

# Subpart 19.5 - Small Business Total Set-Asides, Partial Set-Asides, and Reserves

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

## 19.501 General.

(a)

(1) The purpose of small business set-asides is to award certain *acquisitions* exclusively to small business *concerns*. A "set-aside for small business" is the limiting of an *acquisition* exclusively for participation by small business *concerns*. A small business set-aside *may* be open to any of the small business *concerns* identified at [19.000\(a\)\(3\)](#). A small business set-aside of a single *acquisition* or a class of *acquisitions may* be total or partial.

(2) The purpose of small business reserves is to award one or more *multiple-award contracts* to any of the small business *concerns* identified at [19.000\(a\)\(3\)](#), under a *full and open competition*. A small business reserve *shall* not be used when the *acquisition* can be set aside, in total or in part.

(b) The *contracting officer* makes the determination to make a small business set-aside, in total or in part, or a reserve. The Small Business Administration (SBA) *procurement* center representative (PCR) (or, if a PCR is not assigned, see [19.402\(a\)](#)) *may* make a recommendation to the *contracting officer*.

(c) The *contracting officer shall* review *acquisitions* to determine if they can be set aside, in total or in part, or reserved for small business, giving consideration to the recommendations of agency personnel in the *Office of Small and Disadvantaged Business Utilization*, or for the Department of Defense, in the Office of Small Business Programs. Agencies *may* establish threshold levels for this review depending upon their needs.

(d) At the request of an SBA PCR (or, if a PCR is not assigned, see [19.402\(a\)](#)), the *contracting officer shall* make available for review at the *contracting office* (to the extent of the SBA representative's security clearance) any proposed *acquisition* in excess of the *micro-purchase threshold*.

(e) All *solicitations* involving set-asides, in total or in part, or reserves *shall* specify the NAICS code(s) and corresponding size standard(s) (see [19.102](#)).

(f) Except as authorized by law, a contract *may* not be awarded as a result of a small business set-aside if the cost to the awarding agency exceeds the *fair market price*.

(g) For the applicability of the limitations on subcontracting and the nonmanufacturer rule, see [19.505](#).

## 19.502 Setting aside acquisitions.

## **19.502-1 Requirements for setting aside acquisitions.**

(a) The *contracting officer shall* set aside an individual *acquisition* or class of *acquisitions* for competition among small businesses when-

(1) It is determined to be in the interest of maintaining or mobilizing the Nation's full productive capacity, war or *national defense* programs; or

(2) Assuring that a fair proportion of Government contracts in each *industry* is placed with small business *concerns*; and the circumstances described in [19.502-2](#) or [19.502-3\(a\)](#) exist.

(b) The requirement in paragraph (a) of this section does not apply to purchases at or below the *micro-purchase threshold*, or purchases from required sources under [part 8](#) (e.g., Committee for Purchase From People Who are Blind or Severely Disabled).

## **19.502-2 Total small business set-asides.**

(a) Before setting aside an *acquisition* under this paragraph, refer to [19.203\(b\)](#). Each *acquisition* of *supplies* or services that has an anticipated dollar value above the *micro-purchase* threshold, but not over the *simplified acquisition threshold*, shall be set aside for small business unless the *contracting officer* determines there is not a reasonable expectation of obtaining *offers* from two or more responsible small business *concerns* that are competitive in terms of *fair market prices*, quality, and delivery. If the *contracting officer* receives only one acceptable *offer* from a responsible small business *concern* in response to a set-aside, the *contracting officer should* make an award to that firm. If the *contracting officer* receives no acceptable *offers* from responsible small business *concerns*, the set-aside shall be withdrawn and the requirement, if still valid, shall be resolicited on an unrestricted basis. The small business set-aside does not preclude the award of a contract as described in [19.203](#).

(b) Before setting aside an *acquisition* under this paragraph, refer to [19.203\(c\)](#). The *contracting officer shall* set aside any *acquisition* over the *simplified acquisition* threshold for small business participation when there is a reasonable expectation that-

(1) *Offers* will be obtained from at least two responsible small business *concerns*; and

(2) Award will be made at *fair market prices*. Total small business set-asides shall not be made unless such a reasonable expectation exists (see [19.502-3](#) for partial set-asides). Although past *acquisition* history and *market research* of an item or similar items are always important, these are not the only factors to be considered in determining whether a reasonable expectation exists. In making research and development small business set-asides, there *must* also be a reasonable expectation of obtaining from small businesses the best scientific and technological sources consistent with the demands of the proposed *acquisition* for the best mix of cost, performances, and schedules.

