

SBA

SOP 60 03 6

Subcontracting Assistance Program

Administration

Office of Government Contracting

U.S. Small Business



**SMALL BUSINESS ADMINISTRATION
STANDARD OPERATING PROCEDURE**
National

SUBJECT: Subcontracting Assistance Program	S.O.P.		REV
	SECTION 60	NO. 03	6

INTRODUCTION

1. Purpose. To outline the policies and procedures for the SBA Subcontracting Assistance Program.
2. Personnel Concerned. All SBA Employees involved in administering the Subcontracting Assistance Program.
3. Directives Canceled. SOP 60 03 5.
4. Originator. The Office of Government Contracting.

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Chapter 1

Subcontracting Assistance Program Overview

1. What is the Subcontracting Assistance Program?

Each year, the Federal Government awards billions of dollars in prime contracts for supplies and services to large or “other-than-small businesses” (large businesses).

The Subcontracting Assistance Program is comprised of the U.S. Small Business Administration’s (SBA’s) activities to ensure that domestic small businesses receive a fair and equitable opportunity to participate in requirements awarded by Federal agencies, including subcontracts resulting from award of prime contracts.

2. What is the Subcontracting Assistance Program's Mission?

- a. The mission of the Program is to ensure that domestic small businesses receive a fair and equitable opportunity to compete for and receive subcontracts resulting from Federal prime contracts. Public Law 95-507, the statute which authorizes this program, requires that all small businesses shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. This law also requires that large businesses awarded Federal prime contracts submit a subcontracting plan to the contracting agency if:
 - (1) The contract to be let, or any amendment or modification to any contract, exceeds \$500,000 (recently adjusted for inflation to \$550,000) or more than \$1 million for construction of a public facility; and
 - (2) Offers further subcontracting opportunities.
- b. A subcontracting plan establishes separate goals for subcontracting to small disadvantaged, women-owned, Historically Underutilized Business Zone (HUBZone) small businesses, veteran-owned, and service-disabled veteran-owned small businesses. A subcontracting plan must also contain several other elements required by law (see chapter 3). Once it has been approved by the awarding activity, the plan becomes a material part of the contract. “The Federal Acquisition Regulations” (FAR) establish requirements for subcontracting plans in part 19, the prescription at subpart 19.7, and the clause at 52.219-9.

3. **What is a Commercial Market Representative?**

A Commercial Market Representative (CMR) is a specialist assigned to the Subcontracting Assistance Program who is responsible for the following functions:

- a. Facilitating the matching of large prime contractors with small business concerns;
- b. Counseling large prime contractors on their responsibilities to maximize subcontracting opportunities for small business concerns;
- c. Instructing large prime contractors on identifying small business concerns by means of the CCR, SUB-Net, Business Matchmaking events, and other resources and tools;
- d. Counseling small business concerns on how to market themselves to large prime contractors;
- e. Maintaining a portfolio of large prime contractors and conducting Subcontracting Orientation and Assistance Reviews (SOARs); and,
- f. Conducting periodic reviews, including compliance reviews.

4. **What is a CMR's Portfolio?**

A portfolio is a list of large Business Prime Contractors (LPC) with one or more Federal contracts or subcontracts over \$550,000 (over \$1 million for construction) containing a subcontracting plan, assigned to a CMR. The CMR conducts periodic reviews of the LPCs in his/her portfolio in accordance with Chapters four and five.

5. **What is the Legislative Authority for the Subcontracting Program?**

- a. The legislative authority for the Subcontracting Assistance Program is Section 8(d) of the Small Business Act (as amended by Public Law 95-507), enacted in 1978. Section 8(d) is codified at 15 U.S.C. 637(d) (see appendix 3). This legislation designated SBA as the principal Government Agency responsible for enforcing the provisions of the law pertaining to subcontracting requirements.
- b. Among other things, the Federal Acquisition Streamlining Act of 1994 (FASA), Public Law 103-355, amended Sections 8(d) and 15(g) of the Small Business Act, established a five percent goal for contracts to women-owned small businesses, both at the prime contractor and subcontractor level. Section 15(g) is codified at 15 U.S.C. 644(g) (see 4).
- c. Public Laws 99-661, 100-180, 100-656, 101-189, 101-510, 103-355, 105-135, and 106-50 also affect the program in varying degrees. A synopsis of these laws

may be found in Chapter 2.

6. **What is the Role of SBA Headquarters and Area Directors for Government Contracting?**

a. SBA Headquarters

The Subcontracting Assistance Program is managed by the Office of Government Contracting (GC). The office's responsibilities with respect to this program include:

- (1) Interpreting legislation, and establishing relevant regulations and policy;
- (2) Recommending legislative, regulatory, and policy changes through the Associate Administrator for Government Contracting (AA/GC) and Associate Deputy Administrator for Government Contracting and Business Development (ADA/GC & BD);
- (3) Developing performance goals for Area Offices and Area Directors for Government Contracting (AD's/GC) and CMR's;
- (4) Gathering relevant statistical data from Area Offices on a periodic basis, for purposes of program evaluation;
- (5) Conducting field reviews of Area Offices to assure compliance with policies;
- (6) Distributing relevant information to staff of Area Offices;
- (7) Providing technical assistance and advice to staff of Area Offices;
- (8) Resolving issues in the field that have been elevated to Headquarters;
- (9) Developing and providing training opportunities for CMR's on a national level; and
- (10) Managing an awards program (e.g., Award of Distinction, Dwight D. Eisenhower Award for Excellence, Frances Perkins Vanguard Award, Prime Contractor-of-the-Year and Subcontractor-of-the-Year).

b. Area Offices

AD's/GC are responsible for managing the Subcontracting Assistance Program within assigned geographical territories. The AD's/GC accomplish this by delegating execution of specific program requirements to CMR's and other staff, as appropriate. The AD's/GC responsibilities include:

- (1) Managing execution of the subcontracting assistance program in conformance with statute, regulation, and policy;
- (2) Providing relevant statistical data to GC Headquarters;
- (3) Disseminating information, and providing technical assistance, training, and advice to staff in interpreting statutes, regulations, and policies;
- (5) Developing performance goals for staff, and evaluating performance;
- (6) Identifying opportunities for legislative, regulatory, and policy changes and proposing them to the AA/GC; and,
- (7) Managing an awards program at the Area Office level.

Chapter 2

Legislation Relevant to the Subcontracting Assistance Program

1. What Legislation Has Affected the Subcontracting Assistance Program?

In chronological order, the most important legislation is as follows:

- a. **Public Law 85-536**. Passed in 1958, this legislation amended the Small Business Act of 1953 and authorized a voluntary subcontracting program. Prior to 1978, this statute was implemented largely through the “Armed Services Procurement Regulation,” a predecessor to the “Federal Acquisition Regulation.” It required large contractors receiving contracts over \$500,000 with substantial subcontracting opportunities to establish a program which would enable minority business concerns to be considered fairly as subcontractors or suppliers.

- b. **Public Law 95-507**. Passed in 1978, this legislation amended Section 8(d) of the Small Business Act and created the foundation for the Subcontracting Assistance Program. It changed the participation of large contractors in the program from voluntary to mandatory, and changed the language of the law from "best efforts" to "maximum practicable opportunities." Other key features include:
 - (1) A requirement that all Federal contracts in excess of \$10,000 (**now tied to the Simplified Acquisition Threshold, currently \$100,000**) provide maximum practicable opportunity for small and small disadvantaged business to participate; and
 - (2) A requirement that all Federal contracts in excess of \$500,000 (**adjusted in 2006 to \$550,000 to account for inflation**) or more than \$1,000,000 (**not adjusted for inflation**) in construction contracts for public facilities be accompanied by a formal subcontracting plan containing separate goals for small business and small disadvantaged business.

- c. **Public Law 98-577 (The Small Business and Federal Procurement Enhancement Act of 1984)**. This legislation amended the Small Business Act by:
 - (1) Providing that small disadvantaged businesses be given the maximum practicable opportunity to participate in contracts and subcontracts for subsystems, assemblies, components, and related services for major systems; and
 - (2) Requiring Federal Agencies to establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small disadvantaged businesses.

- d. **Public Law 99-661 (The National Defense Authorization Act of 1987)**. Section 1207 of this statute required the Department of Defense to establish as its objective a goal of five percent of the total combined amount obligated for

contracts and subcontracts entered into with small disadvantaged businesses in each of fiscal years 1987, 1988, and 1989. It also authorized use of SDB set-asides. (Subsequent legislation extended this period through the year 2000; however, the set-aside aspect of the program was suspended in fiscal year 1996.)

- e. **Public Law 100-180 (The National Defense Authorization Act of 1988 and 1989)**. Section 806 required the Secretary of Defense to increase awards to small disadvantaged business.
- f. **Public Law 100-656 (The Business Opportunity Reform Act of 1988)**. The principal focus of this legislation was the 8(a) Program, but it contained a number of other provisions that affected the Subcontracting Assistance Program, including the following:
- (1) Section 304 requires that the “Federal Acquisition Regulations” be amended to include a requirement for a contract clause authorizing the Government to assess liquidated damages against large contractors which fail to perform according to the terms of their subcontracting plans and cannot demonstrate that they have made a good faith effort to do so;
 - (2) Section 502, codified at 15 U.S.C. Section 644(g)(1), requires the President to establish annual goals for procurement contracts of not less than 20 percent for small business prime contract awards and not less than five percent for small disadvantaged business prime contract and subcontract awards for each fiscal year [emphasis added]; and
 - (3) Section 503 requires the SBA to compile and analyze reports each year submitted by individual agencies to assess their success in attaining Government-wide goals for small disadvantaged businesses, and to submit the report to the President.
- g. **Public Law 101-189 (Defense Authorization Act)**. Section 834 established the “Test Program for the Negotiation of Comprehensive Subcontracting Plans.” This statute authorized a pilot program limited to a few Department of Defense large business prime contractors. It is overseen by the Office of Small Business Programs (OSBP) in the Office of the Secretary of Defense (OSD). The test (also called a “pilot”) allows participants to have one company-wide subcontracting plan for all defense contracts, rather than individual subcontracting plans for every contract over \$550,000, and it waives the requirement for the semi-annual *Subcontracting Report for Individual Contracts*. The large contractor is still required to submit the *Summary Subcontract Report*, and it is required to have individual subcontracting plans and to submit a *Subcontracting Report for Individual Contracts* on any contracts with other Government Agencies. The Congress has extended this test program several times.
- h. **Public Law 101-510 (The National Defense Authorization Act for Fiscal Year**

1991). Section 831 established the Pilot Mentor Protégé Program. This program encourages assistance to small disadvantaged businesses by providing special incentives to companies approved as mentors. The Government reimburses the mentor for the cost of assistance to its protégé, or, as an alternative, it allows the mentor credit (a multiple of the dollars in assistance) toward its subcontracting goals. The programs managed by the Office of Small and Disadvantaged Business Utilization at the Pentagon in Washington. Prior to receiving reimbursement or credit, mentors must submit formal applications, including the names of proposed protégés.

- i. **Public Law 102-366 (The Small Business Credit and Business Opportunity Enhancement Act of 1992).** Section 232(a)(6) removes the requirement from SBA to do the Annual Report to Congress on Unacceptable Subcontracting Plans, which had been found in Section 8(d) of the Small Business Act.
- j. **Public Law 103-355 (The Federal Acquisition Streamlining Act of 1994 (FASA)).** FASA significantly simplifies and streamlines the Federal procurement process. Section 7106 of FASA revised sections 8 and 15 of the Small Business Act to establish a Government-wide goal of five percent participation by women-owned small businesses, in both prime and subcontracts. Women-owned small businesses are to be given equal standing with small disadvantaged business in subcontracting plans. In practical terms, this means that all subcontracting plans after October 1, 1995, must contain goals for women-owned small businesses and that all Federal Acquisition Regulations references to small and small disadvantaged business have been changed to small, small disadvantaged and women-owned small business.
- k. **HUBZone Program (Public Law 105-135).** The HUBZone Program, which was authorized by the Small Business Reauthorization Act of 1997, stimulates economic development and creates jobs in urban and rural communities by providing contracting preferences to small businesses that are located in HUBZones and hire employees who live in HUBZones.
- l. **The Veteran's Entrepreneurship and Small Business Development Act of 1999 (Public Law 106-50).** This statute established a goal for subcontracts awarded by prime contractors to service-disabled veteran-owned small business concerns of three percent best effort goal will be established for veteran-owned small businesses. Subcontracting plans must incorporate these goals. Appendix 7 contains a synopsis of what year each small business subset goal began being required in subcontracting plans.

Chapter 3

SBA's Role in Subcontracting Plans

1. What Are the Required Elements of a Subcontracting Plan?

- a. Eleven elements of a subcontracting plan are identified in the Federal Acquisition Regulation (FAR) at 19.704 and in the FAR clause at 52.219-9. The CMR may use the Subcontracting Plan Checklist in Appendix 5 or 6 to review a subcontracting plan. Whether or not the checklist is used, the reviewer must be certain that the subcontracting plan:
- (1) States separate percentage goals for small business, small disadvantaged business certified by SBA,¹ women-owned small business, HUBZone small businesses certified by SBA, veteran-owned small business, and service-disabled veteran-owned small business concerns;
 - (2) States the total dollars planned to be subcontracted and a statement of the total dollars planned to be subcontracted to small businesses, small disadvantaged businesses certified by SBA, women-owned small businesses, HUBZone small businesses, veteran-owned small business, and service-disabled veteran-owned small business concerns;
 - (3) Describes the principal types of supplies and services to be subcontracted and identifies the types planned for small business, small disadvantaged business certified by SBA, women-owned small business, HUBZone small businesses, veteran-owned small business, and service-disabled veteran owned small business;
 - (4) Describes the method used to develop the subcontracting goals;
 - (5) Describes the method used to identify potential sources for solicitation purposes;
 - (6) Includes a statement indicating whether indirect costs were included in the subcontracting goals and if so, describes the method used to determine the proportionate share;
 - (7) Names the individual employed to administer the subcontracting plan and describes the duties of the individual;
 - (8) Describes the efforts the offeror will make to ensure that small

¹The CMR may wish to validate that any named small disadvantaged business or qualified HUBZone small business concern is certified by SBA in SBA's CCR database.

business and the small business subset categories will have an equitable opportunity to compete for subcontracts,

- (9) Assures that the offeror will include FAR Clauses 52.219-8, "Utilization of Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and 52.219-9, "Small Business Subcontracting Plan," in all subcontracts in excess of \$550,000 (in excess of \$1,000,000 for construction of a public facility).
 - (10) Assures that the offeror will:
 - (a) cooperate in any studies or surveys as may be required;
 - (b) submit periodic reports in order to allow the Government to determine the extent of compliance with the subcontracting plan;
 - (c) submit *Subcontracting Report for Individual Contracts* and *Summary Subcontract Reports* in accordance with the instructions in the FAR Clause at 52.219-9; and
 - (d) ensure that its large subcontractors agree to submit *Subcontracting Report for Individual Contracts* and *Summary Subcontract Reports*.
 - (11) Describes the types of records to be maintained to demonstrate procedures the contractor has adopted to comply with the requirements and goals in the subcontracting plan including source lists and a description of the efforts to locate small business, small disadvantaged business certified by SBA, women-owned small business, qualified HUBZone small business concerns, veteran-owned small business, and service-disabled veteran owned small business concerns.
- b. When reviewing any type of subcontracting plan, the CMR should remember that a large business' failure to make a good faith effort to comply with the plan can be construed as a "Material Breach of Contract" (see FAR 52.219-16 "Liquidated Damages," and chapters 5-10).
 - c. A "Sample Subcontracting Plan" (see appendix 8 or appendix 9) can be provided to any large prime contractor (LPC) that needs assistance in preparing a subcontracting plan. The CMR should emphasize that the specific requirements of a solicitation may necessitate the inclusion of other data that is not in this model. Slight variations apply to each type of subcontracting plan as explained in paragraph 3.

2. What Are the Types of Subcontracting Plans?

a. An Individual Plan (Contract-Specific).

This plan establishes separate goals for a specific Government contract, by dollar amount and percentage, for small disadvantaged, small women-owned, HUBZone, small veteran-owned, and small service-disabled veteran-owned businesses. All goals are expressed as a percentage of total subcontracting. Separate goals should be identified for each option year. In addition to goals, the plan must also contain the other elements required by FAR 19.704 and FAR 52.219-9 as shown in paragraph 3-1. Once the contracting officer has approved it, the plan becomes a material part of the contract.

b. A Master Plan.

The Master Plan contains all of the elements required by the FAR 52.219-9 and Subpart 19.704 (b), except for the goals and related items (see items (1) through (6) in paragraph 1(a)). Master Plans are effective for a three-year period. When a subcontracting plan is required, specific contract goals are formulated (including an explanation of how the goals were formulated and what the expected areas of subcontracting are by size and socio-economic category) and incorporated into the Master Plan. The resulting subcontracting plan applies for the life of the contract.

c. A Commercial Subcontracting Plan

A Commercial Plan is suited for large procurement contractors that produce a commercial product and have both commercial and Government customers. The plan covers the offeror's fiscal year and applies to the entire production of commercial items sold by either the company or a portion thereof (e.g., division, plant, or product line). A sample Commercial Plan may be found in appendix 9. A Commercial Plan is unique in that:

- (1) The plan is based on the offeror's fiscal year instead of the government's fiscal year or the contract's duration;
- (2) The plan is used for all federal contracts (new or existing) that require a subcontracting plan during that year;
- (3) *Subcontracting Reports for Individual Contracts* are not required;
- (4) *Summary Subcontract Reports* are due annually upon completion of the contractor's fiscal year;
- (5) Since only *Summary Subcontract Reports* are required, a Commercial Plan should include indirect costs (see Definitions, appendix 2) in its goals at a rate of 100%;

- (6) A new Commercial Plan is negotiated each year. The plan is due 30 working days prior to the expiration of the current plan;
- (7) The first federal awarding activity approves the Commercial Plan on behalf of all future awards that year. In future years, the approving activity should be the one responsible for the contract with the latest completion date. Once approved, the contractor should supply a copy of the approved plan to each contracting officer with an ongoing contract.

d. The Department of Defense (DoD) Test Program for Negotiation of Comprehensive Subcontracting Plans.

This is a test program that is limited to a relatively small number of Department of Defense (DoD) large business contractors who have been approved in accordance with guidelines issued by the DoD's Office of Small Business Programs (OSBP). A list of participating companies is maintained on the DoD OSBP's website at <http://www.acq.osd.mil/sadbu/>. The test program allows these companies to have one company-wide or division-wide subcontracting plan for all defense contracts, rather than individual subcontracting plans for every contract over \$550,000. It also waives the requirement for the semi-annual *Subcontracting Report for Individual Contracts*. However, the large contractor is still required to submit the *Summary Subcontract Report*. The plan may also require goals for two or more special target industry areas, but this requirement varies from year-to-year. If the contractor has contracts with non-DoD federal agencies, it must still submit separate subcontracting plans for those contracts and file the semi-annual *Subcontracting Reports for Individual Contracts* for the non-DoD contracts containing subcontracting plans.

3. **When Does SBA Review a Subcontracting Plan?**

Prior to contract award, SBA's Procurement Center Representatives (PCR's) review subcontracting plans upon the request of a federal awarding activity, as described in a paragraph 4 below. CMR's normally review subcontracting plans during the post-award phase, rather than the pre-award phase. Reviews of subcontracting plans may be conducted under any of the following circumstances.

- a. Performing a Small Business Program Compliance Review (see chapter 5);
- b. Responding to a request from a PCR or a buying command;
- c. Responding to a request from a large prime contractor or large subcontractor; or
- d. Participating in a Surveillance Review (see paragraph 4-6).

4. **What Is the Procurement Center Representative's (PCR's) Role in Reviewing Subcontracting Plans?**

Each PCR is assigned as the liaison for one or more federal agencies. His/her duties include reviewing these agencies' large prime contractors' proposed subcontracting plans. The PCR may contact the CMR for his/her assistance.

Chapter 4

Reviews to be Performed and Formats to be Used

1. What Reviews Does the CMR Perform?

There are five types of reviews that the CMR should conduct or participate in:

- a. Performance Reviews (also called Desk Reviews)
 - (1) With a letter to the contractor.
 - (2) Without a letter to the contractor
- b. Subcontracting Orientation and Assistance Reviews (SOAR)
 - (1) On-Site
 - (2) Off-site
- c. Small Business Program Compliance Reviews (SBPCR)
 - (1) On-Site Reviews
 - (a) Reviews conducted individually
 - (b) Joint Reviews with Defense Contract Management Agency
 - (c) Joint Reviews with another agency
 - (2) Tandem Team Reviews
 - (3) Off-Site Reviews
 - (4) Self-Evaluations
- d. Follow-up Reviews
 - (1) On-site
 - (2) Off-site
- e. Surveillance Reviews

All reviews, except Surveillance Reviews, focus on large federal prime

contractors' small business subcontracting programs.

The CMR will be assigned goals by the AD/GC regarding the number of each type of review he/she is expected to complete each a year. The various reviews and the procedures for conducting them are explained in detail in this chapter and chapter 5.

2. **How Should the CMR Prioritize Reviews?**

Using the results of Performance Reviews and previous Small Business Program Compliance Review (SBPCR), the CMR, in consultation with the AD/GC, should prioritize which prime contractors should be site-visited during the year. The CMR should first determine what type of review is appropriate: a SBPCR, a Subcontracting Orientation and Assistance Review (SOAR) or a Follow-up Review. Ideally, a prime contractor should receive an orientation SOAR visit after it has been placed in the CMR's portfolio, subsequent to the award of its first federal contract containing a subcontracting plan. Thereafter, a SBPCR should be conducted, alternating it every year with a Follow-up Review. In prioritizing reviews, the following factors should be considered:

- a. The size of the company's Government contracts;
- b. The length of time since the last SBA SBPCR;
- c. The results of the most recent on-site SBPCR (companies that received *Marginal* or *Unsatisfactory* ratings will warrant the highest priority);
- d. The results of the most recent Performance Review (the poorest results will warrant the highest priority).
- e. Reviews may be considered to develop potential nominees for award programs (Large business contractors receiving an "Outstanding" are eligible for the *Award of Distinction*.);
- f. At the beginning of every fiscal year, the CMR and AD/GC should plan a review schedule for the year. This should be done, to the extent practicable, as soon as year as possible after Performance Reviews for the fiscal year ended September 30th have been completed. (Prime contractors are allowed 30 days after the end of the fiscal year to submit their reports, so a limited number of reviews may be conducted in October, without the benefit of the Performance Reviews.) Since some of SBPCR's may be Joint Reviews with the Defense Contract Management Agency (Defense Contract Management Agency) or another agency, plans should be coordinate with the involved. Once a review schedule is developed it should be concurred in by the AD/GC.

3. **What is a Performance Review?**

The purpose of the Performance Review is to review and analyze the *Subcontracting Report for Individual Contracts* and *Summary Subcontract Reports* that are submitted by the large prime contractors in his/her portfolio, and to determine which large contractors the CMR should visit, and what type of review would be most effective.

