52.219-33 Nonmanufacturer Rule.

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

Nonmanufacturer Rule (Sep 2021)

(a) *Definitions*. As used in this clause—

Manufacturer means the concern that transforms raw materials, miscellaneous parts, or *components* into the end item. Concerns that only minimally alter the item being procured do not qualify as *manufacturers* of the end item. Concerns that add substances, parts, or *components* to an existing end item to modify its performance will not be considered the end item *manufacturer*, where those identical modifications can be performed by and are available from the *manufacturer* of the existing end item.

Nonmanufacturer means a concern, including a supplier, that provides an end item it did not manufacture, process, or produce.

(b) *Applicability.*

(1) This clause does not apply to contracts awarded pursuant to the unrestricted portion of a partial set-aside or to a contractor that is the *manufacturer* of the product or end item.

(2) This clause applies to—

(i)Contracts that have been awarded pursuant to a set-aside, in total or in part, for any of the small business concerns identified in 19.000(a)(3);

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

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

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

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

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

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

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

(v)Contracts using the *HUBZone* price evaluation preference to award to a *HUBZone* concern unless the Contractor waived the evaluation preference.

(c) *Requirements.*

(1)The Contractor *shall*—

(i)Provide an end item that a small business has manufactured, processed, or produced in the *United States* or its *outlying areas*; for kit assemblers who are *nonmanufacturers*, see paragraph (c)(2) of this clause instead;

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

(iii)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)When the end item being acquired is a kit of *supplies*, 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 small business concerns.

(End of clause)

Parent topic: 52.219 [Reserved]