## **19.502-3 Partial set-asides of contracts other than multiple-award contracts.**

(a) The *contracting officer shall* set aside a portion or portions of an *acquisition*, except for

*construction*, for exclusive small business participation when—

(1) *Market research* indicates that a total set-aside is not appropriate (see [19.502-2](#));

(2) The requirement can be divided into distinct portions;

(3) The *acquisition* is not subject to *simplified acquisition procedures*;

(4) Two or more responsible small business *concerns* are reasonably expected to submit *offers* on the set-aside portion or portions of the *acquisition* that are competitive in terms of *fair market prices*, quality, and delivery;

(5) The specific program eligibility requirements identified in this part apply; and

(6) The *solicitation* will result in a contract other than a *multiple-award contract* (see [2.101](#) for definition of *multiple-award contract*).

(b) When the *contracting officer* determines that a requirement is to be partially set aside, the *solicitation shall* identify which portion or portions are set aside and not set aside.

(c) The *contracting officer shall* specify in the *solicitation* how *offers shall* be submitted with regard to the set-aside and non-set-aside portions.

(d) *Offers* received from *concerns* that do not qualify as small business *concerns shall* be considered nonresponsive and *shall* be rejected on the set-aside portion of partial set-asides. However, before rejecting an *offer* otherwise eligible for award because of questions concerning the size representation, an SBA determination *must* be obtained (see [subpart 19.3](#)).

#### **19.502-4 Partial set-asides of multiple-award contracts.**

(a) In accordance with section 1331 of the Small Business Jobs Act of 2010 ( [15 U.S.C. 644\(r\)\(1\)](#)), *contracting officers may*, at their discretion, set aside a portion or portions of a *multiple-award contract*, except for *construction*, for any of the small business *concerns* identified at [19.000\(a\)\(3\)](#) when—

(1) *Market research* indicates that a total set-aside is not appropriate (see [19.502-2](#));

(2) The requirement can be divided into distinct portions;

(3) The *acquisition* is not subject to *simplified acquisition procedures*;

(4) Two or more responsible small business *concerns* are reasonably expected to submit an *offer* on the set-aside portion or portions of the *acquisition* that are competitive in terms of *fair market prices*, quality, and delivery; and

(5) The specific program eligibility requirements identified in this part apply.

(b) When the *contracting officer* determines that a requirement is to be partially set aside, the *solicitation shall* identify which portion or portions are set aside and not set aside.

(c) The *contracting officer shall* specify in the *solicitation* how *offers shall* be submitted with regard to the set-aside and non-set-aside portions.

(d) *Offers* received from *concerns* that do not qualify as small business *concerns* shall be considered nonresponsive and shall be rejected on the set-aside portion of partial set-asides. However, before rejecting an *offer* otherwise eligible for award because of questions concerning the size representation, an SBA determination *must* be obtained (see [subpart 19.3](#)).

### **19.502-5 Insufficient reasons for not setting aside an acquisition.**

None of the following is, in itself, sufficient cause for not setting aside an *acquisition*:

(a) A large percentage of previous contracts for the required item(s) has been placed with small business *concerns*.

(b) The item is on an established planning list under the Industrial Readiness Planning Program. However, a total small business set-aside shall not be made when the list contains a large business Planned *Emergency* Producer of the item(s) who has conveyed a desire to supply some or all of the required items.

(c) The item is on a *Qualified Products List*. However, a total small business set-aside shall not be made if the list contains the *products* of large businesses unless none of the large businesses desire to participate in the *acquisition*.

(d) A period of less than 30 days is available for receipt of *offers*.

(e) The *acquisition* is classified.

(f) Small business *concerns* are already receiving a fair proportion of the agency's contracts for *supplies* and services.

(g) A class small business set-aside of the item or service has been made by another *contracting activity*.

(h) A "brand name or equal" product description will be used in the *solicitation*.

