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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 <a href="#">519.502-70(f)(1)</a> 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 <a href="#">519.502-70(b)</a>
(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 <a href="#">519.502-70(f)(2)</a>
(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 <a href="#">519.502-70(c)</a> 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 <a href="#">519.502-70(d)</a>
(F) Contracts over the SAT and set-aside for 8(a), HUB-Zone, WOSB, or SDVOSB	Not Required	GSAM <a href="#">519.502-70(f)(2)</a> 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 <a href="#">519.502-70(e)(1)</a> FAR 19.203(c)

**Contract Vehicle Conditions****GSA Form 2689  
Required?****Rationale**

(H) Contracts over the SAT and not set-aside (*i.e.* full and open competition)

Required

GSAM [519.502-70\(e\)\(2\)](#)

(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.

<b>Thresholds</b>	<b>SBTA Concurrence</b>	<b>SBA PCR Concurrence</b>	<b>AA OSDBU Concurrence</b>	<b>Review Time-frame</b>
Less than SAT	Not Required, unless an exception in <a href="#">519.502-70(h)(2)</a> applies	Not Required, unless an exception in <a href="#">519.502-70(h)(2)</a> applies	Not Required, unless an exception in <a href="#">519.502-70(h)(2)</a> applies	Not Applicable
Equal to or greater than SAT and less than \$50M	Required	Required	Not Required, unless an exception in <a href="#">519.502-70(h)(2)</a> applies	Within 5 business days following the day of receipt
Equal to or greater than \$50M	Required	Required	Required	Within 10 business days following the day of receipt ( <i>i.e.</i> 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](mailto: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](mailto: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 OSDBU 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 OSDBU 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 OSDBU 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**

### **519.702 [Reserved]**

#### **519.704 Subcontracting plan requirements.**

(a) *Subcontracting plan goals for individual and commercial subcontracting plans.* Subcontracting plans for GSA acquisitions must identify subcontracting goals in terms of total subcontract dollars planned and percentages of total subcontract dollars planned for each category (e.g., other than small business, small business, women owned small business). However, it is not required to list goals as a percentage of total contract value for GSA acquisitions.

*Master plans.* Master plans (see FAR [19.701](#) and [19.704\(b\)](#)) are separate from commercial plans and individual plans, and do not contain subcontracting goals. As such, offerors may use a master plan in developing an individual subcontracting plan, but an individual plan must still be submitted specific to the contract. (b)

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

### **519.705-1 General.**

In addition to FAR [19.705](#) responsibilities, the contracting officer is responsible for negotiating subcontracting goals when necessary to ensure the plan reflects maximum practicable opportunities for small businesses, small disadvantaged businesses, women-owned small businesses, veteran-owned small businesses, service-disabled veteran-owned small businesses, and HUBZone small businesses to participate as subcontractors to the fullest extent. This negotiation does not constitute discussions per FAR [15.306](#).

### **519.705-2 Determining the need for a subcontracting plan.**

(a) *Total value.* Use the actual or estimated value of the contract for the entire term of the contract, including all options. For Multiple Award Schedule contracts and other indefinite delivery type contracts, calculate the estimated value of all orders expected to be placed during the term plus all options.

(b) *Determination of no subcontracting possibilities.* If the contracting officer determines that an apparent successful offeror's proposal has no subcontracting opportunities:

(1) *Written determination.* Prepare a written determination supporting the rationale that no subcontracting opportunities exist. Attach a copy of the justification provided by the apparent successful offeror.

(2) *AA OSDBU review.* Obtain AA OSDBU concurrence on the determination prior to contract award. Coordinate the concurrence through the GSA SBTA.

(3) *Non-concur.* If a "Non-Concur" is received on the determination, the contracting officer is required to re-submit for concurrence. The time-frame for review is reset when the determination is re-submitted (see 519.705-4).

(4) *Disagreements.* If the AA OSDBU disagrees with the contracting officer's determination that an apparent successful offeror's proposal has no subcontracting possibilities, the GSA SBTA will provide the contracting officer the rationale for the disagreement. The contracting officer must review and consider any information provided by the GSA SBTA before re-submitting.

(5) *Resolving disagreements.* The HCA or their designee resolves disagreements between the contracting officer and AA OSDBU.

### **519.705-3 Preparing the solicitation.**

(a) Model subcontracting plan. Contracting officers are encouraged to include GSA's Model Subcontracting Plans, available on the OSDBU subcontracting page at <https://insite.gsa.gov/subcontracting>, in solicitations to facilitate preparation of subcontracting plans.

(b) Subcontracting goals. Contracting officers shall not tell offerors what a contract's subcontracting goals should be. The contracting officer may share historical data, Government-wide statutory goals or GSA's agency goals as a guide to industry. However, a contract's subcontracting goals must reflect maximum practicable opportunities for the acquisition as required by FAR 19.702.