- a. The Performance Review focuses on subcontracting achievements on a contract-by-contract basis through the *Subcontracting Report for Individual Contracts* (SF-294 or ISR) and on overall performance through the *Summary Subcontract Report* (SF-295 or SSR). ISRs and SSRs are outputs of the Electronic Subcontracting Reporting System (eSRS) (www.esrs.gov).
- b. For contracts or contract modifications containing a subcontracting plan, FAR 19.705-6 requires the contracting officer to send a copy of the award document, including the subcontracting plan, to the appropriate SBA Area Director for Government Contracting. In most cases, this will be the Area Director for Government Contracting in the area where the contract is to be performed. However, in the case of a commercial plan, the appropriate area office will be the one where the contractor's headquarters is located.
- c. The eSRS gives SBA's CMRs unlimited access to all reports for both DoD and civilian agency contractors (see subparagraph e below).
- d. Appendix 10 contains a sample letter that may be used to collect SF-294 and SF-295 paper reports from contractors that do not use the eSRS – e.g., contractors of agencies such as the Federal Aviation Agency (FAA), which is not required to follow the Federal Acquisition Regulation (FAR) and which may not require its contractors to use the eSRS.
- e. The Defense Contract Management Agency (DCMA) administers the majority of Department of Defense (DoD) contracts. However, SBA's CMRs will have access to the reports filed by DoD contractors when DoD begins using the eSRS, which is scheduled to occur in fiscal year 2007. CMRs may, and to the extent possible should, perform Performance Reviews of DoD contractors.
- f. The CMR should conduct at least one Performance Review annually on each large contractor in his/her portfolio (including contracts under DCMA's cognizance). It is best to conduct Performance Reviews immediately after receiving each LPC's *Subcontracting Report for Individual Contracts* and/or *Summary Subcontract Report*, at the beginning of the fiscal year. The results of Performance Reviews will help the CMR and AD/GC prioritize reviews scheduled for the balance of the fiscal year. (see paragraph 4-2).

4. **What are the Procedures for Conducting Performance Reviews?**

- a. For companies with master or individual plans:
- (1) Complete SBA Form 1907. The analysis must include the *Subcontracting Report for Individual Contracts* for both active contracts and contracts completed during the previous 12 months. The CMR may wish to use separate SBA Form 1907s to segregate *completed* contracts and *active* contracts since a contractor's rating is based on *completed* contracts.
 - (2) Generate a five-year trend table using the data from the Government-wide electronic Subcontracting Reporting System (eSRS), if available, or by developing a spreadsheet if not. If the contractor has not had subcontracting plans for five years, use as many years as are available.
- b. For companies with a *Subcontracting Plan for Commercial Items*:
- (1) Complete SBA Form 1907A (using the LPC's *Summary Subcontract Report*).
 - (2) Generate a five-year trend table using the data from the eSRS, if available, or by developing a spreadsheet if not. Use five years of data if possible, or if the contractor has not had subcontracting plans for five years, for as many years as available.
- c. For companies under the *DoD Test Program for Comprehensive Subcontracting Plans* (see Definitions in appendix 2):
- (1) Complete SBA Form 1907B (using the LPC's *Summary Subcontract Report*);
 - (2) Generate a five-year trend table (or for as many years as available) using the data from the eSRS, if available, or by developing a spreadsheet if not;
 - (3) If the company participates in the *DoD Test Program for Comprehensive Subcontracting Plans* and also has individual plans, both SBA Form 1907 and SBA Form 1907B should be completed. The trend table may combine the *Summary Subcontract Reports* from all agencies.
- d. Using the reports above, the CMR should analyze the following:
- (1) Whether SBA is receiving all the LPC's *Subcontracting Report for Individual Contracts* (by comparing this year's SBA Form 1907 with last year's SBA Form 1907, and making sure that a *Subcontracting Report for Individual Contracts* has been received for any new subcontracting plans that received, or that are understood to exist.);

- (2) Whether the contractor is meeting its goals;
 - (3) Whether SBA is receiving the *Subcontracting Report for Individual Contracts* and the *Summary Subcontract Report* on time;
 - (4) Whether the contractor's subcontracting to each small business subgroup has been increasing, decreasing, or remaining stable over the past five years (if the LPC has less than five years *Summary Subcontract Reports*, analyze the years available); and
 - (5) What type of review would be most effective (see chapter 4 and 5 for the different review types);
- e. The CMR should decide whether a letter to the LPC is necessary. A letter should be sent to the contractor if:
- (1) SBA has not received a copy of all the reports;
 - (2) The *Subcontracting Report for Individual Contracts* or *Summary Subcontract Report* are believed or known to contain errors;
 - (3) The contractor's failure to meet its goals in one or more small business categories should be addressed; or
 - (4) The contractor should be commended on its goal achievement;
- f. The CMR need not send a letter if:
- (1) SBA has received copies of the LPC's *Subcontracting Report for Individual Contracts* (if applicable) and *Summary Subcontract Report* in a timely manner;
 - (2) Information reported appears to be complete and accurate, to the extent that this can be determined without a site visit);
 - (3) The contractor is meeting all its goals or has used the "Remarks" section of the report to explain any goal under-achievements; and
 - (4) The LPC was reviewed during the past year, or have a review is scheduled in the current year.
 - (5) If letter is to be sent, the sample Performance Review letter in appendix 11 can be used. The letter may be tailored to detail any concerns. It should be addressed to the Small Business Liaison Officer, with a copy to the Contracting Officer (or the Administrative Contracting Officer) for any contract(s) mentioned in the letter.

- g. A contractor should not be assigned a rating based on a Performance Review. Documentation to support the review should include:
- (1) SBA Form 1907, 1907A, or 1907B;
 - (2) *Supporting Subcontracting Reports for Individual Contracts and Summary Subcontract Reports*;
 - (3) A Five-Year Trend table;
 - (4) A letter to the LPC (if applicable); and
 - (5) If a Subcontracting Orientation and Assistance Review (SOAR), Small Business Program Compliance Review (SBPCR), or Follow-Up Review at a LPC's facility is conducted early in the fiscal year, the Performance Review can be combined with it, rather than done separately. All Performance Review elements as described in paragraph (f) above must still be completed.
 - (6) Within seven days of completion, the CMR should ensure that the contractor's file is documented appropriately, including the date of the review and the outcome. If the Performance Review was combined with another review as noted in paragraph 1-g above, it may be counted in both categories. For documentation on filing and retention, see chapter 9.

5. **What is a Subcontracting Orientation and Assistance Review (SOAR)?**

A SOAR is a visit to an LPC's facility to provide assistance to the LPC in elevating its small business program. In most cases, a SOAR will be a site visit to accomplish a certain task. These reviews can be done on an as-needed basis, and can encompass a variety of purposes, such as:

- a. Conducting an orientation visit;
- b. Discussing a problem with the *Subcontracting Report for Individual Contracts/Summary Subcontract Reports* detected during a Performance Review;
- c. Discussing the required capabilities of small business sources for an upcoming or current project (see note below);
- d. Training or informing the contractor on new small business program issues such as a new goal category or new legislation;

- e. Getting further acquainted with a new company such as touring the plant or meeting with buyers; or
- f. A similar reason.
- g. The SOAR eliminates the need for the previously termed “Needs Assessment Review” as a stand-alone review. As discussed in paragraph 6-8, the need to assist LPC’s in finding sources has been replaced by advancements in technology with tools that are now available to them directly.
- h. A SOAR should be conducted when a new LPC enters a CMR’s portfolio, and it may also be conducted whenever a LPC has hired a new Small Business Liaison Officer (SBLO) or under any other circumstances when the CMR believes that a SOAR visit would be more appropriate than a compliance review. The site visit gives the CMR a chance to provide information that may be unfamiliar to a new LPC (e.g., size certification, validating the SDB and HUBZone status of suppliers, electronic tools available on the Internet, outreach opportunities, etc.). Such an orientation should help the LPC to execute a more effective small business program.
- i. The SOAR visit to the contractor should be coordinated with the LPC. No minimum advance notice is required. A SOAR may be conducted at any time, with any LPC that has DOD or civilian contracts containing subcontracting plans. As a general rule, the CMR should cover the following topics during a SOAR:
 - (1) Briefly explain the statutory basis for the program, including the fact that Public Law 95-507 amended the Small Business Act and is now incorporated into Section 8(d);
 - (2) Explain where the regulations for the program may be found, including SBA’s regulation at 13 CFR 125.3; the Federal Acquisition Regulation (FAR) at subpart 19.7; and the FAR clauses at 52.219-8 and 52.219-9. The CMR should plan to spend a few minutes discussing the requirements in the clause at 52.219-9 and the examples of good-faith effort in 13 CFR 125.3;
 - (3) Provide a copy of the latest SBLO Handbook and point out the sample documents in the Appendix, including the sample *Size Self-Certification*, sample *Documentation of Purchases/Subcontracts Over \$100,000*, sample letters to be sent to OTSB subcontractors under the flow-down requirement, and *Frequently Asked Questions*;
 - (4) Stress the importance of a strong and up-to-date *CEO policy memorandum*;
 - (5) Explain the scope of a compliance review and the methodology for determining the company’s rating; and

- (6) Explain the *Subcontracting Report for Individual Contracts (ISR)* and the *Summary Subcontract Report (SSR)* and how these reports will now be submitted by means of the Electronic Subcontract Reporting System (eSRS).
- j. Following a SOAR visit, a letter should be sent to the LPC summarizing the visit and providing any additional information, as necessary. SOAR visits are not conducted in conjunction with a Small Business Program Compliance Review or Follow-Up Review. Each of these reviews is unique in its purpose and cannot be combined.
- k. In limited instances, a SOAR may not require a physical visit to the LPC. For example, an LPC may request help in locating small business sources on an urgent or unique requirement. This would normally have been termed a “Needs Assessment” and in accordance with (3) above can now be considered a SOAR. (To count this as an off-site SOAR, it should take at least one hour of time.) The on-site SOAR is the preferred method and caution should be taken not to overuse off-site SOAR’s.
- l. Counseling of an LPC should not be counted as an off-site SOAR. The distinction between an off-site SOAR and LPC Counseling is important.
- (1) An Off-Site SOAR:
- (a) One of the six activities identified above is accomplished via oral, written or electronic means;
 - (b) The LPC file will be documented with a letter to the LPC summarizing the SOAR activity;
 - (c) The correspondence took a significant amount of time; and
 - (d) In most instances, the meeting was pre-planned.
- (2) LPC Counseling is an activity that is not similar in nature to the six activities listed above, such as:
- (a) Answering a routine LPC question via the phone, mail, or email that generally does not require a visit or a response letter to the LPC, or
 - (b) Forwarding current information to an LPC via email (such as a new regulation);
 - (c) Discussions or emails with an LPC that do not take up more than

an hour of time, and

- (d) Correspondence with an LPC regarding an upcoming event in.
- (e) In general, LPC Counseling is not a pre-planned meeting.

(3) Example of SOAR vs. LPC Counseling:

Activity	Category
An LPC emails question about joint ventures. The CMR look up some regulations and replies, using about one half hour of effort.	LPC Counseling
A new LPC has calls and asks a question about its subcontracting program and the CMR provides thorough details about subcontracting plans, The CMR applied a review process, tools similar to those which would be used during an on-site orientation visit SOAR. The contractor is not within local commuting distance for an on-site visit. And the discussions took about three hours of time.	Off-site SOAR

Within seven working days after completing the SOAR, the CMR must enter the review data into the Subcontracting Computer System.

6. **What is a Small Business Program Compliance Review (SBPCR)?**

SBPCR's are performed on the large prime contractors (LPC's) assigned to the CMR's portfolio. SBPCR's should be the main focus point of CMR activities. This SOP introduces several ways to accomplish SBPCR's. Paragraph 5 contains procedures for conducting a SBPCR.

7. **What is a Follow-up Review?**

Follow-up Reviews can be performed only on companies that have been reviewed before. The purpose of a Follow-up Review is to:

- a. Check on the status of any recommendations made during the last Program Review; and
- b. Review any final *Subcontracting Reports for Individual Contracts* that have closed since the last Program Review or Performance Review. Subcontracting achievements should be evaluated against goals for these closed contracts on SBA Forms 1907, 1907A, or 1907B.

If the CMR Performance Review has not been performed on a company during the current fiscal year, it may be combined with a Follow-Up Review. The most recent goal accomplishments should be taken into consideration when determining the “Follow-Up Review” rating. The Follow-Up Review should be scheduled with the LPC at least thirty days or more in advance. To conduct the review, the following should be available:

- (1) A copy of the last SBPCR conducted;
 - (2) A copy of the latest Performance Review and accompanying forms (SBA Form 1907 and Five Year Trend Table), or if the Performance Review is to be combined with a Follow-Up Review, a copy of the LPC’s latest *Subcontracting Report for Individual Contracts* and a *Summary Subcontract Report*; and
 - (3) A copy of any final *Subcontracting Reports for Individual Contracts*.
- c. Based upon the results of a Follow-up Review, the LPC’s rating may be upgraded or downgraded by one level (See Rating Definitions in paragraph 5-8). For example, a company that was rated *Marginal* on the last review may be upgraded to *Acceptable* or down graded to *Unacceptable*. However, if an LPC is to be nominated for an *Award of Distinction*, the nomination submitted to Headquarters must be accompanied by full SBPCR no older than 12 months.
 - d. Any of the elements of a SBPCR during a Follow-up Review. The status of any review element may be taken into consideration in determining the company's new rating.
 - e. Document the Follow-up Review on the “Follow Up Checklist” (Appendix 15). After the visit, a brief letter should be sent to the SBLO within 30 days, summarizing any findings, recommendations, the rating, and the rationale for the rating (if it has changed since the last review). These letters should be concise and to the point, with a statement at the end thanking the company for its courtesy and cooperation.
 - f. Within seven working days after completing the Follow-Up Review, the CMR should ensure that the contractor’s file is documented appropriately, including information on the date of the review and the company’s rating.

8. What is a Surveillance Review?

Surveillance Reviews of Federal Agency Procuring Activities are conducted under the authority of the Prime Contracts Program, and are addressed in SOP 60 02. The Surveillance Team Leader will make team member assignments to specific areas of concentration. CMR’s may be asked to participate on a team, and to focus on

subcontracting. In this event, the CMR should assess the procuring activity's compliance with the provisions in 13 CFR 125.3 and 48 CFR (Federal Acquisition Regulation) subpart 19.7, especially its procedures for approving subcontracting plans and its effectiveness in monitoring subcontracting plans for compliance.

9. **How Does SBA Conduct Joint Reviews with the Defense Contracts Management Agency (DCMA)?**

- a. Under Section 8(d) of the Small Business Act (see appendix 3), SBA has authority over all federal subcontracting plans. DCMA is assigned administrative authority by certain DoD buying activities. In these cases, DCMA will be designated as the Administrative Contracting Office on the face page of the contract award document. To reduce the LPC's burden of preparing for two reviews, SBA and DCMA have agreed to conduct the reviews in conjunction with one another when possible. This is discussed in the "Memorandum of Understanding" between DCMA and SBA in appendix 16.
- b. Below is a table clarifying which agency has the responsibility for conducting subcontracting compliance reviews under various situations.

	If the Contractor has...	With Agencies such as...	Review is Performed By...
1	Only active DOD contracts under DCMA's cognizance	Army, Navy, Air Force	DCMA (see note (2) below)
2	Only active DOD contracts <u>not</u> under DCMA's cognizance	Army Corps of Engineers, Navy Facilities Engineering Command (NAVFEC), Office of Naval Research, or DOD subcontractors	SBA
3	Some active contracts under DCMA's authority <u>and</u> Other active contracts not under DCMA's authority	Army, Navy, Air Force, <u>and</u> DOD subcontractors, Office of Naval Research, NAVFEC, DOE, GSA, VA, HHS, etc...	DCMA and SBA (SBA is lead agency)
4	NASA contracts	NASA	DCMA and SBA (SBA is lead agency)
5	Only active civilian contracts	DOE, GSA, VA, HHS, etc.	SBA

- (1) Contractors that meet the requirements of rows 2 and 5 are reviewed by SBA exclusively. Reviews should be planned and conducted in accordance with the procedures in Chapter 5. On occasion, representatives of civilian agencies such as the General Services Administration (GSA) or the Department of Veterans Affairs (VA) may ask to participate in SBA reviews, or invite SBA to accompany them on reviews. The decision to conduct a joint review is discretionary, and should be coordinated with the AD/GC.
- (2) Contractors that meet the requirements of row 1 are reviewed exclusively by DCMA. Pursuant to a "Memorandum of Understanding" between DCMA and SBA, SBA no longer needs to perform SBPCR's on contractors that have contracts only under DoD's authority. A contract is under DCMA's authority if DCMA is named as the Administrative Contracting Activity on the face page of the award of the contract. The *Subcontracting Reports for Individual Contracts* pertaining to these

contracts should also have "DCMA" checked in Block 6 as the "Administering Activity."

- (3) The CMR may accompany DCMA as an observer on any of SBPCR or Follow-up Review. SBA may also conduct a SOAR visit with these contractors at any time, with or without DCMA. These contractors are assigned to a CMR, and their information should be kept current. From information provided by DCMA (i.e., formal report, DCMA Form 640, or other documents), review date, review type, and rating should be entered into the Subcontracting Computer System. The SBA should also receive *Summary Subcontract Reports* from these contractors. The SBA should also conduct Performance Reviews on these contractors, so in a general sense, the CMR should be aware of annual goal accomplishments, even without participating in the DCMA Review.
- (4) If a prime contractor meets the requirements of row 1 above, but the CMR thinks that he/she should participate in a SBPCR, the CMR should coordinate with the AD/GC with the Subcontracting Program Manager in SBA Headquarters. In some instances, such as a contract of extreme visibility, SBA should attend a "DCMA only" SBPCR.
- (5) SBA may be asked by DCMA to furnish supplemental information to assist with their review of these contractors. Information may include recommendations the CMR made during the last review, a list of referrals during the previous 12 months, or a Five-Year Trend Analysis from SBA's computerized database. DCMA should provide 30 days notice of a scheduled program review to allow time to retrieve and forward any requested information.
- (6) The DCMA representative should provide a copy of its final report to SBA. After receiving a report, the CMR may call the DCMA representative who issued the report and offer feedback. If DCMA rates a contractor outstanding, SBA may consider nominating the contractor for SBA's small business program awards described in chapter 8.
- (7) SBA may request that DCMA prioritize a program review of a particular company when the CMR have compelling reason to believe that a company is not making good-faith effort to achieve its subcontracting goals.
- (8) In accordance with the Memorandum of Understanding dated May 9, 2003, SBA and DCMA will use the same rating system to rate contractors' Small Business Programs.
- (9) Contractors that meet the requirements of row 3 or 4 are reviewed by SBA and DCMA jointly. "Joint Reviews" are conducted by one or more

representatives from DCMA and one or more SBA representatives. The SBA may decline to participate in the review if the number and dollar value of contracts under SBA's authority, does not warrant a review at that time. If SBA declines to participate, it waives its right to conduct another program review until the next scheduled DCMA review. However, SBA may still conduct a SOAR visit at any time without DCMA's consent. The decision not to participate in a joint review should be coordinated with the AD/GC.

c. The following guidelines have been established for SBA and the Defense Contract

Management Agency (DCMA) for Joint Reviews:

- (1) Joint Reviews may be scheduled by either DCMA or SBA, but adequate notice (at least 30 days) must be provided to the other agency. The CMR and his/her DCMA counterpart what companies the CMR intend to review jointly early in the fiscal year when establishing the agencies review schedules.
- (2) DCMA and SBA may use their own forms and procedures for the review.
- (3) DCMA shall limit its sampling of contracts and subcontracting plans to those over which it cognizant administrative authority. DCMA shall focus on these contracts, and the SBA shall focus on the remaining contracts. However this does not preclude SBA from assisting DCMA in reviewing DoD contracts.
- (4) In order to gain greater insight into the contractor's purchasing cycles and socio-economic trends, SBA and DCMA will perform separate analyses of the contractor's five-year trend table. DCMA will examine the trend for DoD contracts, and SBA will do the same for all contracts; accordingly, the contractors will be asked to provide separate data, to the extent possible, to accommodate each reviewer's requirements.
- (5) Since SBA's rating is representative of all contracts, including DoD contracts, the CMR must determine the contractor's overall program rating on every joint DCMA/SBA compliance review. SBA will be the lead agency on all joint compliance reviews.
- (6) Where practical, DCMA and SBA should try to agree on the contractor's rating. However, if DCMA disagrees with SBA's overall rating, or if SBA disagrees with DCMA's recommendation for the rating, either reviewer may request a ruling from DCMA and SBA headquarters. In such instances, the individual disputing the other agency's rating should prepare a memorandum to his/her headquarters summarizing their

objections. The program managers in the respective agency headquarters will then discuss objections and resolve the dispute. If necessary, the two individuals signing the agreement, or their successors, shall make the final decision.

- (7) DCMA and SBA shall prepare one letter to the contractor summarizing the results of the review. The letter should clearly state contractor performance on DoD as well as overall contracts. Whether SBA or DCMA drafts the letter and how it is routed to the other party for signature should be worked out between the CMR and his/her DCMA counterpart.
- (8) SBA has sole authority to perform compliance reviews of prime contractors of civilian agencies. When DCMA is tasked by a civilian agency to perform a compliance review, the civilian agency should be redirected to SBA Headquarters. If SBA has the resources to conduct the review, it will do so; if not, SBA Headquarters will contact DCMA Headquarters and delegate its authority to conduct a compliance review for the instant request. This will be done on a case-by-case basis based on the resources available and the merits of the request. DCMA will not enter into any formal or informal agreements with civilian agencies to perform compliance reviews of civilian contractors.

Chapter 5

Small Business Program Compliance Reviews (SBPCRs)

1. Types of Small Business Program Compliance Reviews

- a. The SBPCR is one of the CMR's most important responsibilities. Properly conducted, the review can have a significant impact on the way a large contractor administers its small business program. In addition, when the review is objective, comprehensive and fair, it can greatly enhance his/her credibility. SBA and DCMA reviews are often the only formal evaluation of a contractor's compliance with its subcontracting plans.
- b. There are several types of SBPCR's:
 - (1) On-Site Reviews
 - (a) Reviews conducted individually
 - (b) Joint Reviews with Defense Contract Management Agency
 - (c) Joint Reviews with another Agency
 - (2) Tandem Team Reviews
 - (3) Off-Site Reviews
 - (4) Self-Evaluations
- c. Items (2), (3), and (4) are SBPCR options. They enable SBA to perform SBPCR's on contractors that may have received less priority in the past due to travel and time constraints. However, Off-Site SBPCR and Self-Evaluations are not SBA's preferred methods and should only be accomplished when the parameters established for these types of reviews are met.
- d. The CMR should spend the time necessary at the contractor's facility in order to accomplish the mandatory elements of the review. Generally, he/she should be able to accomplish the review in a one-day period. If the CMR anticipates that the visit will require more time, he/she may wish to obtain more of the information ahead of time to expedite the review.
- e. In some instances, the large prime contractor (LPC) may be willing to prepare certain information ahead of the review date. This will allow the CMR to complete some or most of the "Small Business Program Compliance Review Checklist" prior to the physical visit. This may help focus effort on problem areas during the review, and shorten the length of the visit.

2. Preparing for the SBPCR

- a. The preparation for a SBPCR is extremely important. At least 30 days prior to the review, the CMR should contact the LPC's Small Business Liaison Officer (SBLO) and establish a review period that is mutually agreeable. If this is a joint review, the date should be coordinated with DCMA or the other agency. The CMR may wish to also coordinate this date with other federal agencies, such as the Army Corps of Engineers, that perform their own subcontracting plan reviews so that the contractor can consolidate these reviews into one day. The CMR may also wish to invite a Contracting Officer if the CMR believe the contractor is failing to make a good faith effort to meet the subcontracting plan requirements on any of its contracts.
- b. Verbal agreement of the date should immediately be followed by a formal notification letter addressed to the SBLO (see sample in appendix 12) that includes the "Preparation Checklist" (see appendix 13). The CMR may add any additional items to the letter that may be appropriate to fit the requirements of a particular case. Those who wish to use an alternate version which combines the "Preparation Checklist" (appendix 13) and "Small Business Program Compliance Review Checklist" (appendix 14) may contact the Program Manager in SBA Headquarters for permission. Discretion may be exercised regarding mailing the notification Certified or First Class. The CMR may also send it via email with a hard copy mailed First Class or Certified the same day. As stated in the sample letter, the CMR should ask the contractor to provide three listings, at least one week prior to the review:
 - (1) A list of all subcontract awards to small businesses (separated by small business subset groups) of any dollar value issued within the past year
 - (2) A list of all subcontract awards to large businesses over \$100,000 related to their federal contracts and issued within the past year.
 - (3) A list of any blanket purchasing agreements, corporate-wide purchasing agreements or similar agreements that were established during the past year by this company (or division). Any agreement that requires a particular large business to be used for repetitive purchases should be included in the listing (i.e. A corporate purchasing agreement with Staples or office supplies).
- c. The conduct of the review is critical. Since the reputation of the Agency is at stake, it is important to act in a professional manner at all times. In addition, the CMR should be thoroughly familiar with the Agency's "Standards of Conduct" and should participate in annual training on this subject, as available. The CMR should contact the servicing Standards of Conduct Counselor immediately if any issues arise that requires further guidance.

