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48 CFR Ch. 2 (10-1-02 Edition)

219.000 Scope of part.

This part also implements 10 U.S.C. 2323, which sets a goal for DoD for each of fiscal years 1987 through 2003 to—

(1) Award five percent of contract and subcontract dollars to small disadvantaged business (SDB) concerns, historically black colleges and universities (HBCUs), and minority institutions (MIs) (See part 226 for policy/procedures on HBCU/MIs); and

(2) Maximize the number of such entities in DoD contracting and subcontracting.

[56 FR 36353, July 31, 1991, as amended at 59 FR 27670, May 27, 1994; 64 FR 62987, Nov. 18, 1999]

219.001 Definitions.

Small disadvantaged business concern is defined:

(1) At FAR 52.219-23(a) (i.e., a firm is considered a small disadvantaged business (SDB) concern by receiving certification by the Small Business Administration and meeting the other listed criteria), except as specified in paragraph (2) of this definition.

(2) At FAR 52.219-23(a) or 52.219-1(b)(2) for the following purposes (i.e., a firm is considered an SDB concern by either receiving certification by the Small Business Administration and meeting the other listed criteria or self-representing its status for general statistical purposes):

(i) A higher customary progress payment rate for SDB concerns (see 232.501-1(a)(i) and 252.232-7004(c)).

(ii) A lower threshold for inclusion of customary progress payments in contracts with SDB concerns (see 232.502-1).

(iii) The prompt payment policy for SDB concerns in 232.903 and 232.905(2).

(iv) Reporting contract actions with SDB concerns (“Type of Business” on the DD Form 350, Individual Contracting Action Report (see 253.204-70(d)(5)(i)(A)) or “Small Disadvantaged Business (SDB) Actions” on the DD Form 1057, Monthly Contracting Summary of Actions \$25,000 or Less (see 253.204-71(g)(2)).

[63 FR 64429, Nov. 20, 1999]

Subpart 219.2—Policies

219.201 General policy.

(a) The DoD will use the Section 8(a) program, small disadvantaged business evaluation preferences, advance payments, outreach, and technical assistance to meet its five percent goal for contract and subcontract awards to small disadvantaged businesses.

(d) For the defense agencies, the director of the Office of Small and Disadvantaged Business Utilization must be appointed by, be responsible to, and report directly to the director or deputy director of the defense agency.

(8) The responsibility for assigning small business technical advisors is delegated to the head of the contracting activity.

(10) Contracting activity small business specialists perform this function by—

(A) Reviewing and making recommendations for all acquisitions over \$10,000;

(B) Making the review before issue of the solicitation or contract modification and documenting it on DD Form 2579, Small Business Coordination Record; and

(C) Referring recommendations that have been rejected by the contracting officer to the Small Business Administration (SBA) procurement center representative. However, if an SBA representative is not assigned or available, the specialist refers the matter to the specialist’s appointing authority.

(e) Contracting and contract administration activities appoint small business specialists as directed by DoDD 4205.1, DoD Small Business and Small Disadvantaged Business Utilization Programs, Specialists—

(i) Report directly and are responsible only to their appointing authority;

(ii) Make sure that the contracting activity takes the necessary actions to implement small business, historically black college and university/minority institution, and labor surplus area programs;

(iii) Advise and assist contracting, program manager, and requirements personnel on all matters which affect small businesses, historically black colleges and universities or minority

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institutions, and labor surplus area concerns;

(iv) Aid, counsel, and assist small business, small disadvantaged business, historically black colleges and universities, and minority institutions by providing—

(A) Advice concerning acquisition procedures;

(B) Information regarding proposed acquisitions; and

(C) Instructions on preparation of proposals in the interpretation of standard clauses, representations, and certifications;

(v) Maintain an outreach program (including participation in Government-industry conferences and regional interagency small business councils) designed to locate and develop information on the technical competence of small business, small disadvantaged business concerns, historically black colleges and universities, and minority institutions;

(vi) Ensure that financial assistance, available under existing regulations, is offered and also assist small business concerns in obtaining payments under their contracts, late payment, interest penalties, or information on contractual payment provisions;

(vii) Provide assistance to contracting officers in determining the need for and acceptability of subcontracting plans and assist administrative contracting officers (see 219.706(a)(ii)) in evaluating, monitoring, reviewing, and documenting contract performance to determine compliance with subcontracting plans; and

(viii) Recommend to the appointing authority the activity's small and disadvantaged business program goals, including goal assignments to subordinate contracting offices; monitor the activity's performance against these goals; and recommend action to correct reporting errors/deficiencies.

(f) The Directors, Office of Small and Disadvantaged Business Utilization, of the military departments and defense agencies are responsible for determining whether use of the price evaluation adjustment to achieve a small disadvantaged business goal has caused non-SDB firms in a particular North American Industry Classification Sys-

tem Industry Subsector to bear an undue burden or other inappropriate effect. A copy of each determination shall be forwarded to the Office of Small and Disadvantaged Business Utilization, Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics), simultaneously with submittal to the Office of Federal Procurement Policy.

[56 FR 36353, July 31, 1991, as amended at 63 FR 41973, Aug. 6, 1998; 64 FR 2598, Jan. 15, 1999; 65 FR 39705, June 27, 2000; 65 FR 50149, Aug. 17, 2000; 65 FR 63807, Oct. 25, 2000]

219.202 Specific policies.

219.202-1 Encouraging small business participation in acquisitions.

The DoD will maximize the use of small business concerns as planned producers in the Industrial Readiness Planning Program.

219.202-5 Data collection and reporting requirements.

Determine the premium percentage to be entered in Item D4C of the Individual Contracting Action Report (DD Form 350), (see 253.204-70), as follows:

(1) For small disadvantaged business or historically black college and university/minority institution set-asides, divide the difference between the fair market price and the award price by the fair market price.

(2) For price evaluation adjustment awards (see FAR Subpart 19.11), divide the difference between the low responsive offer and the award price by the low responsive offer.

(3) For partial small business set-asides with preferential consideration for small disadvantaged business concerns, divide the difference between the award price on the non-set-aside portion and the award price on the set-aside portion by the award price on the non-set-aside portion.

(b) Within 60 days after the end of each fiscal year, departments and agencies shall submit the report to the Secretary of Defense, who will report to the SBA on behalf of all DoD departments and agencies. Reports must include—

(i) Justification for failure to meet goals established by the Office of the Secretary of Defense; and