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Parent topic: General Services Administration Acquisition Manual

519.001 Definitions.

Subpart 519.2 - Policies

519.201 General policy.

(a) The Director of the Small and Disadvantaged Business Utilization is known in GSA as the Associate Administrator, Office of Small and Disadvantaged Business Utilization (AA OSDBU).

(b) The AA OSDBU delegates duties to Small Business Technical Advisors (SBTAs) for each region through written appointment. All references to SBTA in this part refer to the SBTA designated to support his/her service or region, whichever is applicable.

(c) Contracting officers shall work with the designated SBTA for their region or service.

519.202 Specific policies.

519.202-1 Encouraging small business participation in acquisitions.

When applicable, the following procedures shall be used to promote small business through acquisition.

(a) For any acquisition that requires a GSA Form 2689 per GSAM 519.502-70, an acquisition plan shall be submitted to the SBTA. The acquisition plan shall be submitted to the SBTA for approval after the GSA Form 2689 has been approved.

(b) The designated SBTA will provide the copy of the proposed acquisition package to the SBA PCR in accordance with FAR 19.202-1(e) and GSAM 519.4.

(c) When placing orders or establishing BPAs against multiple-award contracts (see FAR 2.101), small businesses should be given consideration prior to large businesses.

519.202-2 Locating small business sources.

(a) Queries using the "Dynamic Small Business Search," at <http://dsbs.sba.gov> are encouraged to locate small business sources.

(b) The designated SBTA may be contacted for assistance with identifying small business sources.

(c) The contracting officer must coordinate communications through the SBTA (see 519.4) when contacting the SBA Procurement Center Representative (PCR) in accordance with FAR 19.202-1.

Subpart 519.3 - Determination of Small Business Status for Small Business Programs

519.302 Protesting a small business representation.

If SBA determines that an offeror is not a small business concern, and there is evidence that the offeror knowingly misrepresented itself as such, contracting activities must refer the matter to the Inspector General and should also refer the matter to the Suspension and Debarment Official.

519.305 Protesting a representation of disadvantaged business status.

If SBA determines that an offeror is not a disadvantaged small business concern, and there is evidence that the offeror knowingly misrepresented itself as such, contracting activities must refer the matter to the Inspector General and should also refer the matter to the Suspension and Debarment Official.

519.306 Protesting a firm's status as a HUBZone small business concern.

If SBA determines that an offeror is not a HUBZone small business concern, and there is evidence that the offeror knowingly misrepresented itself as such, contracting activities must refer the matter to the Inspector General and should also refer the matter to the Suspension and Debarment Official.

519.307 Protesting a firm's status as a Service-Disabled Veteran-Owned small business concern.

If SBA determines that an offeror is not a service-disabled veteran-owned small business concern, and there is evidence that the offeror knowingly misrepresented itself as such, contracting activities must refer the matter to the Inspector General and should also refer the matter to the Suspension and Debarment Official.

519.308 Protesting a firm's status as an Economically Disadvantaged Women-Owned Small Business (EDWOSB) concern or Women-Owned Small Business (WOSB) concern eligible under the WOSB Program.

If SBA determines that an offeror is not a women-owned small business or economically disadvantaged women-owned small business concern, and there is evidence that the offeror knowingly misrepresented itself as such, contracting activities must refer the matter to the Inspector General and should also refer the matter to the Suspension and Debarment Official.

Subpart 519.4 - Cooperation With the Small Business Administration

The AAOSDBU is the focal point for interfacing with SBA. Refer issues relating to small business programs through the designated SBTA.

Subpart 519.5 - Set-asides for Small Business

519.502 Setting aside acquisitions.

519.502-1 Requirements for setting aside acquisitions.

(a) The contracting officer may make awards under the 8(a) Business Development Program (see FAR 19.8), or set aside for the Historically Underutilized Business Zone (HUB-Zone) Program (see FAR 19.13, Women-Owned Small Business (WOSB) Program (see FAR 19.15), or Service-Disabled Veteran-Owned Small Business (SDVOSB) Procurement Program (see FAR 19.14).

(b) Once a contracting activity acquires a product or service successfully on the basis of a set-aside, the activity must acquire all future requirements for that product or service using set-aside procedures. If the contracting officer determines that he or she no longer can reasonably expect to receive offers from at least two responsible small business concerns and make awards at fair market prices, use the procedures in FAR 19.506 to withdraw or modify a set-aside. When market research reveals that any supplies or services from mandatory sources, such as Federal Prison Industries, Inc. and AbilityOne, that were not available at the time of the original requirement have become available, a contracting officer may discontinue setting aside a continuing requirement (see FAR 8.002 and 8.003). The contracting officer shall document the determination to discontinue setting aside a continuing requirement (see [519.502-70](#)).

519.502-70 Review of non-set-aside determinations.

(a) *General.* GSA Form 2689, Small Business Analysis Record.

(1) The GSA Form 2689 is used to-

(i) Record evidence that consideration has been given to small business, service-disabled veteran-owned small business, HUB-Zone small business, small disadvantaged business, women-owned small business, or 8(a) Business Development Program participants; and

(ii) Document that small businesses received maximum practicable opportunity to participate in a proposed acquisition.