- d. Before starting the review, the CMR should obtain as much background information as possible from the contractor's file and from the Subcontracting Computer System. At a minimum, this should include the following:
- (1) General background on the contractor including the history and size of the company, its major product lines, and its customers;
 - (2) The contractor's most recent *Subcontracting Report for Individual Contracts*;
 - (3) Any *Subcontracting Report for Individual Contracts* that has been completed within the past 12 months;
 - (4) Current year and historical *Summary Subcontract Report* data for the previous five years;
 - (5) Work papers from the last SBPCR or Follow-Up Review, and the last Performance Review;
 - (6) A list of any sources referred to the contractor since the last review; and
 - (7) A list of the recommendations made by SBA during the last SBPCR or Follow-Up Review.
- e. As stated in the notification letter and preparation checklist, several documents are required from the LPC at least one week prior to the scheduled review date. These documents will allow the CMR to provide the LPC with advance notice of the purchase orders and size self-certifications that the CMR have selected as a random sampling (see part 4 of this chapter, especially paragraphs 5-4(c) and 5-4(g)).

3. **Conducting the Entrance Conference**

- a. The CMR may conduct an Entrance Briefing with the LPC's small business liaison officer, director of purchasing, and other personnel on the first day of the review if desired. The briefing should encompass the objectives of the review, how it will be conducted, and how coordination between the CMR and the contractor will be handled. The CMR should stress the objectivity of the review and emphasize the potential value of it to the company (i.e., identification of program weaknesses and suggestions for corrective action). He/she may also want to consider conducting the Entrance Briefing via teleconference prior to his/her arrival to allow more time during the day of the review.
- b. The CMR may waive the Entrance Briefing if the SBLO and the Director of Purchasing are the same individuals who held these positions during the last review.

- c. The following outline as a rough guide for an Entrance Briefing. Bear in mind, though, that each review is unique, and specific circumstances may necessitate modifying or expanding the topics listed below:
- (1) Introductions: team members and prime contractor personnel in attendance;
 - (2) Brief statement about SBA (mission of the Agency, etc.);
 - (3) SBA's role in subcontracting (pre-award plan reviews, post-award compliance reviews, etc.);
 - (4) Purpose of this review (to assess contractor's compliance with statutes and regulations, to make recommendations for improvement, etc.);
 - (5) Scope of the review (documentation to be reviewed and personnel to be interviewed);
 - (6) Coordination and logistics (prime contractor's point-of-contact for the review, room arrangements, security considerations, parking place, rest rooms, etc.);
 - (7) Schedule (tour of the facility (is optional); anticipated beginning and ending time, and time for the exit briefing); and
 - (8) Documentation needed to get started (organizational charts, purchase order journal, etc.).

4. **Covering the Elements of the Checklist**

a. The Seven Elements of a Small Business Program Compliance Review (SBPCR)

The SBPCR Checklist in appendix 14 must be used as a work paper for completing the seven elements of a SBPCR. The seven elements are:

- (1) Sourcing;
- (2) Validation of the *Subcontracting Report for Individual Contracts* and *Summary Subcontract Reports*;
- (3) Trend Analysis;
- (4) Overall Evaluation of the Contractor's Subcontracting Program;
 - (a) Management's support of the Program

- (b) Training
 - (c) Outreach
 - (d) Assistance to small businesses
 - (e) Success stories
- (5) Subcontracting plan goal analysis;
 - (6) Sampling of subcontracts issued to large business; and
 - (7) Follow-up on SBA's prior recommendations.

b. Sourcing

- (1) The CMR may be able to help an LPC to identify resources to locate small business concerns for its current or future contracts. He/she should inquire if there are any current jobs for which the LPC is not meeting its goals and in what commodity and category (i.e. small disadvantaged business) can SBA assist the LPC in finding sources. During the review, the CMR should address how the contractor looks for new suppliers and how suppliers are qualified. In some types of contracts, the LPC will have to identify upfront all of its suppliers/ subcontractors in its proposal. In others, the contractor can continually seek new suppliers throughout the contract. The contractor should be encouraged to actively use CCR and SUB-Net. Buyers should also be trained on these resource tools. The CMR should offer to assist in identifying small businesses to refer to the contractor. He/she should encourage the SBLO to establish tools so that it has an effective means of finding and utilizing new suppliers. As discussed in chapter 6, the CMR should not be overly aggressive in performing searches for new suppliers on the contractor's behalf. It is generally more constructive to train the contractor to use available tools (i.e. CCR, SUB-Net, local Chambers of Commerce, local and national trade organizations, local and national trade fairs).
- (2) If the CMR has have referred any sources to the contractor since the last visit, he/she may follow up on whether they were utilized. If so, these should be report these to the AD/GC on the Monthly Report as a Success Story.

c. Validation of the Subcontracting Reports for Individual Contracts/Summary Subcontract Reports

Validity of the contractor's methodology for preparing the *Subcontracting Report*

for Individual Contracts and Summary Subcontract Reports is a very important part of the review. Large contractors found to be deficient on this element must be graded *Marginal* or *Unacceptable* regardless of the outcome of the other review elements. In extreme cases, may determine that there is no point in continuing with the review and simply grade the company *Unacceptable* based upon this initial review element. However, if the contractor believed its system for completing the reports was acceptable and is making a good faith effort to comply with the remaining elements of its subcontracting plan(s), the review should continue. In this case, the errors on the reports would just be pointed out as a major finding. This validation is intended to ensure that the small businesses, in every subset group, are actually receiving the subcontracts claimed by the large contractor. It is also very important that the contractor is only counting companies as SDB's and HUBZone small business concerns that are certified by SBA. The procedure for validation and verification is as follows:

- (1) Prior to the review date, the CMR should have randomly selected about twenty small businesses that the contractor has awarded a subcontract to in the last year (see 5-b-1). Make sure that his/her selection contains a cross section of small businesses from every one of the subset categories. The CMR may wish to select the small businesses that were awarded the largest aggregate dollar amounts since these companies have the largest impact on the numbers reported on the *Subcontracting Report for Individual Contracts and Summary Subcontract Reports*. The CMR should also be certain that his/her sampling contains several SDB and HUBZone firms. Prior to the review, the CMR may verify that the SDB and HUBZone firms in his/her sampling are certified by SBA in its Central Contractor Registration (CCR) database.
- (2) During the review, the contractor should be able to produce a written size self-certification for each small business the CMR selected. These written certifications should be crosschecked with the way the company has classified the firm in its purchasing log/supplier database.
- (3) The size certification form should be checked to validate that the form is gathering the size information correctly. For instance, when are suppliers required to complete the size certification? Does it contain all the small business and subset categories? If it contains definitions, are they correct? Does the company verify SDB and HUBZone firms in CCR? Does the form contain the required "Penalty for False Misrepresentation"?
- (4) Due to an advance in technology, some large prime contractors (LPC's) are gathering size certifications electronically (via its Website or email). As long as the LPC is able to print or show the CMR the electronic certification, this is acceptable. In most cases, the contractor should be able to print out the electronic certification for the companies in his/her random sampling. This does not mean that it is acceptable for an LPC to

utilize the services of an outside company to classify its vendors without written size self-certifications.

- (5) The CMR should make sure that the company is counting a subcontractor in all the categories it qualifies for. For instance, the dollars awarded to a small woman-owned, SBA certified HUBZone firm can be counted in three categories: small, small women-owned, and small HUBZone.
- (6) The CMR should ask the contractor to explain the method used to prepare the *Subcontracting Report for Individual Contracts* and *Summary Subcontract Reports* for the most recent period. The CMR should examine how subcontracts awarded during that time period were tallied for the reports and verify that the totals in each category match the corresponding line on the most recent *Subcontracting Report for Individual Contracts* and *Summary Subcontract Reports*. In most cases, this will be a computerized process so the CMR should be verifying the parameters of the search that was used.
- (7) The CMR should verify not only the dollars, but also the percentages reported by the contractor on the *Subcontracting Report for Individual Contracts* and *Summary Subcontract Reports*.
- (8) The CMR should also review the contractor's formula for applying indirect costs.
- (9) In rare cases the CMR may need to do more to verify the subcontracting dollars claimed by the large contractor. If the CMR have suspicions regarding the written size self-certifications or purchase orders placed, the CMR may contact the small businesses directly by letter, telephone, e-mail, or a personal visit.
- (10) The CMR should verify that the CEO is signing the *Summary Subcontract Reports*.
- (11) The CMR should make sure that any expenses that the contractor is excluding from the *Subcontracting Report for Individual Contracts* and *Summary Subcontract Reports* are correct. All subcontracts must be included. "Subcontracts" are defined in FAR Part 19.701 as "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 the performance of the contract, contract modification or subcontract." Typically contractors eliminate expenses that do not meet this definition such as taxes, landing fees, employee reimbursements, etc.

- (12) The CMR should also verify that the contractor is including all transactions, whether called purchase orders, subcontracts, agreements, or another term, on its reports. Some contractors, such as construction companies, differentiate between subcontracts and purchase orders. It should be clarified that subcontracts mean all transactions to supply the good or services required for the performance of the contract.
- (13) Many contractors are now using purchasing/credit cards. Many of these transactions meet the definition of a subcontract and must be included in the reports. Note that purchasing card transactions are usually indirect expenses so a company only has to include a prorated portion of these on its *Subcontracting Reports for Individual Contracts* (only if it stated in its subcontracting plan that the goals included indirect costs). A prorated portion of indirect costs must be included on the *Summary Subcontract Reports*.
- (14) If the procedure for auditing the *Summary Subcontract Report*, as described in paragraphs 5-4b(1) through (5) above, reveals no problems or deficiencies, the CMR may proceed directly with the Five-Year Trend Analysis.
- (15) The CMR can pass or fail the contractor on this element of the review. If there are deficiencies, determine their level of seriousness as follows:
 - (a) If minor deficiencies are identified (e.g., a small error of arithmetic in computing the percentages), the CMR should proceed with the review. He/she should make note of the deficiency in the final report and in his/her recommendations.
 - (b) If significant deficiencies are identified (e.g., subcontracts to small business are unsupported), but the error appears to be careless rather than deliberate, the CMR should proceed with the review. However, he/she may not rate the contractor higher than *Marginal* until the contractor remedies the deficiencies. If the deficiencies can be remedied during the review, or within a few days after and documentation is shared with the CMR, he/she may rate the company higher.
 - (c) If significant deficiencies are identified and appear to be deliberate, the CMR may cancel the remaining portions of the review and rate the contractor *Unacceptable*. Upon returning to the office, he/she should prepare a letter to the large contractor outlining the reasons for this determination and request remedial action. (also, see paragraph 5-8(e), "Material Breach of Contract," to be considered in extreme cases.) If the CMR believe the deficiency constitutes fraud, he/she must refer the matter to the

Inspector General.

d. Trend Analysis

- (1) The source of the data for this report is the year-end *Summary Subcontract Report* for the contractor's past five years (or as many years as available). Before performing the analysis, the CMR should examine the company's methodology for preparing the *Summary Subcontract Reports* as described in paragraph 5-4(c). He/she should generate a Five-Year Trend table. The following factors should be considered in the analysis:
 - (a) As a general rule, percentages are more meaningful than dollar amounts. Accordingly, the CMR should use percentages rather than dollars to formulate his/her conclusions about the trend.
 - (b) The trend should reflect data from the five most recently completed years. Data from a mid-year *Summary Subcontract Report* should not be used.
 - (c) Percentages that have deteriorated, fluctuated, or remained stagnant must be explained by the contractor. In some cases, the explanation may be that the contractor's product mix has changed, its number of contracts is erratic, divisions were acquired or sold, or product lines more conducive to subcontracts with small business have ended. Upon investigation, a negative trend may or may not be justified.
- (2) Since Section 8(d) of the Small Business Act (15 U.S.C. Section 637(d)) uses the language "maximum practicable opportunity," which is subject to considerable interpretation, the CMR must exercise careful judgment in formulating any conclusions. The key point here is that the trend should be positive; or, if it is negative, there should be sound rationale to explain why.
- (3) After considering any special circumstances that may explain apparent poor performance, the CMR must decide whether the contractor has provided maximum practicable opportunities to small businesses, small disadvantaged businesses, women-owned small businesses, HUBZone small businesses, veteran-owned small businesses, and small disadvantaged/veteran-owned small businesses as required by the law.
- (4) The CMR should discuss with the contractor any purchasing procedures that may be causing a negative or decreasing trend, such as long term agreements with large businesses, reducing the supplier database and not protecting the small businesses listed, mandatory corporate-wide

agreements with large businesses, and the possible minimization of these negative purchasing decisions.

- (5) The CMR should also verify that the contractor has submitted a listing of subcontract awards to SDB's, by North American Industrial Classification System (NAICS) code, with its most recent *Summary Subcontract Report*. This is applicable to all contractors, regardless of what type of subcontracting plan is used.

e. Overall Evaluation of the Contractor's Subcontracting Program

- (1) The questions in section D of the "Small Business Program Compliance Review Checklist" will lead the CMR through an investigation of the contractor's internal dedication to the small business program. Findings should be discussed in his/her narrative report.
- (2) Most of the questions in section D can be answered and/or documentation can be provided by the Small Business Loan Officer (SBLO). However, the CMR may wish to also interview key personnel. The two organizational charts requested in the notification letter will be useful in determining which individuals to select for interviews. Besides the SBLO, the CMR may wish to interview the Director of Purchasing, the Corporate Competition Advocate, the Manager of Engineering Services, and several of the Purchasing Agents and Buyers.
- (3) Such discussions should result in a better understanding of the contractor's program. For instance, interviewing a buyer will give the CMR a good idea of how effective training has been and what kind of emphasis he or she believes management places on the small business program. Sample questions that can be asked to a purchasing agent or buyer are listed in appendix 17.
- (4) The Small Business Program should be one that is supported by the President/CEO of the company. The program's success is often dependent on this individual's direct support of the program. The CEO is required to sign the *Summary Subcontract Reports*. SBA also recommends that the CEO emphasize his/her support with a policy letter supporting the program. The CEO should be kept abreast of the status of the subcontracting plan goal accomplishments on a periodic basis. The SBLO should be represented on the organizational chart as someone who is able to influence purchasing decisions. If the SBLO is not the same person as the one named in the subcontracting plans, then the CEO or President should support his/her position with a letter of designation.
- (5) The contractor's participation in many of the programs such as Minority Enterprise Development Week, the Mentor-Protégé Program, is

strictly voluntary. Participation in these activities does demonstrate the contractor's level of outreach efforts; and extra-ordinary efforts in these activities are commonly used to attain a rating of *Highly Successful* or *Outstanding*, provided that the contractor is also meeting its subcontracting plan goals.

f. Subcontracting Plan Goal Analysis

- (1) The objective of examining the company's contracts containing subcontracting plans is to determine actual achievements against the goals for small, small disadvantaged, women-owned small, HUBZone, small veteran-owned, and small service-disabled veteran-owned businesses, as contained in the corresponding subcontracting plans.
- (2) As explained in paragraph 5-4(c), before performing the analysis, the CMR should examine the company's methodology for preparing the *Subcontracting Report for Individual Contracts* and resolve any questions before proceeding. A company may base its subcontracting awards on subcontract payments or subcontracts issued as long as this method is used uniformly throughout the contract. Both are acceptable methods.
- (3) The first step is to decide whether SBA Form 1907, SBA Form 1907A, or SBA Form 1907B is applicable. The CMR should use SBA Form 1907 if the company has individual plans (or a master plan). The CMR should use SBA Form 1907B if the company is a participant in the "DoD Test Program for Comprehensive Subcontracting Plans" (see Definitions in appendix 2). The CMR should use SBA Form 1907C if the company has a Commercial Subcontracting Plan. If a company has a combination of types of subcontracting plans, the CMR should use all applicable forms.
- (4) The CMR should evaluate whether a contractor met his/her goal by looking at the percentage goal, rather than the dollar goal.
- (5) To complete SBA Form 1907, the CMR should obtain the most recent *Subcontracting Report for Individual Contracts* for each contract. The CMR may wish to use a separate SBA Form 1907 for current contracts, and contracts that have completed within the past 12 months. The CMR should transcribe the goals and achievements from the *Subcontracting Report for Individual Contracts* onto SBA Form 1907.
- (6) The CMR should also perform a check to make sure that the subcontracting plan dollar and percentage goals stated on the *Subcontracting Report for Individual Contracts* agree with the dollar and percentage goals stated in the subcontracting plan. For contracts that have been modified, the CMR must also make sure that the original goals have been revised to reflect the modification.

- (7) To complete SBA Form 1907B, the CMR should obtain a copy of the contractor's approved Comprehensive Subcontracting Plan for the most recently completed year. The CMR should list the goals from this plan on SBA Form 1907B. Then obtain a copy of the contractor's *Summary Subcontract Report* for the same year and enter the contractor's achievements on the form. The Subcontracting Plan will also contain goals for two target industries. Since the *Summary Subcontract Report* does not contain the actual achievements for the target industries, the CMR should request this from the contractor.
- (8) To complete SBA Form 1907C, the CMR should obtain a copy of the contractor's approved Commercial Subcontracting Plan for the most recently completed year. Note that Commercial Plans are based on the contractor's year rather than the Federal Government's fiscal year. The CMR should list the goals from this plan on SBA Form 1907C. Then obtain a copy of the contractor's *Summary Subcontract Report* for the same year and enter the contractor's achievements on SBA Form 1907C.
- (9) The CMR do not need to address whether a contractor is meeting its Historically Black College or University or Minority Institution (HBCU/MI) goals. While some DoD, NASA, and Coast Guard subcontracting plans may contain HBCU/MI goals, these are not small businesses and SBA does not monitor this goal category.
- (10) The contractor should be able to fully explain why it is not meeting any of its goals, on any of its contracts. The contractor should be documenting its *Subcontracting Report for Individual Contracts* to fully explain any goal shortfalls. The CMR may also want to encourage the contractor to establish written action plans for any goal that they are not meeting. This is a good way to display "good faith effort."
- (11) The CMR should complete Section E of the "SBPCR Checklist" and discuss the results in the narrative section provided. The CMR must make a determination if the results on the SBA Forms 1907, 1907A, or 1907B, indicate that the contractor is utilizing small businesses and the subset groups to the maximum extent practicable. The CMR should also discuss in the narrative section provided how subcontracting plan goals are formulated. Analyze the goals set and achievements made to determine if the goals are realistic, yet challenging. The SBLO should be an integral part of the subcontracting plan goal-setting process.
- (12) If the company is operating under a Master Plan, Commercial subcontracting Plan, or DoD Comprehensive Subcontracting Plan, the CMR should make sure that the current plan was submitted in a timely

manner, has been properly approved, and has not expired.

- (13) Since this element of the review has a big impact on the contractor's SBPCR rating, the CMR should be certain that his/her calculations are correct.

g. Subcontracts Issued to Large Businesses

- (1) The subcontract analysis serves multiple purposes:
- (a) To recognize what major components the contractor subcontracts to produce its product/service to the Federal government;
 - (b) To make certain that the contractor is soliciting small businesses, small disadvantaged businesses, women-owned small businesses, HUBZone small businesses, veteran-owned small businesses, and service-disabled veteran-owned small businesses in larger acquisitions;
 - (c) To assure that the contractor is considering small business sources when blanket purchase agreements are established;
 - (d) To assure that the contractor is documenting its files adequately in cases where it does not solicit or make award to a SB, SDB, WOSB, HUBZone SB, VOSB, or SD/VOSB; and
 - (e) To determine, in cases where the subcontract is more than \$550,000 and is issued to another large business, whether the contractor is requiring that subcontractor to submit a subcontracting plan with goals for SB, SDB, WOSB, HUBZone SB, VOSB, and SD/VOSB (the flow-down provision). In construction of a public facility, the threshold for this requirement is \$1,000,000 rather than \$550,000.
- (2) The CMR's letter to the contractor that confirms his/her review date asks the contractor to submit two listings of awards to large businesses (see 5-2-b(2) and (3)) to the CMR at least a week prior to his/her review date. From the listing of subcontracts over \$100,000 awarded to large businesses over the past year, the he/she should select a number of subcontracts to review, as follows:
- (a) The sample must be unbiased and produce the same general results that would be derived from examining all subcontract files;
 - (b) If possible, the CMR should include subcontracts in both the product and non-product areas;

- (c) The CMR should review a total of ten purchase orders over \$100,000 issued to large businesses including, if possible, at least six over \$550,000 (or, in construction of a public facility, as many as practical over \$1,000,000); and
 - (d) The CMR should review at least five of the blanket purchase orders established.
- (3) When examining the blanket purchase agreements, the CMR should make sure that the contractor considered small business sources. If the blanket purchasing agreement was expected to exceed \$100,000, the contractor may document the original file that established the agreement with a written justification that meets the requirements of FAR 52.219-9(d)(11)(iii). If the original blanket purchase order file does not contain a justification, then each individual order that exceeds \$100,000 must contain its own justification. This can be documented on SBA Form 1908.
- (4) For purchase orders over \$100,000, the CMR must determine the adequacy of records called for in the Federal Acquisition Regulations (FAR), 52.219-9(d)(11)(iii), which reads as follows:
- “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 veteran-owned small business concerns were solicited and, if not, why not;
 - (c) Whether service-disabled veteran-owned small business concerns were solicited and, if not, why not;
 - (d) Whether HUBZone small business concerns were solicited and, if not, why not;
 - (e) Whether small disadvantaged business concerns were solicited and, if not, why not;
 - (f) Whether women-owned small business concerns were solicited and, if not, why not; and
 - (g) If applicable, the reason award was not made to a small business concern.”

- (5) For purchase orders of more than \$550,000 (more than \$1,000,000 in the construction of a public facility) issued to other large businesses, the CMR must determine whether the contractor obtained subcontracting plans from its subcontractors (the flow-down provision). Such plans should be examined to be certain that they contain the six elements required in a subcontracting plan (see paragraph 3-1a). If there is no lower tier subcontracting going to take place, the contractor should have a written statement from the subcontractor and issue a written waiver to the subcontracting plan. The CMR should validate that the contractor is receiving *Subcontracting Reports for Individual Contracts* from the subcontractor and monitoring these reports for accuracy and goal attainment.
- (6) In accordance with FAR 52.212-5(e) and 52.244-6(c), a contractor does not currently have to flow-down FAR 52.219-9 when it is subcontracting for a “commercial item.” (See Definitions, appendix 2). Therefore, a flow-down plan is not required from these subcontractors. However, the CMR may wish to inquire as to the nature of the subcontracts to validate that the subcontract was, in fact, for a commercial item. SBA has submitted a formal case to the FAR Council that addresses this issue and will, if approved, require flow-down for all subcontracts over the applicable dollar threshold, including subcontracts for commercial items.
- (7) Some large contractors accept a statement or certificate from their subcontractors stating that they have a subcontracting plan in place. The statement is commonly called a "Certificate of Compliance" or "Certificate in Lieu of a Plan." According to current guidelines by the Office of Federal Procurement Policy (OFPP), this is not acceptable. Large contractors are required to describe their procedures for reviewing, approving, and monitoring their subcontractors' compliance with subcontracting plans and *Subcontracting Reports for Individual Contracts*. Copies of subcontractor's subcontracting plans must be retained by the large contractor until completion of the subcontract. A "Certificate of Compliance" or statement from the subcontractor that it has a subcontracting plan does not satisfy this requirement. A contractor cannot approve or monitor a plan it has never seen.
- (8) If the contractor accepts the "Certificate of Compliance" it should be addressed in the final report. The contractor should not receive an *Outstanding* rating, even if all other elements of the review are outstanding.

