

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(Revised April 13, 2018)

252.219-7000 Advancing Small Business Growth.

As prescribed in [219.309](#)(1), use the following provision:

ADVANCING SMALL BUSINESS GROWTH (SEP 2016)

(a) This provision implements 10 U.S.C. 2419.

(b) The Offeror acknowledges by submission of its offer that by acceptance of the contract resulting from this solicitation, the Offeror may exceed the applicable small business size standard of the North American Industry Classification System (NAICS) code assigned to the contract and would no longer qualify as a small business concern for that NAICS code. (Small business size standards matched to industry NAICS codes are published by the Small Business Administration and are available at <http://www.sba.gov/content/table-small-business-size-standards>.) The Offeror is therefore encouraged to develop the capabilities and characteristics typically desired in contractors that are competitive as other-than-small contractors in this industry.

(c) For procurement technical assistance, the Offeror may contact the nearest Procurement Technical Assistance Center (PTAC). PTAC locations are available at <http://www.dla.mil/HQ/SmallBusiness/PTAC.aspx>.

(End of provision)

252.219-7001 Reserved.

252.219-7002 Reserved.

252.219-7003 Small Business Subcontracting Plan (DoD Contracts).

Basic. As prescribed in [219.708](#)(b)(1)(A) and (b)(1)(A)(1), use the following clause:

SMALL BUSINESS SUBCONTRACTING PLAN (DOD CONTRACTS)—BASIC (APR 2018)

This clause supplements the Federal Acquisition Regulation 52.219-9, Small Business Subcontracting Plan, clause of this contract.

(a) *Definitions.* “Summary Subcontract Report (SSR) Coordinator,” as used in this clause, means the individual at the department or agency level who is registered in the Electronic Subcontracting Reporting System (eSRS) and is responsible for acknowledging receipt or rejecting SSRs in eSRS for the department or agency.

(b) Subcontracts awarded to workshops approved by the Committee for Purchase from People Who are Blind or Severely Disabled (41 U.S.C. 8502-8504), may be counted toward the Contractor’s small business subcontracting goal.

(c) A mentor firm, under the Pilot Mentor-Protege Program established under section 831 of Public Law 101-510, as amended, may count toward its small disadvantaged business goal, subcontracts awarded to—

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(1) Protege firms which are qualified organizations employing the severely disabled; and

(2) Former protege firms that meet the criteria in section 831(g)(4) of Public Law 101-510.

(d) The master plan is approved by the Contractor's cognizant contract administration activity.

(e) In those subcontracting plans which specifically identify small businesses, the Contractor 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.

(f)(1) For DoD, the Contractor shall submit reports in eSRS as follows:

(i) The Individual Subcontract Report (ISR) shall be submitted to the contracting officer at the procuring contracting office, even when contract administration has been delegated to the Defense Contract Management Agency.

(ii) An SSR for other than a commercial subcontracting plan, or construction and related maintenance repair contracts, shall be submitted in eSRS to the department or agency within DoD that administers the majority of the Contractor's individual subcontracting plans. An example would be Defense Finance and Accounting Service or Missile Defense Agency.

(2) For DoD, the authority to acknowledge receipt or reject reports in eSRS is as follows:

(i) The authority to acknowledge receipt or reject the ISR resides with the contracting officer who receives it, as described in paragraph (f)(1)(i) of this clause.

(ii) Except as provided in (f)(2)(iii), the authority to acknowledge receipt or reject SSRs in eSRS resides with the SSR Coordinator at the department or agency that administers the majority of the Contractor's individual subcontracting plans.

(iii) The authority to acknowledge receipt or reject SSRs for construction and related maintenance and repair contracts resides with the SSR Coordinator for each department or agency.

(g) Include the clause at [252.219-7004](#), Small Business Subcontracting Plan (Test Program), in subcontracts with subcontractors that participate in the Test Program described in DFARS [219.702-70](#), if the subcontract is expected to exceed \$700,000 (\$1.5 million for construction of any public facility) and to have further subcontracting opportunities.

(End of clause)

Alternate I. As prescribed in [219.708](#)(b)(1)(A) and (b)(1)(A)(2), use the following clause, which uses a different paragraph (f) than the basic clause.

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SMALL BUSINESS SUBCONTRACTING PLAN (DOD CONTRACTS)— ALTERNATE I (APR 2018)

This clause supplements the Federal Acquisition Regulation 52.219-9, Small Business Subcontracting Plan, clause of this contract.

(a) *Definitions.* “Summary Subcontract Report (SSR) Coordinator,” as used in this clause, means the individual at the department or agency level who is registered in the Electronic Subcontracting Reporting System (eSRS) and is responsible for acknowledging receipt or rejecting SSRs in eSRS for the department or agency.

