Part 5119 - Small Business Programs

The official AFARS regulation resides on the Army's Knowledge Management Portal PAM. If you do not have CAC access to PAM, please visit the Army Contracting Enterprise's public facing website "Army Connect" at https://www.army.mil/armycontracting#org-afars. The AFARS will return to Acquisition.gov upon completion of the RFO.

(Revised 01 October 2024))

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Subpart 5119.2 - Policies

5119.201 General policy.

(c)(8) At those contracting activities where the Small Business Administration (SBA) has assigned a procurement center representative (PCR), a small business professional serves as the designated small business technical advisor. The Contracting officer's Representative (COR), or primary technical point of contact for the requirement when a COR is not required, shall assist the PCR and address technical aspects of the acquisition when requested by the small business professional.

(10)(B)(*i*) The Contracting officer shall prepare and submit the DD Form 2579 and supporting documentation to the assigned small business specialist for all acquisitions above the micro-purchase threshold except Phase I or Phase II acquisitions for the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs. The DD Form 2579 shall include the small business specialist's recommendation for actions including, but not limited to: all Federal Acquisition Regulation (FAR) parts 13, 14, and 15 actions, all orders placed against FAR 8.405-3 blanket purchase agreements, General Services Administration Federal Supply Schedule orders, and all delivery and task orders under multiple award, indefinite delivery indefinite quantity (IDIQ) contracts. Neither small business coordination nor a DD Form 2579 is required when the contracting office complies with the small business reservation under the simplified acquisition threshold at FAR 19.502-2(a). The Virtual Contracting Enterprise (VCE)-2579, DD2579 Small Business Coordination module) shall be used for all DD Form 2579 submissions. The original DD Form 2579 shall remain in the VCE Paperless Contract File (PCF) with a copy furnished to the SBA PCR and the activity small business specialist. The DD Form 2579 shall be approved by all parties including the SBA PCR when required, prior to issuing a solicitation or notice of proposed contract action.

(*ii*) VCE-2579 automatically assigns a Control Number for each DD Form 2579. The small business

specialist must review and sign to their concurrence/non-concurrence on the DD Form 2579. If the SBA PCR lacks the necessary security clearance to review the DD Form 2579, the Contracting officer shall contact the SBA office serving the area where the contracting office is located for assistance.

(*iii*) The DD Form 2579 must be made available only to personnel who have a “need to know” until the contract is awarded. Copies distributed outside the Army, including SBA PCR coordination, must be marked “Controlled Unclassified Information.”

5119.202-1 Encouraging small business participation in acquisitions.

(1) If circumstances dictate consolidation, the Contracting officer must obtain from the program manager or requiring activity written justification supporting the consolidated action. The HCA must determine that a consolidated requirement cannot be placed under one of the preference programs prior to release of the solicitation. See Appendix GG for further delegation.

(2) When the acquisition strategy contemplates full and open competition for multiple award, IDIQ contracts, the Contracting officer shall insert language in the solicitation that allows for requirements to be set aside (totally or partially) for small businesses. Additionally, the Contracting officer has the discretion to set aside all task or delivery order requirements for small businesses where two or more small businesses hold IDIQ contracts. Contracting officers shall document why the rule of two cannot be applied to the available small business awardees prior to soliciting to the entire awardee pool, seek approval one level above the Contracting officer, and submit supporting documentation to the small business specialist and PCR during small business coordination.

5119.203 Relationship among small business programs.

(c) The contract file must document the release of an 8(a) commitment in accordance with FAR 19.203(c). The Contracting officer shall provide a copy of all documentation releasing the 8(a) commitment to the small business specialist.

Subpart 5119.5 - Set-Asides for Small Business

5119.502 Setting aside acquisitions.

5119.502-3 Partial set-asides.

(a)(5) The HCA shall authorize actions as described in FAR 19.502-3. See Appendix GG for further delegation.

5119.502-8 Rejecting Small Business Administration recommendations.

(b) The head of the contracting activity shall make the decision as described in FAR 19.505(b). See Appendix GG for further delegation.

(d)(i) Process appeals, on a case-by-case basis, in accordance with the appropriate FAR section (19.502-8, 19.810, 19.1305, 19.1405, 19.1505, or 19.506) and in accordance with instructions from the Director, Headquarters Department of the Army, Office of Small Business Programs (HQDA, OSBP). The Contracting officer will prepare and submit the case file documents by email to the HQDA, OSBP Program Manager through contracting and small business channels. The files shall be coordinated with the Associate Director (AD), prior to the Contracting officer releasing to HQDA.

(ii) The small business specialist at each level must review the case. The case file must include –

(A) A statement of attempts to resolve the matter;

(B) A response to each issue raised by SBA in its appeal;

(C) Supporting documents related to controversial aspects; and

(iii) Suspension of all actions on the requirement pending outcome of the appeal.