- (9) Note that the flow-down requirement (FAR 19.704(a)(9) and 52.219-9(d)(9)) is enforced as follows:
- (a) If the subcontractor is a participant in DoD's *Test Program for Comprehensive Subcontracting Plans*, the prime contractor may satisfy this requirement by verifying that the subcontractor is a current participant and documenting the file accordingly;²
 - (b) If the subcontractor has a "Commercial Plan" approved by a Government Agency for the current year, the prime contractor may satisfy this requirement by obtaining a hard copy of the Commercial Plan with the signature of the approving official; or
 - (c) If the subcontractor is not a participant in DoD's "Test Program for Comprehensive Subcontracting Plans" and does not have a Commercial Plan, the prime contractor must obtain an individual contract plan (FAR 19.701) for the instant subcontract and retain it in the contract file with the other contract documents.
- (10) By definition (see FAR Clause 52.219-9(g)), a Commercial Subcontracting Plan relates to the contractor's production for both commercial and noncommercial products, rather than solely to the government contract. Accordingly, the CMR may review any purchase order to large business issued by the contractor, regardless of whether the purchase order is directly related to the product being purchased by the Government.
- (11) The CMR must document the results of this analysis on SBA Form 1908, "Subcontract Review Checklist - Awards to Large Business."
- (12) The CMR must complete section F of the "SBPCR Checklist" and discuss the results in the narrative section.
- h. Follow-up on Prior Recommendations
- (1) A SBPCR helps the large contractor improve its small business program by providing recommendations in the final report. Whether the contractor has implemented SBA's recommendations from the last review is significant.

² A list of participants may be found on the Internet at <http://www.acq.osd.mil/sadbu/csp/procurement.html> or by contacting the Program Manager in the DOD OSD OSDBU at (703) 588-8618.

- (2) The CMR may have previously evaluated whether the contractor has implemented SBA's previous recommendations during a Follow-Up Review. If this is so, the CMR may make a statement in the narrative portion to this effect. If any recommendations have still not been implemented, the CMR should list these specific recommendations.

5. **Interpreting the Findings**

- a. The review determines the extent to which the contractor provides SB, SDB, WOSB, HUBZone, VOSB, and SD-VOSB's the maximum practicable opportunity to participate as subcontractors in the performance of Federal contracts. If a large contractor is providing maximum practicable opportunities, no matter what else the data may reveal (assuming the contractor has passed the initial review element described in paragraph 5-4(c)), the contractor's performance should be considered acceptable.
- b. The true measure of the program should be a combination of actual achievements, regulatory compliance, and pro-active efforts.
- c. The CMR must take great care to be consistent in the manner in which the CMR determine ratings. Definitions are provided for each rating category -- "Outstanding," "Highly Successful," "Acceptable," "Marginal," or "Unacceptable." See paragraph 5-8. These ratings are identical to the ratings used by DCMA.
- d. To determine good-faith effort, the CMR should use the guidance in 13 CFR 125.3(d). This paragraph cross-references 125.3(b), which provides specific examples of efforts to provide the maximum practicable subcontracting opportunities for small business concerns. Additional responsibilities of large prime contractors are described in further detail in 125.3(c).

6. **Determining Material Breach of Contract**

- a. The CMR may find a large contractor's small business program is in non-compliance. In such cases, the CMR may recommend to the Contracting Officer (CO) that the firm should be found to be in Material Breach of Contract.
- b. Non-compliance results from a contractor not acting in good faith with the policies and procedures of Section 8(d) of the Small Business Act (15 U.S.C. Section 637(d)). Examples of specific situations leading to such a determination include, but are not necessarily limited to, the following:
 - (1) A large contractor refuses to permit the CMR to conduct a review as

authorized by statute;

- (2) A large contractor having a contract containing the clause at FAR 52.219-8 refuses to subcontract to small businesses when it is clear that the opportunity to do so exists;
 - (3) A large contractor having a contract of more than \$550,000 has violated one or more conditions of its subcontracting plan and refuses to take corrective action; or
 - (4) The CMR have performed a Program Review and have determined the contractor's program to be "Unacceptable."
- c. Once the CMR has decided to recommend a contractor's program to be in Material Breach of Contract and have obtained concurrence from the AD/GC, he/she should proceed as follows:
- (1) Write to the Contracting Officer (CO) advising that the SBA recommends the contractor be placed in Material Breach of Contract. The letter should state the reason for this recommendation and should ask the CO what action will be taken.
 - (2) If the CO initiates procedures to terminate the contractor's contract(s), the CMR should maintain a dialogue with the CO until the contracts are terminated. If, as a result of the CO's cure notice or show-cause letter, the contractor remedies the situation to his/her satisfaction, the CMR should advise the CO in writing that the recommendation of Material Breach of Contract is rescinded.
 - (3) If the CO fails to take positive action on SBA's recommendation, the CMR should prepare a memo to the Associate Administrator for Government Contracting in Headquarters. This memo, which must be transmitted through the AD/GC, should include the following information:
 - (a) A full explanation of the situation leading to the recommendation of Material Breach of Contract, including names, dates, and other pertinent details;
 - (b) A summary of actions that the CMR have taken, prior to the recommendation and subsequent to it, to persuade the large contractor to take corrective measures; and
 - (c) A summary of the dialogue, oral or written, which has taken place between the CMR and the CO regarding the matter, and copies of any correspondence.

- (4) If it is necessary for the CO to terminate the contract(s) for default, or if the situation cannot be resolved to SBA's satisfaction, the CMR should so note in his/her comments on any proposed subcontracting plans for that large contractor in the future.
- (5) If a PCR is assigned to the buying activity, notify him or her of the recommendation and the CO's actions.

7. Rating the Contractor

- a. Each contractor is assigned a rating as a result of a SBPCR or Follow-Up Review. The possible rating categories are as follows:

- (1) Outstanding
- (2) Highly Successful
- (3) Acceptable
- (4) Marginal
- (5) Unacceptable

- b. In order to determine which rating is appropriate, the CMR should use the guidelines below. Note that "negotiated goals" refers to the percentage goals in the approved subcontracting plan. (Compare the percentage goals to the percentage achievements.)

- (1) Outstanding

Exceeded all negotiated goals or exceeded at least one goal and met all of the others. Has exceptional success with initiatives to assist, promote and utilize small business (SB), small disadvantaged business (SDB), women-owned small business (WOSB), HUBZone small business, veteran-owned small business (VOSB), and service-disabled VOSB (SD/VOSB).

Examples of such initiatives include, but are not limited to, participating in a Mentor-Protégé program, performing compliance reviews at subcontractors' sites, administering a buyer incentive program, participating in trade fairs, promoting registration in Central Contractor Registration (CCR), and contacting suppliers to encourage SDB and HUBZone certification. An outstanding rating signifies that the company has an exemplary program that could be used as a model by other contractors in similar industries.

- (2) The CMR may recommend a large contractor that receives an Outstanding rating for the Award of Distinction (see chapter 7). Some reasons for **not**

nominating a company with an Outstanding rating for *the Award of Distinction* may be:

- (a) While all aspects of the contractor's program are exemplary, the program has not been operating at this level for a period long enough to determine that this is a permanent commitment;
- (b) The CMR are aware that the company is under investigation by a Federal Department's Inspector General for making false claims or other illegal activities; or
- (c) The CMR are aware that the contractor is in non-compliance with Equal Employment Opportunity requirements.

(3) Highly Successful

Met all of its negotiated goals in the traditional socio-economic categories (SB, SDB, and WOSB) and met at least one of the newer socio-economic goals (HUBZone small business, VOSB, and SD/VOSB) for each contract that contains two or more of those goals. Has significant success with initiatives to assist, promote and utilize SB, SDB, WOSB, HUBZone small business, VOSB, and SD/VOSB. Makes an effort to go above and beyond the required elements of the program and can provide documentation and success stories to support such efforts.

(4) Acceptable

Demonstrated a good-faith effort to meet all of its goals, but has not met the rigorous criteria for a Highly Successful or Outstanding rating. Fulfills the requirements of its subcontracting plan and the regulations. *Subcontracting Reports for Individual Contracts* and *Summary Subcontract Reports* are complete and accurate.

(5) Marginal

Deficient in meeting key subcontracting plan elements, the *Subcontracting Report for Individual Contracts* and/or *Summary Subcontract Reports* are not correct, or the contractor has failed to satisfy one or more requirements of a corrective action plan currently in place. However, contractor's management does show an interest in bringing its program to an acceptable level and has demonstrated a commitment to apply the necessary resources to do so. A "corrective action plan" is required, and the Administrative Contracting Officer(s) must be notified.

(6) Unacceptable

- (a) Noncompliant with the contractual requirements of DFARS and Federal Acquisition Regulations 52.219-8 and 52.219-9. Contractor's management shows little interest in bringing its program to an acceptable level or is generally uncooperative. For example, recommendations made by SBA or Defense Contractor Management Agency on previous reviews have never been implemented. A corrective action plan is required, and the Administrative Contracting Officer(s) must be notified.
- (b) The CMR may also assign an Unacceptable rating to a contractor if it continually fails to cooperate with SBA even though no official SBPCR has been conducted. For instance, a company will repeatedly not agree to a SBPCR review date, or not allow the CMR on its facility, or after repeated requests will not complete the *Subcontracting Report for Individual Contracts* or *Summary Subcontract Reports* or will not provide the CMR copies of the reports. Before assigning an Unacceptable rating, the CMR should have exhausted all efforts to get the contractor to cooperate, including asking the AD/GC to call to the contractor's upper management. The CMR should address his/her narrative to the CEO and identify the reason(s) why an Unacceptable rating has been assigned. The letter should request a corrective action plan within a certain number of days (i.e., 45 days). The CMR should inform the contractor that SBA will recommend to the Contracting Officer that a "Material Breach of Contract" will be found if a corrective action plan is not received by the deadline. The letter should be provided to all parties that would normally receive the SBPCR narrative as outlined in paragraph 10.
- c. The regulation at 13 CFR 125.3 contains additional guidance on rating the contractor at 125.3(f)(3).

8. **Conducting an Exit Briefing**

- a. Before the conclusion of the review, the CMR should arrange a time for the Exit Briefing. In most cases the briefing may be conducted on the final day of the review. The CMR may sometimes need more time to analyze the data and to develop the recommendations. The Exit Briefing must be conducted within 30 days after completing the review. If the Exit Briefing is postponed it may be conducted via teleconference instead of in person, if desired.
- b. The CMR should invite the following individuals to the Exit Briefing:
 - (1) The corporate official at the President/Vice President level;

- (2) The Director of Purchasing;
 - (3) The small business liaison officer (SBLO)
 - (4) The SBLO's supervisor, if not already listed under (1) or (2) above;
 - (5) Any other members of the contractor's organization who the CMR think impact, either directly or indirectly, the subcontracting program, and
 - (6) If any of the individuals named above are not able to attend the review, the CMR may use his/her own discretion whether to postpone the exit briefing or continue without this individual.
- c. The Exit Briefing should encompass all of the major points that will be in the final report. If the CMR did not conduct an Entrance Briefing or if there are any attendees who did not participate in the Entrance Conference, the CMR may wish to briefly summarize the objectives of the review. Other points to be addressed during the Exit Briefing:
- (1) What documentation was reviewed and what interviews were conducted;
 - (2) The major findings of the review (general and specific);
 - (3) Recommendations that will be included in the final report; and
 - (4) The contractor's rating for this review ("Outstanding," "Highly Successful," "Acceptable," "Marginal," or Unacceptable). If the CMR feel that this will lead to a prolonged discussion, the CMR may withhold this information until the final report is released.

9. **Sharing the Recommendations and the Rating with the Large Contractor**

- a. Within 45 days after the Exit Briefing, the CMR must prepare a concise narrative report to the large contractor summarizing the results of the review. The narrative must be typed and must address each of the following points:
- (1) Major findings;
 - (2) Recommendations;
 - (3) The company's rating;
 - (4) Rationale for the rating; and
 - (5) A Corrective Action Plan is required if the contractor has been assigned

a Marginal or Unsatisfactory rating. However, a Corrective Action Plan may be requested if the assigned rating is “Acceptable,” “Highly Successful,” or “Outstanding” (the latter in rare cases). A realistic deadline (e.g., 30 days) should be set for the Corrective Action Plan.

- b. The CMR should prepare a cover letter, as shown in appendix 18, to thank the SBLO and other contractor personnel for their courtesy and cooperation. The CMR may choose to incorporate his/her narrative into this letter instead of having two separate documents. A copy of the SBPCR Checklist need not be provided to the contractor.
- c. The cover letter should be addressed to the CEO/President of the company and a copy should be provided to each of the following:
 - (1) Each member of the contractor's organization who attended the Exit Briefing;
 - (2) Each appropriate contracting officer; and
 - (3) The AD/GC.
- d. The letter to the contractor must contain the following paragraph: “Once a year, SBA intends to share this rating with the head of the federal activity with which you have active subcontracting plans. Since this information may be used in the future to ascertain past performance, you may submit comments, rebutting statements, or additional information within 30 days after receipt of this letter, in accordance with the Federal Acquisition Regulation (FAR) subpart 42.1503.”
- e. If the review encompassed any flow-down subcontracts with subcontracting plans, the CMR should use extreme caution in providing a copy of the letter to the prime contractor. If any specific detail regarding performance on another contract is discussed the CMR should sanitize the copy, or refrain from providing a copy of the findings to the prime contractor altogether.
- f. If this is a Joint Review with DCMA, the letter should be routed to the CMR’s DCMA counterpart that attended for his/her signature. If another federal agency joined the CMR in the review, the CMR may use his/her discretion in deciding whether to route the narrative to the other agency, in order to present the findings under both signatures, or simply issue the narrative under his/her own signature.

10. **Concluding Actions**

- a. SBA is currently working with the managers of the Past Performance Information Retrieval System (PPIRS) to provide a means for the CMRs to enter the results of their reviews into this Government-wide database. Contracting officers will then

be able to use this information in source selection, in cases where the Government's solicitation sets forth subcontracting performance as an evaluation factor. Once the details of this arrangement have been worked out, SBA headquarters will provide guidance to the field. CMRs will then be expected to enter following information into the database within seven working days after completing the final report:

- (1) The date of the review;
 - (2) The type of review; and
 - (3) The company's rating ("Outstanding," "Highly Successful," "Acceptable," "Marginal," or Unacceptable).
- b. The CMR is responsible for making certain that all documents pertaining to the review are placed in the contractor's file without delay. At a minimum, these documents include the following:
- (1) Original letter of notification;
 - (2) Notes used for the Exit Briefing;
 - (3) SBPCR checklist, with attachments; and
 - (4) Final report, and the cover letter accompanying the report.

11. **Conducting a Tandem Team Small Business Program Compliance Review (SBPCR)**

- a. A Tandem Team SBPCR should be used when a contractor has multiple divisions that report under one subcontracting plan, or multiple sites that feed information into one *Summary Subcontract Report*. All Tandem Team Reviews should be coordinated with the Office of Government Contracting Subcontracting Program Manager in Washington DC.
- b. Before conducting any SBPCR, the CMR should ask the contractor how its Small Business program is organized. If the CMR determine that several divisions participate in the compliance of the subcontracting plan, the CMR should confer with the other appropriate CMR s for those divisions and organize a Tandem Team Review.
- c. In a Tandem Team Review, the Lead CMR will be the organizer of the review. He/she will conduct a full SBPCR at the Lead Prime Contractor's facility and assign a rating to the contractor. CMR's that cover the other divisions will conduct Sub-site reviews. Note that any division that prepares its own separate *Summary Subcontract Report* should not be considered a Sub-site and should receive a regular SBPCR.

- d. Each Sub-site review will encompass any element that ultimately contributes to the fulfillment of the subcontracting plan. Sub-site CMR s should contact their respective division and coordinate a review date using the method described in paragraph 5-2.
- (1) During the review, the CMR will complete every portion of the SBPCR review checklist that is applicable to that division. For instance, if the contractor collects size self-certifications, the CMR should do a random sampling of size self-certifications and check its methodology.
 - (2) If a division prepares subcontract expenditures that are ultimately rolled into the Lead division's *Summary Subcontract Report*, the CMR should review the *Sub-site's* methodology for collecting this data.
 - (3) Once the CMR have completed the Sub-site review, the CMR should forward the review checklist to the Lead CMR with a narrative explaining any findings or deficiencies. The CMR will not assign a rating to a Sub-site review.
- e. For most companies, the *Lead* division is obvious. But for some, there may be a bit of confusion as to which division is the *Lead* division. To determine which division is the *Lead* Division, the CMR must take into account:
- (1) Which division prepares the *Summary Subcontract Reports*?
 - (2) Which division has the SBLO that is named in the subcontracting plan?
 - (3) Which division does the majority of the purchasing?
 - (4) Which division seems to manage the subcontracting plan?
- f. Sub-site reviews should ideally be conducted prior to the Lead CMR 's review so that the Lead PS can encompass Sub-site review findings into the Lead review.
- g. The Lead CMR will take into account all Sub-site findings, as well as the Lead division's findings, and determine the rating. The rating will apply to the Lead division and all Sub-site divisions. The Lead CMR will write the narrative to the Lead division. In addition to the parties listed in Paragraph 5-10(c), each Sub-site division and CMR covering the Sub-site division will receive a copy of the narrative.
- h. If a Sub-site performs only menial tasks associated with the subcontracting plan, such as conducting minor outreach efforts to locate suppliers, then completion of the Sub-site review checklist can be waived upon the Lead CMR's approval. In

this instance, the Sub-site CMR should have a conversation with that division and prepare a brief narrative to the Lead CMR discussing its minor role.

- i. If a Sub-site division is located so remotely from the Sub-site CMR that travel funds cannot be justified, the Sub-site review may be conducted in accordance with the Off-site SBPCR guidelines established in paragraph 5-13.
- j. While the Tandem Team Review may seem to be more cumbersome than a typical SBPCR review, it is designed to be more comprehensive and eliminate prime contractors from shuffling small business functions to one division to prevent effective oversight.
- k. Both the Lead and Sub-site division(s) should appear in the Subcontracting Computer Database, since this information is transcribed into the Subcontracting Opportunities Directory. The Lead and Sub-site division(s) both (all) offer potential subcontracting opportunities for small businesses.

12. **Conducting an Off-Site SBPCR**

- a. In some cases, it may not be practical or feasible to conduct an on-site SBPCR. In this instance, the CMR may conduct an off-site SBPCR using mail and telecommunication methods such as email, phone interviews, etc.
- b. Keep in mind that an on-site SBPCR is SBA's preferred method. Each Area Office of Government Contracting may only conduct two off-site SBPCR's a year.
- c. The CMR may not conduct an off-site SBPCR if the contractor has more than three active contracts with subcontracting plans.
- d. To conduct an off-site review, the CMR should follow the normal review steps as outlined in paragraph 5-2 and 5-3.
 - (1) In the letter to the contractor establishing a review date, the CMR should identify a date that all the information must be received by SBA, and a date that the CMR will dedicate to review the information, and conduct a telephone exit briefing. A sample letter is provided in appendix 19.
 - (2) The LPC Binder Preparation Checklist will be mailed to the contractor with the letter. A week prior to the review, the CMR should also conduct random samplings as described in paragraph 5-4(c).
 - (3) The SBLO should be available the entire day the CMR have designated to answer any questions the CMR might have. The entrance (optional) and exit briefings may be conducted via teleconference.

- (4) Following the review, the CMR will prepare a letter to the contractor that is similar to the letter in appendix 18.

13. Conducting a Self-Assessment

- a. Self-Assessment SBPCR's offer a new approach for LPC's with well established, highly rated Small Business Programs. The CMR may consider having a contractor conduct a Self-Assessment SBPCR if:
 - (1) The contractor received either a *Highly Successful* or *Outstanding* rating during its last SBPCR;
 - (2) The contractor resolved any findings from the last SBPCR;
 - (3) The SBLO has not changed since the last SBPCR; and
 - (4) The CMR is the CMR that conducted the last SBPCR.
- b. The first step is to contact the SBLO and ask if he/she would be willing to conduct a Self-Assessment SBPCR's. If they agree to conduct a Self-Assessment, the CMR should establish a mutually agreeable deadline for the contractor to have its review completed and mailed to him/her. A sample letter is provided in appendix 20.
- c. A Self-Assessment is virtually identical to a SBPCR, except that the contractor completes the SBPCR Checklist.
 - (1) The contractor must conduct its own random sampling of purchase orders and size self-certifications.
 - (2) The contractor will still assemble a binder with each element of the review information. The contractor will be given the rating definitions and assign its own rating.
 - (3) Once the contractor has completed the review, it must provide all of its documentation to the CMR. The CMR should then review the information thoroughly.
 - (4) The CMR does not need to conduct an entrance or exit briefing.
 - (5) The CMR should mail the contractor a letter summarizing the review of the information and either agree or disagree with its self-assigned rating. A sample letter is included in appendix 21.
 - (6) The contractor's official rating will be one that the CMR assigns in the letter to the contractor.

- (7) A company may not perform two successive Self-Assessments. An on-site SBPCR review must occur at least every other time.

Chapter 6

Other CMR Duties

1. **What is the CMR's Primary Responsibility in Providing Subcontracting Assistance?**

The CMR's principal responsibility is ensuring small business participation in the subcontracting arena through oversight of assigned large prime contractors. Oversight is accomplished largely through execution of reviews. However, several ancillary activities relating contribute to fulfillment of the CMR's principal responsibility.

2. **How are Large Prime Contractors with Subcontracting Plans Usually Identified?**

FAR 19.705-6 instructs a Contracting Officer, after contract is awarded, to mail a copy of the award document to the SBA AD/GC where the contract will be performed (or for a commercial plan, to mail a copy of each commercial plan and associated approvals to the AD/GC where the contractor's headquarters is located). The AD/GC assigns contractors to CMR's based on location, workload, etc.

From time to time, AD/GC's may not receive copies of subcontracting plans from Contracting Officers. Therefore, CMR's should take several steps periodically to identify contractors with subcontracting plans.

Certain federal agencies publish listings of prime contractors with contracts containing subcontracting plans. Some of the most important of these websites are:

- U.S Housing and Urban Development:
<http://www.hud.gov/offices/osdbu/suboprty.cfm>
- U.S. Department of Interior: <http://www.doi.gov/osdbu/prime.htm>
- U.S. Department of Treasury:
<http://www.ustreas.gov/offices/management/dcfo/osdbu/marketing/publications/subcontracting-opportunities/index.html>
- U.S. Department of Agriculture:
<http://www.usda.gov/da/smallbus/sbonline5.htm>
- SSA: http://www.ssa.gov/oag/acq/oagacq_smbus_subcontracting.htm
- U.S Dept of Agriculture: <http://www.usda.gov/da/smallbus/tblcontents.htm>
- National Institute of Health: <http://www.sbo.od.nih.gov/> (click on Publications)
- U.S. Department of Commerce: <http://www.osec.doc.gov/osdbu/Primes.htm>
- U.S. Department of Defense -
<http://www.acq.osd.mil/sadbu/publications/subdir/main.htm>

3. How are “Flow–Down” Subcontracting Plans Identified?

- a. If Large Prime Contractor (LPC) “A” awards a subcontract over \$550,000 to LPC “B” that offers further subcontracting opportunities, LPC “B” (which is now a subcontractor, not a prime contractor) must prepare a formal subcontracting plan and submit it to LPC “A.” This is known as the “flow-down requirement.” SBA is responsible for reviewing flow-down subcontracting plans.
- b. CMR's may discover flow-down subcontracting plans during Program Review examination of subcontracts awarded to large business (see paragraph 5-4(g) above). The CMR should determine that the LPC (in the example above, LPC “A”) is monitoring the large subcontractor's subcontracting achievements (in this example, the achievements of LPC “B”) against the goals in its flow-down subcontracting plan. Further, the CMR should add the LPC subcontractor to his/her portfolio, and make certain that the LPC submits courtesy copies of the *Summary Subcontract Reports* and, if applicable, the *Subcontracting Report for Individual Contracts*. In many cases, LPC's do not fully understand flow-down requirements. Therefore, it is incumbent upon the CMR to explain the requirements thoroughly.
- c. When conducting a small business program compliance review, the CMR should ensure that the prime contractor is requiring flow-down subcontracting plans, when applicable. He/she may wish to share the sample flow-down letters

provided

in appendix 23 and appendix 24 that a prime contractor can use when awarding a subcontract over \$550,000 (or \$1M for construction) to another large business.

