

Defense Acquisition Regulations System, DOD

219.201

219.7106 Performance reviews.

AUTHORITY: 41 U.S.C. 421 and 48 CFR chapter 1.

SOURCE: 56 FR 36353, July 31, 1991, unless otherwise noted.

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 2009 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; 68 FR 15381, Mar. 31, 2003; 71 FR 39008, July 11, 2006]

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 Sum-

mary 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.

(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 (including orders placed against Federal Supply Schedule contracts) over \$10,000, except those under \$100,000 that are totally set aside for small business concerns in accordance with FAR 19.502-2. Follow the procedures at PGI 219.201(d)(10) regarding such reviews;

(B) Making the review before issuance 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. If an SBA procurement center representative is not assigned, see FAR 19.402(a).

(11) Also conduct annual reviews to assess—

(A) The extent of consolidation of contract requirements that has occurred (see 207.170); and

(B) The impact of those consolidations on the availability of small business concerns to participate in procurements as both contractors and subcontractors.

(e) For information on the appointment and functions of small business specialists, see PGI 219.201(e).

(f) The Directors, Office of Small and Disadvantaged Business Utilization, of the military departments and defense

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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 System 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; 69 FR 55987, Sept. 17, 2004; 71 FR 44927, Aug. 8, 2006]

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 Sec-

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retary 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

(ii) Planned actions for increasing participation by such firms in future contract awards.

[56 FR 36353, July 31, 1991, as amended at 63 FR 41973, Aug. 6, 1998; 65 FR 63804, Oct. 25, 2000]

Subpart 219.4—Cooperation With the Small Business Administration

219.401 General.

(b) The contracting activity small business specialist is the primary activity focal point for interface with the SBA.

Subpart 219.5—Set-Asides for Small Business

219.502 Setting aside acquisitions.

219.502-1 Requirements for setting aside acquisitions.

Do not set aside acquisitions for—

(1) Supplies which were developed and financed, in whole or in part, by Canadian sources under the U.S.-Canadian Defense Development Sharing Program; or

(2) Architect-engineer services for military construction or family housing projects of \$300,000 or more (10 U.S.C. 2855), including indefinite delivery and indefinite quantity contracts if the value of all anticipated orders is expected to total \$300,000 or more.

[58 FR 28465, May 13, 1993, as amended at 69 FR 31909, June 8, 2004]

219.502-2 Total set-asides.

(a) Unless the contracting officer determines that the criteria for set-aside cannot be met, set aside for small business concerns acquisitions for—

(i) Construction, including maintenance and repairs, under \$2 million;

(ii) Dredging under \$1 million; and