

**3.6.1-4 Small, Small Disadvantaged, Women-Owned, Veteran-Owned and Service-Disabled Veteran Owned Small Business Subcontracting Plan (August 2002)**

(a) This clause does not apply to small business concerns.

(b) Definitions:

(1) Commercial product, as used in this clause, means a product in regular production that is sold in substantial quantities to the general public and/or industry at established catalog or market prices. It also means a product which, in the judgment of the Contracting Officer, differs only insignificantly from the Contractor's commercial product.

(2) Subcontract, as used in this clause, means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(3) The terms "small disadvantaged business" shall mean a small business concern:

(i) Which is at least 51 percent unconditionally owned by one or more disadvantaged individuals; or, in the case of any publicly owned business at least 51 percent of the stock of which is unconditionally owned by one or more disadvantaged individuals; and

(ii) Whose management and daily business operations are controlled by one or more of such individuals.

(iii) This term also means a small business concern that is at least 51 percent unconditionally owned by an economically disadvantaged Indian tribe or Native Hawaiian Organization, or a publicly owned business having at least 51 percent of its stock unconditionally owned by one of these entities which has its management and daily business controlled by members of an economically disadvantaged Indian tribe or Native Hawaiian Organization. The Contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans and other minorities, or any other individual found to be disadvantaged by the TSA. The contractor shall presume that socially and economically disadvantaged entities also include Indian Tribes and Native Hawaiian Organizations.

(4) The term "small business concern owned and controlled by women" shall mean a small business concern:

(i) Which is at least 51 percent owned by one or more women or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(ii) Whose management and daily business operations are controlled by one or more women.

(5) The term "service disabled veteran owned small business concern" shall mean a small business that is 51 percent owned and controlled by a service disabled veteran(s).

(c) The offeror, upon request by the Contracting Officer, shall submit and negotiate a subcontracting plan, where applicable, which separately addresses subcontracting with small business concerns, with small disadvantaged business concerns, with women-owned small business concerns, veteran owned small business concerns and service-disabled veteran owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small business concerns, small disadvantaged business concerns, women-owned small business concerns and service-disabled veteran owned small business concerns with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate the subcontracting plan shall make the offeror ineligible for award of a contract.

(d) The offeror's subcontracting plan shall include the following:

(1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business concerns, small disadvantaged business concerns, women-owned small business concerns, veteran owned small business concerns, and service-disabled veteran owned small business concerns as subcontractors. The offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs.

(2) A statement of--

(i) Total dollars planned to be subcontracted;

(ii) Total dollars planned to be subcontracted to small business concerns;

(iii) Total dollars planned to be subcontracted to small disadvantaged business concerns;

(iv) Total dollars planned to be subcontracted to women-owned small business concerns: and

(v) Total dollars planned to be subcontracted to service-disabled veteran owned small business concerns.

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to

(i) small business concerns,

(ii) small disadvantaged business concerns,

(iii) women-owned small business concerns and (iv) service-disabled veteran owned small business concerns.

(4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.

(5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the Procurement Marketing and Access Network (PRO-NET) of the Small Business Administration, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, small disadvantaged and women-owned small business concerns trade associations). A firm may rely on the information contained in PRO-NET as an accurate representation of a concern's size and ownership characteristics for purposes of maintaining a small business source list. A firm may rely on PRO-NET as its small business source list. Use of the PRO-NET as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, publicizing subcontracting opportunities) in this clause.

(6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with;

(i) small business concerns,

(ii) small disadvantaged business concerns,

(iii) women-owned small business concerns, and

(iv) service-disabled veteran owned small business concerns.

(7) The name of the individual employed by the offeror who will administer the offeror's subcontracting program, and a description of the duties of the individual.

(8) A description of the efforts the offeror will make to assure that small, small disadvantaged, women-owned, service-disabled veteran owned small business concerns have an equitable opportunity to compete for subcontracts.

