

## **Subpart 519.7 - The Small Business Subcontracting Program**

**Parent topic:** [Part 519 - Small Business Programs](#)

### **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 OSDBU 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 OSDBU 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.