



United States
Department of
Agriculture

Office of the
Assistant
Secretary for
Departmental
Management

Management
Services

Procurement
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ACQUISITION OPERATING PROCEDURE (AOP)

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FROM: Shawn E. Kerkes *Shawn E. Kerkes*
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SUBJECT: AOP No. 14: Small Business Subcontracting Plan

- ◆ **PURPOSE:** The purpose of this Acquisition Operating Procedure (AOP) is to provide a standardized format and review process for the Small Business Subcontracting Plan for proposed negotiated and sealed bid acquisitions with a contract value including options expected to exceed \$650,000 (\$1.5 million for construction) with subcontracting opportunities.
- ◆ **EXCEPTIONS:** Subcontracting plans are not required for contracts with small businesses; personal services contracts; contracts or contract modifications performed entirely outside of the United States and its outlying areas; or contract modifications within the general scope of the contract that do not contain the clause 52.219-8, Utilization of Small Business Concerns or equivalent prior clauses; e.g., contracts awarded before the enactment of Public Law 95-50 that amended the Small Business Act and the Small Business Investment Act of 1958.
- ◆ **AUTHORITIES:** Federal Acquisition Regulation (FAR) Subpart 19.7, Small Business Subcontracting Program.
- ◆ **PROCEDURES:**
 1. The Contracting Officer (CO) must determine:
 - a. If no subcontracting opportunities exist, prepare a written Determination (*Attachment 1*), which must be approved at a level above the Contracting Officer. The Branch Chief or the Head of the Contracting Activity Designee must approve the Determination. The Determination must be placed in the contract file.
 - b. If subcontracting opportunities exist:
 - (1) Include the relevant provisions and clauses in the solicitation and contract.
 - (2) Include the sample format of a Small Business Subcontracting Plan (*Attachment 2*) or similar in the solicitation document. The contents of the Small Business Subcontracting Plan are found at FAR Subpart 19.704.
 - (3) Instruct the offerors/bidder to register in the Electronic Subcontracting Reporting System (eSRS) at www.esrs.gov to report the subcontracting goal achievements. The Individual Subcontract Report (ISR) and Summary Subcontract Report (SSR) in entered in eSRS as required by FAR Subpart 19.704(a) (10) (iii).

- The ISR is submitted semi-annually during contract performance for the periods ending March 31 and September 30. A report is also required for each contract within 30 days of contract completion. Reports are due 30 days after the close of each reporting period.
- The SSR is submitted annually for the 12-month period ending September 30. Reports are due 30 days after the close of each reporting period.

2. The CO will:

- a. Review the subcontracting plan for adequacy with the required contents of the Small Business Subcontracting Plan.
- b. If the subcontracting plan did not contain the required FAR contents, request a revised Small Business Subcontracting Plan by a specific date. If the revised Small Business Subcontracting Plan is not resubmitted by the specified date, the bidder is ineligible for award. If the plan, although responsive, shows evidence that the bidder's intents not to comply with clause 52.219-8, Utilization of Small Business Concerns, the bidder may be non-responsible.
- c. Ensure that unreasonable low goals are not submitted to minimize liquidated damages or avoid administrative burden of substantiating good faith efforts.
- d. Ensure the steps or actions are clearly identified in the subcontracting plan are considered as evidence to ensure good faith efforts were attempted by the contractor.
- e. Determine whether the plan is acceptable based on the negotiation contents. Do not negotiated upward goals if a higher goal will increase the Government's cost or impede obtaining the acquisition objectives.
- f. Evaluate the offeror's past performance from awards subcontracted to small businesses for the same or similar products or services. If information is not available on a specific type of product or service, evaluate overall past performance and consider the performance of other contractors on similar efforts.
- g. Ensure goals are attainable in relation to subcontracting opportunities available to the contractor; commensurate with the efficient and economical performance of the contract; pool of eligible subcontractors; and the actual performance of the contractor in fulfilling the subcontracting goals in prior Small Business Subcontracting Plans.
- h. Ensure the subcontracting goals are consistent with certified cost or pricing data or data other than certified cost or pricing data.