4. **How can Federal Procurement Data System-Next Generation be used to Identify Large Prime Contractors?**

The Federal Procurement Data System/Next Generation (FPDS/NG) identifies prime contractors receiving contracts containing subcontracting plans. This information is then provided automatically to the electronic Subcontracting Reporting System (eSRS), an electronic, web-based database for subcontract reporting. The eSRS is able to generate reports that list contractors with subcontracting plans by state, SBA region, or GC area. The CMR should review this listing and take note of any contractors not currently in his/her portfolio. The listing can also be used to ensure that all required *Subcontracting Reports for Individual Contracts* and *Summary Subcontract Reports* are received.

5. **How can the Electronic Subcontracting System (eSRS) be used to Identify Large Prime Contractors?**

With few exceptions, all prime contractors will soon be required to enter their *Subcontracting Reports for Individual Contracts* and *Summary Subcontract Reports* into the eSRS. Implementation of the eSRS for the Department of Defense is targeted for April 2007.

6. **How Else are Large Prime Contractors Identified?**

Occasionally, subcontracting plans are addressed to the wrong Area Office. In these circumstances, CMR's should forward subcontracting plans of firms for which he/she is not responsible to the appropriate Area Office. In general, the CMR located closest to the SBLO's location, as identified in the subcontracting plan, is assigned the contractor. CMR's through the Subcontracting Computer Database, or by contacting the appropriate AD/GC.

7. **What Should the CMR do if He/She Identifies a New Contractor?**

The CMR should initiate action to obtain the subcontracting plan. Depending on the source, only partial information, such as the contractor's address, contract number, and/or awarding activity may be available. The CMR should use judgment in deciding whether to contact the Contracting Officer (or Administrative Contracting Officer) to request a copy of the subcontracting plan under FAR 19.705-6, or to contact the contractor to request a copy of the subcontracting plan and any *Subcontracting Report for Individual Contracts* or *Summary Subcontract Reports* that have been submitted to date.

8. **What Should the CMR do to Manage Large Prime Contractors Assigned to Him/Her?**

The CMR should receive *Subcontracting Reports for Individual Contracts* and *Summary Subcontract Reports* for every prime contractor assigned to him/her. The *Summary Subcontract Report* directs the contractor to mail a copy to its assigned CMR. The *Subcontracting Report for Individual Contracts* directs the contractor to provide a copy to its assigned CMR, upon request. The CMR should advise assigned contractors that copies of reports should be provided to him/her. A sample letter is provided in appendix 10. If the CMR have not received the reports by the deadlines established in the reports' instructions, the CMR should contact the prime contractor.

9. **How does SBA train Small Business Liaison Officers (SBLOs) about Subcontracting Assistance?**

As needed, SBA trains SBLO's through workshops on the subcontracting assistance. The CMR will generally decide the date, duration, location, subject matter, and organization of the training event.

10. **How Does SBA Promote Excellence in Subcontracting?**

The Agency promotes excellence in subcontracting through a variety activities, among them recognition activities. The CMR should actively encourage large prime contractors in to participate in the Subcontractor of the Year, Dwight D. Eisenhower Award, and Frances Perkins Vanguard award processes. These award processes are described in chapter 8. The CMR should also encourage prime contractors to participate in SBA sponsored activities such as Minority Enterprise Development (MED) Week and Small Business Week.

11. **What does SBA do to Help Federal Agencies Comply with Subcontracting Requirements?**

Since subcontracting plans are his/her area of expertise the CMR may wish to provide subcontracting plan training (including *Subcontracting Report for Individual Contracts/Summary Subcontract Reports*) to Contracting Officers and Contract Specialists. The CMR should coordinate this training with the PCR that covers that procuring activity. Contracting Officers don't typically deal with subcontracting plans on a routine basis so refresher courses are worthwhile.

12. **Should the CMR Participate in Outreach Activities/Trade Fairs/Speaking Engagements?**

As appropriate, the CMR may wish to attend small business outreach activities and trade fairs. There will also be times when the CMR may be solicited to participate as a speaker at these events.

13. **Participation in DOD Councils**

The Department of Defense Office of Small and Disadvantaged Business Utilization (OSDBU) have regional meetings for those involved in contracting with small businesses such as Agency Small Business Specialists, Agency Contracting Officers, and Small Business Liaison Officers. Attending these meetings provides the CMR with an opportunity to get to know other individuals in the small business arena. The council meetings often have expert speakers and focuses on current small business contracting issues and topics.

14. **Counseling and Assisting Small Businesses Subcontracting Opportunities.**

The CMR should provide counseling and marketing assistance to small businesses that contact him/her. Observe the following guidelines:

- a. When counseling a small business, the CMR should make certain that the business:
 - (1) Is registered in CCR;
 - (2) Is aware of SUB-Net;
 - (3) Is given information on how to access the "Subcontracting Opportunities Directory." This directory contains information on LPC's nationwide and can be used as a marketing tool by the small business. The directory is available on the Internet at <http://www.sba.gov/GC/> (click on Contacts, then Subcontracting Opportunities Directory);
 - (4) Is aware that two of the socio-economic classifications (HUBZone and SDB) require SBA certification;
 - (5) Is aware of other SBA programs that may be helpful. For this, the CMR may refer the small business to SBA's Government Contracting website at <http://www.sba.gov/GC> .
- b. Encourage the small business to market itself to LPC's in his/her portfolio, with the understanding that the CMR cannot guarantee any purchase orders or subcontracts. Given that the CMR are acquainted with the products or services that his/her prime contractors supply to Federal agencies, the CMR may be able to direct the small business towards the prime contractors that are best suited for the small business's product or service. Emphasize that the small business should periodically provide feedback to him/her, both positive and negative, and copies of any purchase orders received from the large contractors. This will enable the CMR to address problem small business marketing issues and document any success stories for his/her monthly report.
- c. Since 8(a) firms participate in an SBA-sponsored program, the CMR should make an extra effort to counsel and refer 8(a) firms.

- d. If the CMR is impressed with a business, the CMR may permit the use of his/her name as an introduction to the contractors in his/her portfolio. This is accomplished by furnishing the small business with a sample letter, such as that shown in appendix 25.
- e. In the majority of circumstances, the CMR should simply counsel the small business as advised in paragraph (a) and let it market its own products or service. However, the CMR may also:
 - (1) Advise the large contractor about this source; or
 - (2) Personally introduce the small business to the SBLO. If the CMR choose to introduce the small business to the contractor personally, the CMR should request the SBLO invite other personnel as deemed appropriate (purchasing, quality assurance, and engineering). After returning to the office, the CMR should immediately generate a courtesy letter to the SBLO and other attendees at the meeting. A sample letter may be found in appendix 26.

15. **Assisting Large Prime Contractors (LPC) to find small business sources**

In the past, CMR s played a bigger role in matching the subcontracting needs of LPC's with potential small businesses. But given the matching tools that SBA has implemented like Central Contractor Registration (CCR), LPC's should be encouraged to perform their own searches in CCR or post an opportunity in SUB-Net to locate potential sources. In CCR, LPC's can search the database with a variety of search criteria to locate sources. In SUB-Net, LPC's can post information about specific opportunity that invites small businesses with those capabilities to contact the LPC. Since CCR and SUB-Net are available free-of-charge via the Internet, all buyers may perform their own searches and postings. Discussions regarding CCR and SUB-Net usage should be discussed regularly with LPC's during Subcontracting Orientation and Assistance Review visits and Small Businesses Program Compliance Reviews. The CMR may also give demonstrations when the CMR feel it would promote their usage paragraphs 6-5, describe CCR, SUB-Net, and 8(a) firms in greater detail.

- a. FAR 52.219-9(d)(11) requires each LPC to maintain records of its outreach efforts. These efforts often include searching source lists such as CCR, contacting local and national organizations, and participating in trade fairs. If requested, the CMR may provide LPC's with websites or contact points to the best of his/her knowledge so that the LPC can initiate contact with these organizations. The CMR may also consider performing a CCR and SUB-Net demonstration. In most cases, the CMR should provide the LPC with the tools to conduct its own outreach efforts.

- b. There may be times when an LPC contacts the CMR to request his/her assistance in locating a small business or a small business in one of the subset groups. After verifying that they have attempted to locate sources themselves using one or more of the methods described above, the CMR should comply with their request. The CMR may use his/her own judgment whether to process a request internally, externally, or both. Internally includes searching resources such as CCR, 8(a) firms, small businesses the CMR have met at a trade fair or counseled small businesses on SBA's Nationwide Prime/Subcontractor-of-the-Year Nomination List, or Small Business Innovative Research (SBIR) awardees. The CMR may also extend his/her search by contacting other Government Contracting Area Offices. Externally means requesting assistance from outside resources such as those listed in paragraphs 6-8-4.
- c. When providing a list of small businesses to an LPC, the CMR should identify his/her source (i.e. CCR, 8(a) firm, personal contact, etc). If the CMR have reservations about the qualifications of a supplier, the CMR should state this to the prime contractor or the CMR may wish to refrain from making the referral altogether. This is absolutely essential in order to maintain SBA's credibility as a resource for referrals.

16. To What Other Sources of Assistance Can a CMR Refer Small Businesses?

In counseling sessions, the CMR may wish to refer small businesses to one or more of the following resources available:

a. Procurement Technical Assistance Centers (PTAC's)

PTAC's assist local businesses in marketing products and services to the Federal, state and local governments. They are administered by the Defense Logistics Agency (DLA), on behalf of the Secretary of Defense. There are about 100 PTAC's around the country; some PTAC's are located within SBA Small Business Development Centers. A list of PTAC's can be found on DLA's website (currently <http://www.dla.mil/db/procurem.htm>). Assistance provided to small businesses could include:

- (1) Identifying bid opportunities;
- (2) Reviewing and understanding a solicitation;
- (3) Obtaining specifications;
- (4) Helping prepare a bid or offer; and
- (5) Assisting a small business prepare its SBA HUBZone or SDB application.

By the very nature of a PTAC's involvement with small businesses in the Federal procurement arena, the PTAC's may be able to refer some capable small businesses to match an LPC's needs.

b. Small Business Development Centers (SBDC's)

SBA administers the Small Business Development Center (SBDC) Program to provide management assistance to current and prospective small business owners. SBDC's offer one-stop assistance to individuals and small businesses by providing a wide variety of information and guidance in central and easily accessible branch locations. The program is a cooperative effort of the private sector, the educational community and federal, state and local governments. It provides small businesses with management and technical assistance.

- (1) In each state there is a lead organization that sponsors the SBDC and manages the program. The lead organization coordinates program services offered to small businesses through a network of sub-centers and satellite locations in each state. Sub-centers are located at colleges, universities, community colleges, vocational schools, chambers of commerce and economic development corporations.
- (2) The SBDC Program is designed to deliver up-to-date counseling, training and technical assistance in all aspects of small business management. SBDC services include, but are not limited to, assisting small businesses with financial, marketing, production, organization, engineering and technical problems and feasibility studies. Special SBDC programs and economic development activities include international trade assistance, technical assistance, procurement assistance, venture capital formation and rural development. Assistance is provided to both current or potential small business owners. They also provide assistance to small businesses applying for Small Business Innovation and Research (SBIR) grants from federal agencies. A listing of SBDC's can be obtained at SBA's website at <http://www.sba.gov/sbdc>.
- (3) Service Corps of Retired Executives (SCORE).

SCORE is one of SBA's resource partners. The SCORE Association, headquartered in Washington, D.C., is a nonprofit association dedicated to entrepreneurial education and the formation, growth and success of small businesses nationwide. SCORE has thousands of retired and working volunteers to provide free business counseling and advice as a public service. SCORE offers "Ask SCORE" email advice online. It offers face-to-face business counseling, low-cost workshops, and free and confidential small business counseling.
- (4) SBA's Prime Contracts Program.

This program, under the Office of Government Contracting, has specialists called Procurement Center Representatives (PCR's) who are assigned to Federal purchasing activities. PCR's work with government purchasing personnel to increase procurement opportunities for small businesses, small disadvantaged businesses, women-owned small businesses, historically underutilized businesses zone small businesses, veteran-owned small businesses, and small-disadvantaged-veteran owned businesses. PCR's counsel and assist small businesses interested in furnishing supplies and services to the Federal Government.

- (5) Other Procurement Preference Programs.
- (6) The U.S. Department of Commerce's Minority Business Development Agency
- (7) Local chambers of commerce;
- (8) Business/trade associations;
- (9) State small business offices; and
- (10) Minority purchasing councils.

17. **CCR and SUB-Net**

- a. CCR is an Internet-based database of small businesses, including the small business subset groups that want to do business with the Federal Government's large prime contractors (LPC's). This database is used by LPC's and Federal agencies as a source of possible subcontractors. Small businesses must register in the CCR electronically; and if "small business" is checked, this data will cross-transfer the following day into the CCR database. Following its CCR registration, a small business will be prompted to complete additional fields that are required by the CCR. The small business can enter the additional fields immediately or enter CCR at a later time to update its profile.
- b. CCR's advantages include:
 - (1) CCR is accessed through the Internet. Most small businesses now have Internet access. Searching CCR requires no password or user ID. Any contracting officer, LPC, buyer, or other person can access the information quickly and easily at no charge;
 - (2) Small businesses can update their own CCR profiles as frequently as they wish. CCR profiles that are not updated at least every 18 months are moved to inactive status and are not viewed during a normal search;

- (3) Participating small businesses can reference their CCR profiles on their home pages; and
 - (4) The fields in a CCR profile indicating SBA certification for HUBZone and small disadvantaged business (SDB) are populated by SBA, providing an authoritative reference of all certified HUBZone and SDB firms.
- c. CCR is the most important resource. This resource should always be checked first when trying to locate a source.
 - d. Large contractors can also rely on the information in the CCR database as an accurate representation of a concern's size and ownership characteristics for purposes of maintaining a small business source list. However, CCR does not relieve the contractor of the requirement that a business must qualify and self-certify in writing its size status at the time it submits its offer (see 13 CFR 121.410 and 121.411). CCR is the official database to verify SBA certified SDB's and HUBZone small business concerns.

18. **What is SUB-Net?**

SUB-Net is an Internet-based posting system. An LPC may place a posting for a specific requirement or an on-going requirement that it is seeking small business suppliers to fulfill. SUB-Net requires the LPC user to complete a one-time registration prior to posting its first requirement. An access ID and password is assigned. SUB-Net allows the LPC to describe the product or service they are seeking and set a cut-off deadline for responses.

Chapter 7

Reporting Requirements

1. What is the Subcontracting Computer System?

- a. The Subcontracting Computer System resides on SBA's Intranet site, where it is protected by SBA's firewall. Each CMR is assigned a code and password to enter and access the system's information. SBA Headquarters maintains the system. The Subcontracting Computer System contains a nationwide database of large businesses with subcontracting plans. Each CMR is responsible for entering and maintaining information on the contractors in his/her portfolio.

The Subcontracting Computer System provides the CMR with the following tools:

- (1) Ready access to information in his/her portfolio without having to maintain a separate word processing or spreadsheet file;
 - (2) Merge capabilities for names and addresses to generate personalized letters and correspondence for use with window envelopes;
 - (3) Ability to generate an e-mail listing on demand, so that the CMR can contact all of the companies in his/her portfolio by electronically (for example, to notify them of a new regulation or to remind them about an imminent reporting deadline).
 - (4) A directory of prime contractors with subcontracting plans (primarily large businesses) for small businesses to use for marketing.
- b. The computer system provides SBA Headquarters with critical data about the Subcontracting Assistance Program, including the number of prime contractors in each state and SBA area. The Program Manager uses this information to assess the subcontractor program specialist workload in each state and area.
 - c. At the current time, the CMR must prepare the Five-year Trend Table manually from *Summary Subcontract Report* (SSR) data, using a Microsoft Excel spreadsheet or similar electronic tool. The Electronic Subcontract Reporting System (eSRS), when fully operational, is expected to have the capability of generating this report on demand. The eSRS will also generate SBA Form 1907 (see Chapter 5) using the *Subcontracting Reports for Individual Contracts* (ISR) submitted semi-annually by prime contractors with individual contract plans. The web site address for the eSRS is www.esrs.gov.

2. What is Entered into the Subcontracting Computer System?

- a. The CMR is responsible for entering, updating, and maintaining information regarding his/her portfolio of large prime contractors in the Subcontracting Computer System. Changes must be entered on a regular basis so the information is current and correct at all times. The following items must be entered in the Subcontracting Computer System:
- (2) Basic mandatory information on the contractor such as the name, address, and telephone number of the company, the Small Business Liaison Officer's (SBLO's) name and telephone number, the executive's name, and the contractor's major product or service line.
 - (3) To the extent possible, other non-mandatory information about the company, such as the company's website and the SBLO's e-mail address. This information is used to populate the "Subcontracting Opportunities Directory" on SBA's website (<http://www.sba.gov/GC/indexcontacts-sbsd.html>).
- b. The Subcontracting Computer System does not currently provide fields for compliance review data. SBA is working with other Federal agencies to assess the best way to track this information electronically. In the meantime, the CMR must keep paper records showing the date of each review and, if applicable, the rating. This requirement applies to Subcontracting Orientation and Assistance Reviews (SOARs), Performance Reviews, Small Business Program Compliance Reviews (SBPCRs), and Follow-up Reviews.

3. When is Information Entered into the Subcontracting Computer System?

Information in paragraph 6-2 should be entered in accordance with the following timetable:

Type of Review	What Information Do I Enter?	When Do I Enter the Information?
N/A	General company information such as name, address, telephone number, SBLO's name & phone number, executive's name, products & services	Enter information when initially learning of new large businesses with one or more subcontracting plans. As needed, update entered information to keep it current. Delete companies that no longer have Government contracts containing subcontracting plans.
SOAR	Date of Review	Within five working days after

Type of Review	What Information Do I Enter?	When Do I Enter the Information?
		conducting the SOAR (pending implementation of an electronic database for this purpose). SOAR's must be documented in the respective LPC file.
Performance Review	Date of Review	Within five working days after the CMR analyzes the report or generates the report to the contractor, if applicable (pending implementation of an electronic database for this purpose).
SBPCR	Date of Review & Rating	Within five working days after completing final report (pending implementation of an electronic database for this purpose).
DCMA-only Review	Date of Review & Rating	Within five working days after receiving DCMA's letter and rating for the contractor (pending implementation of an electronic database for this purpose).
Joint Review Performed by DCMA & SBA	Date of Review & Rating	Enter rating within five working days after completing final report (pending implementation of an electronic database for this purpose).
Follow-up Review	Date of Review & Rating	Within five working days after completing report to the contractor (pending implementation of an electronic database for this purpose).

4. **What Must be Provided to DCMA from the Subcontracting Computer System?**

A DCMA Small Business Specialist may request certain information about an LPC. Most of the information may be obtained from the contractor's five-part folder. Information requested by DCMA should be supplied as quickly as possible.

5. **What Is the Monthly Report?**

SBA Headquarters is currently using a Microsoft Excel document for the monthly report, which includes all of the programs and activities in Government Contracting. All six area offices submit their monthly reports to a program manager in the Office of Government Contracting, who consolidates the information and forwards it to the Associate Administrator for Government Contracting. CMRs must enter their activities into this spreadsheet each month prior to the deadline established by their area director. The categories are self-explanatory but the CMR should observe the following guidelines:

- a. In general, the CMR should not perform more than one SBPCR a year on the same LPC. Any exceptions should be approved by the Program Manager in SBA headquarters. On the other hand, the CMR may conduct multiple SOAR or Performance Reviews on the same contractor during the year and count each of them. If the SBPCR or Follow-Up Review included a Performance Review, the CMR may take credit for both types of reviews (see paragraph 4-3).
- b. Subcontracting Program Training Sessions are formal, organized training sessions that the CMR gives to a group of LPC's or federal agencies regarding one or more aspects of the Subcontracting Program.
- c. Since the format of the monthly report and the specific line items change from year-to-year, the CMR should seek guidance from his/her supervisor or from the Program Manager in SBA Headquarters if any other questions arise.

Chapter 8

Subcontracting Award Program

1. **What Is the *Award of Distinction*?**

The *Award of Distinction* is recognition that may be given to any large prime contractor that receives an *Outstanding* rating on a SBPCR. The CMR may nominate one or more contractors from his/her portfolio. If the nomination is approved, the company will receive the *Award of Distinction*, which will be presented by the SBA in an appropriate ceremony.

2. **How is a Large Contractor Nominated for an *Award of Distinction*?**

- a. A CMR may nominate a large contractor for the *Award of Distinction* provided:
 - (1) An SBPCR by SBA or Defense Contract Management Agency (DCMA) has been completed within the past twelve months, and the company has been rated the company “Outstanding;”
 - (2) Narrative summary based on review of the company has been sent to it, and the rating entered the company’s rating in the Subcontracting Computer System; and
 - (3) The company is believed to warrant an *Award of Distinction*.
- b. The CMR may use his/her own discretion in nominating companies reviewed by DCMA. If the CMR decide to do so, he/she must be certain that the Five-Year Trend Table and other supporting data provided by DCMA meet SBA’s standards. If not, the CMR must supplement DCMA’s documentation, as necessary, before submitting the nomination.
- c. Every company that receives an *Outstanding* rating for the *Award of Distinction* need not be nominated. Valid reasons for not nominating a company are described in paragraph 5-8.
- d. To nominate a company for the *Award of Distinction*, the CMR must forward a copy of the final narrative for the SBPCR (or DCMA's report and his/her additional comments), through the AD/GC to the AA/GC. The report should be accompanied by a transmittal memo (not more than a page and a half in length) stating that the CMR wish to nominate the contractor, and summarizing why the award is warranted.

- e. If the AA/GC determines that the company should receive the award, he/she will notify the AD/GC, and arrange for ordering the award. The AD/GC will arrange an award ceremony.
- f. If it is determined that the company should not receive the award, the AA/GC will so notify the AD/GC in writing. Note that in this circumstance, the contractor may maintain its *Outstanding* rating.
- g. The nomination should not be discussed with the contractor until a final decision has been made by the AA/GC.
- h. A company is eligible for the *Award of Distinction* each time it receives an *Outstanding* rating.
- i. Recipients of *Awards of Distinction* should be encouraged to self-nominate for the *Dwight D. Eisenhower Award for Excellence*.

3. **Where Is the *Award of Distinction* Ceremony Held and Who Should Attend?**

- a. The *Award of Distinction* ceremony should be held at the facility of the contractor. The following individuals, at a minimum, should attend:
 - (1) Contractor's CEO and SBLO or their designees;
 - (2) Cognizant Regional Administrator and/or District Director;
 - (3) AD/GC;
 - (4) The assigned CMR; and
 - (5) A representative from DCMA, as appropriate.
- b. The AD/GC should advise the appropriate SBA media coordinator of the ceremony at least 21 working days prior to the event to allow for arrangement of publicity.

4. **What Is the *Dwight D. Eisenhower Award for Excellence*?**

The annual *Dwight D. Eisenhower Award for Excellence* recognizes contractors that have demonstrated superior accomplishments in awarding subcontracts to small firms (as demonstrated by the most recent year-end *Summary Subcontract Reports*). There may be as many as five awards per year, one in each of the following categories: services, construction, manufacturing, research and development, and utilities. The award process over the years has changed from nomination by the CMRs to self-nomination (i.e., by the prime contractors themselves), to a combination of CMR nominations and self-nominations. In fiscal year 2007, it was changed back to self-nomination. The Associate

Administrator for Government Contracting will issue updated guidance to the field each year prior to soliciting nominations. Winners of the *Dwight D. Eisenhower Award for Excellence* are recognized during the annual Small Business Procurement Conference and Awards Banquet Activities in Washington, D.C., which is usually held in May.