(c) Small business consideration. For a negotiated acquisition, if the contracting officer believes that the acquisition provides substantial subcontracting opportunities, the contracting officer should consider including a small business participation evaluation factor (see 515.304). The contracting officer may consult with the GSA SBTA to obtain any needed assistance with developing small business participation evaluation criteria.

(d) Any solicitation requiring a subcontracting plan must be reviewed internally by the appropriate GSA SBTA prior to submission to the SBA PCR, as required by FAR 19.705-3. Additionally, COs are reminded that the GSA SBTA will coordinate communications with SBA and will submit the solicitation to the SBA PCR, in accordance with subpart 519.4. A reasonable timeframe for GSA SBTA and SBA PCR review is typically 10 business days combined.

#### **519.705-4 Reviewing the subcontracting plan.**

(a) *Standards.*

(1) The contracting officer shall review the subcontracting plan using the tools found on the OSDDBU subcontracting page at <https://insite.gsa.gov/subcontracting>.

(2) Commercial plans approved by another Government contracting officer (see FAR 19.704(d)) do not require further review by the contracting officer, GSA SBTA or the SBA PCR. The approved commercial plan must be incorporated into the contract.

(b) *Subcontracting sources.* When reviewing subcontracting plans, contracting officers should ensure the contractor made a good faith effort in finding small businesses to meet their subcontracting goals, such as:

(1) Dynamic Small Business Search (DSBS) (<http://dsbs.sba.gov>), managed by the Small Business Administration (SBA).

(2) Local SBA Offices (<https://www.sba.gov/federal-contracting/counseling-help/commercial-mark...>). These offices provide offerors assistance in accessing the System for Award Management (SAM) database to conduct market research and confirm the eligibility for SBA's procurement preference programs.

(3) APEX Accelerators (formerly known as Procurement Technical Assistance Centers (PTACs)) (<https://www.apexaccelerators.us/#/>), administered by the Department of Defense (DoD)

(4) Minority Business Development Agency (MBDA) (<https://www.mbda.gov/mbda-programs/business-centers>), part of the Department of Commerce.

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

(6) Local chambers of commerce.

(7) Small, minority, women-owned, and veteran business associations.

(8) Trade associations, and professional organizations.

(c) *Subcontracting past performance.* The contracting officer must consider the contractor's performance under other active or completed contracts as an indicator of an offeror's understanding of the statutory requirements expressed in FAR 52.219-8. This information may be utilized in negotiating goals that maximize opportunities for small businesses, small disadvantaged businesses, women-owned small businesses, veteran-owned small businesses, service-disabled veteran-owned small businesses, and HUBZone small businesses.

(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 (e.g., timely submittal of reports, making a good faith effort to meet subcontracting goals). Actions taken in accordance with the plan mean more than whether or not the offeror met the goals established in the plan. Contractors are required to make a good faith effort. Good faith effort is further addressed in FAR 19.705-7.

(3) Submission of timely and accurate reports is an indication a contractor takes its small business subcontracting responsibilities seriously. The contracting officer should check reports filed in eSRS if a contractor holds GSA contracts. The *Remarks* section of past reports should be examined for any new or enhanced actions for low or zero dollars for small businesses. The contracting officer should engage with the contractor if no growth is achieved.

(d) *Review Documentation.* The contracting officer shall document review of a subcontracting plan by using the Subcontracting Plan Review Checklist (GSA Form 4006). The subcontracting plan and the checklist shall be submitted to the GSA SBTA after the contracting officer has documented their review. The GSA SBTA will coordinate with the SBA PCR.

(e) *Engagement with OSDDBU.* The contracting officer should engage the GSA SBTA early in the procurement process, especially for procurements that are complex, critical to agency strategic objectives and mission, highly visible or politically sensitive.

(1) When reviewing the subcontracting plan, contracting officers shall use the document entitled "GSA Subcontracting Plan Review Checklist (GSA Form 4006)." The document is available on the OSDDBU subcontracting page at <https://insite.gsa.gov/subcontracting>.

(2) The contracting officer shall submit subcontracting plan(s) to the GSA SBTA who will coordinate the required review with the SBA PCR.

(3) Once apparent awardee is known, the GSA SBTA and SBA PCR generally has 5 business days to review subcontracting plans. AA OSDDBU has 10 business days to review subcontracting plans for acquisitions that meet any of the conditions listed below. Leases of real property and multiple award schedules do not require AA OSDDBU review.

(i) Contract performance will occur for two or more contracting activities/regions and the estimated value of the acquisition exceeds \$50 million, including options.

(ii) The contract will be used by more than one Federal agency and the estimated total value of the acquisition exceeds \$50 million, including options.

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

(4)The contracting officer shall consider any recommendations the GSA SBTA, SBA PCR, or AA OSDDBU provides about the subcontracting plan. The contracting officer must also document the contract file with the final decision, especially including justification for any recommendation not adopted.