(b) Subcontracts awarded to workshops approved by the Committee for Purchase from People Who are Blind or Severely Disabled (41 U.S.C. 8502-8504), may be counted toward the Contractor’s small business subcontracting goal.

(c) A mentor firm, under the Pilot Mentor-Protege Program established under section 831 of Public Law 101-510, as amended, may count toward its small disadvantaged business goal, subcontracts awarded to—

(1) Protege firms which are qualified organizations employing the severely disabled; and

(2) Former protege firms that meet the criteria in section 831(g)(4) of Public Law 101-510.

(d) The master plan is approved by the Contractor's cognizant contract administration activity.

(e) In those subcontracting plans which specifically identify small businesses, the Contractor 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.

(f)(1) For DoD, the Contractor shall submit reports in eSRS as follows:

(i) The Standard Form 294, Subcontracting Report for Individual Contracts, shall be submitted in accordance with the instructions on that form.

(ii) An SSR for other than a commercial subcontracting plan, or construction and related maintenance repair contracts, shall be submitted in eSRS to the department or agency within DoD that administers the majority of the Contractor’s individual subcontracting plans. An example would be Defense Finance and Accounting Service or Missile Defense Agency.

(2) For DoD, the authority to acknowledge receipt or reject reports in eSRS is as follows:

(i) Except as provided in paragraph (f)(2)(ii) of this clause, the authority to acknowledge receipt or reject SSRs in eSRS resides with the SSR Coordinator at the

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department or agency that administers the majority of the Contractor's individual subcontracting plans.

(ii) The authority to acknowledge receipt or reject SSRs for construction and related maintenance and repair contracts resides with the SSR Coordinator for each department or agency.

(g) Include the clause at [252.219-7004](#), Small Business Subcontracting Plan (Test Program), in subcontracts with subcontractors that participate in the Test Program described in DFARS [219.702-70](#), if the subcontract is expected to exceed \$700,000 (\$1.5 million for construction of any public facility) and to have further subcontracting opportunities.

(End of clause)

252.219-7004 Small Business Subcontracting Plan (Test Program).

As prescribed in [219.708](#)(b)(1)(B), use the following clause:

SMALL BUSINESS SUBCONTRACTING PLAN (TEST PROGRAM) (APR 2018)

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

“Covered small business concern” means a small business concern, veteran-owned small business concern, service-disabled veteran-owned small business concern, HUBZone small business concern, women-owned small business concern, or small disadvantaged business concern, as these terms are defined in FAR 2.101.

“Electronic Subcontracting Reporting System (eSRS)” means the Governmentwide, electronic, web-based system for small business subcontracting program reporting. The eSRS is located at <http://www.esrs.gov>.

“Failure to make a good faith effort to comply with a comprehensive subcontracting plan” means a willful or intentional failure to perform in accordance with the requirements of the Contractor's approved comprehensive subcontracting plan or willful or intentional action to frustrate the plan.

“Subcontract” means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(b) *Test Program.* The Contractor's comprehensive small business subcontracting plan and its successors, which are authorized by and approved under the Test Program of 15 U.S.C. 637 note, as amended, shall be included in and made a part of this contract. Upon expulsion from the Test Program or expiration of the Test Program, the Contractor shall negotiate an individual subcontracting plan for all future contracts that meet the requirements of 15 U.S.C. 637(d).

(c) *Eligibility requirements.* To become and remain eligible to participate in the Test Program, a business concern is required to have furnished supplies or services

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(including construction) under at least three DoD contracts during the preceding fiscal year, having an aggregate value of at least \$100 million.

(d) *Reports.*

(1) The Contractor shall report semiannually for the 6-month periods ending March 31 and September 30, the information in paragraphs (d)(1)(i) through (v) of this section within 30 days after the end of the reporting period. Submit the report at <https://www.esrs.gov>.

(i) A list of contracts covered under its comprehensive small business subcontracting plan, to include the Commercial and Government Entity (CAGE) code and unique entity identifier.

(ii) The amount of first-tier subcontract dollars awarded during the 6-month period covered by the report to covered small business concerns, with the information set forth separately by—

(A) North American Industrial Classification System (NAICS) code;

(B) Major defense acquisition program, as defined in 10 U.S.C. 2430(a);

(C) Contract number, if the contract is for maintenance, overhaul, repair, servicing, rehabilitation, salvage, modernization, or modification of supplies, systems, or equipment, and the total value of the contract, including options, exceeds \$100 million; and

(D) Military department.

(iii) Total number of subcontracts active under the Test Program that would have otherwise required a subcontracting plan.

(iv) Costs incurred in negotiating, complying with, and reporting on its comprehensive subcontracting plan.

(v) Costs avoided through the use of a comprehensive subcontracting plan.

(2) The Contractor shall—

(i) Ensure that subcontractors with subcontracting plans agree to submit an Individual Subcontract Report (ISR) and/or Summary Subcontract Report (SSR) using the Electronic Subcontracting Reporting System (eSRS).