5. **How Does a Contractor Nominate Itself for the *Dwight D. Eisenhower Award for Excellence*?**

- a. Any federal large business contractor that believes it has demonstrated superior accomplishments in awarding subcontracts to small firms may nominate itself for the *Dwight D. Eisenhower Award for Excellence*. However, if a company has received the award, it may not nominate itself again for three (3) years.
- b. Each year the Office of Government Contracting will send a letter to large prime contractors detailing the self-nomination process. Contractors will be asked to submit a narrative addressing key issues, including, but not limited to:
 - (1) Demonstrated management support of the small business program;
 - (2) Effectiveness of the SBLO;
 - (3) Outreach efforts during the past 12 months;
 - (4) Assistance to small business during the past two years (technical, financial, etc.) and related success stories;
 - (5) Participation in a Mentor Protégé Program;
 - (6) Receipt of other awards for small business activities during the past three years;
 - (7) Receipt of SBA's Award of Distinction during the past three years;
 - (8) Use of the Central Contractor Registration (CCR) and/or SUB-Net;
 - (9) Participation in SBA's Subcontractor of the Year award process during the past two years; and
 - (10) Listing of all the Federal agencies with which the contractor had contracts containing subcontracting plans.
- c. Contractors will be instructed to mail self-nominations to the cognizant AD/GC. Any nomination received should be reviewed for completeness, using the checklist in appendix 22. Upon receipt, the CMR should immediately request clearances from SBA's Inspector General (IG) and Equal Employment

Opportunity (EEO) Offices. Once reviewed, nominations should be mailed to the Office of Government Contracting. The self-nomination must include a copy of the contractor's *Summary Subcontract Reports* for the most recently ended fiscal year. If a company has a Commercial Plan and completes its year-end *Summary Subcontract Report* on the calendar year, a copy of the *Summary Subcontract Report* must be immediately forwarded to the Office of Government Contracting by January 30th.

- d. All nominations must be received by the due date. If the CMR receive a nomination after the due date, the CMR should contact the Program Manager in the Office of Government Contracting to inquire whether the self-nomination will be accepted.
- e. The CMR should contact any contractor that he/she believes is deserving of this award, and encourage it to submit a self-nomination.

6. How Are the Winners of the Dwight D. Eisenhower Award for Excellence Selected?

The AA/GC will establish a judging panel to reviews self-nominations, and select award winners.

7. What are the Frances Perkins Vanguard Awards for Exemplary Utilization of Women-Owned Small Businesses?

The Frances Perkins Vanguard Awards for Exemplary Utilization of Women-Owned Small Businesses recognize federal purchasing activities, federal procurement officials, industry, and industry procurement officials that have excelled in their utilization of women-owned small businesses. There may be more than one recipient in each category, each year.

- a. The Francis Perkins Vanguard Awards process is based on self-nomination. Each year, SBA requests self-nominations.
- b. For the industry award, there is no nomination form, but the nomination should include a narrative summarizing the company's endeavors to utilize women-owned small businesses in its subcontracting program. The nomination must also include a trend analysis table for at least the past three years, and a *Summary Subcontract Report* (SF-295 or SSR) for the most recently completed fiscal year. To submit an industry award, the company must do business with a federal agency that negotiates goals with SBA
- c. For the industry procuring official award, the nomination should include a narrative summarizing efforts to utilize women-owned small businesses in subcontracting programs. The narrative should address the following:

- (1) Leadership;
 - (2) Advocacy;
 - (3) Innovation; and
 - (4) Implementation.
- d. There is no limit on the number of consecutive awards that a company may win the Francis Perkins Vanguard Award.
 - e. Nominations are mailed directly to SBA's Office of Government Contracting.
 - f. A panel, named by the AA/GC, will review nominations and recommend winners.

8. What Is the Subcontractor-of-the-Year Award Program?

- a. The Subcontractor-of-the-Year Award Program recognizes outstanding small businesses that have successfully performed on Federal contracts as subcontractors to major large contractors. Large Prime Contractors submit nominations. One winner in each region is chosen from these nominations by a non-SBA judging panel selected by the AD/GC in each region. One national winner is then selected from the ten regional winners by a panel of non SBA judges in Washington, DC.
- b. The AD's/GC are responsible for implementing the instructions received from the AA/GC. Tasks include mailing the instructions and nomination forms to the large contractors, and convening a panel of judges to select regional winners. The CMR's are responsible for making certain that the SBLO's of the large contractors understand the nomination instructions. The CMR should have nominations from several of his/her large contractors every year.

9. What is the Prime Contractor-of-the-Year Program?

The Prime Contractor-of-the-Year program, recognizes outstanding small businesses that have performed on Federal contracts. Nominations are made by Federal buying activities. PCR's help to coordinate these activities. The National Prime Contractor-of-the-Year and National Subcontractor-of-the-Year award activities are held in conjunction with one another.

Chapter 9

File Management

1. **What Kind of System Does SBA Use for Contractor Files?**

The SBA currently uses a manual filing system, and the guidance in this section is written accordingly. If, in the future, the agency adopts electronic storage of records, analogous guidance will be provided.

2. **How Long Should the *Subcontracting Reports for Individual Contracts* and *Summary Subcontract Reports* be Maintained in the File?**

- a. The most recent *Subcontracting Report for Individual Contracts* must be kept on file. Each prior *Subcontracting Report for Individual Contracts* should be kept behind the most current version. Once a final *Subcontracting Report for Individual Contracts* is received, the final *Subcontracting Report for Individual Contracts* should be kept for a three-year period, and then discarded.
- b. *Summary Subcontract Reports* must be kept on file for the current period (semi-annual or annual), and the last five fiscal years. Mid-year *Summary Subcontract Reports* may be discarded when the year-end *Summary Subcontract Report* is received. *Summary Subcontract Reports* that are more than five years old should be discarded.

3. **How Long Should Review Back-up Data be Kept in the File?**

Pursuant to SOP 00 41, "Records Management Program," back-up information must be closed out every three years. Files should be transferred to the Federal Records Center two years after closeout, and files should be destroyed every six years and three months after closeout.

4. **How are Contractors' Files Organized?**

- a. In the interests of consistency and efficiency, a uniform filing system must be maintained for contractors' files. This system requires the use of a three - part folder containing six sections arranged as follows:
 - (1) Section 1, Performance Reviews, Program Reviews, Joint Reviews, Needs Assessments, and Follow-up Reviews. The following documents should be placed in this section: narrative reports, DCMA reports/narratives, letters of notification of a review, and formal correspondence with the contractor (Note that work papers, including the checklist and notes, pertaining to these reviews belong in Section 2.) Items in this section should be arranged sequentially by date.

- (2) Section 2, Work Papers from the Last Review. The following documents should be placed in this section: work papers from the most recent SBPCR and Follow Up Review, any material documentation that the contractor provided during the course of any type review; and work papers from Performance Reviews. Work papers should be arranged sequentially, by date.
 - (3) Section 3, *Subcontracting Report for Individual Contracts*. The following documents should be placed in this section: *Subcontracting Report for Individual Contracts* for the most recent period, and prior *Subcontracting Report for Individual Contracts*, as appropriate, arranged by contract and by date.
 - (4) Section 4, *Summary Subcontract Reports*. The following documents should be placed in this section: *Summary Subcontract Reports*, in sequential order.
 - (5) Section 5, Documentation on Sourcing. The following documents should be placed in this section: correspondence pertaining to sourcing; information or coordination efforts on matchmaking events; copies of marketing bulletins; CCR print-outs; and other material pertaining to opportunity development, source identification, source development, or marketing which cannot be accommodated by the Subcontracting Computer System, or for which hard copy is desirable.
 - (6) Section 6, Miscellaneous Correspondence. The following documents should be placed in this section: documents not elsewhere described. (e.g., contractor's *Dwight D. Eisenhower* self-nomination, etc.).
- b. The file should be labeled with the contractor's name and division, if any. Color tags may be used to denote whether files: contain only contracts under SBA's cognizance; only contracts under DCMA cognizance; contains contracts under SBA's cognizance and contracts under DCMA's cognizance; or, are inactive. (e.g., a company that currently has no active contracts containing plans, but is expected to in the future). Example: Green Tab = SBA-only (See paragraph 4-X, row 2 and 5); Red Tab = DCMA only (See paragraph 4-X, row 1); Yellow Tab = both SBA and DCMA (See paragraph 4-X, row 3 and 4); Blue Tab = inactive file
 - c. Contractor files should be arranged alphabetically, and stored in a file cabinet or drawer, out of sight. The cabinet, drawer, or office in which the files are kept should be locked when not in use.
 - d. Documentation should be kept up-to-date at all times. At minimum, all documents should be filed within 30 days of preparation or receipt.

5. **What Information from Files Can be Disclosed?**

Disclosure of information from contractors' files is governed by SOP 40 03 2, "Disclosure of Information," found at <http://yes.sba.gov/sops>.

Appendix 1

Index to Forms and Reports

<u>Form Number</u>	<u>Paragraph</u>
SBA Form 1907	4-3, 4-5, 5-3, 5-4, Appendix 14
SBA Form 1907A	4-3, 4-5, 5-3, 5-4, Appendix 14
SBA Form 1907B	4-3, 4-5, 5-3, 5-4, Appendix 14
SBA Form 1908	5-4, Appendix 14
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<u>Name of Report</u>	<u>Paragraph</u>
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Preparation Checklist	5-2, Appendix 13
SBA SBPCR Checklist	5-1, 5-2, 5-3, 5-4, 5-10, 5-11, 9-3, Appendix 14
Follow Up Review Checklist	4-6, 9-3, Appendix 15
Sample Subcontracting Plan	3-1, Appendix 8
Sample Commercial Subcontracting Plan	3-1, 3-2, Appendix 9
Eisenhower Award Checklist	8-5, Appendix 22

Appendix 2

Definitions

8(a) Program. A program managed by SBA for small businesses which are owned, operated and controlled by socially and economically disadvantaged individuals as defined by the Code of Federal Regulations (13 CFR 124.101-111).

AD/GC. Area Director for Government Contracting.

Area Portfolio. All of the large business contractors that have federal contracts containing subcontracting plans within a specific area.

CAGE Code (Commercial and Government Entity Code). A unique five-character identification number issued by the Defense Logistics Service Center to identify DOD contractors.

CEO. Chief Executive Officer.

Commercial Items. An item that is not tailor-made for a government contract and generally available to commercial customers as well. The definition of a commercial item can be found at FAR 2.101.

Commercial Subcontracting Plan. A plan that may be approved by the contracting officer when the product it is supplying the government is a commercial item (see Commercial Items). The plan is a company-wide or division-wide plan and relates to the large contractor's production generally, for both commercial and noncommercial products, rather than solely to the Government contract. Once approved, the plan remains in effect during the large contractor's fiscal year and covers all of its commercial items.

Counseling. Providing a large or small business with advice regarding a subject related to the Subcontracting Assistance Program.

DCMC (Defense Contract Management Command). An independent combat support agency within the Department of Defense (DoD) serving as the Department's contract manager and responsible for ensuring Federal acquisition programs, supplies, and services are delivered on time, within cost and meet performance requirements.

DCMC Small Business Specialists. Individuals within DCMC that oversee large prime contractor's compliance with their subcontracting plans (in DoD contracts that they have been assigned administrative cognizance). There are two DCMA Small Business Districts—DCMC West in El Segundo, CA; and DCMC East in Boston, MA.

DoD (Department of Defense). Federal Government defense department such as the Army, Air Force, and Navy.

DoD Mentor–Protégé Program. A DoD program designed to encourage assistance to small disadvantaged businesses and women-owned small businesses by providing special incentives to large business prime contractors approved as mentors. The Government reimburses the

mentor for the cost of assistance to its protégés, or allows the mentor credit (a multiple of the dollars in assistance) toward its subcontracting goals.

DoD Test Program for the Negotiation of Comprehensive Subcontracting Plans.

A program limited to a select group of Department of Defense large business prime contractors. The program is overseen by the Office of Small Business Programs (OSBP) in the Office of the Secretary of Defense (OSD). It allows participating contractors to have one company-wide subcontracting plan for all defense contracts, rather than individual subcontracting plans for every contract over \$550,000, and it waives the requirement for the semi-annual *Subcontracting Report for Individual Contracts*. The prime contractor is still required to submit the *Summary Subcontract Reports* semi-annually, and it is required to have individual subcontracting plans and to submit *Subcontracting Reports for Individual Contracts* on any contracts with other Government agencies.

DUNS Number (Data Universal Numbering System). Unique nine-character company identification number issued by Dun & Bradstreet Corporation.

FAR (Federal Acquisition Regulations). The primary regulation used by all Federal executive agencies in their purchase of supplies and services with appropriated funds.

Flow-down Provision. The requirement cited in the “Federal Acquisition Regulations” (FAR), 48 CFR Section 52.219-9(d)(9). This provision requires large contractors to include a clause pertaining to the utilization of small, small disadvantaged, small women-owned, small HUBZone, small veteran-owned, and small service-disabled veteran-owned businesses in all subcontracts that offer further subcontracting opportunities. They must also require all subcontractors (except small business concerns) who receive subcontracts in excess of \$550,000 (\$1,000,000 for construction of any public facility) to adopt a plan similar to their own.

Follow-up Review. A review which focuses on the company's implementation of previous SBA recommendations.

Indirect Costs. Contracts or subcontracts which are not directly related to the large contractor's contract. Examples include travel services, electrical services, maintenance, janitorial services, trucking, computer services, printing and graphics, construction, roofing, lawn and garden services, tooling, office supplies, and other overhead items. These costs must be pro-rated amongst all Government contracts.

Individual Subcontracting Plan. This plan establishes separate goals for a specific Government contract, by dollar amount and percentage, for small, small disadvantaged, small women-owned, small HUBZone, small veteran-owned, and small service-disabled veteran-owned business. All goals are expressed as a percentage of total subcontracting. Separate goals should be identified for each option year. In addition to goals, the plan must also contain the other elements required by FAR 19.704 and FAR 52.219-9. Once the contracting officer has approved it, the plan becomes a material part of the contract.

ISO 9000. A quality standard used on a world-wide basis. To be ISO 9000 qualified, a large

or small business must receive ISO 9000 certification from an accredited registrar.

Joint Review. A Small Business Program Compliance Review that is conducted at a large contractor's facility simultaneously between a SBA CMR and another agency. Joint Reviews conducted by SBA and DCMA are done in accordance with the SBA/DCMA Memorandum of Understanding.

Liquidated Damages. Damages imposed upon a prime contractor for failure to make a good-faith effort to meet the goals in its subcontracting plan. The amount of liquidated damages is equal to the dollar amount by which the contractor failed to achieve the goals for (a) small business, b) small disadvantaged business, (c) women-owned small business, (d) HUBZone small business, (e) veteran-owned small business, or (f) service-disabled veteran-owned small business in its plan. Before assessing liquidated damages, the Contracting Officer must determine that the contractor failed to make a good-faith effort. Liquidated damages may be appealed under the disputes clause contained in Government contracts.

Master Subcontracting Plan. A subcontracting plan which contains all of the elements required by FAR 52.219-9, except goals. Master plans are effective for a three year period; however, when incorporated into an individual plan, a master plan applies to that contract throughout its life.

Material Breach of Contract. The failure of a contractor to comply in good faith with the terms and conditions of its contract. In the Subcontracting Assistance Program, the term is normally used in reference to prime contractors which have failed to comply in good faith with the subcontracting plan contained in their Government contract.

NAICS (North American Industry Classification System). A six-digit coding system that replaced the Standard Industrial Classification (SIC) codes. NAICS codes are used to identify specific industry categories within the Federal Government. The codes are developed by the Office of Management and Budget and are used by SBA to define industry size standards. They can be found in 13 CFR, Part 121; the FAR, Part 19; on the Internet (www.sba.gov/size); and in the NAICS Manual.

Non-Compliance. The status of a large contractor's subcontracting program or one of its subcontracting plans when the contractor: (a) fails to comply in good faith with the policy that small, small disadvantaged, small women-owned, small HUBZone, small veteran-owned, or small service-disabled veteran-owned businesses shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency; or (b) fails to comply in good faith with any subcontracting plan required of such contractor pursuant to Section 8(d) of the Small Business Act (15 U.S.C., Section 637(d)).

Non-Traditional Products and Services. Products and services in which large contractors have historically subcontracted to large businesses.

Off-site Reviews. Reviews that are conducted at the CMR's desk rather than at the contractor's facility.

Office of Government Contracting (OGC). The SBA office which provides Government contracting assistance to small businesses. Its programs include the Prime Contracts Program, the Subcontracting Assistance Program, the Certificate of Competency Program, the Size Determination Program, the Natural Resources Sales Assistance, Waivers of the Nonmanufacturers Rule, the CCR system, and Procurement Policy and Liaison.

Office of Small and Disadvantaged Business Utilization (OSDBU). An office in each Federal agency with a mission to assist small, small disadvantaged, small women-owned, small HUBZone, small veteran-owned, and small service-disabled veteran-owned businesses to do business with its Agency.

On-Site Review. A review that is conducted at the contractor's facility.

Performance Review. An analysis of a contractor's *Subcontracting Reports for Individual Contracts* and *Summary Subcontract Reports* that is performed from the CMR's workstation.

Prime Contract. A contract directly with the Federal Government.

Prime Contractor. A large or small business which has one or more contracts with the Federal Government. In the Subcontracting Assistance Program, SBA is concerned with large business prime contractors, and large business subcontractors.

Prime Contracts Program. A program under the Office of Government Contracting principally concerned with the relationship between Federal buying activities and small businesses which can furnish supplies and services to the Federal Government. Through its network of Procurement Center Representatives (PCRs), the Office of Prime Contracts increases the dollar value and percentage of awards to small business through the small business set-aside program and advocates the breakout of items for small business participation. PCRs counsel and assist small firms doing business with the Government. PCRs also assist in conducting Surveillance Reviews that assess the effectiveness of Federal agencies' small business utilization programs.

Qualified Source. A source which has met the requirements of the subcontract for quality and other factors and has already obtained vendor approval from the large contractor.

SB (Small Business). A concern which is independently owned and operated, organized for profit, and meets the size criteria specified in 13 CFR Part 121.

SBLO (Small Business Liaison Officer). Pursuant to Section 8(d) of the Small Business Act (15 U.S.C. Section 637(d)), the employee designated by a large contractor to administer its subcontracting program and to act as a point of contact for small business.

SDB (Small Disadvantaged Business). "Small disadvantaged business concern" means a small business concern has received certification from SBA as a small disadvantaged business concern consistent with 13 CFR part 124, Subpart B, and is reflected in CCR as a SDB.

Set-Aside. A term used in the Prime Contracts Program indicating that a procurement has been identified for exclusive competition among small businesses. The Subcontracting Assistance Program does not have the statutory authority to use this method of procurement.

SIC (Standard Industrial Classification) see NAICS codes

Small Business Program Compliance Review (SBPCR). A comprehensive review of a large contractor's program for small, disadvantaged, women-owned, HUBZone, veteran-owned, and service-disabled veteran-owned businesses as described in chapter 5. At a minimum, such a review must include seven elements: Sourcing, a validation of the contractor's methods for preparing *Subcontracting Report for Individual Contracts* and *Summary Subcontract Reports*, Five-Year Trend Analysis, an overall evaluation of the contractor's small business program, a sampling of contracts containing subcontracting plans, a sampling of purchase orders to large business, and a follow-up on prior SBA recommendations.

Sourcing. A CMR's efforts to assist a large contractor in finding specific products and services that may be fulfilled by a small business subcontractor.

Subcontract. Any agreement (other than one involving an employer-employee relationship) entered into by a contractor calling for supplies or services required for performance of a contract by the higher-tier contractor.

Subcontracting Computer System. The computer system which supports the Subcontracting Assistance Program. It contains the database for all of the information on the large contractors in SBA's portfolio throughout the nation. It is used to produce the "Subcontracting Opportunities Directory."

Subcontracting Orientation and Assistance Review (SOAR). A CMR's contact with a large prime contractor with the purpose of providing advice or tools so that the contractor can elevate its small business program. In most cases, a SOAR will involve a physical visit to an large contractor's facility to accomplish a certain task, such as conducting an orientation visit, discussing a problem with the *Subcontracting Report for Individual Contracts/Summary Subcontract Report* detected during a Performance Review, discussing the required capabilities of small business sources for an upcoming or current project, training or informing the contractor about new small business program issues, or getting further acquainted with a new company such as touring the plant or meeting with buyers.

Subcontracting Opportunities Directory. A directory of large business contractors throughout the nation, including the name and address of each company, the name, telephone number, and email address of each Small Business Liaison Officer, and a brief description of each company's product or service. The directory is provided to the public free of charge and serves as a marketing tool for small businesses.

Subcontracting Plan. A plan prepared by a large contractor establishing separate goals on a Government contract, by dollar amount and percentage, for small, disadvantaged, women-

owned, HUBZone, veteran-owned, and service-disabled veteran-owned businesses. The plan also contains several other elements required by FAR 52.219-9. Once it has been approved, the plan becomes a material part of the contract. In the case of a commercial item, a subcontracting plan pertains to a company's entire production rather than to an individual contract.

Subcontracting Report for Individual Contracts. A report that must be filed by large business contractors semi-annually (within 30 days after the periods ending March 31st and September 30th) and upon completion of the contract. The report is not required by companies operating under an approved Commercial Products Plan or companies in the Department of Defense Test Program for Negotiation of Comprehensive Subcontracting Plans.

Summary Subcontract Report. A cumulative report that must be filed by large business prime contractors annually (within 30 days after the fiscal year ending September 30th). Except for NASA contractors, civilian agency contractors are not required to file mid-year reports (March 31st); in addition, companies operating under an approved commercial plan are required to submit the report only once a year.

Supplier Diversity. A term that is commonly used in industry to describe the contractor's program to seek out small, minority, women, and veteran-owned businesses.

Surveillance Review. A review conducted on a federal buying activity's small business program, including subcontracting plans. These reviews are conducted under the authority of the Prime Contracts Program and are addressed in SOP 60.

Tandem Team Reviews. A Small Business Program Compliance Review that is conducted, in part, by more than one SBA CMR.

Total Subcontracting Base. The total dollars in a subcontracting plan available for subcontracting to large and small businesses.

TQM (Total Quality Management). A management system in wide practice throughout industry today. As it pertains to subcontracting, TQM advocates the use of fewer subcontractors and suppliers; for example, a large contractor with 10,000 suppliers might be advised to reduce its supplier base to less than 5,000 contractors. The result of this philosophy is to eliminate many companies, including small businesses, from large contractors' supplier databases.

WOSB (Women-Owned Small Business). A small business concern which is owned (at least 51 percent) by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock is owned by one or more women. The management and daily business operations must be legally controlled by one or more women.

Appendix 3

Section 8(d) of the Small Business Act

SBA no longer includes statutes in its SOPs, since statutes can be amended and changed over time. SBA employees should go to the SBA law library web site and download the latest version of this statute.

The web site is <http://www.sba.gov/library/lawroom.html>

Appendix 4

Section 15(g) of the Small Business Act

SBA no longer includes statutes in its SOPs, since statutes can be amended and changed over time. SBA employees should go to the SBA law library web site and download the latest version of this statute.

The web site is <http://www.sba.gov/library/lawroom.html>

Appendix 5

Checklist to Review a Subcontracting Plan for Completeness

Version 1

Note: This format may also be used by prime contractors to evaluate subcontracting plans received from large business subcontractors under the flow-down requirement.

Subject: Advisory Comments on Subcontracting Plan for _____

Dear _____:

The subcontracting plan submitted by _____, is considered **acceptable/unacceptable**. The following checklist was used to determine compliance with applicable requirements:

Acceptable/Unacceptable

1. Offeror's plan **did/did not** (*as applicable*) include separate percentage goals (expressed in terms of percentage of total planned subcontracting dollars) for planned subcontracting to small, veteran-owned, service-disabled veteran-owned, HUBZone, disadvantaged, and women-owned small business concerns. (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 or overhead costs.)