### **19.502-6 Setting aside a class of acquisitions for small business.**

(a) A class of *acquisitions* of selected *products* or services, or a portion of the *acquisitions*, may be set aside for exclusive participation by small business *concerns* if individual *acquisitions* in the class will meet the criteria in [19.502-1](#), [19.502-2](#), or [19.502-3\(a\)](#). The determination to make a class small business set-aside shall not depend on the existence of a current *acquisition* if future *acquisitions* can be clearly foreseen.

(b) The determination to set aside a class of *acquisitions* for small business may be either unilateral or joint.

(c) Each class small business set-aside determination shall be *in writing* and *must-*

(1) Specifically identify the product(s) and service(s) it covers;

(2) Provide that the set-aside does not apply to any *acquisition* automatically set aside under [19.502-2\(a\)](#).

(3) Provide that the set-aside applies only to the (named) *contracting office(s)* making the determination; and

(4) Provide that the set-aside does not apply to any individual *acquisition* if the requirement is not severable into two or more economic production runs or reasonable lots, in the case of a partial class set-aside.

(d) The *contracting officer shall* review each individual *acquisition* arising under a class small business set-aside to identify any changes in the magnitude of requirements, specifications, delivery requirements, or competitive market conditions that have occurred since the initial approval of the class set-aside. If there are any changes of such a material nature as to result in probable payment of more than a *fair market price* by the Government or in a change in the capability of small business *concerns* to satisfy the requirements, the *contracting officer may* withdraw or modify (see [19.502-9\(a\)](#)) the unilateral or joint set-aside by giving written notice to the SBA PCR (or, if a PCR is not assigned, see [19.402\(a\)](#)) stating the reasons.

### **19.502-7 Inclusion of Federal Prison Industries, Inc.**

When using competitive procedures in accordance with [8.602\(a\)\(4\)](#), agencies *shall* include Federal Prison Industries, Inc. (FPI), in the *solicitation* process and consider a timely *offer* from FPI.

### **19.502-8 Rejecting Small Business Administration recommendations.**

(a) If the *contracting officer* rejects a recommendation of the SBA, written notice *shall* be furnished to the appropriate SBA representative within 5 working days of the *contracting officer's* receipt of the recommendation.

(b) The SBA PCR (or, if a PCR is not assigned, see [19.402\(a\)](#)) *may* appeal the *contracting officer's* rejection to the *head of the contracting activity* within 2 working days after receiving the notice (except see [19.1305\(d\)](#), [19.1405\(d\)](#), and [19.1505\(i\)](#)). The *head of the contracting activity shall* render a decision *in writing*, and provide it to the SBA representative within 7 working days. Pending issuance of a decision to the SBA representative, the *contracting officer shall* suspend action on the *acquisition*.

(c) If the *head of the contracting activity* agrees that the *contracting officer's* rejection was appropriate-

(1) Within 2 working days, the SBA *procurement* center representative (or, if a *procurement* center representative is not assigned, see [19.402\(a\)](#)) *may* request the *contracting officer* to suspend action on the *acquisition* until the SBA Administrator appeals to the *agency head* (see paragraph (f) of this section); and

(2) The SBA *must* be allowed 15 working days after making such a written request, within which the Administrator of SBA-

(i) *May* appeal to the Secretary of the Department concerned; and

(ii) *Must* notify the *contracting officer* whether the further appeal has, in fact, been taken. If notification is not received by the *contracting officer* within the 15-day period, it is deemed that the SBA request to suspend the contract action has been withdrawn and that an appeal to the

Secretary was not taken.

(d) When the *contracting officer* has been notified within the 15-day period that the SBA has appealed to the *agency head*, the *head of the contracting activity* (or designee) shall forward justification for its decision to the *agency head*. The *contracting officer* shall suspend contract action until notification is received that the SBA appeal has been settled.

(e) The *agency head* shall reply to the SBA within 30 working days after receiving 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.

### **19.502-9 Withdrawing or modifying small business set-asides.**

(a) If, before award of a contract involving a total or partial small business 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 small business set-aside, whether it was unilateral or joint. The *contracting officer* shall initiate a withdrawal of an individual total or partial small business set-aside, by giving written notice to the agency small business specialist and the SBA PCR (or, if a PCR is not assigned, see [19.402\(a\)](#)) stating the reasons. In a similar manner, the *contracting officer* may modify a unilateral or joint class small business 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 PCR (or, if a PCR is not assigned, see [19.402\(a\)](#)) for review.