(2) The GSA Form 2689 may be used in place of a "Memo to File" when documenting the requirement for market research and as a tool to assure maximum practicable small business opportunity.

(3) The contracting officer shall include all pertinent documents with the GSA Form 2689 to

support the proposed acquisition strategy (*i.e.*, Dynamic Small Business Search results, responses to System for Award Management Contract Opportunities sources sought notice, performance work statement, statement of work, sole source justification, consolidation or bundling determination, business case, etc.).

(4) The contracting officer shall record the justification and rationale for the determined acquisition strategy on the GSA Form 2689.

(b) *Consolidated or Bundled Acquisitions.* The GSA Form 2689 is required for acquisitions when consolidation, bundling or substantial bundling (FAR 2.101 and 7.107-4) is contemplated regardless of estimated total contract value.

(c) *Orders.*

(1) The GSA Form 2689 is required for orders and Blanket Purchase Agreements (BPAs), including BPA orders, against Multiple-award Contracts (see FAR 2.101) and expected to equal or exceed \$6 million (see FAR 7.104(d)), unless the contract, order or BPA is set aside for one of the small business programs specified in FAR 19.203 (e.g. 8(a), HUB-Zone, WOSB, or SDVOSB).

(2) Orders or BPAs against Multiple-award Contracts (see FAR 2.101) that are less than \$6 million do not require a GSA Form 2689, unless the acquisition is consolidation, bundling or substantial bundling.

(d) *Acquisitions at or below the Simplified Acquisition Threshold (SAT).*

(1) The GSA Form 2689 is not required for acquisitions at or below the SAT, unless the acquisition is consolidation, bundling or substantial bundling. However, it may be used to document market research. Contracting officers are encouraged to use the GSA Form 2689 to document any determination to not use small business under the SAT in accordance with FAR 19.502-2(a).

(2) The GSA Form 2689 does not require SBTA or SBA PCR review or signature when documenting market research.

(e) *Acquisitions expected to exceed the Simplified Acquisition Threshold (SAT).* The GSA Form 2689 is required for acquisitions expected to exceed the SAT when—

(1) A determination is made to set aside for small business but not one of the small business programs specified in FAR 19.203 (8(a), HUB-Zone, WOSB, or SDVOSB); or

(2) A determination is made to utilize full and open competition.

(f) *Exceptions.* The GSA Form 2689 is not required for—

(1) Acquisitions with mandatory sources (see FAR 8.002 and 8.003);

(2) Acquisitions, including contracts, orders, and BPAs, that have been set aside for a small business program specified in FAR 19.203 (*e.g.* 8(a), HUB-Zone, WOSB, or SDVOSB) unless consolidated, bundled or substantially bundled; or

(3) Orders or BPAs under \$6 million, unless consolidated, bundled or substantially bundled (see paragraphs (b) and (c) of this subsection).

(g) *GSA Form 2689 Requirement Conditions.*

(1) *General*. The following table is a reference to determine when the GSA Form 2689 is required for completion and submission.

(2) *Instructions*. The table has an order of precedence.

(i) Review the “Contract Vehicle Conditions” column in numerical order.

(ii) Once a condition applies to the acquisition, the applicability of the form will be identified in the “GSA Form 2689 Required?” column.

(iii) Once a condition applies to the acquisition, further conditions down the table do not apply.

Contract Vehicle Conditions	GSA Form 2689 Required?	Rationale
(A) Any acquisition from mandatory sources	Not Required	GSAM 519.502-70(f)(1) Mandatory Sources FAR 8.002(a)(1)(iv) (Supplies) FAR 8.002(a)(2)(i) (Services) FAR 8.003
(B) Acquisitions, including contracts or orders that meet the definition of consolidation, bundling or substantial bundling (FAR 2.101 and 7.107-4).	Required at any estimated total contract value	GSAM 519.502-70(b)
(C) Acquisitions, including contracts, orders and BPAs, that have been set aside for a small business program as specified in FAR 19.203 (e.g. 8(a), HUB-Zone, WOSB, or SDVOSB)	Not Required	GSAM 519.502-70(f)(2)
(D) Orders and BPAs, including BPA call orders, against Multiple-Award contracts (see FAR 2.101)	Required if valued at \$6M or more, unless set-aside for small business programs as specified in FAR 19.203 (e.g. 8(a), HUB-Zone, WOSB, or SDVOSB) Not Required if under \$6M	GSAM 519.502-70(c) Set-aside is discretionary FAR 8.405-5(a) FAR 16.505(b)(2)(i)(F)
(E) Contracts under the SAT	Not Required but encouraged to use the form as a market research tool	GSAM 519.502-70(d)

Contract Vehicle Conditions	GSA Form 2689 Required?	Rationale
(F) Contracts over the SAT and set-aside for 8(a), HUB-Zone, WOSB, or SDVOSB	Not Required	GSAM <u>519.502-70(f)(2)</u> FAR 19.203(a)
(G) Contracts over the SAT and set aside for small business, but NOT set-aside for 8(a), HUB-Zone, WOSB, or SDVOSB	Required	GSAM <u>519.502-70(e)(1)</u> FAR 19.203(c)
(H) Contracts over the SAT and not set-aside (<i>i.e.</i> full and open competition)	Required	GSAM <u>519.502-70(e)(2)</u>

(h) *GSA Form 2689 Concurrence and Time-frames.*

(1) Use the guidance in paragraphs (c) through (g) to determine if a GSA Form 2689 is required. If a GSA Form 2689 is required, then follow the dollar value thresholds in the table below to determine the level of concurrence for the form.