As part of its establishment of percentage goals, the offeror shall include in its subcontracting plan:

- a. A statement of:
 - (1) total dollars planned to be subcontracted;
 - (2) total dollars planned to be subcontracted to small business concerns;
 - (3) total dollars planned to be subcontracted to veteran-owned small business concerns;
 - (4) service-disabled veteran-owned small business concerns;
 - (5) total dollars planned to be subcontracted to HUBZone small business concerns;
 - (6) total dollars planned to small disadvantaged business concerns; and
 - (7) total dollars planned to be subcontracted women-owned small business concerns.

(Note: A subcontract awarded to a small disadvantaged business concern which

is also women-owned and a HUBZone small business concern would be included in (1), (2), (5), (6) and (7), above.)

Acceptable/Unacceptable

- b. Offeror's plan **did/did not** (*as applicable*) contain a description of **all** (including planned subcontracting to large business concerns) the principal supplies and services to be subcontracted, identifying those supplies and services where it is planned to use:
- (1) small business subcontractors;
 - (2) veteran-owned small business;
 - (3) service-disabled veteran-owned small business);
 - (4) HUBZone small business subcontractors;
 - (5) small disadvantaged business subcontractors, and
 - (6) women-owned small business subcontractors.

Acceptable/Unacceptable

- c. Offeror's plan **did/did not** (*as applicable*) describe the method used to develop the subcontracting goals for:
- (1) small business concerns;
 - (2) veteran-owned small business;
 - (3) service-disabled veteran-owned small business
 - (4) HUBZone small business concerns;
 - (5) small disadvantaged business concerns; and
 - (6) women-owned small business concerns.

Acceptable/Unacceptable/Not Applicable

- d. If the offeror includes indirect costs in establishing subcontracting goals, the offeror **did/did not** (*as applicable*) describe the method used to allocate the proportionate share applicable to this plan.

Acceptable/Unacceptable

2. Offeror's plan **did/did not** (*as applicable*) include the name of the employee responsible for administering its subcontracting plan, and furnish a description of his/her duties.

Acceptable/Unacceptable

3. Offeror's plan **did/did not** (*as applicable*) furnish a description of the efforts the offeror will take to assure that small, veteran-owned small business, service-disabled veteran-owned, HUBZone, disadvantaged, and women-owned small business concerns will have an equitable opportunity to compete for subcontracts.

Acceptable/Unacceptable

4. Offeror's plan **did/did not** (*as applicable*) contain assurances that it will include the clause entitled "Utilization of Small Business Concerns" (FAR 52.219-8) in **all** subcontracts which offer further subcontracting opportunities. Additionally, the offeror's plan shall contain assurances that it will require all subcontractors (except small business concerns) who receive subcontracts in excess of \$550,000 (\$1,000,000 if it is a subcontract for construction services) to adopt a plan similar to the plan agreed to by the offeror. Such assurances shall describe the offeror's procedures for the review, approval and monitoring for compliance with such subcontracting plans.

Acceptable/Unacceptable

5. Offeror's plan **did/did not** (*as applicable*) contain assurances that it will:
- a. cooperate in any studies or surveys as may be required;
 - b. submit periodic reports in order to allow the Government to determine the extent of compliance by the offeror with the subcontracting plan;
 - c. submit *Subcontracting Report for Individual Contracts* and/or *Summary Subcontract Reports* in accordance with the instructions on the forms; and
 - d. ensure that its subcontractors agree to submit *Subcontracting Reports for Individual Contracts* and *Summary Subcontract Reports*.

Acceptable/Unacceptable

6. Offeror's plan **did/did not** (*as applicable*) include a recitation of the types of records it 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, veteran-owned, service-disabled veteran-owned, HUBZone,

disadvantaged, and women-owned business concerns, and award subcontracts to them. The records shall include at least the following:

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

Acceptable/Unacceptable

- b. Organizations contacted in an attempt to locate sources that are small, veteran-owned, service-disabled veteran-owned, HUBZone, disadvantaged and women-owned business concerns.

Acceptable/Unacceptable

- c. Records on each subcontract solicitation over \$100,000, indicating:
 - (1) whether small business concerns were solicited, and if not, why not;
 - (2) whether veteran-owned small business were solicited, and if not, why not;
 - (3) whether service-disabled veteran-owned small business concerns were solicited, and if not, why not;
 - (4) whether HUBZone small business concerns were solicited, and if not, why not;
 - (5) whether small disadvantaged business concerns were solicited, and if not, why not;
 - (6) whether women-owned small business concerns were solicited, and if not, why not; and
 - (7) if applicable, the reason award was not made to a small business concern.

Acceptable/Unacceptable

- d. Records of any outreach efforts to contact trade associations and business development organizations, or participate in conferences and trade fairs, to locate small, veteran-owned, service-disabled veteran-owned, HUBZone, disadvantaged and women-owned small business sources.

Acceptable/Unacceptable

- e. Records of internal guidance and encouragement provided to buyers through:
 - (1) workshops, seminars, training, etc., and
 - (2) monitoring performance to evaluate compliance with the program's requirements.

Acceptable/Unacceptable

- f. 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.

(Companies with company or division-wide commercial plans need not comply with this requirement on a contract-by-contract basis; however, they must still comply with the requirement.)

Summary Paragraph

(Add comments here as appropriate)

In accordance with FAR 19.705-5(a)(5) and 19.705-6(a) and (e), the contracting officer shall ensure that an acceptable subcontracting plan is incorporated into and made a material part of the contract.

If there are any questions, please contact me at _____.

Name: _____

Title: _____

Phone: _____

Appendix 6

**Checklist to Review a Subcontracting Plan for Completeness
Version 2 (Quick Version)**

DATE:	
TO:	
FROM	
SUBJECT:	Subcontracting Plan for _____

Name of Bidder or Offeror:

Period (if applicable):

Goals: Acceptable / Unacceptable

1. Goals include all socio-economic categories:
(SB, SDB, WOSB, HUBZone, Veterans (VOSB), and SD/VOSB): Yes / No
2. Arithmetic is correct (should mirror *Subcontracting Report for Individual Contracts*): Yes / No
3. Goals represent “maximum practicable opportunity” in accordance with applicable laws and regulations:¹ Yes / No

Matrix:² Acceptable / Unacceptable

SBLO named: Acceptable / Unacceptable

Subcontracting Report for Individual Contracts/Summary Subcontract Reports

Submission: Acceptable / Unacceptable

CCR mentioned: Acceptable / Unacceptable

Other Elements of Plan (see FAR 52.219-9 (d)): Acceptable / Unacceptable

Date Reviewed: _____

Plan is: Acceptable / Unacceptable

Reviewed By:

Name _____

Title: _____

Phone Number/Email Address _____

¹ Section 8(d) of the Small Business Act and 48 CFR (Federal Acquisition Regulation 19.7, 52.219-8, and 52.219-9).

² Description of the principal products and/or services to be subcontracted and the types of businesses supplying them (see FAR 52.219- 9(d)(3)).

Appendix 7

When Subcontracting Plan Goals/Requirements Took Effect
(applies to solicitations dated on or after the date indicated)

1. Small Disadvantaged Business Goal–1978 in PL 95-507

Effective Date: December 4, 2006

2. Women-Owned Small Business Goal–October 1, 1995 (as a part of FASA, PL 103-355)
3. SDB Procurement Mechanisms: Evaluation Factor for SDB Participation and Monetary Subcontracting Incentive (Requires Optional Form 312)–1/1/99
4. Two digit SIC (3 digit NAICS) code year-end breakout–1/1/99 (first report due for period ending 9/30/99)
5. Small Disadvantaged Businesses must be certified by SBA–10/1/99
6. HUBZone Small Business Goal–1/4/99
7. Veteran-owned Small Business Goal–10/11/00
8. Separate Service-Disabled Veteran Owned Small Business Goal–10/22/01

Appendix 8

Sample Small Business Subcontracting Plan

Identification Data

Effective Date: December 4, 2006

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Contractor:

Address:

Solicitation or Contract Number: _____

Item/Service: _____

Total Amount or Contract (Including options) \$ _____

Period of Contract Performance (DAY, MO. & YR.) _____

Federal Acquisition Regulation (FAR), paragraph 19.708(b)(1) prescribes the use of the clause at FAR 52.219-9 entitled "Small Business Subcontracting Plan." The following is a suggested model for use when formulating such subcontracting plan. While this model plan has been designed to be consistent with FAR 52.219-9, other formats of a subcontracting plan may be acceptable. However, failure to include the essential information as exemplified in this model may be cause for either a delay in acceptance or the rejection of a bid or offer where the clause is applicable. Further, the use of this model is not intended to waive other requirements that may be applicable under FAR 52.219-9. "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.

1. **TYPE OF PLAN** (check one)

- a. Individual Plan (All elements developed specifically for this contract and applicable for the full term of this contract, including any option periods.)
- b. Master Plan (Goals developed for this contract; all other elements standard; must be renewed every three years.)
- c. Commercial Plan (Contractor sells large quantities of off-the-shelf commodities to many Government agencies. Plans/goals negotiated by a lead agency on a company-wide basis rather than for individual contracts. Plan effective only during the year for which it is approved. The contractor must provide a copy of the lead agency approval.)

2. **GOALS**

State separate dollar and percentage goals, expressed in terms of percentages of total subcontracting dollars, for the use of small business, veteran-owned, service-disabled veteran-owned, HUBZone, disadvantaged and women-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 in the following format. (For a contract with options, provide a separate statement for the basic contract and individual statements for each option year.)

- a. Total estimated dollar value and percent of planned subcontracting with small businesses (include veteran-owned, service-disabled veteran-owned, HUBZone, disadvantaged and women-owned small business concerns):
(% of "c") \$ _____ and _____ %
- b. Total estimated dollar value and percent of planned subcontracting with large businesses (all business concerns classified as "other than small"):
(% of "c") \$ _____ and _____ %
- c. Total estimated dollar value of all planned subcontracting for an individual contract plan; or the offerors total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan; i.e., the sum of a and b above: \$ (100 Percent)
\$ _____ and _____ %
- d. Total estimated dollar value and percent of planned subcontracting with veteran-owned small businesses: (% of "c")
\$ _____ and _____ %
- e. Total estimated dollar value and percent of planned subcontracting with service-disabled veteran-owned small businesses: (% of "c")
\$ _____ and _____ %
- f. Total estimated dollar value and percent of planned subcontracting with HUBZone small businesses: (% of "c")
\$ _____ and _____ %
- g. Total estimated dollar value and percent of planned subcontracting with small disadvantaged businesses: (% of "c")
\$ _____ and _____ %
- h. Total estimated dollar value and percent of planned subcontracting with women- owned small businesses: (% of "c")
\$ _____ and _____ %

3. **DESCRIPTION OF PRODUCTS AND/OR SERVICES TO BE SUBCONTRACTED**

Provide a description of all the products and/or services to be subcontracted under this contract, and indicate the types of businesses supplying them:

Product/Service	Other-than-Small Business	SB	SDB	WOSB	HUBZone SB	VOSB	SD/VOSB

(Attach additional sheets if necessary)

4. A description of the method used to develop the subcontracting **GOALS**:

5. A description of the method used to identify potential **SOURCES** for solicitation purposes (e.g., whether you used existing company source lists, the Central Contractor Registry (CCR)) of the Small Business Administration (SBA), veterans service organizations, 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, HUBZone, disadvantaged, and women-owned small business trade associations. A firm may rely on the information contained in CCR (at <http://CCR.sba.gov/>) as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned, service-disabled veteran-owned, HUBZone small, small disadvantaged and women-owned small business source list. Use of CCR as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, and publicizing subcontracting opportunities) in this clause.

(Attach additional sheets if necessary)

6. Indirect costs have _____ have not _____ been included in the dollar and percentage subcontracting goals stated above. (Check one.)

If indirect costs have been included, explain the method used to determine the proportionate share of such costs to be allocated as subcontracts to small, veteran-owned small business, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business concerns.

7. **PROGRAM ADMINISTRATOR**

Name, title, position within the corporate structure, and duties and responsibilities of the employee who will administer the contractor's subcontracting program.

Name:

Title:

Address:

Telephone:

Facsimile:

Duties: Has general overall responsibility for the contractor's subcontracting program, i.e., developing, preparing, and executing individual subcontracting plans and monitoring performance relative to the requirements of this particular plan. These duties include, but are not limited to, the following activities:

- a. Developing and promoting company-wide policy initiatives that demonstrate the company's support for awarding contracts and subcontracts to small, veteran-owned, service-disabled veteran-owned, HUBZone, disadvantaged, and women-owned businesses; and assure that these small businesses are included on the source lists for solicitations for products and services they are capable of providing;
- b. Developing and maintaining bidder's lists of small, veteran-owned, service-disabled veteran-owned, HUBZone, disadvantaged, and women-owned small businesses concerns from all possible sources;
- c. Ensuring periodic rotation of potential subcontractors on bidders lists;
- d. Ensuring that procurement "packages" are designed to permit the maximum possible participation of small, veteran-owned, service-disabled veteran-owned, HUBZone, disadvantaged, and women-owned small businesses;
- e. Make arrangements for the utilization of various sources for the identification of small, veteran-owned, service-disabled veteran-owned, HUBZone, disadvantaged, and women-owned small businesses such as the Central Contractor Registration (CCR), the National Minority Purchasing Council Vendor Information Service,

the Office of Minority Business Data Center in the Department of Commerce, the facilities of local small business, minority associations, and contact with federal agencies' Small Business Specialists; and posting notices of sources sought on SBA's SUB-Net.

- f. Overseeing the establishment and maintenance of contract and subcontract award records;
- g. Attending or arranging for the attendance of company counselors at Business Opportunity Workshops, Minority Business Enterprise Seminars, Trade Fairs, Procurement Conferences, etc;
- h. Ensure that small, veteran owned, service-disabled veteran-owned, HUBZone, disadvantaged, and women-owned small businesses concerns are made aware of subcontracting opportunities and how to prepare responsive bids to the company;
- i. Conducting or arranging for the conduct of training for purchasing personnel regarding the intent and impact of Section 8(d) of the Small Business Act on purchasing procedures;
- j. Monitoring the company's performance and making any adjustments necessary to achieve the subcontract plan goals;
- k. Preparing, and submitting timely, required subcontract reports;
- l. Coordinating the company's activities during the conduct of compliance reviews by federal agencies;
- m. Providing technical assistance; e.g., engineering, quality control, and managerial assistance to small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged and women-owned small businesses.
- n. Other duties:

8. **EQUITABLE OPPORTUNITY**

Describe efforts the offeror will make to ensure that small, veteran-owned, service-disabled veteran-owned, HUBZone, disadvantaged, and women-owned small businesses concerns will have an equitable opportunity to compete for subcontracts. These-efforts include, but are not limited to, the following activities:

- a. **Outreach efforts to obtain sources:**

- (1) Contacting minority, women's, and small business trade associations;
- (2) Contacting business development organizations;
- (3) Attending small, veteran's, minority, and women's business procurement conferences and trade fairs;
- (4) Requesting sources from the Small Business Administration's (SBA) CCR;
- (5) Utilizing newspaper and magazine ads to encourage new sources.

b. Internal efforts to guide and encourage purchasing personnel:

- (1) Presenting workshops, seminars, and training programs;
- (2) Establishing, maintaining, and using small, veteran-owned, service-disabled veteran-owned, HUBZone, disadvantaged, and women-owned business source lists, guides, and other data for soliciting subcontracts; and
- (3) Monitoring activities to evaluate compliance with the subcontracting plan.

c. Additional efforts:

9. FLOW-DOWN CLAUSE

The contractor agrees to include the provisions under FAR 52.219-8, "Utilization of Small Business Concerns," in all subcontracts that offer further subcontracting opportunities. All subcontractors, except small business concerns, that receive subcontracts in excess of \$550,000 (\$1,000,000 for construction) must adopt and comply with a plan similar to the plan required by FAR 52.219-9, "Small Business Subcontracting Plan."

10. REPORTING AND COOPERATION

The contractor gives assurance of: (1) cooperation in any studies or surveys that may be required; (2) submission of periodic reports which show compliance with the subcontracting plan; (3) submission of Subcontracting Report for Individual Contract and *Summary Subcontract Reports* in accordance with the instructions on the forms; and (4)

ensuring that large business subcontractors with subcontracting plans agree to submit *Subcontracting Report for Individual Contracts* and *Summary Subcontract Reports*.

a. **Reporting Period Report Due Dates**

Period ending March 31st (cumulative from the inception of the contract),
Subcontracting Report for Individual Contracts: **April 30th**

Period ending Sept. 30th (cumulative from the inception of the contract),
Subcontracting Report for Individual Contracts: **October 30th**

Oct. 1st - March 31st, *Summary Subcontract Reports*: **For contracts with DoD and NASA only: April 30th** (this report is semi-annual for contracts with DoD & NASA, except for comprehensive and commercial plans)

Oct. 1st – Sept. 30th, *Summary Subcontract Reports*: **October 30th** (for contracts with all agencies, except for contractors with commercial plans whose fiscal year is different from the Government's fiscal year (see Appendix 9.)

b. **Addresses**

Contractors using the Electronic Subcontract Reporting System (eSRS) do not normally need to mail paper reports to the Government. However, contractors with subcontracting plans for task and deliver orders may need to submit paper SF-294s (*Subcontracting Report for Individual Contract*) until the eSRS is upgraded to provide this functionality.

- (1) *Subcontracting Report for Individual Contracts* to be submitted to the appropriate contracting officer or as otherwise specified in the contract; and
- (2) *Summary Subcontract Reports* to be submitted to the Office of Small and Disadvantaged Business Utilization of the procuring agency, or as otherwise specified in the contract. Contractors who do not use the eSRS to submit their reports must also submit a paper SF-295 to the appropriate SBA Commercial Market Representative in accordance with the instructions on the form.

11. **RECORDKEEPING**

The following is a recitation of the type of records the contractor will maintain to demonstrate the procedures adopted to comply with the requirements and goals in the subcontracting plan. These records will include, but not be limited to, the following:

- a. If the prime contractor is not using CCR as its source for small, veteran-owned small, service-disabled veteran-owned, HUBZone, disadvantaged, and women-

owned small businesses concerns, list the names of guides and other data identifying such vendors;

- b. Organizations contacted in an attempt to locate small, veteran-owned, service-disabled veteran-owned, HUBZone, disadvantaged, and women-owned small businesses sources;
- c. On a contract-by-contract basis, records on each subcontract solicitation resulting in an award of more than \$100,000 indicating:
 - (1) whether small business concerns were solicited, and if not, why not;
 - (2) whether veteran-owned small business concerns were solicited, and if not, why not;
 - (3) whether service-disabled veteran-owned small business concerns were solicited, and if not, why not;
 - (4) whether HUBZone small business concerns were solicited, and if not, why not;
 - (5) whether small disadvantaged business concerns were solicited, and if not, why not;
 - (6) whether women-owned small business concerns were solicited, and if not, why not; and
 - (7) if applicable, the reason that the award was not made to a small business concern;
- d. Records to support other outreach efforts, e. g., trade associations, business development organizations; conferences and trade fairs to locate small, HUBZone, small disadvantaged, and women-owned small businesses sources; and veterans service organizations;
- e. Records to support internal guidance and encouragement provided to buyers through (1) workshops, seminars, training programs, incentive awards, and (2) monitoring of activities to evaluate compliance; and
- f. On a contract-by-contract basis, records to support subcontract award data including the name, address, and business size of each subcontractor. (This item is not required on a contract-by-contract basis for company or division-wide commercial plans.)
- g. Additional records:

This subcontracting plan was submitted by:

Signature: _____

Typed Name: _____

Title: _____

Date Prepared: _____

Phone Number: _____

Facsimile Number: _____

SADBUS Recommendation: _____ Date _____

SBA Concurrence:

Agency: U.S. Small Business Administration

Signature: _____ Date _____

Typed Name:

Title: SBA Procurement Center Representative

Phone Number: _____

Facsimile Number: _____

Contracting Officer: Approval: _____ Date: _____

Appendix 9

Sample Small Business Commercial Subcontracting Plan

DATE OF PLAN: _____

CONTRACTOR _____

ADDRESS: _____

SOLICITATION OR CONTRACT NUMBER: _____

ITEM/SERVICE (Description):

TOTAL CONTRACT VALUE: \$ _____

PERIOD OF CONTRACT PERFORMANCE (include option years): _____

FISCAL YEAR THIS PLAN IS BASED ON: _____

The following is a suggested model for use when developing subcontracting plans as required by Section 8(d) of the Small Business Act, as amended, and implemented by Federal Acquisition Regulations (FAR) Subpart 19.7. While this model plan has been designed to be consistent with statutory and regulatory requirements, other formats of a subcontracting plan may be acceptable; however, failure to include the essential information as exemplified in this model may cause for either a delay in acceptance or the rejection of a bid or offer when a subcontracting plan is required. Further, the use of this model is not intended to waive other requirements that may be applicable under statute or regulation. "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.

1. Type of Plan

Commercial products/service plan, including goals, covers the offerer's fiscal year and applies to the entire production of commercial items or delivery of services sold by either the entire company or a portion thereof (e.g., division, plant, or product line); this includes planned subcontracting for both commercial and Government business. In accordance with FAR 19.704(d), "A commercial plan (as defined in FAR 19.701) is the preferred type of subcontracting plan for contractors furnishing commercial items."

2. Goals

State separate dollar and percentage goals for Small Business (SB), Small Disadvantaged Business (SDB), Woman-owned Small Business (WOSB), Historically Underutilized Business Zone (HUBZone) Small Business, Veteran-owned Small Business (VOSB), and Service-Disabled Veteran-owned Small Business (SDVOSB) as a percentage of total subcontracting, for the one year period:

- a. Total estimated dollar value of ALL planned subcontracting, i.e., with ALL types of concerns under this contract is \$ _____ (b + g = a)

- b. Total estimated dollar value and percent of planned subcontracting with SMALL BUSINESSES (including SDB, WOSB, HUBZone, VOSB, and SDVOSB): % of “a”) \$ _____ and _____%
- c. Total estimated dollar value and percent of planned subcontracting with SMALL DISADVANTAGED BUSINESSES:
(% of “a”) \$ _____ and _____%
- d. Total estimated dollar value and percent of planned subcontracting with WOMAN-OWNED SMALL BUSINESSES:
(% of “a”) \$ _____ and _____%
- e. Total estimated dollar and percent of planned subcontracting with HUBZone SMALL BUSINESSES:
(% of “a”) \$ _____ and _____%
- f. Total estimated dollar and percent of planned subcontracting with VETERAN SMALL BUSINESSES:
(% of “a”) \$ _____ and _____%
- g. Total estimated dollar and percent of planned subcontracting with SERVICE-DISABLED VETERAN SMALL BUSINESSES:
(% of “a”) \$ _____ and _____%
- h. Total estimated dollar and percent of planned subcontracting with “OTHER THAN SMALL BUSINESSES (Large Businesses) ”:
(% of “a”) \$ _____ and _____%

Notes: (1) Federal prime contract goals are SB 23%; SDB 5%; HUBZone 2.5%, WOSB 5%, VOSB 3%, and SDVOSB 3%.

(2) SDB, WOSB, HUBZone, VOSB, and SDVOSB goals are subsets of SB and should be counted and reported in multiple categories, as appropriate.

- i. Provide a description of ALL the products and/or services to be subcontracted (Company-wide), and indicate the size and type of business supplying them (check all that apply).

Product/Service	Other-than-Small Business	SB	SDB	WOSB	HUBZone SB	VOSB	SD/VOSB

--	--	--	--	--	--	--	--

- j. Provide a description of the method used to develop the subcontracting goals for SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB concerns. Address efforts made to ensure that maximum practicable subcontracting opportunities have been made available for those concerns and explain the method used to identify potential sources for solicitation purposes. Explain the method and state the quantitative basis (in dollars) used to establish the percentage goals. Also, explain how the areas to be subcontracted to SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB concerns were determined, how the capabilities of these concerns were considered for subcontract opportunities and how such data comports with the cost proposal. Identify any source lists or other resources used in the determination process. (Attach additional sheets, if necessary.)