(9) Assurances that the offeror will include the clause in this contract titled "Utilization of Small, Small Disadvantaged, Women-Owned, and Service-Disabled Veteran Owned Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) who receive subcontracts in excess of \$5,000,000 (\$1,000,000 for construction of any public facility) to adopt a plan similar to the plan agreed to by the offeror.

(10) Assurances that the offeror will:

(i) Cooperate in any studies or surveys as may be required,

(ii) Submit periodic reports in order to allow the Government to determine the extent of compliance by the offeror with the subcontracting plan,

(iii) Submit Subcontracting Reports for Individual Contracts (SF-294) in electronic format (MS Excel File Size 4KB) to the Contracting Officer. Submit SF- 295, Summary Subcontract Report, in accordance with the instructions on the SF 295.

(iv) Ensure that its subcontractors agree to submit Subcontracting Reports for Individual Contracts and Standard Form 295.

(11) A recitation of the types of records the offeror will maintain to demonstrate procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of its efforts to locate small, small disadvantaged, women-owned, and service-disabled veteran owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

(i) Source lists (e.g., PRO-NET), guides, and other data that identify small, small disadvantaged, women-owned and service-disabled veteran owned small business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small, small disadvantaged women-owned, or service-disabled veteran owned small business concerns.

(iii) Records on each subcontract solicitation resulting in an award of more than \$100,000, indicating

(A) Whether small business concerns were solicited and if not, why not,

(B) Whether small disadvantaged business concerns were solicited and if not, why not,

(C) Whether women-owned small business concerns were solicited and if not, why not,

(D) Whether service-disabled veteran owned small business concerns were solicited and if not, why not, and

(E) If applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact the following:

(A) Trade associations,

(B) Business development organizations, and

(C) Conferences and trade fairs to locate small, small disadvantaged, women-owned, and service-disabled small business sources.

(v) Records of internal guidance and encouragement provided to buyers through

(A) Workshops, seminars, training, etc., and

(B) Monitoring performance to evaluate compliance with the program's requirements.

(vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having company or division-wide annual plans need not comply with this requirement.

(e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:

(1) Assist small, small disadvantaged, women-owned, and service-disabled veteran owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the contractor's lists of potential small, small disadvantaged, women-owned, and service-disabled veteran owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

(2) Provide adequate and timely consideration of the potentialities of small, small disadvantaged, women-owned, and service-disabled veteran owned small business concerns in all "make-or-buy" decisions.

(3) Counsel and discuss subcontracting opportunities with representatives of small, small disadvantaged, women-owned, and service-disabled veteran owned small business concerns,.

(4) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, small disadvantaged, women-owned or service-disabled veteran owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.

(f) A master subcontracting plan on a plant or division-wide basis which contains all the elements required by (d) above, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided:

(1) The master plan has been approved,

(2) The offeror provides copies of the approved master plan and evidence of its approval to the Contracting Officer, and

(3) Goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

(g) (1) If a commercial product is offered, the subcontracting plan required by this clause may relate to the offeror's production generally, for both commercial and noncommercial products, rather than solely to the Government contract. In these cases, the offeror shall, with the concurrence of the Contracting Officer, submit one company-wide or division-wide annual plan.

(2) The annual plan shall be reviewed for approval by the agency awarding the offeror its first prime contract requiring a subcontracting plan during the fiscal year, or by an agency satisfactory to the Contracting Officer.

(3) The approved plan shall remain in effect during the offeror's fiscal year for all of the offeror's commercial products.

(h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.

(i) The failure of the Contractor or subcontractor to comply in good faith with (1) the clause of this contract titled "Use Of Small, Small Disadvantaged, Women-Owned, and Service-Disabled Veteran Owned Small Business Concerns," or (2) an approved plan required by this clause, shall be a material breach of the contract.

**(End of clause)**

### **PRESCRIPTION**

Should be used in RFP/RFIs and contracts when there are subcontracting opportunities.