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

### **19.502-10 Automatic dissolution of a small business set-aside.**

(a) If a small business 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 small business 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 business *concerns*.

### **19.502-11 Solicitation notice regarding administration of change orders for**

## **construction.**

See [36.211](#) for the requirement to provide a notice to *offerors* regarding definitization of equitable adjustments for *change orders* under *construction* contracts.

## **19.503 Reserves.**

(a) In accordance with section 1331 of the Small Business Jobs Act of 2010 ([15 U.S.C. 644\(r\)\(3\)](#)) and [13 CFR 125.2\(e\)\(4\)](#), *contracting officers may*, at their discretion when conducting multiple-award *procurements* using *full and open competition*, reserve one or more contract awards for any of the small business *concerns* identified in [19.000\(a\)\(3\)](#), when *market research* indicates—

(1) A total set-aside is not feasible because there is no reasonable expectation of receiving *offers* that are competitive in terms of *fair market prices*, quality, and delivery from at least two responsible small business *concerns* identified in [19.000\(a\)\(3\)](#), that can perform the entire requirement; and

(2) A partial set-aside is not feasible because—

(i) The *contracting officer* is unable to divide the requirement into distinct portions; or

(ii) There is no reasonable expectation that at least two responsible small business *concerns* identified in [19.000\(a\)\(3\)](#) can perform any portion of the requirement competitively in terms of *fair market price*, quality, and delivery.

(b) A reserve will result in one of the following:

(1) One or more contract awards to any one or more types of small business *concerns* identified in [19.000\(a\)\(3\)](#).

(2) In the case of a *solicitation* of a bundled requirement that will result in a *multiple-award contract*, an award to one or more small businesses with a *Small Business Teaming Arrangement*.

(c) The specific program eligibility requirements identified in this part apply.

(d) The limitations on subcontracting and the nonmanufacturer rule (see [19.505](#)) do not apply to reserves at the contract level, but *shall* apply to orders that are set aside or issued directly to one small business *concern* under [19.504\(c\)\(1\)\(ii\)](#).

## **19.504 Orders under multiple-award contracts.**

(a) *General*. In accordance with section 1331 of the Small Business Jobs Act of 2010 ( [15 U.S.C. 644\(r\)\(2\)](#)), *contracting officers may*, at their discretion, set aside orders placed under *multiple-award contracts* for any of the small business *concerns* identified in [19.000\(a\)\(3\)](#).

(1) The *contracting officer shall* state in the *solicitation* and resulting contract whether order set-asides will be discretionary or mandatory when the conditions in [19.502-2](#) are met at the time of order set-aside, and the specific program eligibility requirements, as applicable, are also then met.

(2) When setting aside an order at or below the *simplified acquisition threshold*, the *contracting officer* may set aside the order for any of the small business *concerns* identified in 19.000(a)(3).

(3) When setting aside an order above the *simplified acquisition threshold*, the *contracting officer* shall first consider setting aside the order for the small business socioeconomic *contracting* programs (*i.e.*, 8(a), *HUBZone*, service-disabled veteran-owned small business, and women-owned small business) before considering a small business set-aside.

(4) The *contracting officer* shall comply with the specific program eligibility requirements identified in this part in addition to the ordering procedures for a *multiple-award contract* (for orders placed under the Federal Supply Schedules Program, see 8.405-5; for orders placed under all other *multiple-award contracts*, see 16.505).

(b) *Orders under partial set-aside contracts.*

(1) Only small business *concerns* awarded contracts for the portion(s) that were set aside under the *solicitation* for the *multiple-award contract* may compete for orders issued under those portion(s).

(2) Small business awardees may compete against other than small business awardees for an order issued under the portion of the *multiple-award contract* that was not set aside, if the small business received a contract award for the non-set-aside portion.