(ii) Provide its contract number, its unique entity identifier, and the email address of the Contractor's official responsible for acknowledging or rejecting the ISR to all first-tier subcontractors, who will be required to submit ISRs, so they can enter this information into the eSRS when submitting their reports.

(iii) Require that each subcontractor with a subcontracting plan provide the prime contract number, its own unique entity identifier, and the email address of the subcontractor's official responsible for acknowledging or rejecting the ISRs to its subcontractors with subcontracting plans who will be required to submit ISRs.

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(iv) Acknowledge receipt or reject all ISRs submitted by its subcontractors using eSRS.

(3) The Contractor shall submit SSRs using eSRS at <http://www.esrs.gov>. The reports shall provide information on subcontract awards to small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns. Purchases from a corporation, company, or subdivision that is an affiliate of the prime Contractor or subcontractor are not included in these reports. Subcontract award data reported by prime contractors and subcontractors shall be limited to awards made to their immediate next-tier subcontractors. Credit cannot be taken for awards made to lower-tier subcontractors unless the Contractor or subcontractor has been designated to receive a small business or small disadvantaged business credit from a member firm of the Alaska Native Corporations or an Indian tribe. Only subcontracts involving performance in the U.S. or its outlying areas should be included in these reports.

(i) This report may be submitted on a corporate, company, or subdivision (e.g., plant or division operating as a separate profit center) basis, as negotiated in the comprehensive subcontracting plan with the Defense Contract Management Agency.

(ii) This report encompasses all subcontracting under prime contracts and subcontracts with the Department of Defense, regardless of the dollar value of the subcontracts, and is based on the negotiated comprehensive subcontracting plan.

(iii) The report shall be submitted semi-annually for the six months ending March 31 and the twelve months ending September 30. Reports are due 30 days after the close of each reporting period.

(iv) The authority to acknowledge receipt of or reject the SSR resides with the Defense Contract Management Agency.

(e) *Failure to comply.* The failure of the Contractor or subcontractor to comply in good faith with the clause of this contract entitled “Utilization of Small Business Concerns,” or an approved plan required by this clause, shall be a material breach of the contract.

(f) *Liquidated damages.* The Contracting Officer designated to manage the comprehensive subcontracting plan will exercise the functions of the Contracting Officer, as identified in paragraphs (f)(1) through (4) of this clause, on behalf of all DoD departments and agencies that awarded contracts covered by the Contractor’s comprehensive subcontracting plan.

(1) To determine the need for liquidated damages, the Contracting Officer will conduct a compliance review during the fiscal year after the close of the fiscal year for which the plan is applicable. The Contracting Officer will compare the approved percentage or dollar goals to the total, actual subcontracting dollars covered by the plan.

(2) If the Contractor has failed to meet its approved subcontracting goal(s), the Contracting Officer will provide the Contractor written notice specifying the failure, advising of the potential for assessment of liquidated damages, and permitting the

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Contractor to demonstrate what good faith efforts have been made. The Contracting Officer may take the Contractor's failure to respond to the notice within 15 working days (or longer period at the Contracting Officer's discretion) as an admission that no valid explanation exists.

(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 will issue a final decision to the Contractor to that effect and require the Contractor to pay liquidated damages to the Government in the amount identified in the comprehensive subcontracting plan.

(4) The Contractor shall have the right of appeal under the clause in this contract entitled "Disputes" from any final decision of the Contracting Officer.

(g) *Subcontracts.* The Contractor shall include in subcontracts that offer subcontracting opportunities, are expected to exceed \$700,000 (\$1.5 million for construction of any public facility), and are required to include the clause at 52.219-8, Utilization of Small Business Concerns, the clauses at—

(1) FAR 52.219-9, Small Business Subcontracting Plan, and [252.219-7003](#), Small Business Subcontracting Plan (DoD Contracts)—Basic;

(2) FAR 52.219-9, Small Business Subcontracting Plan, with its Alternate III, and [252.219-7003](#), Small Business Subcontracting Plan (DoD Contracts)—Alternate I, to allow for submission of SF 294s in lieu of ISRs; or

(3) [252.219-7004](#), Small Business Subcontracting Plan (Test Program), in subcontracts with subcontractors that participate in the Test Program described in DFARS [219.702-70](#).

(End of clause)

252.219-7005 Reserved.

252.219-7006 Reserved.

252.219-7007 Reserved.

252.219-7008 Reserved.

252.219-7009 Section 8(a) Direct Award.

