

# Basic Subcontracting Requirements

*Lisa Roth*  
*Deputy Director for Small Business*  
*NAVFAC Pacific*

# Basic Subcontracting Requirements



## OVERVIEW

- **Federal Policy/Background/Definition**
- **Regulatory Requirements**
- **Types of Subcontracting Plans**
- **Elements of Subcontracting Plan**
- **Responsibilities of the Prime Contractor**
- **Negotiation of Subcontracting Plan/Goals**
- **Things to Remember**
- **Subcontracting Resources**

# 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)  
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, Small Business Subcontracting Plan



# Basic Subcontracting Requirements



## DEFINITIONS

### SUBCONTRACT:

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

FAR 19.701

# Basic Subcontracting Requirements



## DEFINITIONS (continued)

### SMALL BUSINESS CONCERN:

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 Subcontracting Plan, implements Federal Government Small Business Policy.
- APPLIES TO:
  - Contracts >\$700K (\$1.5M construction) AND subcontracting opportunities exist
  - Modifications >\$700K with new work AND subcontracting opportunities exist
  - For large businesses, state/local government, 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), WOSB or SDVOSB Programs
  - When performance is entirely outside the U.S. and outlying areas
- **NOTE:** When it is determined that there are no subcontracting possibilities, the determination must be approved at a level above the contracting officer and placed in the contract file

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) annually 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 19.704 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
- Name of individual administering the plan
- Efforts to ensure small businesses have equitable opportunity to compete

# Basic Subcontracting Requirements



## MANDATORY ELEMENTS OF PLANS

Per FAR 19.704 and 52.219-9 subcontracting plans must include (cont.):

- Assurances that required clauses and provisions flow down to subcontractors
- Assurances that reporting will be done
- Recordkeeping procedures
- Good faith effort to acquire supplies or services from SBs
- Assurances that written explanation is provided to the contracting officer if contractors fails to acquire supplies or services from SBs
- Assurances that subcontractor is allowed to discuss with the contracting officer on payment issues
- Assurances that subcontractors are paid on time in accordance with terms and conditions of the subcontract

# Basic Subcontracting Requirements



## SUBCONTRACTING GOALS

### FY17 NAVFAC Subcontracting Targets\*

- SB Concerns: 65%
- SDB Concerns: 15%
- WOSB Concerns: 15%
- HUBZone SB Concerns: 6%
- SDVOSB Concerns: 5%

*\* 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 15 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 (continued)

- 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 (FAR 52.219-16)
  - What actions lead up to this
  - Subject to the Dispute Clause of the contract
  - Liquidated damages shall be in addition to any other remedies that the Government may have

# Basic Subcontracting Requirements



## THINGS TO REMEMBER

- **Contractors are required to submit semi-annually**
  - (1) Individual Subcontracting Reports (ISRs) and**
  - (2) Summary subcontracting Reports (SSRs) through eSRS**
- **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!”**

# Basic Subcontracting Requirements



## SUBCONTRACTING RESOURCES

- FedBizOpps “Vendor Notification Service” and “Vendor’s Guide for Federal Procurements”:  
<https://www.fbo.gov/>
- DefenseLink >\$7 million award notices:  
<http://www.defense.gov/contracts/>
- SBA Subcontracting Opportunities Directory (SUB-Net):  
<http://www.sba.gov/subnet>
- Procurement Technical Assistance Centers (PTAC):  
<http://www.aptac-us.org/>
- NAVFAC Portal: [www.navfac.navy.mil](http://www.navfac.navy.mil)
- DoD Office of Small Business Programs: <http://business.defense.gov/>