(5)If the contracting officer does not receive comments from OSDDBU within the timelines in (e)(3), the contracting officer shall document the contract file and continue with the award process (see FAR 19.705-5(a)(3)).

*Revising subcontracting plans.* Unlike the small business participation evaluation factor described in 515.304, apparent successful offerors may submit revised subcontracting plans, when requested by the contracting officer, before award without such exchanges constituting discussions (see FAR 15.306). Acceptability of subcontracting plans relate to the apparent successful offeror's responsibility and exchanges related to such subcontracting plans are not considered discussions.(f)

### **519.705-6 Postaward responsibilities of the contracting officer.**

(a) If multiple contracting officers are responsible for contract administration (e.g., ACO and PCO), the responsibilities outlined in FAR 19.705-6 must be clearly documented (e.g., in the contract administration plan).

(b) *Subcontracting plan reports.*

(1)Contracting officers are responsible for ensuring the contractors submit timely and accurate reports in the electronic Subcontract Reporting System (eSRS) and ensuring the contractor submitted the correct type of report(s) for the type of subcontracting plan in the contract. Failing to submit reports may indicate a lack of a good faith effort.

(2)Examples of what to look for when reviewing commercial and/or individual subcontracting plan reports can be found on the OSDDBU subcontracting page at <https://insite.gsa.gov/subcontracting>.

Real property Lessors shall use the Standard Form (SF) 294 instead of the ISR in eSRS to report subcontracting achievements. Use of the SF-294 by contractors to report cumulative subcontracting achievement under a GSA contract should be rare.(3)

(c) *Small business participation compliance.* If a small business participation factor is utilized for evaluation (see 515.304), it should be monitored as part of contract administration.

(d) *Re-representation.* While re-representation does not apply to acquisitions for leasehold interest in real property, leasing contracting officers may consider obtaining a subcontracting plan from other than small business lessors as a result of novations or mergers.

### **519.705-7 Compliance with the subcontracting plan.**

(a) *Good faith effort notifications* . Contracting officers shall provide the GSA SBTA a copy of any written notice to a contractor that the contractor did not make a good faith effort to comply with the subcontracting plan. Contracting officers shall engage the Office of the General Counsel before issuing a final decision to assess liquidated damages.

*Final decision.* The contracting officer shall provide the GSA SBTA a copy of the contracting officer's

final decision assessing liquidated damages. In addition to the requirements at FAR 19.705-7, the final decision letter shall include:

- (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 under the Disputes clause.

(b) *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.

### **519.706 Responsibilities of the cognizant administrative contracting officer.**

(a) If a contracting officer, or administrative contracting officer (ACO), administers a contract with an individual subcontracting plan, that contracting officer must also monitor receipt of and accept or reject the required reports in eSRS. Reasons for any report rejections must be recorded in eSRS to prevent recurring errors. Contracting officers must ensure contractors submit revised reports within 30 days of rejection as required by FAR [52.219-9\(l\)](#).

(b) Contracting officers are responsible for ensuring required subcontracting reports are submitted timely and accurately. Any shortcomings in timeliness or quality should be noted in the contract file and any past performance evaluation.

(c) The contractor must explain any subcontracting plan shortfalls and submit evidence of its efforts to locate and provide subcontracting opportunities to small businesses, small disadvantaged businesses, women-owned small businesses, veteran-owned small businesses, service-disabled veteran-owned small businesses, and HUBZone small businesses.

(d) Contracting officers must contact the contractor within 30 days of any failure to submit required subcontracting report(s) by the due dates established in [FAR 52.219-9\(l\)](#), and request immediate submission. Contracting officers must notify contractors that failure to submit reports may be considered a lack of good faith effort and may result in assessment of liquidated damages or may be considered in any past performance evaluation of the contractor.

## **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 OSDDBU 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 OSDDBU 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 in accordance with the provisions of Section 8(a) of the U.S. Small Business Administration Act as implemented by FAR [subpart 19.8](#) and GSA's 8(a) Partnership Agreement:



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

(2) FAR 52.219-14, Limitations on Subcontracting; and

(3) FAR Deviation. 552.219-18 Notification of Competition Limited to Eligible 8(a) Participants (DEVIATION FAR 52.219-18), Notification of Competition Limited to Eligible 8(a) Participants. GSA has a FAR Deviation that allows the use of clause 552.219-18 Notification of Competition Limited to Eligible 8(a) Participants (DEVIATION FAR 52.219-18), in lieu of the FAR clause at 52.219-18.

(b) Do not insert the following clauses in solicitations, contracts, and orders in accordance with the provisions of Section 8(a) of the U.S. Small Business Administration Act as implemented by FAR subpart 19.8 and GSA's 8(a) Partnership Agreement:

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

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

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

**Subpart 519.10 - [Reserved]**

**Subpart 519.11 - [Reserved]**

**Subpart 519.12 - [Reserved]**

**Subpart 519.13 - [Reserved]**

**Subpart 519.14 - [Reserved]**