As prescribed in [219.811-3](#)(1), use the following clause:

SECTION 8(a) DIRECT AWARD (SEP 2007)

(a) This contract is issued as a direct award between the contracting office and the 8(a) Contractor pursuant to the Partnership Agreement between the Small Business Administration (SBA) and the Department of Defense. Accordingly, the SBA, even if not identified in Section A of this contract, is the prime contractor and retains responsibility for 8(a) certification, for 8(a) eligibility determinations and related issues, and for providing counseling and assistance to the 8(a) Contractor under the 8(a) Program. The cognizant SBA district office is:

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*[To be completed by the Contracting Officer
at the time of award]*

(b) The contracting office is responsible for administering the contract and for taking any action on behalf of the Government under the terms and conditions of the contract; provided that the contracting office shall give advance notice to the SBA before it issues a final notice terminating performance, either in whole or in part, under the contract. The contracting office also shall coordinate with the SBA prior to processing any novation agreement. The contracting office may assign contract administration functions to a contract administration office.

(c) The 8(a) Contractor agrees that—

(1) It will notify the Contracting Officer, simultaneous with its notification to the SBA (as required by SBA's 8(a) regulations at 13 CFR 124.308), when the owner or owners upon whom 8(a) eligibility is based plan to relinquish ownership or control of the concern. Consistent with Section 407 of Pub. L. 100-656, transfer of ownership or control shall result in termination of the contract for convenience, unless the SBA waives the requirement for termination prior to the actual relinquishing of ownership and control; and

(2) It will not subcontract the performance of any of the requirements of this contract without the prior written approval of the SBA and the Contracting Officer.

(End of clause)

252.219-7010 Notification of Competition Limited to Eligible 8(a) Concerns— Partnership Agreement

As prescribed in [219.811-3\(2\)](#), use the following clause:

NOTIFICATION OF COMPETITION LIMITED TO ELIGIBLE 8(A) CONCERNS— PARTNERSHIP AGREEMENT (MAR 2016)

(a) Offers are solicited only from small business concerns expressly certified by the Small Business Administration (SBA) for participation in the SBA's 8(a) Program and which meet the following criteria at the time of submission of offer:

(1) The Offeror is in conformance with the 8(a) support limitation set forth in its approved business plan.

(2) The Offeror is in conformance with the Business Activity Targets set forth in its approved business plan or any remedial action directed by the SBA.

(3) If the competition is to be limited to 8(a) concerns within one or more specific SBA regions or districts, then the offeror's approved business plan is on the file and serviced by _____. *[Contracting Officer completes by inserting the appropriate SBA District and/or Regional Office(s) as identified by the SBA.]*

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(b) By submission of its offer, the Offeror represents that it meets all of the criteria set forth in paragraph (a) of this clause.

(c) Any award resulting from this solicitation will be made directly by the Contracting Officer to the successful 8(a) offeror selected through the evaluation criteria set forth in this solicitation.

(d)(1) *Agreement.* A small business concern submitting an offer in its own name shall furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States or its outlying areas, unless—

(i) The SBA has determined that there are no small business manufacturers or processors in the Federal market place in accordance with FAR 19.502-2(c);

(ii) The acquisition is processed under simplified acquisition procedures and the total amount of this contract does not exceed \$25,000, in which case a small business concern may furnish the product of any domestic firm; or

(iii) The acquisition is a construction or service contract.

(2) The _____ [*insert name of SBA's contractor*] will notify the _____ [*insert name of contracting agency*] Contracting Officer in writing immediately upon entering an agreement (either oral or written) to transfer all or part of its stock or other ownership interest to any other party.

(End of clause)

252.219-7011 Notification to Delay Performance.

As prescribed in [219.811-3](#)(3), use the following clause:

NOTIFICATION TO DELAY PERFORMANCE (JUN 1998)

The Contractor shall not begin performance under this purchase order until 2 working days have passed from the date of its receipt. Unless the Contractor receives notification from the Small Business Administration that it is ineligible for this 8(a) award, or otherwise receives instructions from the Contracting Officer, performance under this purchase order may begin on the third working day following receipt of the purchase order. If a determination of ineligibility is issued within the 2-day period, the purchase order shall be considered canceled.

(End of clause)

252.219-7012 Competition for Religious-Related Services.

As prescribed in [219.270-3](#), use the following provision:

COMPETITION FOR RELIGIOUS-RELATED SERVICES (APR 2018)

(a) Definition. As used in this provision—

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“Nonprofit organization” means any organization that is—

- (1) Described in section 501(c) of the Internal Revenue Code of 1986; and
- (2) Exempt from tax under section 501(a) of that Code.

(b) A nonprofit organization is not precluded from competing for a contract for religious-related services to be performed on a United States military installation notwithstanding that a nonprofit organization is not a small business concern as identified in FAR 19.000(a)(3).

(c) If the apparently successful offeror has not represented in its quotation or offer that it is a small business concern identified in FAR 19.000(a)(3), as appropriate to the solicitation, the Contracting Officer will verify that the offeror is registered in the System for Award Management database as a nonprofit organization.

(End of provision)