

## 219.705

in addition to subcontracts with small disadvantaged business concerns. Subcontracts with historically black colleges and universities and minority institutions do not have to be included in the small disadvantaged business goal in commercial items subcontracting plans.

(4) In those subcontracting plans which specifically identify small, small disadvantaged, and women-owned small businesses, prime contractors shall notify the administrative contracting officer of any substitutions of firms that are not small, small disadvantaged, or women-owned small businesses for the firms listed 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.

[60 FR 61596, Nov. 30, 1995, as amended at 61 FR 18687, Apr. 29, 1996]

### **219.705 Responsibilities of the contracting officer under the subcontracting assistance program.**

#### **219.705-2 Determining the need for a subcontracting plan.**

(d) See 215.304 for unique DoD requirements.

[59 FR 27670, May 27, 1994, as amended at 64 FR 51076, Sept. 21, 1999]

#### **219.705-4 Reviewing the subcontracting plan.**

(d) Challenge any subcontracting plan that does not contain positive goals and consider the extent to which an offeror plans to use competition restricted to historically black colleges and universities or minority institutions. A small disadvantaged business goal of less than five percent must be approved two levels above the contracting officer.

[56 FR 36353, July 31, 1991, as amended at 63 FR 41974, Aug. 6, 1998]

### **219.706 Responsibilities of the cognizant administrative contracting officer.**

(a)(i) The contract administration office also is responsible for reviewing, evaluating, and approving master subcontracting plans.

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

(ii) The small business specialist supports the administrative contracting officer in evaluating a contractor's performance and compliance with its subcontracting plan.

### **219.708 Solicitation provisions and contract clauses.**

(b)(1)(A) Use the clause at 252.219-7003, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (DoD Contracts), in solicitations and contracts that contain the clause at FAR 52.219-9, Small Business Subcontracting Plan.

(B) In contracts with contractors which have comprehensive subcontracting plans approved under the test program described in 219.702(a), use the clause at 252.219-7004, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (Test Program), instead of the clauses at 252.219-7003, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (DoD Contracts), and FAR 52.219-9, Small Business Subcontracting Plan.

(2) In contracts with contractors that have comprehensive subcontracting plans approved under the test program described in 219.702(a), do not use the clause at FAR 52.219-16, Liquidated Damages—Subcontracting Plan.

(c)(1) Do not use the clause at FAR 52.219-10, Incentive Subcontracting Program, in contracts with contractors that have comprehensive subcontracting plans approved under the test program described in 219.702(a).

[56 FR 36353, July 31, 1991, as amended at 56 FR 67213, Dec. 30, 1991; 61 FR 39901, July 31, 1996; 63 FR 64429, Nov. 20, 1998; 65 FR 52952, Aug. 31, 2000; 67 FR 49252, July 30, 2002]

## **Subpart 219.8—Contracting With the Small Business Administration (The 8(a) Program)**

### **219.800 General.**

(a) By Partnership Agreement (PA) dated February 1, 2002, between the Small Business Administration (SBA) and the Department of Defense (DoD), the SBA delegated to the Under Secretary of Defense (Acquisition, Technology, and Logistics) its authority under paragraph 8(a)(1)(A) of the Small Business Act (15 U.S.C. 637(a)) to enter

into 8(a) prime contracts, and its authority under 8(a)(1)(B) of the Small Business Act to award the performance of those contracts to eligible 8(a) Program participants. However, the SBA remains the prime contractor on all 8(a) contracts, continues to determine eligibility of concerns for contract award, and retains appeal rights under FAR 19.810. The SBA delegates only the authority to sign contracts on its behalf. Consistent with the provisions of this subpart, this authority is hereby redelegated to DoD contracting officers within the United States, its territories and possessions, Puerto Rico, the Trust Territory of the Pacific Islands, and the District of Columbia, to the extent that it is consistent with any dollar or other restrictions established in individual warrants. This authority expires on September 30, 2004.

(b) Contracts awarded under the PA may be awarded directly to the 8(a) participant on either a sole source or competitive basis. An SBA signature on the contract is not required.

(c) Notwithstanding the PA, the contracting officer may elect to award a contract pursuant to the provisions of FAR Subpart 19.8.

[67 FR 11436, Mar. 14, 2002]

### **219.803 Selecting acquisitions for the 8(a) Program.**

(b) Contracting activities should respond to SBA requests for contract support within 30 calendar days after receipt.

(c) Before considering a small business set-aside, review the acquisition for offering under the 8(a) Program.

[56 FR 36353, July 31, 1991, as amended at 63 FR 41974, Aug. 6, 1998]

### **219.804 Evaluation, offering, and acceptance.**

#### **219.804-1 Agency evaluation.**

(f) The 8(a) firms should be offered the opportunity to give a technical presentation.

[63 FR 41974, Aug. 6, 1998]

#### **219.804-2 Agency offering.**

(1) For requirements processed under the PA cited in 219.800 (but see paragraph (2) of this subsection for proce-

dures related to purchase orders that do not exceed the simplified acquisition threshold), the notification to the SBA shall clearly indicate that the requirement is being processed under the PA. All notifications should be submitted in writing, using facsimile or electronic mail, when possible, and shall specify that—

(i) Under the PA, an SBA acceptance or rejection of the offering is required within 5 working days of receipt of the offering; and

(ii)(A) For sole source requirements, an SBA acceptance shall include a size verification and a determination of the 8(a) firm's program eligibility, and, upon acceptance, the contracting officer will solicit a proposal, conduct negotiations, and make award directly to the 8(a) firm; or

(B) For competitive requirements, upon acceptance, the contracting officer will solicit offers, conduct source selection, and, upon receipt of an eligibility verification, award a contract directly to the selected 8(a) firm.

(2) Under the PA cited in 219.800, no separate agency offering or SBA acceptance is needed for requirements that are issued under purchase orders that do not exceed the simplified acquisition threshold. After an 8(a) contractor has been identified, the contracting officer shall establish the prices, terms, and conditions with the 8(a) contractor and shall prepare a purchase order consistent with the procedures in Part 213 and FAR Part 13, including the applicable clauses required by this subpart. No later than the day that the purchase order is provided to the 8(a) contractor, the contracting officer shall provide to the cognizant SBA Business Opportunity Specialist, using facsimile, electronic mail, or any other means acceptable to the SBA district office—

(i) A copy of the signed purchase order; and

(ii) A notice stating that the purchase order is being processed under the PA. The notice also shall indicate that the 8(a) contractor will be deemed eligible for award and will automatically begin work under the purchase order unless, within 2 working days after SBA's receipt of the purchase