

that an appeal decision may be requested by an authorized official.

(3) If the contracting agency decides to file an appeal, it must notify SBA Headquarters through its procuring agency's Director, OSDBU, or other designated official, within 10 business days (or a time period agreed upon by both agencies) that it intends to appeal the issuance of the COC.

(4) The appeal and any supporting documentation shall be filed by the procuring agency's Director, OSDBU, or other designated official, within 10 business days (or a period agreed upon by both agencies) after SBA Headquarters receives the agency's notification in accordance with paragraph (a)(3) of this subsection.

(5) The SBA Associate Administrator for Government Contracting will make a final determination, in writing, to issue or to deny the COC.

(b) *SBA Headquarters' decisions on COCs valued over \$25,000,000.* (1) Prior to taking final action, SBA Headquarters will contact the contracting agency and offer it the following options:

(i) To request that the SBA suspend case processing to allow the agency to meet with SBA Headquarters personnel and review all documentation contained in the case file; or

(ii) To submit to SBA Headquarters for evaluation any information that the contracting agency believes has not been considered.

(2) After reviewing all available information, the SBA will make a final decision to either issue or deny the COC.

(c) *Reconsideration of a COC after issuance.* (1) The SBA reserves the right to reconsider its issuance of a COC, prior to contract award, if—

(i) The COC applicant submitted false information or omitted materially adverse information; or

(ii) The COC has been issued for more than 60 days (in which case the SBA may investigate the firm's current circumstances).

(2) When the SBA reconsiders and reaffirms the COC, the procedures in subsection 19.602-2 do not apply.

(3) Denial of a COC by the SBA does not preclude a contracting officer from awarding a contract to the referred concern, nor does it prevent the con-

cern from making an offer on any other procurement.

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#### 19.602-4 Awarding the contract.

(a) If new information causes the contracting officer to determine that the concern referred to the SBA is actually responsible to perform the contract, and award has not already been made under paragraph (c) below, the contracting officer shall reverse the determination of nonresponsibility, notify the SBA of this action, withdraw the referral, and proceed to award the contract.

(b) The contracting officer shall award the contract to the concern in question if the SBA issues a COC after receiving the referral. An SBA-certified concern shall not be required to meet any other requirements of responsibility. SBA COC's are conclusive with respect to all elements of responsibility of prospective small business contractors.

(c) The contracting officer shall proceed with the acquisition and award the contract to another appropriately selected and responsible offeror if the SBA has not issued a COC within 15 business days (or a longer period of time agreed to with the SBA) after receiving the referral.

### Subpart 19.7—The Small Business Subcontracting Program

#### 19.701 Definitions.

As used in this subpart—

*Commercial plan* means a subcontracting plan (including goals) that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).

*Failure to make a good faith effort to comply with the subcontracting plan* means willful or intentional failure to perform in accordance with the requirements of the subcontracting plan, or willful or intentional action to frustrate the plan.

*Individual contract plan* means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and