- i. Evaluate the offeror's make-or-buy program to ensure that it does not conflict with the Plan and is in the Government's interest. If the products or services specialized or not generally available in the commercial market, consider the offeror's current capacity to perform the work and the possibility of reduced subcontracting opportunities.
 - j. Evaluate subcontracting potential, offeror's make-or-buy policies or programs, the nature of the supplies or services to be subcontracted, the known availability of small businesses in the geographical area where the work will be performed, and the potential contractor's long-standing contractual relationship with its suppliers.
 - k. Advise the offeror of sources of information for potential small businesses and any specific known potential subcontractors.
 - l. Emphasize that realistic and acceptable goals should be developed.
 - m. Obtain advice and recommendations from the Agency Small Business Specialist, Office of Small and Disadvantaged Business Utilization (OSDBU) or Small Business Administration Procurement Center Representative (SBA PCR).
 - n. Incorporate the approved Small Business Subcontracting Plan into the contract.
3. The CO must prior to contract award, complete the Subcontracting Plan Review Clearance Sheet (*Attachment 3*), and attach a copy of the apparent successful offeror/bidder's Small Business Subcontracting Plan, which should be submitted to the Procurement Analyst of POD for approval.
 4. The Procurement Analyst will review, recommend changes, and/or approve the Small Business Subcontracting Plan Review Clearance Sheet along with the offer/bidder's Small Business Subcontracting Plan; and log and submit the documents to OSDBU and the SBA PCR for advisory comments.
 5. The OSDBU and SBA PCR should be allowed 15 business days to review and submit advisory comments. The OSDBU or SBA PCR failure to respond in the allowed time will not delay contract award.

◆ **FINAL APPROVED SUBCONTRACTING PLAN:**

Send a copy of the final negotiated Small Business Subcontracting Plan incorporated into contract to the Agency Small Business Specialist, OSDBU and SBA PCR; and mark as "FINAL APPROVED."

◆ **REVIEW THE CONTRACTOR'S GOAL ACHIEVEMENTS IN eSRS:**

The CO must take action to accept or reject the contractor's achievements in eSRS no later than the 30th business day after receipt in eSRS.

◆ **ACTIONS IF THE CONTRACTOR FAILED TO MAKE A GOOD FAITH EFFORT TO MEET THE GOALS:**

1. Access Liquidated Damages against the contractor as prescribed at 52-219.16, Liquidated Damages - Subcontracting Plan.
2. Include a copy of the final decision assessing liquidating damages in the contract file, if applicable.
3. Document the contractor's failed attempts of good faith efforts in the Contractor Performance Assessment Reporting System.

**DETERMINATION FOR
SUBCONTRACTING OPPORTUNITIES NOT AVAILABLE**
(Pursuant to FAR 19.705-2, the Determination must contain sufficient rationale)

1. **Solicitation No.** *(Self-Explanatory)* _____

2. **Project Title:** *(Self-Explanatory)* _____

3. **Rationale:** *(Explain why the specifications, descriptions or statement of work does not allow for any subcontracting opportunities for the principal or general types of supplies and services to meet the contract requirements.)* _____

CERTIFICATION:

Contracting Officer

Date

DECISION OF THE APPROVING OFFICIAL:

- Approve
- Disapprove
- Comments

Branch Chief or Head of Contracting Activity Designee

Date

(SAMPLE FORMAT)
SMALL BUSINESS SUBCONTRACTING PLAN

A. IDENTIFICATION DATA:

Company Name: _____
 Address: _____
 DUNS: _____
 Solicitation Number: _____
 Date Prepared: _____

B. TYPE OF PLAN: [] Individual Contract Plan [] Commercial Plan [] Master Plan

C. SUBCONTRACTING PLAN REQUIREMENTS:

(Federal Acquisition Regulation Subpart 19.7 and 52.219-9, Small Business Subcontracting Plan)

1. **Goals Percentage:** List a separate percentage goals is required for using Small Business (SB) (including Alaska Native Corporation (ANCs) and Indian Tribes (ITs), Veteran-Owned Small Business (VOSB), Service-Disabled Veteran-Owned Small Business (SDVOSB), HUBZone Small Business (HUBZone), Small Disadvantaged Business (SDB) (including ANCs and ITs) and Women-Owned Small Business as subcontractors; ***and***

2. **Goal Total Dollars:** State the total dollars to be subcontracted for the Individual Contract Plan *or* total projected sales and total value of projected subcontracts for the Commercial Plan for the business categories. ***(Item Numbers 1 and 2 shown below):***

	Base Year		Option Year 1		Option Year 2		Option Year 3		Option Year 4	
Large Business	\$	%	\$	%	\$	%	\$	%	\$	%
SB (including ANC, ITs)	\$	%	\$	%	\$	%	\$	%	\$	%
VOSB	\$	%	\$	%	\$	%	\$	%	\$	%
SDVOSB	\$	%	\$	%	\$	%	\$	%	\$	%
HUBZone SB	\$	%	\$	%	\$	%	\$	%	\$	%
SDB (including ANC, ITs)	\$	%	\$	%	\$	%	\$	%	\$	%
WOSB	\$	%	\$	%	\$	%	\$	%	\$	%
Total Subcontracted	\$	%	\$	%	\$	%	\$	%	\$	%

3. Describe the supplies or services to be subcontracted in each business category:

Small Business (includes ANCs & IT): _____
 HUBZone Small Business: _____
 Small Disadvantaged Business (includes ANCs & IT): _____
 Women-Owned Small Business: _____
 Veteran-Owned Small Business: _____
 Service-Disabled Veteran-Owned Small Business: _____