Thresholds	SBTA Concurrence	SBA PCR Concurrence	AA OSDBU Concurrence	Review Time-frame
Less than SAT	Not Required, unless an exception in <u>519.502-70(h)(2)</u> applies	Not Required, unless an exception in <u>519.502-70(h)(2)</u> applies	Not Required, unless an exception in <u>519.502-70(h)(2)</u> applies	Not Applicable
Equal to or greater than SAT and less than \$50M	Required	Required	Not Required, unless an exception in <u>519.502-70(h)(2)</u> applies	Within 5 business days following the day of receipt

Thresholds	SBTA Concurrence	SBA PCR Concurrence	AA OSDBU Concurrence	Review Time-frame
Equal to or greater than \$50M	Required	Required	Required	Within 10 business days following the day of receipt (i.e. 5 business days total for the SBTA and SBA PCR and 5 business days for AA OSDBU)

(2) If the acquisition meets one of the following criteria, the contracting officer must obtain all concurrences of the GSA Form 2689 regardless of the concurrence threshold:

- (i) Complex, critical to agency strategic objectives and mission, highly visible or politically sensitive.
- (ii) Acquisitions that will be performed in more than one region.

(3) The SBTA is responsible to follow-up with the SBA PCR and inform the contracting officer.

(4) The SBTA must request from the contracting officer an extension if concurrence will not be met by the established time-frame as defined above in the table.

(5) If a response is not received from the SBA PCR, the SBTA must elevate within OSDBU for resolution at osdbu_review_concurrence@gsa.gov.

(6) If the contracting officer does not receive a response from the SBTA within the established time-frames and the SBTA has been unresponsive to the contracting officer’s inquiries, the contracting officer should elevate within OSDBU for resolution at osdbu_review_concurrence@gsa.gov.

(7) If a “Non-Concur” is received on the GSA Form 2689, the contracting officer is required to re-submit for concurrence. The time-frame for review is reset when the form is re-submitted.

(i) Disagreements. If a reviewing official disagrees with the contracting officer’s decision not to set aside an acquisition, the SBTA must provide the contracting officer the rationale for the disagreement or provide the contracting officer with additional small business sources that are interested in and capable of fulfilling the requirement. Review and consider any information provided by the SBTA before making a decision.

(j) Resolving disagreements. The HCA (see GSAM [502.101](#)), as delegated, in the applicable Central Office and/or Regional Service resolves disagreements between the contracting officer and the SBTA. To resolve disagreements with the SBA PCR, see FAR 19.505.

519.503 Setting aside a class of acquisitions for small business.

(a) *Definition.* A class set-aside is an item (or service), a group of related items under a Federal Supply Class (FSC), or a whole FSC set aside for exclusive small business participation on more than a one-time basis. If the item or group of items constitute only a small portion of an FSC, this definition still applies.

(b) *Determinations.* If the contracting officer has procurement responsibility for the class of items or services involved, prepare the determination required by FAR 19.503. The determination can apply to either a total or partial set-aside.

519.506 Withdrawing or modifying small business set-asides.

If the contracting officer and the SBTA disagree over the withdrawal or modification of a set-aside, the SBTA must notify the AA OSDDBU at the same time the matter is referred to the SBA PCR.

519.507 Contract clause.

Insert the clause at [552.219-70](#), Allocation of Orders—Partially Set-Aside Items, in solicitations and contracts when a requirements contract for supplies is contemplated that will involve partially setting aside orders for small business.

Subpart 519.6 - Certificates of Competency and Determinations of Responsibility

519.602 Procedures.

519.602-3 Resolving differences between the agency and the Small Business Administration.

(a) Within 5 business days after requesting the SBA Area Office to refer an intention to issue a Certificate of Competency to SBA Headquarters for review, the contracting officer shall forward the information in paragraphs (a)(1) and (a)(2) of this subsection to the AA OSDDBU through your designated SBTA. This period may be extended by mutual agreement.

(1) Copies of all correspondence between GSA and SBA concerning the case. Include the initial referral notice of nonresponsibility.

(2) Copies of all technical documents sent to SBA (for example, the solicitation, preaward surveys, or any abstract of offers). Include any new information and a justification of the contracting officer's decision to continue the appeal.

(b) After considering all the facts and conferring with the contracting officer, the AA OSDDBU will decide whether or not to file a formal appeal. Before deciding whether or not to appeal, the AA

OSDBU must notify the contracting officer.

(c) For decisions on cases over \$25,000,000, the AA OSDBU shall confer with the contracting activity before responding to SBA regarding either of the options in FAR 19.602-3(b)(1)(i) and (ii).

Subpart 519.7 - The Small Business Subcontracting Program

519.700 [Reserved]

519.700-70 Additional responsibilities.

