

# Subpart 219.7 - THE SMALL BUSINESS SUBCONTRACTING PROGRAM

**Parent topic:** [Part 219 - SMALL BUSINESS PROGRAMS](#)

## 219.702 RESERVED

### **219.702-70 Statutory requirements for the Test Program for Negotiation of Comprehensive Small Business Subcontracting Plans.**

(a) *Test Program.* In accordance with 15 U.S.C. 637 note, DoD has established a test program to determine whether comprehensive subcontracting plans on a corporate, division, or plant-wide basis will reduce administrative burdens while enhancing subcontracting opportunities for small and small disadvantaged business concerns.

This program is referred to as the Test Program for Negotiation of Comprehensive Small Business Subcontracting Plans (Test Program).

(b) *Eligibility requirements.* To become and remain eligible to participate in the Test Program, a business concern is required to have furnished supplies or services (including construction) under at least three DoD contracts during the preceding fiscal year, having an aggregate value of at least \$100 million.

(c) *Comprehensive subcontracting plans.*

(1) The Defense Contract Management Agency will designate the contracting officer who shall negotiate and approve comprehensive subcontracting plans with eligible participants on an annual basis.

(2) Test Program participants use their comprehensive subcontracting plans, in lieu of individual subcontracting plans, when performing any DoD contract or subcontract that requires a subcontracting plan.

(d) *Assessment.* The contracting officer designated to manage the comprehensive subcontracting plan shall conduct a compliance review during the fiscal year after the close of the fiscal year for which the plan is applicable. The contracting officer shall compare the approved percentage or dollar goals to the total, actual subcontracting dollars covered by the comprehensive subcontracting plan.

(1) If the contractor has failed to meet its approved subcontracting goal(s), the contracting officer shall give the contractor written notice specifying the failure, advising of the potential for assessment of liquidated damages, permitting the contractor to demonstrate what good faith efforts have been made, and providing a period of 15 working days (or longer period at the contracting officer's discretion) within which to respond. The contracting officer may take the contractor's failure to respond to the notice as an admission that no valid explanation exists.

(2) The contracting officer shall review all available information to determine whether the contractor has failed to make a good faith effort to comply with the plan.

(3) If, after consideration of all relevant information, the contracting officer determines that the contractor failed to make a good faith effort to comply with the comprehensive subcontracting plan, the contracting officer shall issue a final decision. The contracting officer's final decision shall include the right of the contractor to appeal under the Disputes clause. The contracting officer shall distribute a copy of the final decision to all cognizant contracting officers for the contracts covered under the plan.

(e) *Liquidated damages.* The amount of liquidated damages shall be the amount of anticipated damages sustained by the Government, including but not limited to additional expenses of administration, reporting, and contract monitoring, and shall be identified in the comprehensive subcontracting plan. Liquidated damages shall be in addition to any other remedies the Government may have.

(f) *Expiration date.* The Test Program expires on December 31, 2027.

## **219.703 Eligibility requirements for participating in the program.**

(a) Qualified nonprofit agencies for the blind and other severely disabled, that have been approved by the Committee for Purchase from People Who Are Blind or Severely Disabled under 41 U.S.C. chapter 85, are eligible to participate in the program as a result of 10 U.S.C. 3903 and section 9077 of Public Law 102-396 and similar sections in subsequent Defense appropriations acts. Under this authority, subcontracts awarded to such entities may be counted toward the prime contractor's small business subcontracting goal.

(b) A contractor may also rely on the written representation as to status of—

(i) A historically black college or university or minority institution; or

(ii) A qualified nonprofit agency for the blind or other severely disabled approved by the Committee for Purchase from People Who Are Blind or Severely Disabled.

## **219.704 Subcontracting plan requirements.**

(1) In those subcontracting plans which specifically identify small businesses, prime contractors shall notify the administrative contracting officer of any substitutions of firms that are not small business firms, for the small business firms specifically identified in the subcontracting plan. Notifications shall be in writing and shall occur within a reasonable period of time after award of the subcontract. Contractor-specified formats shall be acceptable.

(2) See [215.304](#) for evaluation of offers in acquisitions that require a subcontracting plan.

## **219.705 Responsibilities of the contracting officer under the subcontracting assistance program.**

## **219.705-4 Reviewing the subcontracting plan.**

(d)(i) Challenge any subcontracting plan that does not contain positive goals. A small disadvantaged business goal of less than five percent must be approved one level above the contracting officer.

(ii) The contracting officer may use the checklist at PGI [219.705-4](#) when reviewing subcontracting plans in accordance with FAR 19.705-4.

## **219.705-6 Postaward responsibilities of the contracting officer.**

(f) See PGI [219.705-6](#) (f) for guidance on reviewing subcontracting reports.

## **219.706 Responsibilities of the cognizant administrative contracting officer.**

(a)(i) The contract administration office also is responsible for reviewing, evaluating, and approving master subcontracting plans.

(ii) The small business specialist supports the administrative contracting officer in evaluating a contractor's performance and compliance with its subcontracting plan.

## **219.708 Contract clauses.**

(b)(1)(A) Use the basic, alternate I, or alternate II clause at [252.219-7003](#) , Small Business Subcontracting Plan (DoD Contracts), in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services, that contain the clause at FAR 52.219-9, Small Business Subcontracting Plan.

(1) Use the basic clause at [252.219-7003](#) , when using the basic, alternate I, or alternate II of FAR 52.219-9.

(2) Use the alternate I clause at [252.219-7003](#) , when using Alternate III of FAR 52.219-9.

(3) Use the alternate II clause at [252.219-7003](#) when using the Demonstration Project described at 226.72.

(B) In contracts with contractors that have comprehensive subcontracting plans approved under the Test Program described in [219.702-70](#) , including contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services, use the clause at [252.219-7004](#) , Small Business Subcontracting Plan (Test Program), instead of the clauses at [252.219-7003](#) , Small Business Subcontracting Plan (DoD Contracts), FAR 52.219-9, Small Business Subcontracting Plan, and FAR 52.219-16, Liquidated Damages—Subcontracting Plan.

(2) In contracts with contractors that have comprehensive subcontracting plans approved under the Test Program described in [219.702-70](#) , do not use the clause at FAR 52.219-16, Liquidated Damages—Subcontracting Plan.

(c)(1) Do not use the clause at FAR 52.219-10, Incentive Subcontracting Program, in contracts with contractors that have comprehensive subcontracting plans approved under the Test Program described in [219.702-70](#) .

See DoD Class Deviation 2018-O0007, Small Business Subcontract Reporting, issued December 13, 2017. Use this class deviation in lieu of FAR 52.219-9, Alternate IV, and DFARS [252.219-7003](#) . The purpose of this class deviation is to (1) require submission of the Standard Form (SF) 294 in lieu of Individual Subcontract Reports (ISRs) in the Electronic Subcontracting Reporting System (eSRS) for orders against basic ordering agreements and blanket purchase agreements, and (2) change the entity to which the contractor submits the SSR from the DoD department or agency to DoD. This deviation is effective until incorporated in the DFARS or otherwise rescinded.