Small Business Act for a definition of program eligibility, the SBA *may* take action as specified in Sections 16(a) or 16(d) of the Act. If the SBA declines to take action, the agency *may* initiate the process. The SBA's regulations on penalties for misrepresentations and false statements are contained in 13 CFR 121.108 for small business, 13 CFR 124.501 for 8(a) small business, 13 CFR 128.600 for veteran or service-disabled veteran-owned small business, 13 CFR 126.900 for *HUBZone* small business, and 13 CFR 127.700 for economically disadvantaged *women-owned small business concerns* and women-owned small business (WOSB) *concerns* eligible under the WOSB Program.

Parent topic: 19.301 Representations and rerepresentations.