In addition to FAR 19.705 responsibilities, the contracting officer's preaward responsibilities include:

(a) Developing target goals for sealed bid solicitations when practicable.

(b) Following FAR 15.306, conducting discussions with individual offerors, as appropriate, concerning the subcontracting plans submitted for a negotiated solicitation.

519.702 [Reserved]

519.705 Responsibilities of the contracting officer under the subcontracting assistance program.

519.705-2 Determining the need for a subcontracting plan.

(a) When the contracting officer calculates the applicable threshold, consider the actual or estimated value of the contract for the entire term of the contract, including any option period(s). This also applies to schedule contracts and other indefinite delivery type contracts. Consider the estimated value of all orders expected to be placed during the term plus all options.

(b) FAR 19.705-2(d) permits the contracting officer to require submission of subcontracting plans with initial offers under a negotiated acquisition. The contracting officer must require all offerors (other than small business concerns) to submit subcontracting plans with their initial offers when a negotiated acquisition meets all conditions:

(1) The contracting officer anticipates receiving individual subcontracting plans (not commercial plans).

(2) The contracting officer will award on the basis of trade-offs among cost or price and technical and/or management factors under FAR 15.101-1.

(3) The acquisition is not a commercial product or commercial service acquisition.

(4) The acquisition offers more than minimal subcontracting opportunities.

(5) An offeror's subcontracting plan is identified as an evaluation factor in the solicitation.

(c) Nothing in paragraph (b) above limits the contracting officer's ability to request subcontracting plans with initial offers under other negotiated acquisitions when he or she decides such action is appropriate under FAR 19.705-2(d). For example, such action may be appropriate for multiple award schedules where GSA may have responsibility for negotiating commercial plans.

(d) Notify the AA OSDBU after receipt of offers if the contracting officer determines that an apparent successful offeror's proposal has no subcontracting opportunities.

(1) Coordinate the notice through the contracting officer's SBTA.

(2) Include justification documenting the rationale behind a determination of no subcontracting opportunities. The contracting officer may use the justification provided by the apparent successful offeror

(3) Obtain AA OSDBU concurrence on the determination prior to contract award.

519.705-3 Preparing the solicitation.

(a) If an acquisition, excluding any multiple award schedule contract, will cover two or more Regions and is estimated to exceed \$50 million (including options):

(1) In addition to the SBA PCR, the contracting officer shall provide the SBTA and OSDBU a reasonable period of time (approximately 10 days) to review any solicitation requiring submission of a subcontracting plan and to submit advisory findings before issuing the solicitation. The contracting officer shall ensure that evaluation criteria contained in the solicitation do not unnecessarily limit subcontracting opportunities for small, HUBZone small, small disadvantaged, women-owned small, veteran-owned, and service-disabled veteran-owned small business concerns.

(2) For a negotiated acquisition, if the contracting officer believes that the acquisition provides substantial subcontracting opportunities, consider including the offeror's subcontracting plan as an evaluation factor for award. This may be most appropriate in acquisitions when the contracting officer expects individual plans or master plans. The contracting officer should consult with his or her SBTA or regional SBUC to obtain any needed assistance with developing subcontracting plan evaluation criteria before incorporating the plan into the solicitation as an evaluation factor.

Target goals in sealed bidding

(b) Unrealistic target goals tend to inhibit competition or increase acquisition costs if goals are too high. Target goals that offer no challenge to potential contractors reflect poorly on GSA's commitment to ensure maximum practicable use of small, HUBZone small, small disadvantaged, women-owned small, veteran-owned, and service-disabled veteran-owned small business concerns as subcontractors.

(c) In establishing target goals for sealed bid solicitations, the contracting officer should avoid using mechanical formulas or similar approaches that may be considered arbitrary. Reviewing historical performance by contractors performing similar work is valid, but the contracting officer should consider each solicitation independently in terms of the potential for subcontracting. Use as

many information sources as practical, including the contracting officer's own knowledge of the supplies or services. Factors to consider in setting targets include:

- (1) Manufacturing processes involved.
- (2) Availability and location of potential subcontractors.
- (3) The basis for establishing subcontracting relationships.
- (4) The diversity in prevailing economic conditions in the place of contract performance.

(d) If the contracting officer cannot establish realistic target goals, do not state specific targets in the solicitation.

(1) Establishing realistic target goals is likely to be a problem in contracting for supplies because the place of contract performance may not be known prior to contract award.

(2) Even if the contracting officer can predict the area of contract performance because a particular industry is concentrated there, the diversity of manufacturing processes may affect the amount of subcontracting and how subcontracting relationships are established. For example, some manufacturers may use formal teaming arrangements or long term relationships versus nonrepetitive purchase orders.

519.705-4 Reviewing the subcontracting plan.

(a) The contracting officer should provide offerors a model subcontracting plan when determined appropriate, *e.g.*, when it may facilitate evaluation or negotiation. The contracting officer may use the model plan available on OSBU's website at <https://insite.gsa.gov/organizations/staff-offices/office-of-small-business-utilization-osbu>. Include the following notice on the transmittal, if providing a model in response to a single request, or in the solicitation, if including it as an attachment:

Notice to Offerors: "GSA provides this model plan as a tool. The contracting officer must adapt this model plan to fit the subcontracting situation. The plan is NOT a fill-in-the-blank form and the contracting officer must remove instructional language. This model does not establish minimum requirements for an acceptable plan. The model reflects objectives GSA encourages contractors to adopt. GSA expects offerors to thoroughly review the requirements set forth in FAR 19.704, Subcontracting Plan Requirements and FAR Clause 52.219-9, Small Business Subcontracting Plan before submitting their subcontracting plans."

