



# ***Basic Subcontracting Requirements***

## ***Guam Industry Forum III***

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# Basic Subcontracting Requirements



## OVERVIEW

- **Federal Policy/Background/Definition**
- **When is a Subcontracting Plan Required?**
- **Types of Subcontracting Plans**
- **Elements of Subcontracting Plan**
- **Responsibilities of the Prime Contractor**
- **Negotiation of Plans/Goals**
- **Small Business participation evaluation factor**
- **Monitoring Performance of the Prime Contractors**

# Basic Subcontracting Requirements



## FEDERAL POLICY

**Small business concerns (SBC) (Note 1) must have maximum practicable opportunities to participate in the performance of federal contracts.**

**Contractors must agree to carry out this policy in the awarding of subcontracts to the fullest extent consistent with the efficient performance of the contract.**

**Note 1):**

**Includes:**

**Small Disadvantaged Businesses (SDB)**

**Women-Owned Small Businesses (WOSB)**

**HUBZone Small Businesses (HUBZone SB)**

**Veteran-Owned Small Businesses (VOSB)**

**Service-Disabled Veteran-Owned Small Businesses (SDVOSB)**

# Basic Subcontracting Requirements



## BACKGROUND

- **Statutory Authority:**

- Section 8(d) – 15 USC 637(d)
- Section 15(g) – 15 USC 644(g)



- **Regulations/Directives:**

- FAR 19.7/DFARS 219.7
- FAR Clause 52.219-8, Utilization of Small Business Concerns
- FAR Clause 52.219-9, Subcontracting Plan



# Basic Subcontracting Requirements



## DEFINITIONS

### SUBCONTRACTS:

Any agreements other than one involving an employer – employee relationship entered into by a Federal Government prime contractor or subcontractor calling for supplies and/or services required for performance of the contract or subcontract.

FAR 19.701

# Basic Subcontracting Requirements



## DEFINITIONS (continued)

### SMALL BUSINESS CONCERNS:

Means a concern, including its affiliates that is:

- Independently owned and operated
- Not dominant in the field of operations in which it is proposing on Government contracts
- Qualified as a small business under the criteria and size standards in 13 CFR part 121

# Basic Subcontracting Requirements



## REGULATORY REQUIREMENTS

**FAR Clause 52.219-8, Utilization of Small Business Concerns, implements Federal Government Small Business Policy.**

### **APPLIES TO:**

- **Contracts > Simplified Acquisition**

**Threshold AND subcontracting opportunities exist**

- **All business concerns, including small businesses**

### **DOES NOT APPLY:**

- **When performance is entirely outside the US and outlying areas**

# Basic Subcontracting Requirements



## REGULATORY REQUIREMENTS

**FAR Clause 52.219-9, Small Business Plan, implements Federal Government Small Business Policy.**

### **APPLIES TO:**

- **Contracts > \$550K (\$1M construction) AND subcontracting opportunities exist**
- **Modifications > \$550K with new work AND subcontracting opportunities exist**
- **For large businesses, state/local govt., educational institutions, foreign owned firms. Basically, all except small business concerns**

# Basic Subcontracting Requirements



## REGULATORY REQUIREMENTS

### DOES NOT APPLY TO:

- Small business (SB) set asides under HUBZone SB, 8(a) or SD-VOSB Programs
- When performance is entirely outside the U.S. and outlying areas

**NOTE:** When a determination is made that there are no subcontracting opportunities, it must be approved one level above the contracting officer

**FAR 19.705-2(c)**

# Basic Subcontracting Requirements



## TYPES OF SUBCONTRACTING PLANS

### Individual:

- Plan for a specific contract – (1 contract = 1 plan)
- Covers entire contract period, including options
- Contains required elements (FAR 19.704)
- Must submit Individual Summary Report (ISR) semiannually
- Must submit Summary Subcontract Report (SSR) semiannually for NAVFAC contracts

# Basic Subcontracting Requirements



## TYPES OF SUBCONTRACTING PLANS

### Master Plan:

- **Boiler plate Plan**
- **Corporate, plant, or division basis**
- **Effective for 3 years after approved**
- **Contains required elements (FAR 19.704) except goals**
- **Goals negotiated for each contract that incorporates the master plan**
- **When incorporated into contract, must submit ISR and SSR**

# Basic Subcontracting Requirements



## TYPES OF SUBCONTRACTING PLANS

### Commercial:

- Preferred for commercial items
- Annual plan
- Contractor's fiscal year
- Corporate, plant, or division basis
- Contains required elements (FAR 19.704)
- Must submit SSR annually

# Basic Subcontracting Requirements



## MANDATORY ELEMENTS OF PLANS

Per FAR 19.7 and 52.219-9 subcontracting plans must include:

- **Goals based on planned total subcontracting dollars expressed as Percentages and Dollars**
- **Total dollars to be subcontracted**
- **Types of supplies/services to be subcontracted**
- **Method used to develop goals**
- **Method used to identify potential SB**
- **Indirect costs included/not included**

# Basic Subcontracting Requirements



## MANDATORY ELEMENTS OF PLANS

Per FAR 19.7 and 52.219-9 subcontracting plans must include (cont.):

- Name of individual administering the plan
- Efforts to ensure SB have equitable opportunity to compete
- Assurances that required clauses and provisions will flow down to subcontractors
- Assurances that reporting will be done
- Recordkeeping procedures

# Basic Subcontracting Requirements



## SUBCONTRACTING GOALS

### NAVFAC FY 09 TARGETS\*

<b>SB</b>	<b>77.51%</b> pending
<b>SDB</b>	<b>16.18%</b>
<b>WOSB</b>	<b>14.53%</b>
<b>HUBZone</b>	<b>1.42%</b> pending
<b>VOSB</b>	—
<b>SDVOSB</b>	<b>.14%</b> pending

\* Percentage of total \$ value of all subcontracts

# Basic Subcontracting Requirements



## RESPONSIBILITIES OF THE PRIME CONTRACTOR

### Effort to provide maximum practicable opportunities include:

- Breaking out contract work items into economically feasible units
- Conducting market research to identify sources
- Soliciting SBC's early in the acquisition process
- Providing interested SBC's adequate and timely info, plans and specs for the requirement
- Negotiating in good faith with interested SBC's
- Directing SBC's that need additional assistance to SBA
- Assisting SBC's in obtaining bonding, line of credit, etc.
- Participating in a formal mentor-protégé program
- Submitting timely and accurate subcontracting reports to the contracting officer

# Basic Subcontracting Requirements



## NEGOTIATIONS OF SUBCONTRACTING PLAN/GOALS

### TIPS and POINTERS

- Use the Subcontracting Plan Template provided in the RFP
- Address all 11 elements of the Plan
- Option contracts require individual goals for each option – Use the summary format to record option goals
- When proposed plan does not meet the percentage goals and/or NAVFAC targets, provide an explanation
- Past performance helps in answering reasonableness of plan and goals

# Basic Subcontracting Requirements



## NEGOTIATIONS OF SUBCONTRACTING PLAN/GOALS

### TIPS and POINTERS (continuation)

- **Conduct market survey to identify qualified sources**
- **Address company's make or buy policies**
- **Zero is not a goal**
- **Ensure numbers are correct and percentages are calculated correctly – a proposed subcontractor may fall under more than one category of SB**

# Basic Subcontracting Requirements



## THINGS TO REMEMBER

- **A subcontracting plan that is acceptable to the Contracting Officer is a requirement for award**
- **The negotiated Subcontracting Plan is made a part of the contract**
- **Non-Compliance with the negotiated Subcontracting Plan is a material breach of the contract**
- **Liquidated Damages are assessed where non-compliance is based on lack of good faith**
  - **What actions lead up to this**
  - **15 working day notice**
  - **How much?**
  - **Subject to the Dispute Clause of the contract**

# Basic Subcontracting Requirements



## THINGS TO REMEMBER (continuation)

- **Contractors are required to submit semi-annually Individual Subcontracting Reports (ISRs) and Summary subcontracting Reports (SSRs) thru e-SRS**
- **Contracting Officer is responsible for monitoring contractor's compliance with Subcontracting Plan**
- **Contractor's past performance in complying with subcontracting plan and meeting goals is an evaluation factor in best value source selection solicitations**
- **Contractor is responsible for obtaining and accepting subcontracting plans from their tier subcontractors when applicable**
- **Upon completion of the contract, the contractor is evaluated for implementation of the contract Subcontracting Plan**

# Basic Subcontracting Requirements



## WRAP-UP

- **Why is Subcontracting so important?**
  - **Required by statute and regulation**
  - **Expands the industrial base**
  - **Good for the economy – “Small business is good business!”**
- **Who can impact DoD accomplishment of goals and objectives before, during and after negotiating subcontracting plans and goals?**

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## SUBCONTRACTING RESOURCES

- **FEDBIZOPPS “Vendor Notification Service” and “Vendor’s Guide for Federal Procurements”**  
**[www.fedbizopps.gov](http://www.fedbizopps.gov)**
- **DefenseLink >\$5 million award notices**  
**<http://www.defenselink.mil/contracts>**
- **SBA Subcontracting Opportunities Directory (SUBNET)**  
**<http://www.sba.gov/GC/indexcontacts-sbsd.html>**
- **Procurement Technical Assistance Centers (PTAC)**  
**<http://www.dla.mil/db/procurem.htm>**
- **NAVFAC Portal** **[www.navfac.navy.mil](http://www.navfac.navy.mil)**
- **DoD Office of Small Business Programs**  
**<http://www.acq.osd.mil/osbp>**

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QUESTIONS?