4. Describe the methods used to develop the subcontracting goals.
5. Describe the methods used to identify potential subcontracting sources.
6. State any indirect cost and the methods used to proportionate share of indirect cost among the small business (including ANCs and IT), veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business (including ANCs and IT), and women-owned small business.
7. Name and description of the duties of the individual to administer the subcontracting program.
8. Describe efforts to ensure each small business category is provided an equitable opportunity to compete for subcontracts.
9. What assurance will be provided to ensure clause 52.219-8, Utilization of Small Business Concerns is included in all subcontracts, and all subcontractors (except small business concerns) that receive subcontracts in excess of \$650,000 (\$1.5 million for construction) to have plan complying with clause 52.219-9, Small Business Subcontracting Plan.
10. What assurance will provided that the offeror will: (i) cooperate with studies/surveys; (ii) submit periodic reports so Government can determine compliance with subcontracting plan; (iii) submit and comply with instructions of the Individual Subcontract Report (ISR) and the Summary Subcontract Report (SSR) in Electronic Subcontracting Reporting System (eSRS); (iv) ensure subcontractors agree to submit the ISR and/or the SSR using the eSRS; (v) provide the prime contract number, DUNS number, and email address of the official responsible for acknowledging receipt or rejecting of the ISRs to all first-tier subcontractors with subcontracting plans to enter data into the eSRS; and (vi) Require each subcontractor with a subcontracting plan to provide the prime contract number, DUNS number, and email address of the subcontractor's official responsible for acknowledging receipt or rejecting the ISRs to its subcontractors with subcontracting plans.
11. Describe the types of records to be maintained to comply with the requirements and goals in the subcontracting plan, including source lists; describing efforts to find small businesses, veteran-owned small businesses, service-disabled veteran-owned small businesses, HUBZone small businesses, small disadvantaged businesses, and women-owned small businesses and to award subcontracts to these businesses.

**U.S. Department of Agriculture
SUBCONTRACTING PLAN REVIEW AND CLEARANCE SHEET**

SOLICITATION NO:		DOLLARE VALUE:		NAICS Code:	TYPE OF ACQUISITION: ____ SEALED BID ____ NEGOTIATED	
AGENCY	CONTRACTING OFFICE	TEL: ()		Performance Period: From To		OPTIONS
MAILING ADDRESS			DESCRIPTION			
CONTRACTOR:				TELEPHONE:		
				CONTRACTOR IDENTIFICATION CODE:		
				PLAN SIGNED BY:		
				TITLE:		
				____ INDIVIDUAL CONTRACT PLAN		
				____ COMMERCIAL PRODUCT PLAN		

SUBCONTRACTING ELEMENTS			ACCEPT		COMMENTS
1. PROPOSED GOALS (All percentages derived from TOTAL SUBCONTRACTS)	DOLLAR VALUE WHOLE NUMBERS	PERCENTAGE OF TOTAL	YES	NO	
			Large Business		
Small Business (SB)			___	___	
TOTAL SUBCONTRACTS			100%		
HUBZone Small Business (HUBZone SB)			___	___	
Small Disadvantaged Business (SDB)			___	___	
Women-Owned Small Business (WOSB)			___	___	
Veteran-Owned Small Business (VOSB)			___	___	
Service-Disabled Veteran-Owned Small Business (SDVOSB)			___	___	
2. Descriptions of: (a) principal products/services to be subcontracted including those planned for SB, HUBZone SB, SDB, WOSB, VOSB and SDVOSB; (b) method used to develop goals; (c) method used to identify potential sources; and (d) offeror's efforts to ensure equitable opportunities for SB, HUBZone SB, SDB, WOSB, VOSB and SDVOSB. In addition, the offeror must provide a statement as to whether or not indirect costs were included in establishing goals. See Note below.			___	___	
3. Plan Administrator (Name and Duties)			___	___	
4. Clause Flow-down:			___	___	
5. Reporting:			___	___	
6. Record Keeping:			___	___	
I have reviewed the plan and found it to provide maximum opportunities for small business, HUBZone small business, small disadvantaged business, women-owned small business, veteran-owned small business, and Service-disabled veteran-owned small business concerns.					

Contracting Officer Signature:		Date:	OSDBU Coordinator Signature:		Date:
Office of Small and Disadvantaged Business Utilization			Small Business Administration		
___ Concur ___ Concur With the Following Comments:		___ Concur ___ Concur With the Following Comments:		Date:	
Comments:			Comments:		
By:		Date:	By:		

NOTE: If indirect costs were included in establishing the goals, the offeror must explain the method used to determine the proportionate share of indirect costs to be incurred as subcontracts to SB concerns, HUBZone SB concerns, SDB concerns, WOSB concerns, VOSB concerns, and SDVOSB concerns. 2/01