19.708 Contract clauses.

(a) Insert the clause at 52.219-8, Utilization of Small Business *Concerns*, in *solicitations* and contracts when the contract amount is expected to exceed the *simplified acquisition threshold* unless-

(1) A *personal services contract* is contemplated (see 37.104); or

(2) The contract, together with all of its *subcontracts*, will be performed entirely outside of the *United States* and its *outlying areas*.

(b)

(1) Insert the clause at 52.219-9, Small Business Subcontracting Plan, in *solicitations* and contracts that *offer* subcontracting possibilities, are expected to exceed $900,000 ($2 million for *construction* of any public facility), and are required to include the clause at 52.219-8, Utilization of Small Business *Concerns*, unless the *acquisition* is set aside or is to be accomplished under the 8(a) program. When-

(i) *Contracting* by sealed bidding rather than by negotiation, the *contracting officer shall* use the clause with its *Alternate* I;

(ii) *Contracting* by negotiation, and subcontracting plans are required with initial proposals as provided for in 19.705-2(d), the *contracting officer shall* use the clause with its *Alternate* II;

(iii) The contract action will not be reported in the Federal *Procurement* Data System pursuant to 4.606(c)(5), or (c)(6), the *contracting officer shall* use the clause with its *Alternate* III; or

(iv) Incorporating a subcontracting plan due to a modification as provided for in 19.702(a)(1)(iii), the *contracting officer shall* use the clause with its *Alternate* IV.

(2) Insert the clause at 52.219-16, Liquidated Damages-Subcontracting Plan, in all *solicitations* and contracts containing the clause at 52.219-9, Small Business Subcontracting Plan, or the clause with its *Alternate* I, II, III, or IV.

(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), and inclusion of a monetary incentive is, in the judgment of the *contracting officer*, necessary to increase subcontracting opportunities for small business, veteran-owned small business, service-disabled veteran-owned small business, *HUBZone* small business, small disadvantaged business, 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 business, veteran-owned small business, service-disabled veteran-owned small business, *HUBZone* small business, small

disadvantaged business, 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 business, veteran-owned small business, service-disabled veteran-owned small business, *HUBZone* small business, small disadvantaged business, 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.

Parent topic: Subpart 19.7 - The Small Business Subcontracting Program