

19.703 Eligibility requirements for participating in the program.

(a) Except as provided in paragraph (c) of this section, to be eligible as a subcontractor under the program, a *concern* must represent itself as a small business, veteran-owned small business, service-disabled veteran-owned small business, *HUBZone* small business, small disadvantaged business, or *women-owned small business concern*.

(1) To represent itself as a small business, veteran-owned small business, service-disabled veteran-owned small business, *HUBZone* small business, small disadvantaged business, or *women-owned small business concern*, a *concern* must meet the appropriate definition (see [2.101](#) and [19.001](#)). For subcontracting purposes, a *concern* is small if it does not exceed the size standard for the NAICS code that the prime contractor determines best describes the product or service being acquired by the *subcontract*.

(2)

(i) Unless the prime contractor has reason to question the representation, it *may* accept a subcontractor's written representations of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, *HUBZone* small business, or a women-owned small business, if the subcontractor represents that the size and socioeconomic status representation with its *offer* are current, accurate, and complete as of the date of the *offer* for the *subcontracts*; or

(ii) Unless the prime contractor has reason to question the representation, it *may* accept a subcontractor's representation of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, *HUBZone* small business, or a women-owned small business in the *System for Award Management (SAM)* if-

(A) The subcontractor is registered in SAM; and

(B) The subcontractor represents that the size and socioeconomic status representations made in SAM are current, accurate and complete as of the date of the *offer* for the *subcontract*.

(iii) The prime contractor *may* not require the use of SAM for the purposes of representing size or socioeconomic status in connection with a *subcontract*.

(iv) In accordance with 13 CFR 121.411, 126.900, 127.700, and 128.600, a prime contractor acting in good faith is not liable for misrepresentations made by its subcontractors regarding the subcontractor's size or socioeconomic status.

(b) The contractor, the *contracting officer*, or any other interested party can challenge a subcontractor's size status representation by filing a protest, in accordance with 13 CFR 121.1001 through 121.1008.

(c)

(1) In accordance with 43 U.S.C. 1626, the following procedures apply:

(i) *Subcontracts* awarded to an ANC or Indian tribe *shall* be counted towards the subcontracting goals for small business and small disadvantaged business (SDB) *concerns*, regardless of the size or Small Business Administration certification status of the ANC or Indian tribe.

(ii) Where one or more subcontractors are in the *subcontract* tier between the prime contractor and the ANC or Indian tribe, the ANC or Indian tribe *shall* designate the appropriate contractor(s) to count the *subcontract* towards its small business and small disadvantaged business subcontracting goals.

(A) In most cases, the appropriate contractor is the contractor that awarded the *subcontract* to the ANC or Indian tribe.

(B) If the ANC or Indian tribe designates more than one contractor to count the *subcontract* toward its goals, the ANC or Indian tribe *shall* designate only a portion of the total *subcontract* award to each contractor. The sum of the amounts designated to various contractors cannot exceed the total value of the *subcontract*.

(C) The ANC or Indian tribe *shall* give a copy of the written designation to the *contracting officer*, the prime contractor, and the subcontractors in between the prime contractor and the ANC or Indian tribe within 30 days of the date of the *subcontract* award.

(D) If the *contracting officer* does not receive a copy of the ANC's or the Indian tribe's written designation within 30 days of the *subcontract* award, the contractor that awarded the *subcontract* to the ANC or Indian tribe will be considered the designated contractor.

(2) A contractor acting in good faith *may* rely on the written representation of an ANC or an Indian tribe as to the status of the ANC or Indian tribe unless an interested party challenges its status or the *contracting officer* has independent reason to question its status. In the event of a challenge of a representation of an ANC or Indian tribe, the interested parties *shall* follow the procedures at 26.103(b) through (e).

(d) Protests challenging the socioeconomic status of a *HUBZone* small business *concern* *must* be filed in accordance with 13 CFR 126.801.

Parent topic: Subpart 19.7 - The Small Business Subcontracting Program