(c) *Orders under reserves.*

(1) The *contracting officer* may—

(i) Set aside orders for any of the small business *concerns* identified in 19.000(a)(3) when there are two or more contract awards for that type of small business *concern*; or

(ii) Issue orders directly to one small business *concern* for work that it can perform when there is only one contract award to any one type of small business *concern* identified in 19.000(a)(3).

(2) Small business awardees may compete against other than small business awardees for an order that is not set aside if the small business received a contract award for the *supplies* or services being ordered.

## **19.505 Limitations on subcontracting and nonmanufacturer rule.**

(a) *Applicability.*

(1) This section applies to small business set-asides above the *simplified acquisition threshold* and orders issued directly to a small business in accordance with 19.504(c)(1)(ii) above the *simplified acquisition threshold*.

(2) This section applies, regardless of dollar value, to the following awards under subparts 19.8, 19.13, 19.14, and 19.15:



(i) Contracts that are set aside.

(ii) Contracts that are awarded on a sole-source basis.

(iii) Orders that are set-aside as described in 8.405-5 and 16.505(b)(2)(i)(F).

(iv) Orders that are issued directly in accordance with 19.504(c)(1)(ii).

(v) Contracts that use the *HUBZone* price evaluation preference to award to a *HUBZone* small business *concern* unless the *concern* waived the evaluation preference.

(b)

(1) *Limitations on subcontracting*. A small business *concern* subject to the limitations on subcontracting is required to comply with the following:

(i) For a contract or order assigned a North American *Industry Classification System* (NAICS) code for services (except *construction*), the *concern* will not pay more than 50 percent of the amount paid by the Government for contract performance to subcontractors that are not *similarly situated entities*. Any work that a *similarly situated entity* further subcontracts will count towards the *concern's* 50 percent subcontract amount that cannot be exceeded. When a contract includes both services and *supplies*, the 50 percent limitation *shall* apply only to the service portion of the contract.

(ii) For a contract or order assigned a NAICS code for *supplies* or *products* (other than a *procurement* from a nonmanufacturer of such *supplies* or *products*), the *concern* will not pay more than 50 percent of the amount paid by the Government for contract performance, excluding the cost of materials, to subcontractors that are not *similarly situated entities*. Any work that a *similarly situated entity* further subcontracts will count towards the *concern's* 50 percent subcontract amount that cannot be exceeded. When a contract includes both *supplies* and services, the 50 percent limitation *shall* apply only to the supply portion of the contract.

(iii) For a contract or order assigned a NAICS code for general *construction*, the *concern* will not pay more than 85 percent of the amount paid by the Government for contract performance, excluding the cost of materials, to subcontractors that are not *similarly situated entities*. Any work that a *similarly situated entity* further subcontracts will count towards the *concern's* 85 percent subcontract amount that cannot be exceeded.

(iv) For a contract or order assigned a NAICS code for *construction* by special trade contractors, the *concern* will not pay more than 75 percent of the amount paid by the Government for contract performance, excluding the cost of materials, to subcontractors that are not *similarly situated entities*. Any work that a *similarly situated entity* further subcontracts will count towards the *concern's* 75 percent subcontract amount that cannot be exceeded.

(2) *Compliance period*. A small business contractor subject to the limitations on subcontracting is required to comply with the limitations on subcontracting—

(i) For a contract that has been set aside, either by the end of the base term and then by the end of each subsequent *option* period, or by the end of the performance period for each order issued under the contract, at the *contracting officer's* discretion; and

(ii) For an order set aside under a contract as described in 19.504(a), (b), or (c)(1)(i) or an

order issued in accordance with [19.504\(c\)\(1\)\(ii\)](#), by the end of the performance period for the order.

(c) *Nonmanufacturer rule.* The nonmanufacturer rule applies to nonmanufacturers in accordance with paragraph (c)(1) of this section and to kit assemblers who are nonmanufacturers in accordance with paragraph (c)(2) of this section.

(1) *Nonmanufacturers.* Any *concern*, including a supplier, that is awarded a contract or order subject to the nonmanufacturer rule, other than a *construction* or *service acquisition*, but proposes to furnish an end item that it did not itself manufacture, process, or produce (*i.e.*, a “nonmanufacturer”), is required to—

(i) Provide an end item that a small business has manufactured, processed, or produced in the *United States* or its *outlying areas* (see paragraph (c)(3) of this section for determining the manufacturer of an end item);

(ii) Not exceed 500 employees;

(iii) Be primarily engaged in the retail or wholesale trade and normally sell the type of item being supplied; and

(iv) Take ownership or possession of the item(s) with its personnel, equipment, or facilities in a manner consistent with *industry* practice; for example, providing storage, transportation, or delivery.

