

## Department of Labor

2919.505

### **2919.202-70 Annual plans and program goals.**

(a) Heads of Contracting Activities shall develop annual goals for each category of the small business and small disadvantaged business utilization programs, which shall include projected acquisition awards to small businesses, minority businesses, 8(a) concerns, women-owned businesses, and HBCU.

(1) To the greatest extent possible, the goals shall be based on advance procurement plans, budget justifications, and past performance.

(2) Goals must comply with the criteria established by OSDBU.

(b) Goals are to be submitted to the OSDBU upon request of the Director. OSDBU shall analyze and evaluate proposed goals, consolidate departmental goals and forward such to the Small Business Administration (SBA), the General Services Administration (GSA), and the Minority Business Development Agency (MBDA), Department of Commerce.

(c) OSDBU may be required to negotiate final departmental goals, depending on SBA, GSA, and/or MBDA concurrence or nonconcurrence.

### **Subpart 2919.5—Set-Asides for Small Business**

#### **2919.501 General.**

(a) The SDBS shall review individual requirements prior to issuance of solicitations to determine the suitability of the acquisition for award to the SBA under the section 8(a) Program (see FAR 19.803).

(b) When the requirement cannot be awarded under section 8(a) procedures, the SDBS shall review individual requirements to determine the feasibility of small business set-asides in the order of precedence set forth in FAR 19.504. The SDBS recommendation shall be entered on Form DL1-2004, "Small Business Determination," with the reasons for the "pro" or "con" set-aside recommendation. The form shall be placed in the contract file.

(c) Upon receipt of the SDBS recommendation, the contracting officer shall promptly approve or disapprove the SDBS recommendation, stating in writing the reasons for any dis-

approval. If the contracting officer disapproves the SDBS recommendation, the proposed acquisition shall be promptly referred to the SBA PCR where available, for review; or where no SBA PCR is available, to the Head of the Contracting Activity. All negative recommendations shall be forwarded concurrently to the OSDBU.

(d) All requirements expected to exceed \$10,000 which have not been set-aside for small business shall be further reviewed by the SBA PCR, who shall indicate approval or disapproval of the SDBS/contracting officer's negative recommendation on Form DL 1-2004. If the SBA disapproves the SDBS/contracting officer's recommendation, the proposed action shall be appealed as provided in FAR 19.402(c)(3).

(e) All future requirements for products or services previously acquired on a small business set-aside basis and which are not subject to simplified small purchase procedures, shall be acquired on the basis of a repetitive set-aside.

#### **2919.503 Setting aside a class of acquisitions.**

##### **2919.503-70 Class set-aside for construction acquisitions.**

(a) Each requirement for construction, alterations, maintenance, and repair (including architect-engineer services), estimated to cost up to \$2 million shall be set aside for exclusive small business participation. Such set-asides shall be considered to be unilateral small business set-asides, and shall be withdrawn only in accordance with the procedures of FAR 19.506 and 2919.506 if found not to serve the best interest of the Government.

(b) Small business set-aside preferences for construction acquisitions in excess of \$2 million shall be considered on a case-by-case basis under conditions prescribed in FAR 19.502-2.

#### **2919.505 Rejection of set-aside recommendations.**

The Under Secretary of Labor shall make final decisions on any appeals of the Administrator of SBA concerning a DOL contracting officer's adverse set-aside recommendation. The contracting officer's written justification in support of the decision to reject the