

52.219-14 Limitations on Subcontracting.

As prescribed in 19.507(e), insert the following clause:

Limitations on Subcontracting (Oct 2022)

(a) This clause does not apply to the unrestricted portion of a partial set-aside.

(b) *Definition.*

Similarly situated entity, as used in this clause, means a first-tier subcontractor, including an independent contractor, that—

(1) Has the same small business program status as that which qualified the prime contractor for the award (e.g., for a small business set-aside contract, any small business concern, without regard to its socioeconomic status); and

(2) Is considered small for the size standard under the North American Industry Classification System (NAICS) code the prime contractor assigned to the subcontract.

(c) *Applicability.* This clause applies only to—

(1) Contracts that have been set aside for any of the small business concerns identified in 19.000(a)(3);

(2) Part or parts of a *multiple-award contract* that have been set aside for any of the small business concerns identified in 19.000(a)(3);

(3) Contracts that have been awarded on a sole-source basis in accordance with subparts 19.8, 19.13, 19.14, and 19.15;

(4) Orders expected to exceed the *simplified acquisition threshold* and that are—

(i) Set aside for small business concerns under *multiple-award contracts*, as described in 8.405-5 and 16.505(b)(2)(i)(F); or

(ii) Issued directly to small business concerns under *multiple-award contracts* as described in 19.504(c)(1)(ii);

(5) Orders, regardless of dollar value, that are—

(i) Set aside in accordance with subparts 19.8, 19.13, 19.14, or 19.15 under *multiple-award contracts*, as described in 8.405-5 and 16.505(b)(2)(i)(F); or

(ii) Issued directly to concerns that qualify for the programs described in subparts 19.8, 19.13, 19.14, or 19.15 under *multiple-award contracts*, as described in 19.504(c)(1)(ii); and

(6) Contracts using the *HUBZone* price evaluation preference to award to a *HUBZone* small business concern unless the concern waived the evaluation preference.

(d) *Independent contractors.* An independent contractor *shall* be considered a subcontractor.

(e) *Limitations on subcontracting.* By submission of an *offer* and execution of a contract, the Contractor agrees that in performance of a contract assigned a North American Industry Classification System (NAICS) code for—

- (1) Services (except *construction*), it 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 prime contractor'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;
- (2) *Supplies* (other than *procurement* from a nonmanufacturer of such *supplies*), it 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 prime contractor'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;
- (3) General *construction*, it 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 prime contractor's 85 percent subcontract amount that cannot be exceeded; or
- (4) *Construction* by special trade contractors, it 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 prime contractor's 75 percent subcontract amount that cannot be exceeded.

(f) The Contractor *shall* comply with the limitations on subcontracting as follows:

- (1) For contracts, in accordance with paragraphs (c)(1), (2), (3) and (6) of this clause—

[Contracting Officer check as appropriate.]

By the end of the base term of the contract 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.

- (2) For orders, in accordance with paragraphs (c)(4) and (5) of this clause, by the end of the performance period for the order.

(g) A joint venture agrees that, in the performance of the contract, the applicable percentage specified in paragraph (e) of this clause will be performed by the aggregate of the joint venture participants.

- (1) In a joint venture comprised of a small business protégé and its mentor approved by the Small Business Administration, the small business protégé *shall* perform at least 40 percent of the work performed by the joint venture. Work performed by the small business protégé in the joint venture *must* be more than administrative functions.
- (2) In an 8(a) joint venture, the 8(a) participant(s) *shall* perform at least 40 percent of the work performed by the joint venture. Work performed by the 8(a) participants in the joint venture *must* be more than administrative functions.

(End of clause)

Parent topic: [52.219 \[Reserved\]](#)