5119.502-9 Withdrawing or modifying small business set-asides.

(b) If a PCR is not assigned or available, the AD shall refer disagreements to the small business specialist's appointing authority for resolution. (See AFARS PGI 5119.201).

Subpart 5119.6 - Certificates of Competency and Determinations of Responsibility

5119.602 Procedures.

5119.602-3 Resolving differences between the agency and the Small Business Administration.

(c)(1)(i) The Contracting officer must prepare the case and send through contracting channels to the addressee in AFARS 5119.505. The small business specialist at each level will review the case.

Subpart 5119.7 - The Small Business Subcontracting Program

5119.705 Responsibilities of the Contracting officer under the subcontracting assistance program.

5119.705-2 Determining the need for a subcontracting plan.

(d) When FAR 19.705-2(d) applies, Contracting officers shall include a notice in Section L or the Instruction to Offerors section of the solicitation to instruct offerors classified as an other than small

business when to submit subcontracting plans, whether with their initial proposals or at another time prior to award as determined by the Contracting officer. For information on small business participation proposals, see AFARS 5115.304, Evaluation factors and significant subfactors.

5119.705-4 Reviewing the subcontracting plan.

(d)(i) Contracting officers shall, with the participation of the small business specialist –

(A) Adhere to the requirements in FAR 19.705-4 and DFARS 219.705-4 and use the guidance prescribed in AFARS Appendix DD, Subcontracting Plan Evaluation Guide, AFARS Appendix AA, Army Source Selection Supplement, and the DoD Subcontracting Program – Business Rules and Processes (referenced at DFARS PGI 219.705-6(f)) to review all subcontracting plans, except for commercial plans that have been approved by the Government;

(B) Ensure separate statements and goals are provided for the basic contract and, if applicable, each option;

(C) Identify those areas where the plan is deficient and clarify with the offeror in an attempt to correct omissions; and

(D) Ensure that, if there is a commercial plan, it has been approved in accordance with FAR 19.704(d). If it is not been previously approved, follow the DoD Subcontracting Program – Business Rules and Processes to review the commercial plan.

(ii) Plans are not acceptable if they do not adequately address the subcontracting plan requirements at FAR 19.704, DFARS 219.704, and AFARSAppendix DD. If the plan is still rated unacceptable after clarifications or discussions, the offeror shall be ineligible for contract award.

5119.705-6 Postaward responsibilities of the Contracting officer.

Subject to the concurrence of the chief of the contracting office and the agreement of the receiving individual's chain of command, the Contracting officer may delegate the duties in FAR 19.705-6 and supplements to another individual. The delegation must be in writing, include the scope of duties delegated, and signed by management officials from the contracting activity and authorized management officials from the supporting organization.

(f)(2) In addition to following the FAR subpart 19.7 and DFARS subpart 219.7 requirements, Contracting officers shall use the DoD Subcontracting Program – Business Rules and Processes and its appendices to review the appropriate subcontracting report submitted by the contractor in the Electronic Subcontracting Reporting System (eSRS). The DoD Subcontracting Program – Business Rules and Processes serves as guidance on the business rules and processes for the eSRS, including the various roles and responsibilities of DoD and industry personnel; it provides checklists and detailed explanation on subcontracting plans; and it provides information on reviewing the related subcontract reports submitted under various types of subcontract plans. Contracting officers should pay particular attention to the guidance contained in Appendix D, Guide to Preparing and Reviewing an Individual Subcontract Report (ISR) for an Individual Subcontracting Plan; Appendix E, Guide for Preparing and Reviewing a Summary Subcontract Report (SSR) for an Individual Subcontracting Plan; and Appendix F, Guide for Preparing and Reviewing a Summary Subcontract Report (SSR) for a Commercial Subcontracting Plan.

(g)(1) The contractor's explanation and mitigation plan should demonstrate its good faith effort in meeting the subcontracting goals, and the contractor's effort or lack of effort should be assessed annually in the Contract Performance Assessment Reporting System (CPARS).

5119.705-6-90 Transferring postaward responsibilities of the Contracting officer to another Contracting officer.

(a) Prior to release from their Contracting officer responsibilities, the outgoing Contracting officer shall ensure required reviews of subcontracting reports under their purview have been conducted. If a report is rejected, provide an explanation to the contractor and document the explanation in eSRS prior to transfer of responsibility.

(b) If a new Contracting officer has been identified, the outgoing Contracting officer shall advise the new Contracting officer of

(1) any eSRS reports that are required to be resubmitted by the contractor; and

(2) any issues or concerns with the contractor's good faith effort to meet the goals provided in the approved subcontracting plan.

