

(iii) Architect-engineer services for military construction or family housing projects of under \$300,000.

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

**219.502-3 Partial set-asides.**

(c)(1) If the North American Industry Classification System Industry Subsector of the acquisition is one in which use of a price evaluation adjustment for small disadvantaged business concerns is currently authorized (see FAR 19.201(b)), apply the adjustment to the non-set-aside portion.

[65 FR 50149, Aug. 17, 2000]

**219.505 Rejecting Small Business Administration recommendations.**

(b) The designee shall be at a level no lower than chief of the contracting office.

**Subpart 219.6—Certificates of Competency**

**219.602 Procedures.**

**219.602-1 Referral.**

When making a nonresponsibility determination on a small business concern, the contracting officer shall notify the contracting activity's small business specialist.

[58 FR 28465, May 13, 1993, as amended at 60 FR 40107, Aug. 7, 1995]

**219.602-3 Resolving differences between the agency and the Small Business Administration.**

(c)(i) If the contracting officer believes the agency should appeal, the contracting officer shall immediately inform the departmental director of the Office of Small and Disadvantaged Business Utilization, and send the director, through departmental channels—

(A) A request for appeal, summarizing the issues. The request must be sent to arrive within five working days after receipt of the SBA Headquarters' written position.

(B) An appeal file, documenting the contracting activity's position. The file must be sent to arrive within five working days after transmission of the request.

(ii) The departmental director will determine whether the agency will appeal and will notify the SBA of the agency's intent.

[56 FR 36353, July 31, 1991, as amended at 62 FR 34122, June 24, 1997]

**Subpart 219.7—The Small Business Subcontracting Program**

**219.702 Statutory requirements.**

(a) Section 834 of Public Law 101-189, as amended (15 U.S.C. 637 note), requires DoD to establish a test program to determine whether comprehensive subcontracting plans on a corporate, division, or plant-wide basis will reduce administrative burdens while enhancing subcontracting opportunities for small and small disadvantaged business concerns.

(i) The test program—

(A) Will be conducted—

(1) From October 1, 1990, through September 30, 2010;

(2) In accordance with the DoD test plan, "Test Program for Negotiation of Comprehensive Small Business Subcontracting Plans"; and

(3) By the military departments and defense agencies through specifically designated contracting activities; and

(B) Permits contractors selected for participation in the test program by the designated contracting activities to—

(1) Negotiate plant, division, or company-wide comprehensive subcontracting plans instead of individual contract subcontracting plans; and

(2) Use the comprehensive plans when performing any DoD contract or subcontract that requires a subcontracting plan.

(ii) During the test period, comprehensive subcontracting plans will—

(A) Be negotiated on an annual basis by the designated contracting activities;

(B) Be incorporated by the contractors' cognizant contract administration activity into all of the contractors' active DoD contracts that require a plan;

(C) Be accepted for use by contractors participating in the test, whether performing at the prime or subcontract level; and

## 219.703

(D) Not be subject to application of liquidated damages during the period of the test program (Section 402, Pub. L. 101-574).

[56 FR 36353, July 31, 1991, as amended at 60 FR 35668, July 10, 1995; 61 FR 39900, July 31, 1996; 63 FR 14640, Mar. 26, 1998; 64 FR 62987, Nov. 18, 1999; 70 FR 14574, Mar. 23, 2005]

### **219.703 Eligibility requirements for participating in the program.**

(a) Qualified nonprofit agencies for the blind and other severely disabled, that have been approved by the Committee for Purchase from People Who Are Blind or Severely Disabled under the Javits-Wagner-O'Day Act (41 U.S.C. 46-48), are eligible to participate in the program as a result of 10 U.S.C. 2410d and Section 9077 of Pub. L. 102-396 and similar sections in subsequent Defense appropriations acts. Under this authority, subcontracts awarded to such entities may be counted toward the prime contractor's small business subcontracting goal.

(2)(A) To be eligible as an SDB subcontractor, a concern must meet the definition in 219.001.

(B) To be eligible as a historically black college or university or minority institution subcontractor, such entity must meet the definition in the clause at 252.219-7003, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (DoD Contracts).

(b) A contractor may also rely on the written representation as to status of—

(i) A historically black college or university or minority institution; or

(ii) A qualified nonprofit agency for the blind or other severely disabled approved by the Committee for Purchase from People Who Are Blind or Severely Disabled.

[57 FR 42630, Sept. 15, 1992, as amended at 58 FR 28465, May 13, 1993; 60 FR 13075, Mar. 10, 1995; 60 FR 41157, Aug. 11, 1995; 60 FR 61596, Nov. 30, 1995; 61 FR 50535, Sept. 26, 1996; 63 FR 11530, Mar. 9, 1998; 63 FR 41974, Aug. 6, 1998; 64 FR 51076, Sept. 21, 1999; 64 FR 62986, Nov. 18, 1999]

### **219.704 Subcontracting plan requirements.**

(a)(1) The goal for use of small disadvantaged business concerns shall include subcontracts with historically

## 48 CFR Ch. 2 (10-1-06 Edition)

black colleges and universities and minority institutions (see subpart 226.70), 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 one level above the contracting officer.

[56 FR 36353, July 31, 1991, as amended at 63 FR 41974, Aug. 6, 1998; 69 FR 67855, Nov. 22, 2004]