

can be set aside for small business, giving consideration to the recommendations of agency personnel having cognizance of the agency's small business programs. The contracting officer shall document why a small business set-aside is inappropriate when an acquisition is not set aside for small business, unless a HUBZone small business set-aside or HUBZone small business sole source award is anticipated. If the acquisition is set aside for small business based on this review, it is a unilateral set-aside by the contracting officer. Agencies may establish threshold levels for this review depending upon their needs.

(e) At the request of an SBA procurement center representative, the contracting officer shall make available for review at the contracting office (to the extent of the SBA representative's security clearance) all proposed acquisitions in excess of the micro-purchase threshold that have not been unilaterally set aside for small business.

(f) To the extent practicable, unilateral determinations initiated by a contracting officer shall be used as the basis for small business set-asides rather than joint determinations by an SBA procurement center representative and a contracting officer.

(g) All solicitations involving set-asides must specify the applicable small business size standard and NAICS code (see 19.303).

(h) Except as authorized by law, a contract may not be awarded as a result of a small business set-aside if the cost to the awarding agency exceeds the fair market price.

[48 FR 42240, Sept. 19, 1983]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting section 19.501, see the List of CFR Sections Affected which appears in the Finding Aids section of the printed volume and on GPO Access.

### **19.502 Setting aside acquisitions.**

#### **19.502-1 Requirements for setting aside acquisitions.**

(a) The contracting officer shall set aside an individual acquisition or class of acquisitions for competition among small businesses when—

(1) It is determined to be in the interest of maintaining or mobilizing the

Nations full productive capacity, war or national defense programs; or

(2) Assuring that a fair proportion of Government contracts in each industry category is placed with small business concerns; and the circumstances described in 19.502-2 or 19.502-3(a) exist.

(b) This requirement does not apply to purchases of \$2,500 or less (\$15,000 or less for acquisitions as described in 13.201(g)), or purchases from required sources of supply under part 8 (*e.g.*, Federal Prison Industries, Committee for Purchase From People Who are Blind or Severely Disabled, and Federal Supply Schedule contracts).

[63 FR 70270, Dec. 18, 1998, as amended at 67 FR 56121, Aug. 30, 2002]

#### **19.502-2 Total small business set-asides.**

(a) Except for those acquisitions set aside for very small business concerns (see subpart 19.9), each acquisition of supplies or services that has an anticipated dollar value exceeding \$2,500 (\$15,000 for acquisitions as described in 13.202(g)), but not over \$100,000, is automatically reserved exclusively for small business concerns and shall be set aside for small business unless the contracting officer determines there is not a reasonable expectation of obtaining offers from two or more responsible small business concerns that are competitive in terms of market prices, quality, and delivery. If the contracting officer does not proceed with the small business set-aside and purchases on an unrestricted basis, the contracting officer shall include in the contract file the reason for this unrestricted purchase. If the contracting officer receives only one acceptable offer from a responsible small business concern in response to a set-aside, the contracting officer should make an award to that firm. If the contracting officer receives no acceptable offers from responsible small business concerns, the set-aside shall be withdrawn and the requirement, if still valid, shall be resolicited on an unrestricted basis. The small business reservation does not preclude the award of a contract with a value not greater than \$100,000 under Subpart 19.8, Contracting with the Small Business Administration, under 19.1007(c), Solicitations equal to or less