(2) *Kit assemblers.* When the end item being acquired is a kit of *supplies*—

(i) The *offeror* may not exceed 500 employees; and

(ii) At least 50 percent of the total cost of the *components* of the kit *shall* be manufactured, processed, or produced in the *United States* or its *outlying areas* by business *concerns* that are small under the size standards for the NAICS codes of the *components* of the kit.

(3) *Identification of manufacturers.* For the purposes of applying the nonmanufacturer rule, the manufacturer, processor, or producer is the *concern* that manufactures, processes, or produces an end item with its own facilities (*i.e.*, transforms raw materials, miscellaneous parts, or *components* into the end item being acquired). See [13 CFR 121.406\(b\)\(2\)](#).

(4) *Waiver of nonmanufacturer rule.*

(i) The SBA *may* grant an individual or a class waiver to the nonmanufacturer rule to allow a nonmanufacturer to provide an end item of an other than small business without regard to the place of manufacture, processing, or production.

(A) *Class waiver.* An agency *may* request that SBA waive the requirement at paragraph (c)(1)(i) or (c)(2)(ii) of this section for a specific product or class of *products*. See [13 CFR 121.1202](#) for an explanation of when SBA will issue a class waiver.

(B) *Individual waiver.* The *contracting officer* *may* also request a waiver of the requirements at paragraph (c)(1)(i) or (c)(2)(ii) of this section for an individual *acquisition* once the *contracting officer* determines through *market research* that no known small business manufacturers, processors, or producers in the *United States* or its *outlying areas* can reasonably be expected to *offer* an end item meeting the requirements of the *solicitation*. This type of waiver is

known as an individual waiver and would apply only to a specific *acquisition*.

(ii) *Waiver requests*. Requests for waivers *shall* include the content specified at 13 CFR 121.1204 and *shall* be sent via email to [nmrwaivers@sba.gov](mailto:nmrwaivers@sba.gov) or by mail to the—Director, Office of Government Contracting, Small Business Administration, 409 Third Street SW, Washington, DC 20416.

(iii) *List of class waivers*. For the most current listing of class waivers, contact the SBA Office of Government Contracting or go to <https://www.sba.gov/document/support-non-manufacturer-rule-class-waiver-list>.

(iv) *Notification of waiver*. The *contracting officer shall* provide potential *offerors* with written notification of any class or individual waiver in the *solicitation*. If providing the notification after *solicitation* issuance, the *contracting officer shall* provide potential *offerors* a reasonable amount of additional time to respond to the *solicitation*.

#### (5) *Multiple-item acquisitions*.

(i) If at least 50 percent of the estimated contract value is composed of items that are manufactured, processed, or produced by small business *concerns*, then a waiver of the nonmanufacturer rule is not required. There is no requirement that each item acquired in a multiple-item *acquisition* be manufactured, processed, or produced by a small business in the *United States* or its *outlying areas*.

(ii) If more than 50 percent of the estimated *acquisition* cost is composed of items manufactured, processed, or produced by other than small business *concerns*, then a waiver is required. SBA *may* grant an individual waiver for one or more items in an *acquisition* in order to ensure that at least 50 percent of the cost of the items to be supplied by the nonmanufacturer comes from small business manufacturers, processors, and producers in the *United States* or its *outlying areas* or are subject to a waiver.

(iii) If a small business *offeror* is both a manufacturer of item(s) and a nonmanufacturer of other item(s) for an *acquisition*, the *contracting officer shall* apply the manufacturer size standard.

## **19.506 Documentation requirements.**

(a)

(1) The *contracting officer shall* document the rationale when a contract is not totally set aside for small business in accordance with 19.502-2.

(2) The *contracting officer shall* document the rationale when a *multiple-award contract* is not partially set aside, not reserved, and does not allow for setting aside of orders, when these authorities could have been used.