(b) Performance under other contracts is an indicator of an offeror's understanding of the reasons for the law and benefits of the program.

(1) If an offeror prepared a subcontracting plan for another contract, the contracting officer should contact the contracting officer responsible for administering the earlier plan to determine if the offeror met the plan's objectives and submitted required reports in a timely manner.

(2) The contracting officer shall consider overall compliance in the evaluation, not just whether or not the offeror met the goals established in the plan.

(3) Submission of timely reports is an indication the offeror takes its responsibilities

seriously.

(c) The contracting officer shall use the Subcontracting Plan Evaluation Checklist available on OSBU's website at <https://insite.gsa.gov/organizations/staff-offices/office-of-small-business-utilization-osbu>. and GSAM 519.7 to evaluate an offeror's subcontracting plan.

(1) Remember that a positive goal is required to establish a gauge for measuring results and to provide an incentive for continuing efforts to increase the dollar value of subcontracts placed with small, HUBZone small, small disadvantaged, women-owned small, veteran-owned, and service-disabled veteran-owned small business concerns. Carefully scrutinize any subcontracting category (e.g., small business, HUBZone small business, etc.) where the offeror does not specify a goal and accept it only after assuring that no subcontracting opportunities exist. If any category with no goal is accepted, the contracting officer must:

(i) Document the file explaining why the goal was accepted; and

(ii) Ensure the subcontracting plan includes an assurance that the contractor will make every effort to continue seeking subcontracting opportunities in the category that lacks a goal.

(2) One measure of the adequacy of a subcontracting plan is that it provides a challenge to the offeror and then builds upon previous achievements in subsequent contracts.

(3) Include in the contract file a basis for determining the subcontracting plan's acceptability.

(d) A contracting officer cannot tell the offeror what its goals must be. The contracting officer may tell the offeror what GSA's national goals are. Ensure that an offeror's subcontracting plan reflects realistic goals and provides the maximum opportunity practicable to small, HUBZone small, small disadvantaged, women-owned small, veteran-owned, and service-disabled veteran-owned small business concerns to participate as subcontractors. If necessary, obtain information from the offeror to substantiate the offeror's proposed goals, past performance with respect to subcontracting, and the proposed good faith effort. This information may include the names of proposed subcontractors and other such data.

(e) When a contracting officer receives a subcontracting plan with initial offers, provide an opportunity for the SBTA to review the subcontracting plans of those offers in the competitive range. Allow the SBTA 5 workdays for review. Consider the SBTA's comments in developing a negotiation strategy.

Negotiating Goals and Other Aspects of Plans

(f) For complex or large dollar value procurements, when an offeror proposes miniscule or minimally acceptable goals for small, HUBZone small, small disadvantaged, women-owned small, veteran-owned, and service-disabled veteran-owned small business concerns, the contracting officer shall ensure that the offeror has included all subcontracts that contribute to contract performance (see FAR 52.219-9(d)(1)).

(g) The contracting officer shall develop a strategy for negotiating the subcontracting plan and goals just as you would for negotiating a contract. Be forceful in negotiating the subcontracting plan and, whenever possible, offer recommendations for subcontracting potential with small, HUBZone small, small disadvantaged, women-owned small, veteran-owned, and service-disabled veteran-

owned small business concerns. The contracting officer should suggest organizations the offeror may contact to identify potential sources. For example, offerors may contact any of the following:

(1) Local SBA offices. These can provide an offeror assistance in accessing the System for Award Management (SAM) (<https://www.sam.gov>) database to conduct market research and confirm the eligibility for SBA's procurement preference programs.

(2) Department of Commerce, Minority Business Development Agencies (MBDAs) at <https://www.mbda.gov>.

(3) GSA SBUCs and SBTAs, as well as OSDDBU.

(4) State, county, and city government minority business offices.

(5) Small, minority, women-owned, and veteran business associations at <https://www.gsa.gov/smallbusiness>.

(6) Local chambers of commerce.

(7) Trade associations, professional organizations, and Procurement Technical Assistance Centers.

(8) Department of Veterans Affairs for assistance in identifying Service Disabled Veteran-Owned Small Businesses (SDVOSBs) and Veteran-Owned Small Businesses (VOSBs) at <https://www.va.gov/osdbu/>.

(9) Dynamic Small Business Search (DSBS) at <http://dsbs.sba.gov>.

(h) In developing a negotiation strategy, the contracting officer shall consider whether the offeror's plan is realistic and does more than merely restate the elements required by FAR clause 52.219-9 and shall question aspects of the plan that do not appear to be realistic or do not demonstrate a serious attempt to address requirements.

Commercial plans

(i) Contracting officers shall obtain from the contractor copies of any commercial plan for the company's current fiscal year and approval document from another GSA contracting activity or another Federal agency. Incorporate these documents into the contract.

