

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

PART 3419—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Subpart 3419.7—Subcontracting With Small Business and Small Disadvantaged Business Concerns

- 3419.705 Responsibilities of the contracting officer under the subcontracting assistance program.
- 3419.705-2 Determining the need for a subcontracting plan.
- 3419.708 Solicitation provisions and contract clauses.

Subpart 3419.8—Contracting With the Small Business Administration (The 8(a) Program)

- 3419.801 General.
- 3419.870 Acquisition of technical requirements.

AUTHORITY: 5 U.S.C.; 40 U.S.C. 486(c).

SOURCE: 53 FR 19122, May 26, 1988, unless otherwise noted.

Subpart 3419.7—Subcontracting With Small Business and Small Disadvantaged Business Concerns

- 3419.705 Responsibilities of the contracting officer under the subcontracting assistance program.**

3419.705-2 Determining the need for a subcontracting plan.

Incremental funding actions must be included in determining whether an acquisition meets the dollar threshold requiring a subcontracting plan.

3419.708 Solicitation provisions and contract clauses.

(a) [Reserved]

(b) If the clause “Small Business and Small Disadvantaged Business Subcontracting Plan” (see FAR 52.219-9) must be used in a solicitation, a notification must be included in the solicitation that advises prospective offerors that subcontracting plans may be requested from all concerns determined to be in the competitive range.

Subpart 3419.8—Contracting With the Small Business Administration (The 8(a) Program)

3419.801 General.

The signing of a contract document by the Small Business Administration (SBA) may be accepted by the contracting officer as the certification under FAR 19.801(b)(1).

3419.870 Acquisition of technical requirements.

(a) *Source selection.* (1) Except where SBA selects a concern for an award under section 8(a) or under the circumstances in paragraph (a)(5) of this section, ED selects a nominee for an 8(a) award by SBA through a limited technical competition if technical aspects, methodology, or approach are of primary importance rather than price.

(2) If limited technical competition is used, the concerns to be included are decided by the contracting officer in consultation with OSDBU and the Contracting Officer’s Technical Representative (COTR).

(3)(i) ED may require the concerns participating in the limited technical competition to submit written technical proposals. Otherwise, ED holds oral discussions with the participating concerns.

(ii) In a limited technical competition, cost factors may not be included in the technical proposals nor considered during technical discussions of the proposals.

(4) ED evaluates the concerns participating in a limited technical competition based on the written technical proposals or oral discussions. ED nominates, to SBA for subcontract award, the concern that the contracting officer determines to have the best technical capability to perform the contract requirements.

(5) Instead of selecting a nominee through limited technical competition, ED may nominate one 8(a) concern to SBA if that concern has exclusive or predominant capability among 8(a)

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concerns by reason of experience, specialized facilities, or technical competence to perform the work within the time required.

(6) Each concern nominated for a specific 8(a) requirement must be approved by OSDBU or SBA for that particular requirement before the contracting officer initiates negotiation of 8(a) award terms with the concern.

(b) *Negotiation of 8(a) award.* The contracting officer shall give all possible assistance required by SBA with respect to SBA's negotiation of an 8(a) award.

(c) *Delegated 8(a) award administration.* If SBA delegates responsibility to ED for administration of the 8(a) award, ED informs SBA of all 8(a) award modifications, progress payments, problems experienced by the subcontractor, and other pertinent matters requested by SBA.

PART 3424—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Subpart 3424.1—Protection of Individual Privacy

Sec.
3424.103 Procedures.

Subpart 3424.2—Freedom of Information Act

3424.201 Authority.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 3424.1—Protection of Individual Privacy

3424.103 Procedures.

(a) If the Privacy Act of 1974 applies to a contract, the contracting officer shall specify in the contract the disposition to be made of the system or systems of records upon completion of performance of the contract. For example, the contract may require the contractor to completely destroy the records, to remove personal identifiers, to turn the records over to ED, or to keep the records but take certain measures to keep the records confiden-

tial and protect the individuals' privacy.

(b) If a notice of the system of records has not been published in the FEDERAL REGISTER, the contracting officer may proceed with the acquisition but shall not award the contract until the notice is published, unless the contracting officer determines, in writing, that portions of the contract may proceed without maintaining information subject to the Privacy Act. In this case, the contracting officer may—

(1) Award the contract, authorizing performance only of those portions not subject to the Privacy Act; and

(2) After the notice is published and effective, authorize performance of the remainder of the contract.

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Subpart 3424.2—Freedom of Information Act

3424.201 Authority.

The Department's regulations implementing the Freedom of Information Act, 5 U.S.C. 552, are in 34 CFR part 5.

[53 FR 19123, May 26, 1988]

PART 3425—FOREIGN ACQUISITION

Subpart 3425.1—Buy American Act—Supplies

Sec.
3425.102 Policy.

Subpart 3425.3—Balance of Payments Program

3425.302 Policy.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 3425.1—Buy American Act—Supplies

3425.102 Policy.

(a) [Reserved]

(b) The HCA approves determinations under FAR 25.120(a)(4).

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