(b) If applicable, the documentation *shall* include the rationale for not accepting the recommendations made by 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 subparts 19.5, 19.8, 19.13, 19.14, or 19.15.

(c) Documentation is not required if a contract award is anticipated to a small business under subpart [19.5](#), [19.8](#), [19.13](#), [19.14](#), or [19.15](#).

## **19.507 Solicitation provisions and contract clauses.**

(a) [Reserved]

(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. This includes *multiple-award contracts* when orders *may* be set aside for any of the small business *concerns* identified in [19.000\(a\)\(3\)](#), as described in [8.405-5](#) and [16.505\(b\)\(2\)\(i\)\(F\)](#). Use the clause at [52.219-6](#) with its *Alternate I* when including FPI in the competition in accordance with [19.502-7](#).

(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. This includes part or parts of *multiple-award contracts*, including those described in [38.101](#). Use the clause at [52.219-7](#) with its *Alternate I* when including FPI in the competition in accordance with [19.502-7](#).

(e) The *contracting officer shall* insert the clause at [52.219-14](#), Limitations on Subcontracting, in *solicitations* and contracts—

(1) For *supplies, services, and construction*, if any portion of the requirement is to be set aside for small business and the contract amount is expected to exceed the *simplified acquisition threshold*, and in any *solicitations* and contracts that are set aside or awarded on a sole-source basis in accordance with subparts [19.8](#), [19.13](#), [19.14](#), or [19.15](#), regardless of dollar value. This includes *multiple-award contracts* when orders *may* be set aside for small business *concerns*, as described in [8.405-5](#) and [16.505\(b\)\(2\)\(i\)\(F\)](#), and when orders *may* be issued directly to a small business *concern* as described in [19.504\(c\)\(1\)\(ii\)](#). For contracts that are set aside, the *contracting officer shall* indicate in paragraph (f) of the clause whether compliance with the limitations on subcontracting is required at the contract or order level;

(2) *Using the HUBZone price evaluation preference*. However, if the prospective contractor waived the use of the price evaluation preference, or is an other than small business, do not insert the clause in the resultant contract.

(f)

(1) The *contracting officer shall* insert the clause at [52.219-13](#), Notice of Set-Aside of Orders, in all *solicitations* for *multiple-award contracts* under which orders *may* be set aside for any of the small business *concerns* identified in [19.000\(a\)\(3\)](#), and all contracts awarded from such *solicitations*.

(2) The *contracting officer shall* insert the clause at [52.219-13](#) with its *Alternate I* in all full and open *solicitations* and contracts for *multiple-award contracts* under which orders will be set aside for any of the small business *concerns* identified in [19.000\(a\)\(3\)](#) if the conditions in [19.502-2](#) are met at the time of order set-aside, and the specific program eligibility requirements, as applicable, are also then met.

(g)

(1) The *contracting officer shall* insert the provision at 52.219-31, Notice of Small Business Reserve, in *solicitations for multiple-award contracts* that have reserves.

(2) The *contracting officer shall* insert the clause at 52.219-32 Orders Issued Directly Under Small Business Reserves, in *solicitations* and the resulting *multiple-award contracts* that have reserves.

(h)

(1) The *contracting officer shall* insert the clause at 52.219-33, Nonmanufacturer Rule, in *solicitations* and contracts (including *multiple-award contracts* when orders *may* be set aside for small business *concerns* as described in 8.405-5 and 16.505(b)(2)(i)(F), and when orders *may* be issued directly to a small business *concern* as described in 19.504(c)(1)(ii), when—

(i) the item being acquired has been assigned a manufacturing or supply NAICS code, and—

(ii)

(A) Any portion of the requirement is to be—

(1) Set aside for small business and is expected to exceed the *simplified acquisition threshold*; or

(2) Set aside or awarded on a sole-source basis in accordance with subparts 19.8, 19.13, 19.14, or 19.15, regardless of dollar value; or

(B) *Using the HUBZone price evaluation preference*. However, if the prospective contractor waived the use of the price evaluation preference, or is an other than small business, do not insert the clause in the resultant contract.

(2) The *contracting officer shall* not insert the clause at 52.219-33 when the Small Business Administration has waived the nonmanufacturer rule (see 19.505(c)(4)).