(j) If GSA is the first agency to enter into a contract with a company during the company's fiscal year, the contracting officer must approve the commercial plan on behalf of the Federal Government, acknowledge receipt of the Summary Subcontract Report (SSR), accept or reject the SSR in the Electronic Subcontracting Reporting System (eSRS), and evaluate compliance with the approved commercial plan. If contract administration is delegated, the Administrative Contracting Officer (ACO) generally is assigned responsibility for accepting or rejecting the SSR and evaluating compliance with the approved commercial plan. Subsequent GSA contracts awarded during the company's same fiscal year and incorporating the previously approved commercial plan will only require the submission of the Summary Subcontract Report submitted at the end of the Government's fiscal year.

(k) If the commercial plan was approved by another agency, the first GSA contracting officer entering into a contract with the company during the company's same fiscal year in which the plan

was approved, requires the contractor to submit the SSR report and monitors receipt of the report. GSA requires no other monitoring or evaluation of this plan.

519.705-5 Awards involving subcontracting plans.

(a) Subcontracting plans requiring SBTA and SBA PCR review.

(1) For each contract that requires a subcontracting plan, the contracting officer will submit electronically the apparent successful offeror's subcontracting plan to the SBTA who will coordinate review by the SBA PCR. When the contracting officer makes multiple awards under a solicitation, electronically submit the subcontracting plans of all apparent successful offerors.

(i) Except as noted in paragraph (b) of this section, provide the SBTA an electronic copy of the plan at least 5 workdays before the anticipated award date.

(ii) Consider any recommendations the SBTA or SBA PCR provides about whether to accept or reject a subcontracting plan. In the case of an unresolved disagreement, notify the AA OSDDBU and consider any subsequent advice the AA OSDDBU provides. Document the final decision in the contract file.

(iii) If the contracting officer does not receive review comments from the SBTA within 5 workdays, the contracting officer shall document the file and continue with the award process (see FAR 19.705-5(a)(3)).

(b) Subcontracting plans requiring AA OSDDBU review.

(1) The AA OSDDBU (through the contracting officer's designated SBTA or Regional SBUC) will review the SBTA's and SBA PCR's recommendations for contracts that meet either of these conditions:

(i) Contract performance will occur in two or more Regions and the estimated value of the acquisition exceeds \$50 million (including options), excluding multiple award schedule contracts.

(ii) Based on political sensitivity or importance to GSA, the AA OSDDBU designates the procurement for review.

(2) The contracting officer shall provide the SBTA an electronic copy of the plan at least 10 days before the anticipated award date. The SBTA and SBA PCR have 5 workdays to review and comment on the plan, and the AA OSDDBU (through the contracting officer's designated SBTA or Regional SBUC) has 5 workdays to review their recommendations and respond. All reviews must be completed in 10 workdays unless the contracting officer grants an extension.

(3) The contracting officer shall consider any recommendations the SBTA, SBA PCR, or AA OSDDBU provides about whether to accept or reject a subcontracting plan. Document the final decision in the contract file.

(4) If the contracting officer does not receive review comments from the SBTA (inclusive of AA OSDDBU review) within 10 workdays, the contracting officer shall document the file and continue with the award process (see FAR 19.705-5(a)(3)).

(c) Notification letter for individual subcontracting plans.

(1) The contracting officer shall approve the subcontracting plan as part of the award. After approval of an individual subcontracting plan, using FORMAT A in paragraph (c) of this section, the contracting officer shall electronically send a notification letter to the contractor confirming the subcontracting plan effective dates and when a new or updated plan will be required. The contracting officer shall also inform the contractor of the reporting requirements and due dates for submitting their Individual Subcontract Report (ISR) and Summary Subcontract Report (SSR) through the eSRS.

(2) The contracting officer shall send the letter electronically with the award package or as soon as practicable after award.

FORMAT A

Name Address City, State, Zip Code

Re: Approved Subcontracting Plan and Required Reports for Contract

No. _____:

Dear _____:

Your individual subcontracting plan submitted for the subject contract has been approved for the base period [insert MM/DD/YY through MM/DD/YY] with goals that are subject to revision for each remaining option period (if any).

You must submit subcontracting reports through the Electronic Subcontracting Reporting System (<https://www.esrs.gov/>) using the Individual Summary Report (semi-annually) and the Summary Subcontract Report (annually).

Use the Individual Summary Report (ISR) to report cumulative subcontracting activity under this contract. Submit the report semiannually by April 30 for the reporting period October 1-March 31 and by October 30 for the reporting period April 1-September 30. A separate report is required at contract completion. If requested by the Contracting Officer, you must furnish the name and size status of your subcontractor(s), and the dollar amount of the subcontract(s).

Use the Summary Subcontract Report (SSR) to report total subcontracting activity under all of your GSA contracts. Submit the report annually for the period October 1-September 30 (the Government fiscal year). The report is due on or before October 30th of each year. A new reporting cycle begins October 1st of each year. Include the Contracting Officer (CO), Administrative Contracting Officer (ACO), the Small Business Administration (SBA) Commercial Market Representative (CMR), the Small Business Technical Advisor (SBTA), and GSA's Subcontracting Plan Program Manager in the email distribution when submitting the ISR and SSR via eSRS.

