

## Defense Acquisition Regulations System, DoD

219.502-1

the Office of Federal Procurement Policy.

[56 FR 36353, July 31, 1991, as amended at 63 FR 41973, Aug. 6, 1998; 64 FR 2598, Jan. 15, 1999; 65 FR 39705, June 27, 2000; 65 FR 50149, Aug. 17, 2000; 65 FR 63807, Oct. 25, 2000; 69 FR 55987, Sept. 17, 2004; 71 FR 44927, Aug. 8, 2006; 73 FR 46813, Aug. 12, 2008; 75 FR 45074, Aug. 2, 2010]

### 219.202 Specific policies.

#### 219.202-1 Encouraging small business participation in acquisitions.

See PGI 205.207(d)(iii) for information on how to advertise a small business event on the Government point of entry.

[76 FR 76319, Dec. 7, 2011]

#### 219.202-5 Data collection and reporting requirements.

Determine the premium percentage to be entered in the Federal Procurement Data System (FPDS) as follows:

(1) For small disadvantaged business or historically black college and university/minority institution set-asides, divide the difference between the fair market price and the award price by the fair market price.

(2) For price evaluation adjustment awards (see FAR Subpart 19.11), divide the difference between the low responsive offer and the award price by the low responsive offer.

(3) For partial small business set-asides with preferential consideration for small disadvantaged business concerns, divide the difference between the award price on the non-set-aside portion and the award price on the set-aside portion by the award price on the non-set-aside portion.

(b) Within 60 days after the end of each fiscal year, departments and agencies shall submit the report to the Secretary of Defense, who will report to the SBA on behalf of all DoD departments and agencies. Reports must include—

(i) Justification for failure to meet goals established by the Office of the Secretary of Defense; and

(ii) Planned actions for increasing participation by such firms in future contract awards.

[56 FR 36353, July 31, 1991, as amended at 63 FR 41973, Aug. 6, 1998; 65 FR 63804, Oct. 25, 2000; 74 FR 37645, July 29, 2009]

### Subpart 219.3 Determination of Small Business Status for Small Business Programs

#### 219.301-2 Rerepresentation by a contractor that represented itself as a small business concern.

Follow the procedures at PGI 204.606(4)(vii) for reporting modifications for rerepresentation actions.

[76 FR 76320, Dec. 7, 2011]

#### 219.301-3 Rerepresentation by a contractor that represented itself as other than a small business concern.

Follow the procedures at PGI 204.606(4)(vii) for reporting modifications for rerepresentation actions.

[76 FR 76320, Dec. 7, 2011]

### 219.303 Determining North American Industry Classification System (NAICS) codes and size standards.

Contracting officers shall follow the procedures for “Correctly Identifying Size Status of Contractors” in the OUSD (AT&L) DPAP memorandum dated July 21, 2010.

[76 FR 3536, Jan. 20, 2011]

### Subpart 219.4—Cooperation With the Small Business Administration

#### 219.401 General.

(b) The contracting activity small business specialist is the primary activity focal point for interface with the SBA.

### Subpart 219.5—Set-Asides for Small Business

#### 219.502 Setting aside acquisitions.

##### 219.502-1 Requirements for setting aside acquisitions.

Do not set aside acquisitions for—

(1) Supplies which were developed and financed, in whole or in part, by

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Canadian sources under the U.S.-Canadian Defense Development Sharing Program; or

(2) Architect-engineer services for military construction or family housing projects of \$350,000 or more (10 U.S.C. 2855), including indefinite delivery and indefinite quantity contracts if the value of all anticipated orders is expected to total \$350,000 or more.

[58 FR 28465, May 13, 1993, as amended at 69 FR 31909, June 8, 2004; 75 FR 45074, Aug. 2, 2010]

### 219.502-2 Total set-asides.

(a) Unless the contracting officer determines that the criteria for set-aside cannot be met, set aside for small business concerns acquisitions for—

(i) Construction, including maintenance and repairs, under \$2.5 million;

(ii) Dredging under \$1.5 million; and

(iii) Architect-engineer services for military construction or family housing projects of under \$350,000.

[58 FR 28465, May 13, 1993, as amended at 69 FR 31909, June 8, 2004; 71 FR 75892, Dec. 19, 2006; 75 FR 45074, Aug. 2, 2010]

### 219.502-3 Partial set-asides.

(c)(1) If the North American Industry Classification System Industry Subsector of the acquisition is one in which use of a price evaluation adjustment for small disadvantaged business concerns is currently authorized (*see* FAR 19.201(b)), apply the adjustment to the non-set-aside portion.

[65 FR 50149, Aug. 17, 2000]

### 219.505 Rejecting Small Business Administration recommendations.

(b) The designee shall be at a level no lower than chief of the contracting office.

## Subpart 219.6—Certificates of Competency and Determinations of Responsibility

### 219.602 Procedures.

When making a nonresponsibility determination for a small business concern, follow the procedures at PGI 219.602.

[72 FR 20762, Apr. 26, 2007]

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## Subpart 219.7—The Small Business Subcontracting Program

### 219.702 Statutory requirements.

(1) Section 834 of Public Law 101-189, as amended (15 U.S.C. 637 note), requires DoD to establish a test program to determine whether comprehensive subcontracting plans on a corporate, division, or plant-wide basis will reduce administrative burdens while enhancing subcontracting opportunities for small and small disadvantaged business concerns. See PGI 219.702 for the requirements of the test program.

(2) Comprehensive subcontracting plans shall not be subject to application of liquidated damages during the period of the test program (Section 402, Pub. L. 101-574).

(3) The test program for negotiation of comprehensive small business subcontracting plans expires on December 31, 2014.

[72 FR 20762, Apr. 26, 2007, as amended at 77 FR 11368, Feb. 24, 2012]

### 219.703 Eligibility requirements for participating in the program.

(a) Qualified nonprofit agencies for the blind and other severely disabled, that have been approved by the Committee for Purchase from People Who Are Blind or Severely Disabled under 41 U.S.C. chapter 85, are eligible to participate in the program as a result of 10 U.S.C. 2410d and section 9077 of Pub. L. 102-396 and similar sections in subsequent Defense appropriations acts. Under this authority, subcontracts awarded to such entities may be counted toward the prime contractor's small business subcontracting goal.

(2)(A) To be eligible as an SDB subcontractor, a concern must meet the definition in 219.001.

(B) To be eligible as a historically black college or university or minority institution subcontractor, such entity must meet the definition in the clause at 252.219-7003, Small Business Subcontracting Plan (DoD Contracts).

(b) A contractor may also rely on the written representation as to status of—

(i) A historically black college or university or minority institution; or