

19.1104

(1) Offers from small disadvantaged business concerns that have not waived the evaluation adjustment; or, if a price evaluation adjustment for small disadvantaged business concerns is authorized on a regional basis, offers from small disadvantaged business concerns, whose address is in such a region, that have not waived the evaluation adjustment;

(2) An otherwise successful offer of eligible products under the Trade Agreements Act when the acquisition equals or exceeds the dollar threshold in 25.403;

(3) An otherwise successful offer where application of the factor would be inconsistent with a Memorandum of Understanding or other international agreement with a foreign government;

(4) For DoD, NASA, and Coast Guard acquisitions, an otherwise successful offer from a historically black college or university or minority institution; or

(5) For DoD acquisitions, an otherwise successful offer of qualifying country end products (see DFARS 225.000-70 and 252.225-7001).

(b) Apply the factor to a line item or a group of line items on which award may be made. Add other evaluation factors such as transportation costs or rent-free use of Government facilities to the offers before applying the price evaluation adjustment.

(c) Do not evaluate offers using the price evaluation adjustment when it would cause award, as a result of this adjustment, to be made at a price that exceeds fair market price by more than the factor as determined by the Department of Commerce (see 19.202-6(a)).

[63 FR 35724, June 30, 1998, as amended at 63 FR 52427, Sept. 30, 1998; 64 FR 36223, July 2, 1999; 64 FR 72419, Dec. 27, 1999]

19.1104 Contract clause.

Insert the clause at 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns, in solicitations and contracts when the circumstances in 19.1101 and 19.1102 apply. If a price evaluation adjustment is authorized on a regional basis, the clause shall be included in the solicitation even if the place of performance is outside an authorized region. The contracting officer shall in-

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sert the authorized price evaluation adjustment factor. The clause shall be used with its Alternate I when the contracting officer determines that there are no small disadvantaged business manufacturers that can meet the requirements of the solicitation. The clause shall be used with its Alternate II when a price evaluation adjustment is authorized on a regional basis.

[63 FR 52427, Sept. 30, 1998, as amended at 64 FR 36223, July 2, 1999]

Subpart 19.12—Small Disadvantaged Business Participation Program

SOURCE: 63 FR 36123, July 1, 1998, unless otherwise noted.

19.1201 General.

This subpart addresses the evaluation of the extent of participation of small disadvantaged business (SDB) concerns in performance of contracts in the North American Industry Classification System (NAICS) Industry Subsectors as determined by the Department of Commerce (see 19.201(b)), and to the extent authorized by law. Two mechanisms are addressed in this subpart—

(a) An evaluation factor or subfactor for the participation of SDB concerns in performance of the contract; and

(b) An incentive subcontracting program for SDB concerns.

[63 FR 36123, July 1, 1998, as amended at 65 FR 46057, July 26, 2000]

19.1202 Evaluation factor or subfactor.

19.1202-1 General.

The extent of participation of SDB concerns in performance of the contract, in the NAICS Industry Subsector as determined by the Department of Commerce, and to the extent authorized by law, shall be evaluated consistent with this section. Participation in performance of the contract includes joint ventures, teaming arrangements, and subcontracts. Credit under the evaluation factor or subfactor is not available to SDB concerns that receive a price evaluation adjustment under Subpart 19.11. If an SDB concern waives the price evaluation adjustment