[Insert address of contracting office administering the contract], with a copy to: [insert address of SBTA in Region or Central Office service where contract was awarded].

(d) *Notification letter for commercial plans.*

(1) The contracting officer shall approve the commercial plan as part of the award. After approval of a commercial plan, using FORMAT B in paragraph (d) of this section, electronically send a notification letter to the contractor informing them of requirements and due dates for submitting the SSR via eSRS and confirm the subcontracting plan effective dates and when a new or updated

plan will be required.

(2) Send the letter with the award package or as soon as practicable after award.

FORMAT B

Name Address City, State, Zip Code

Re: Approved Subcontracting Plan and Required Reports for Contract

No. _____:

Dear _____:

Your commercial plan, submitted in connection with the subject contract has been approved for the period of [insert MM/DD/YY through MM/DD/YY], by [insert name, address, and telephone number of approving official]. You must submit your Summary Subcontract Report (SSR) via eSRS. The SSR is an annual report due on or before October 30th of each year. The reporting period is October 1-September 30, *i.e.*, the Government fiscal year. The report should summarize subcontracting activity under all contracts awarded during the current fiscal year that are covered by this commercial plan.

If at any time during contract performance you are unable to identify capable small, HUBZone small, small disadvantaged, women-owned small, veteran-owned small and service-disabled veteran-owned small business concerns, please contact your local Small Business Technical Advisor or the Office of Small and Disadvantaged Business Utilization.

In addition, please include the SBA Commercial Market Representative (CMR) in the email distribution on the SSR in eSRS, [insert email address of contracting office administering the contract].

Sincerely,

Contracting Officer.

519.705-6 Postaward responsibilities of the contracting officer.

In addition to responsibilities described in FAR 19.705-6, the contracting officer must give the SBA Area Director, SBTA and OSDBU a copy of the notice of award and the successful offeror's subcontracting plan within five work days of contract award or contract modification when applicable. The notice of award must contain all the following:

- (a) Contractor's name, address, and phone number.
- (b) Subcontracting plan administrator's name, address, and phone number.
- (c) Contract number.
- (d) Place of performance.
- (e) Dollar amount of contract award.

- (f) Period of contract performance.
 - (g) Description of products/services (including FPDS Product/Service Code).
 - (h) Contracting Officer's name, address, and phone number.
 - (i) Administrative contracting office address and phone number.
 - (j) Type of plan and dates that plan will cover.
 - (k) Approved goals stated both as percentages of total subcontracting planned and in dollars.
- (l) A notation, "Awarded under the Energy Policy Act of 1992", if the contract will be used to measure GSA achievements under Section 3021 of the Energy Policy Act of 1992.

519.705-7 Liquidated damages.

(a) *Initial assessment.* The contracting officer shall provide the SBTA an information copy of his or her initial assessment that the contractor did not make a good faith effort to comply with the plan.

(b) *Final decision.* Before making a final decision, the contracting officer shall consider all pertinent available information including the contractor's response, if any, to the contracting officer's notification letter required by FAR 19.705-7 that the contractor did not comply with the plan. Document the contracting officer's decision in a "final decision", which is appealable by the contractor under the "Disputes" clause of the contract. Provide the SBTA a copy of the contracting officer's final decision assessing liquidated damages. In addition to the FAR provisions, include in the final decision letter:

- (1) A description of the contractor's failure.
- (2) Reference to the appropriate contract terms.
- (3) A statement of the factual areas of agreement and disagreement.
- (4) A statement of the contracting officer's decision with supporting rationale.
- (5) A demand for liquidated damages.
- (6) An explanation of the contractor's appeal rights.

(c) *Funds withheld from payments.* If funds to collect liquidated damages are withheld from payments due, the funds may be returned to the applicable GSA account along with other funds that were obligated but not expended. If a commercial plan is involved, or if all payments have been made under a contract with an individual contract plan, instruct the contractor to submit a check to GSA. The GSA Office of Finance will transfer the funds to the Treasury Department for deposit in the general receipts account.

(d) The contracting officer shall submit to the SBTA his or her final decision assessing liquidated damages.

519.706 Responsibilities of the cognizant administrative contracting officer.

(a) If an ACO administers a contract with an individual subcontracting plan, the ACO must also monitor receipt of and accept or reject the ISRs in eSRS.

(b) On all contracts with a subcontracting plan (individual or commercial), the ACO must monitor receipt of the SSRs. ACO must monitor receipt of the SSR in eSRS, and the Contracting Officers will review the reports to ensure they are submitted timely and accurately.

(c) Contracting officers shall review reports for progress in meeting subcontracting goals by comparing the applicable report with the approved plan. If percentage goals are not met, the contracting officer shall require the contractor to explain the shortfall in the "Remarks" block of the subcontracting report. The ACO may also require the contractor to submit evidence of its outreach efforts to locate and provide subcontracting opportunities to small business, HUBZone small business, small disadvantaged business, women-owned small, veteran-owned small, and service-disabled veteran-owned small business concerns.