(c) If a new Contracting officer has not been identified prior to their release, the outgoing Contracting officer shall notify their supervisor and document the file with information pertinent to the subcontracting report reviews for the new Contracting officer.

(d) Prior to accepting responsibility for administering subcontracting reports, the new Contracting officer shall –

(1) ensure they are registered as a contracting official in the eSRS;

(2) review their responsibilities as a reviewer in the FAR subpart 19.7, DFARS subpart 219.7, and the DoD Subcontracting Program – Business Rules and Processes, Appendices D, E, and F; and

(3) inform the prime contractor to update the contract profile in eSRS with the name and email address of the new Contracting officer.

Subpart 5119.8 - Contracting with the Small Business Administration (The 8(a) Program)

5119.803 Selecting acquisitions for the 8(a) program.

(a) The Associate Director, U.S Army Office of Small Business Programs, shall respond directly to general search letters from SBA. The Associate Director, U.S. Army Office of Small Business Program may further delegate this function to the small business specialists at contracting activities.

(b) The Contracting officer, in coordination with the small business specialist, shall respond to SBA requests for a specific requirement either by offering the requirement to the 8(a) program or by explaining to the SBA the rationale for not offering the requirement to the 8(a) program (see AFARS 5119.804-2).

(c) Where a number of requirements are being offered to SBA for planning purposes, associate directors, Army Small Business Programs or their designated small business specialist must identify the requirements to SBA. Specific individual requirements shall be offered in accordance with AFARS 5119.804-2(a).

5119.804 Evaluation, offering, and acceptance.

5119.804-2 Agency offering.

(a) The contracting office must notify the SBA and contracting activity small business specialist of agency offering. The notification commits the Army to negotiating with the SBA.

(14) The Contracting officer must coordinate noncompetitive 8(a) offerings with a total estimated contract value above the thresholds in FAR 19.805-1(a)(2) with the contracting activity local competition advocate, who will review the technical requirements to ensure the requirements are not overly restrictive.

5119.808 Contract negotiation.

5119.808-1 Sole source.

(a) The Contracting officer must notify the contracting activity small business specialist of the intent to proceed with the acquisition if it exceeds $100 million and the requesting agency has completed a justification in accordance with the requirements of FAR 6.303-1(b).

(b) When direct negotiation with an 8(a) contractor does not proceed satisfactorily, the Contracting officer must ask the SBA to enter negotiations promptly to expedite the award.

5119.810 SBA appeals.

(b) Process appeals in accordance with AFARS 5119.505.

5119.812 Contract administration.

(c)(i) The Contracting officer must promptly notify the SBA of contractor performance deficiencies. The Contracting officer must promptly report to the SBA any indication that the subcontractor requires technical or management assistance and document the contract file accordingly.

(ii) If the SBA fails to act in a timely manner to help the contractor take corrective action, the Contracting officer must report this failure to the AD with a recommendation for action. If the AD cannot resolve the matter, he or she will refer the matter to the Director, HQDA, OSBP.

(d)(i) The Contracting officer must notify the AD and the cognizant small business specialist, if an 8(a) contractor to which a contract was awarded transfers ownership or control of the firm or if the contract is transferred for any reason to another firm and a termination for convenience or waiver

approval is pending.

(ii) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) is the approving authority under this section for a waiver request to be submitted to the SBA. See Appendix GG for further delegation.

5119.815 Release and notification requirements for non-8(a) procurement.

(a) Where a procurement is awarded as an 8(a) contract, its follow-on or renewal acquisition shall remain in the 8(a) program unless–

(1) SBA agrees to release it, in accordance with 13 Code of Federal Regulations § 124.504(d), FAR 19.815, and the DoD and SBA Partnership Agreement.

(2) Follow-on or renewal acquisitions can transition from a sole source 8(a) acquisition to There is a mandatory source in accordance with FAR 19.815.

5119.816 Exiting the 8(a) program.

(b) The head of the contracting agency shall make the determination as set forth in FAR 19.816(b). See Appendix GG for further delegation.

5119.890 Notification of award.

Immediately after award of any 8(a) contract, the Contracting officer must notify the contracting activity small business specialist and the cognizant SBA office. Notification will include the 8(a) firm's name, address,Unique Entity ID, CAGE code, a description of the supplies or services, the quantity, dollar value, date of award and contract number.

Subpart 5119.13 - Historically Underutilized Business Zone (HUBZone) Program

5119.1305 HUBZone set-aside procedures.

(d)(2) The HCA shall make the determination as described in FAR 19.1305(d)(2). See Appendix GG for further delegation.

Subpart 5119.14 - Service-Disabled Veteran-Owned Small Business Procurement Program

5119.1405 Service-disabled veteran-owned small business set-aside procedures.

(d) The HCA shall make the decision as stated in FAR 19.1405(d). See Appendix GG for further delegation.