(d) If the ISR or SSR has not been received by the due date, the contracting officer shall contact the contractor and request that the report be submitted immediately. For contracts with individual subcontracting plans, the contracting officer shall pay particular attention to the final ISR required at contract completion. Contracting officers shall issue to contractors who do not respond to the first notice a second notice by certified mail indicating that:

(1) The named report has not been received.

(2) The contractor's failure to submit the report is a material breach of its contract (see FAR 52.219-9, Small Business Subcontracting Plan).

(3) If the report is not received within 10 days from the date of the notice, the ACO will consider withholding payments until the report is received or terminating the contract for default. To ensure that the facts support a termination for default, the notice shall provide the contractor with the opportunity to show cause why the contract should not be terminated for default.

Note: These statements do not apply to leases of real property, unless the terms of the lease expressly provide for withholding of payment or termination under this circumstance.

(4) Failure to submit the report may affect the contractor's ability to receive future awards from GSA (see FAR 9.104-3(b) and willful failure to perform or a history of failure to perform may result in debarment from future contracting with the Government for a period of time (see FAR 9.406-2(b)).

(5) The ISR and SSR shall be submitted through eSRS.

Subpart 519.8 - Contracting With the Small Business Administration (The 8(a)Program)

519.803 Selecting acquisitions for the 8(a) program.

519.803-70 Contracting officer evaluation of recommendations for 8(a) set-aside(s).

(a) If the contracting officer disagrees with a recommendation by the AA OSDBU or the SBTA to set aside a procurement for award under the 8(a) program, discuss the matter with the official who made the recommendation.

(b) If the contracting officer decides not to award the contract under the 8(a) program, forward a copy of the documentation required by FAR 19.202-1(e)(4) to the SBTA within 10 working days.

(c) Once a contracting activity acquires a product or service successfully on the basis of an 8(a) set-aside, the activity must acquire all future requirements for that product or service using 8(a) set-aside procedures.

(1) However, the availability of Federal Prison Industries, Inc. and Nonprofit Agencies Employing People Who Are Blind or Severely Disabled (AbilityOne), and other mandatory sources, which may not have existed at the time of the original requirement are sufficient reason to discontinue setting aside a continuing requirement.

(2) If the contracting officer determines that acquiring the product or service as an 8(a) set-aside is no longer in the Government's best interest, use the procedures in FAR 19.506 to withdraw a repetitive set-aside.

519.803-71 Withdrawing or modifying 8(a) set-asides.

If the contracting officer and the SBTA disagree over the withdrawal or modification of a set-aside, the SBTA must notify the AA OSDBU at the same time the matter is referred to the SBA PCR.

519.870 Direct 8(a) contracting.

519.870-1 Authority and applicability.

(a) In accordance with FAR 19.800(f), GSA obtained a delegation from SBA permitting direct 8(a) contracting as documented through GSA's Partnership Agreement. The current Partnership Agreement can be found on GSA's Acquisition Portal at <https://insite.gsa.gov/acquisitionportal>.

(b) This authority applies to all 8(a) acquisitions conducted by GSA. It does not apply to the multiple award schedule program.

519.870-2 Contract clauses.

(a) Insert the following clauses in solicitations, contracts, and orders issued under GSA's Partnership Agreement:

(1) [552.219-74](#), Section 8(a) Direct Award;

(2) [52.219-14](#), Limitations on Subcontracting; and

(3) 52.219-18, Notification of Competition Limited to Eligible 8(a) Participants, with—

(i) Paragraph (c) of the clause substituted with the following text “(c) Any award resulting from this solicitation will be made directly by the Contracting Officer to the successful 8(a) offeror selected through the evaluation criteria set forth in this solicitation” and

(ii) The text “(DEVIATION)” added after the date of the clause.

(b) Do not insert the following FAR clauses—

(1) 52.219-11, Special 8(a) Contract Conditions;

(2) 52.219-12, Special 8(a) Subcontract Conditions; and

(3) 52.219-17, Section 8(a) Award.

Subpart 519.10 - [Reserved]

Subpart 519.11 - [Reserved]

Subpart 519.12 - Small Disadvantaged Business Participation Program

519.1201 General.

A solicitation may separately contain source selection evaluation factors or subfactors for small and women-owned small business concerns. However, any factor or subfactor for SDB concerns must comply with FAR 19.12 and this subpart.

519.1202 Evaluation factor or subfactor.

519.1202-2 Applicability

In addition to the exceptions in FAR 19.1202-2, do not evaluate the extent of participation of SDB concerns in performance of multiple award schedule contracts when all fair and reasonable offers from responsible sources are accepted.

519.1202-4 Procedures.

An offeror may receive credit under the evaluation factor only for proposed SDB participation by a prime contractor, joint venture partner, teaming arrangement member, or subcontractor in the authorized North American Industry Classification System (NAICS) Industry Subsectors.

519.1203 Incentive subcontracting with small disadvantaged business concerns.

(a) To include monetary incentives in a contract under FAR 19.1203, you must have funds available for the incentives and obligate these at the time of contract award.

(b) Do not provide for monetary incentives under FAR 19.1203 in a contract that includes an award fee.

Subpart 519.13 - [Reserved]

Subpart 519.14 - [Reserved]