- k. Indirect costs have XX have not____ been included in the dollar and percentage subcontracting goals above (check one).
- l. If indirect costs have been included, explain the method used to determine the proportionate share of such costs to be allocated as subcontracts to SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB concerns. Since this is a Commercial Subcontracting Plan, indirect costs are included at a rate of 100%._____

3. **Program Administrator:**

NAME/TITLE:

ADDRESS:

TELEPHONE

E-MAIL:

Duties: Has general overall responsibility for the company's subcontracting program, i.e., developing, preparing, and executing subcontracting plans and monitoring performance relative to the requirements of those subcontracting plans. Other duties include, but are not limited to, the following activities:

- a. Developing and promoting company-wide policy initiatives that demonstrate the company's support for awarding contracts and subcontracts to SB, SDB, WOSB,

HUBZone, VOSB, and SDVOSB concerns; and for assuring that these concerns are included on the source lists for solicitations for products and services they are capable of providing.

- b. Developing and maintaining bidder source lists of SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB concerns from all possible sources;
- c. Ensuring periodic rotation of potential subcontractors on bidder's lists;
- d. Ensuring that requests for contracts (RFC) are designed to permit the maximum practicable participation of SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB concerns;
- e. Accessing various sources for the identification of SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB concerns to include the Central Contractor Registration (CCR) (<http://www.sba.gov>); the National Minority Purchasing Council Vendor Information Service; the Office of Minority Business Data Center in the Department of Commerce; local small business and minority associations; contact with local chambers of commerce and Federal agencies' Small Business Offices; and posting notices of sources sought on SBA's SUB-Net.
- f. Establishing and maintaining contract and subcontract award records;
- g. Participating in Business Opportunity Workshops, Minority Business Enterprise Seminars, trade fairs, procurement conferences, etc;
- h. Ensuring that SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB concerns are made aware of subcontracting opportunities and assisting concerns in preparing responsive bids to the company;
- i. Conducting or arranging for the conduct of training for purchasing personnel regarding the intent and impact of Section 8(d) of the Small Business Act, as amended;
- j. Monitoring the company's subcontracting program performance and making any adjustments necessary to achieve the subcontract plan goals;
- k. Preparing, and submitting timely, required, subcontract reports;
- l. Coordinating the company's activities during the conduct of compliance reviews by Federal agencies; and
- m. Other duties: _____

4. **Equitable Opportunity**

Describe efforts the offeror will make to ensure that SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB concerns will have an equitable opportunity to compete for subcontracts. These efforts include, but are not limited to, the following activities:

a. Outreach efforts to obtain sources:

- (1) Contacting minority and small business trade associations;
- (2) contacting business development organizations and local chambers of commerce;
- (3) attending SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB procurement conferences and trade fairs;
- (4) requesting sources from the Small Business Administrations (SBA) CCR and SUB-Net Systems, (<http://www.sba.gov/>) and other SBA and Federal agency resources; and
- (5) Conducting market surveys to identify new sources.

b. Internal efforts to guide and encourage purchasing personnel:

- (1) Conducting workshops, seminars, and training programs;
- (2) Establishing, maintaining, and utilizing SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB source lists, guides, and other data for soliciting subcontractors; and
- (3) Monitoring activities to evaluate compliance with the subcontracting plan.

Additional efforts: _____

5. Flow-Down Clause

The contractor agrees to include the provisions under FAR 52.219-8, "Utilization of Small Business Concerns," in all acquisitions exceeding the simplified acquisition threshold that offers further subcontracting opportunities. All subcontractors, except small business concerns, that receive subcontracts in excess of \$550,000 (\$1,000,000 for construction) must adopt and comply with a plan similar to the plan required by FAR 52.219-9, "Small Business Subcontracting Plan." (Flow-down of the subcontracting plan requirement is not applicable to subcontracts for commercial items in contracts that contain either FAR 52.212-5(e) or FAR 52.244-6(c).)

6. Reporting and Cooperation

The contractor gives assurance of (1) cooperation in any studies or surveys that may be required; (2) *Summary Subcontract Report* in accordance with the instructions on the forms.

Reporting Period	Report Due	Due Date
Enter your fiscal year	<i>Summary Subcontract Reports</i>	Annually - 30 days after completion of fiscal year

The Summary Subcontract Reports can be obtained at www.gsa.gov/forms:

- a. Submit *Summary Subcontract Reports* to cognizant Awarding Contracting Officer, and
- b. Submit “information” copy to your nearest SBA Commercial Market Representative (CMR) (visit the SBA at <http://www.sba.gov/gc> and click on assistance directory to locate your nearest CMR).

7. Recordkeeping

The following is a listing of the types of records the contractor will maintain to demonstrate the procedures adopted to comply with the requirements and goals in the subcontracting plan. These records will include, but not be limited to, the following:

- a. SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB source lists, guides and other data identifying such vendors;
- b. Organizations contacted in an attempt to locate SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB sources;
- c. On a contract-by-contract basis, records on all subcontract solicitations over \$100,000, which indicate for each solicitation (1) whether SB, SDB, WOSB, HUBZone, VOSB, and/or SDVOSB concerns were solicited; if not, why not and (2) the reasons solicited concerns did not receive subcontract awards;
- d. Records to support other outreach efforts, e.g., contacts with minority and small business trade associations, attendance at small and minority business procurement conferences and trade fairs;

- e. Records to support internal guidance and encouragement provided to buyers through (1) workshops, seminars, training programs, incentive awards; and (2) monitoring performance to evaluate compliance with the program and requirements; and
- f. Records to support subcontract award data including the name, address, and business type and size of each subcontractor.
- g. Additional records:

SIGNATURE PAGE

This Commercial Subcontracting plan is submitted by:

Contractor: _____

Contractor Signature: _____

Typed Name: _____

Title: _____

Date Prepared: _____

And Is Accepted By:

Agency: _____

Contracting Officer Signature: _____

Typed Name: _____

Date: _____

Appendix 10

Sample Letter: Request for *Subcontracting Reports for Individual Contracts and Summary Subcontract Reports*

February 5, 2007

Mr. Joe McChester,
Small Business Liaison Officer
ARP Co.
1616 Target Way
Any Place, CO 65487

Re: ***Subcontracting Report(s) for Individual Contracts*** and ***Summary Subcontract Report(s)***
(SF-294 and SF-295)

Dear Mr. McChester:

I am writing to request that you provide me with copies of each of the reports referenced above, unless you have entered the report(s) electronically into the Electronic Subcontract Reporting System (eSRS) at www.esrs.gov. This will ensure that you are in compliance with the instructions on the back of the referenced forms, which require you to provide your Commercial Market Representative (CMR) with a copy of all ***Summary Subcontract Report(s)*** (SF-295s) and ***Subcontracting Report(s) for Individual Contracts*** (SF-294s) upon request. Please consider this letter as formal notification that I wish to receive all paper SF-294s and SF-295s that you have not entered into the eSRS.

The eSRS gives me access to all of the reports that you submit electronically. Accordingly, you do not need to submit paper reports if you use the eSRS. At the present time, the eSRS is being used by nearly all of the civilian agencies of the Government, and implementation for the Department of Defense (DoD) is scheduled in the near future.

As you know, the *Subcontracting Report for Individual Contracts*, if applicable, is due twice a year for the periods ending March 31st and September 30th, and the *Summary Subcontract Report* is due at least once a year. (Please note: DoD and NASA require the *Summary Subcontract Report* semi-annually.) A *Subcontracting Report for Individual Contracts* marked "Final" is also due within 30 days after completion of any contract containing a subcontracting plan.

It would also be helpful if you would complete the attached information sheet and fax it to my attention at (xxx) xxx-xxxx so that my file can reflect current information about your company.

If you have any questions about your small business program or need assistance in completing the above-referenced reports, please feel free to contact me at (xxx) xxx-xxxx.

Sincerely,

John Doe
Commercial Market Representative

Attachment

**Attachment to Sample Letter Requesting the *Subcontracting Report for Individual Contracts*
and *Summary Subcontract Reports***

Prime Contractor Information

Company Name:

Parent/Affiliate of/Prior Name:

Mailing Address:

Physical Address (if different):

City, State, Zip:

Effective Date: December 4, 2006

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DUNS #:

Company Phone Number:

Company Fax Number:

Company's Fiscal Year:

Company's website:

Small Business Website Link (if you have one):

Product/Service your Company provides Govt.:

CEO/President:

SBLO:

Name:

Title:

Phone:

Fax:

Email Address:

Alternate SBLO name and phone/email:

Anything else you'd like me to know about your small business program:

Questions/Concerns you'd like me to answer:

(FAX TO: John Doe 000-123-5656)

Appendix 11

Sample Letter: Performance Review (also called "Desk Review")
(Goals Not Met)

Date

Mr. Bob Blank
XYZ Corporation
123 Main
Austin, TX 45678

Dear Mr. Blank:

I have reviewed your *Subcontracting Report(s) for Individual Contracts* and *Summary Subcontract Report(s)* for the period ending September 30, 20XX. Each year SBA reviews these reports to determine if your company is meeting its individual contract goals, as well as to assess its overall achievements with small businesses (SB), small disadvantaged businesses (SDB), small HUBZone businesses (HUBZone), veteran-owned small businesses (VOSB), service-disabled veteran-owned small business (SD-VOSB), and woman-owned small businesses (WOSB). We call this a "Performance Review." The subject review encompassed your Kelly AFB contract and two Defense Supply Center-Columbus contracts.

Your *Subcontracting Report(s) for Individual Contracts* indicate that you are meeting all of your SB, WOSB, VOSB, and SD-VOSB goals, but you are failing to meet your SDB and HUBZone goals. The remarks section of your *Subcontracting Report(s) for Individual Contracts* fails to explain the reasons you are not meeting your SDB and HUBZone goals.

Your *Summary Subcontract Report(s)* indicates awards for fiscal year 20XX of 46% to SB, 16% to WOSB, 11% to VOSB, 3% to SD-VOSB, 0% to SDB, and 0.4% to HUBZone. While your small business percentage is excellent, your company seems to have a difficult time locating and utilizing SDBs and HUBZone firms. I suggest that you develop a "HUBZone and SDB Corrective Action Plan" for your contracts that will describe innovative steps to meet these particular goals. If you need any suggestions, please contact me.

If there are any product or service areas that I can assist you in locating small businesses, please let me know. I would also like to encourage you to search the CCR database at <http://www.ccr.gov> for potential vendors. You can also post opportunities on SUB-Net at <http://web.sba.gov/subnet/>. Both tools are available to you and your buyers free of charge.

I will be contacting you in November to schedule a date for a Small Business Program Compliance Review later this year.

If you have any questions, please feel free to contact me at (123) 456-9876 or XXX@sba.gov.

Sincerely,

Commercial Market Representative
Enclosure: SBA Form 1907 Worksheet

Appendix 12

Sample Notification of a Small Business Program Compliance Review

February 12, 2007

Mr. Q. C. Report
Any Prime Contractor
Main Street
Anywhere, US 12345-6789

RE: Notification of Small Business Program Compliance Review

Dear Mr. Report:

Effective Date: December 4, 2006

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Pursuant to Section 8(d) of the Small Business Act, Federal contracts and modifications in excess of \$550,000 (\$1,000,000 in construction of a public facility) must contain a subcontracting plan, including goals for small, disadvantaged, HUBZone, veteran-owned, service disabled veteran-owned, and women-owned businesses concerns. The Small Business Administration is legislatively mandated to perform small business program reviews of all contracts containing such subcontracting plans.

I am planning a field visit to your facility on March 14, 2007, to perform a Small Business Program Compliance Review. I plan to arrive at 8:30am. I have enclosed a "Preparation Checklist" detailing the information that I will examine during the review. I would appreciate if you could have any backup material to address the checklist available at the time of the review.

As noted in the "Preparation Checklist", there are three documents that I need at least one week prior to the review:

- (1) A list of all subcontract awards to small businesses of any dollar value issued within the past year. The list should include the name of the small business, dollar amount of subcontracts received (either aggregate for the year or for each subcontract), and small business size classification (i.e. SB, SDB, HUBZone, WOSB, VOSB, SD-VOSB).
- (2) A list of all subcontract awards over \$100,000 issued to large businesses within the past year. The list should include the subcontract number, date of the subcontract, large business name, and dollar amount of the subcontract.
- (3) A list of any blanket purchasing agreements, corporate-wide purchasing agreements, or similar agreements that were established during the past year by this company/division. Any agreement that requires a particular large business to be used for repetitive purchases should be included in the listing (For example, A corporate purchasing agreement with Staples for office supplies).

The listings above should include all direct and indirect subcontracts in accordance with the definition of "subcontracts" in FAR 19.701.

"Subcontract" means 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, contract modification, or subcontract. These include purchase orders, subcontracts, credit card expenditures, agreements, etc.

During my visit, I will interview you at some length to determine whether small business concerns are being provided "maximum practicable opportunities" as required by the law. I may also randomly select some buyers or management to interview.

I shall conduct an exit briefing at the conclusion of my review at 4:00 p.m. Please invite the

following individuals to the exit briefing: the President and/or someone at the Vice President level, the Director of Purchasing, the Small Business Liaison Officer, the SBLO's supervisor, and any other individuals who you think impact, either directly or indirectly, the subcontracting program.

Please have all of the documentation requested above ready for my examination on Wednesday morning, March 14th. If you have any questions that arise prior to that date, please feel free to contact me at (123) 456-7890.

Sincerely,

John Doe
Commercial Market Representative

Appendix 13



SMALL BUSINESS PROGRAM COMPLIANCE REVIEW

PREPARATION CHECKLIST

Please have the following information and documentation in a binder in the same order it appears on this checklist ready on the date of my review.

General Information (please complete this sheet and use as a cover page in your binder)

Name of Company: _____

Division of/dba: _____

Mailing Address: _____

Physical Address (if different): _____

City, State, Zip: _____

DUNS #: _____ (numerical – 9 digits)

Company Website: _____

Small Business Link: _____

CEO/President: _____

Small Business Liaison Officer (SBLO): _____

Phone: _____

Email: _____

Alternate SBLO: _____

Phone: _____

Email: _____

How many prime contracts with subcontracting plans does your company have? _____

List agencies:

How many subcontracts with subcontracting plans does your company have? _____

List the prime contractors:

Does your company have any other divisions that submit *Subcontracting Report for Individual Contracts* and *Summary Subcontract Reports*?

If you have a Master Plan / Commercial Plan / Comprehensive Plan, please provide the current year's properly approved copy.

1. **Sourcing**

- a. Do you have any contracts for which you are not meeting subcontracting plan goals? If so, please provide a listing of product or services areas in which SBA can assist you in locating SB, SDB, WOSB, HUBZone SB, VOSB, and SD-VOSBs?
- b. Do you have any contracts you are currently considering bidding on that SBA can help you to locate SB, SDB, WOSB, HUBZone SB, VOSB, and SD-VOSBs in the proposal stages?
- c. Explain how your company locates small businesses to use as subcontractors/vendors for future jobs.

2. **Validation of *Subcontracting Report for Individual Contracts/Summary Subcontract Reports***

- a. Prior to the review date, provide SBA with a listing of subcontracts³ to any SB, SDB, WOSB, HUBZone SB, VOSB, and SD-VOSBs that you have awarded over the past year. Include the company name, size classification of company, and dollar value (either per subcontract or aggregate for the year). From this list, SBA will select a random sampling prior to the review date. Please have each selected firm's size self-certification available on the review date.
- b. Provide a sample of a blank size self-certification.
- c. If you are excluding any costs from your *Subcontracting Report for Individual Contracts/Summary Subcontract Reports*, please provide listing of these items.
- d. Explain how a size self-certification is received, tied to a subcontract, and tracked all the way to your *Subcontracting Report for Individual Contracts/Summary Subcontract Reports*. You may include your tabulation/print outs that you used to prepare your most recent *Subcontracting Report for Individual Contracts/Summary Subcontract Reports*.
- e. Provide an explanation of how a proportionate share of your indirect costs is applied to your *Summary Subcontract Reports* and *Subcontracting Report for Individual Contracts* (if applicable). Not applicable for companies with commercial Subcontracting Plans (applied at 100%).

3. Five Year Trend Analysis

An analysis of the last five years Summary Subcontract Report data reveals a trend. Ideally, this trend should be increasing slightly each year. However, the number of contracts, buying trends, and other factors often impact the trend.

- a. If your awards to SB, SDB, WOSB, HUBZone SB, VOSB, or SD-VOSB have been decreasing or remained stagnant over the past five years, provide an explanation.
- b. Are there any current practices in your company that are adverse for small business (i.e. reducing supplier base, consolidating requirements)? If so, what measures are you taking to make sure that small businesses are not affected?

4. Overall Evaluation of the Subcontracting Program

a. Management's Support of the Program.

1. Provide Policy Letter from CEO supporting the program;

³“Subcontracts” is defined in FAR Part 19.701as “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 the performance of the contract, contract modification, or subcontract.”

2. Provide an organization chart (explain the access it provides the SBLO to administer the small business program and to obtain the cooperation of department heads and program managers);
3. Explain how often and under what circumstances you meet with management regarding small business program goal accomplishment and other issues; and
4. Provide copies of your written policies and procedures providing guidance on small business utilization.

b. Training.

1. What small business training is provided to individuals at your company with purchasing authority (including those in off-site locations)? Include agendas/rosters; etc.;
2. Does your company have an incentive program to recognize buyers and other staff for outstanding utilization of small businesses? If so, explain.

c. Outreach

1. Provide a listing of trade fairs and conferences for small business that you have attended or sponsored in the past year;
2. Provide a list of local small business organizations and councils that you participate in;
3. Describe any small businesses that you have found and utilized as a result of your outreach efforts;
4. Describe your Mentor Protégé Program (DOD, 8(a) or other);
5. Describe how a small business is counseled when it contacts your company; and
6. Describe any workshops/symposiums that you have hosted for small businesses interested in doing business with your company.

d. Assistance Provided to Small Businesses

Provide examples of assistance you have provided to small businesses over the past year. Please examine the list in SBA's regulation at 13 CFR 125.3(b) *Responsibilities of prime contractors*, (3)(i) through (ix) and cite examples from this list. You may also wish to cite (c) *Additional responsibilities of large prime contractors*, (vi) "As a

best practice” if you are doing this, to demonstrate that you go above and beyond the requirements of the regulation. You may also cite other examples of assistance to small business not mentioned in SBA’s regulation. The 13 CFR regulations cited above may be found on the Internet at <http://www.sba.gov/library/lawroom.html>. Page down until you see 13-CFR-125, open it, and find 125.3 Subcontracting Assistance.

e. **Success Stories**

Provide documentation of success stories such as those resulting in an award of a contract to a firm you met at an outreach activity, award of a contract to a company SBA referred (8a firm), removing an obstacle so a small business could participate on a bid, redirecting a subcontract from a large business supplier to a small business supplier, etc.

5. **Subcontracting Plan Goal Analysis**

- a. If you have not previously provided SBA a copy of all *Subcontracting Reports for Individual Contracts*, you should provide copies to SBA at least one week before the date of the review. You should also have a copy of each subcontracting plan available during the review.
- b. Explain who formulates the goals in your subcontracting plan(s), your involvement, and how these goals are formulated.
- c. If any of your contracts are not meeting their goals, document the reasons why. Do you have a corrective action plan for any goals that you are not currently meeting?
- d. Provide a list of Administrative Contracting Officers (name and addresses) for all of your contracts with subcontracting plans (not just those in the random sampling).

6. **Subcontracts to Large Business**

- a. Prior to the review date, send SBA a list of subcontracts over \$100,000, issued over the last year, that have been awarded to large businesses. The list should include the date of the subcontract, subcontract number, large business that received the subcontract, and dollar value. From this listing, SBA will randomly select some files to review. On the review date, please have the actual subcontract file available.
- b. Prior to the review date, send SBA a list of any blanket purchasing agreements, corporate-wide purchasing agreements, or similar agreements that were established during the past year by this company/division. Any agreement that requires a particular large business to be used for repetitive purchases should be included in the listing (for example, A corporate purchasing agreement for office supplies).

- c. Provide a sample of your blank subcontract justification sheet (FAR 52.219-9(d)(11) which requires each subcontract awarded to a large business over \$100,000 to explain whether SB/SDB/WOSB/HUBZone SB/VOSB/SD-VOSB were solicited and if not why not—and the reason award was not made to a SB.
- d. Enclose the document your company uses to flow-down FAR 52.219-8 in every subcontract with subcontracting opportunities. This requirement, as prescribed by the FAR clause at 52.219-9(d)(9), is applicable to all types of subcontracting plans.
- e. Describe how your company requires subcontracting plans from your subcontractors with subcontracts over \$550,000 or \$1 million for construction. Explain how this plan is reviewed and monitored. A random sampling of subcontracting plans and *Subcontracting Reports for Individual Contracts* will also be conducted during the review. (This requirement is not applicable to subcontracts for commercial items in contracts that contain either of the following FAR clauses: 52.212-5 or 52.244-6.)

7. Follow-Up on SBA's Prior Recommendations

If there were any recommendations made during SBA's last review, explain what action your company has taken to implement these recommendations.

8. Rating (For information purposes only – no documentation required)

A summary of SBA's review findings, including recommendations, will be prepared and sent to your CEO/President and each federal agency with which you have an active or recently completed contract containing a subcontracting plan. You will be assigned a rating based on the following:

- a. Outstanding – Exceeded all negotiated goals or exceeded at least one goal and met all of the others.⁴ Has exceptional success with initiatives to assist, promote and utilize small business (SB), small disadvantaged business (SDB), women-owned small business (WOSB), HUBZone small business, veteran-owned small business (VOSB), and service-disabled VOSB (SD/VOSB). An outstanding rating signifies that the company has an exemplary program that could be used as a model by other contractors in similar industries.
- b. Highly Successful – Met all of its negotiated goals in the traditional socio-economic categories (SB, SDB, and WOSB) and met at least one of the newer socio-economic goals (HUBZone small business, VOSB, and SD/VOSB) for each contract that

⁴ For rating purposes, the sample should include all contracts completed during the past 12 months, or for companies with a Commercial Plan or the DoD *Test Program for Comprehensive Subcontracting Plans*, it should include the results of the most recent fiscal year ended September 30th (or other period ending date, if so authorized).
Note: If a contractor with individual plans has no contracts that are completed during the past 12 months, the rating will be determined by contracts that are active, giving greater weight to those that are nearest to completion.

contains two or more of those goals. Has significant success with initiatives to assist, promote and utilize SB, SDB, WOSB, HUBZone small business, VOSB, and SD/VOSB. Makes an effort to go above and beyond the required elements of the program and can provide documentation and success stories to support such efforts.

- c. Acceptable – Demonstrated a good-faith effort to meet all of its goals, but has not met the rigorous criteria for a Highly Successful or Outstanding rating. Fulfills the requirements of its subcontracting plan and the regulations. *Subcontracting Report for Individual Contracts* and *Summary Subcontract Reports* are complete and accurate.
- d. Marginal – Deficient in meeting key subcontracting plan elements; the *Subcontracting Report for Individual Reports* and *Summary Subcontract Reports* are not correct; or the contractor has failed to satisfy one or more requirements of a corrective action plan currently in place. However, contractor’s management does show an interest in bringing its program to an acceptable level and has demonstrated a commitment to apply the necessary resources to do so. A corrective action plan is required, and the Administrative Contracting Officer(s) must be notified.
- e. Unsatisfactory – Noncompliant with the contractual requirements of DFARS and FARs 52.219-8 and 52.219-9. Contractor’s management shows little interest in bringing its program to an acceptable level or is generally uncooperative. A corrective action plan is required, and the Administrative Contracting Officer(s) must be notified.



Appendix 14

SMALL BUSINESS PROGRAM COMPLIANCE REVIEW CHECKLIST

Review Date: _____

Conducted By: _____

General Information

Name of Large Prime Contractor (LPC): _____

Division of or dba: _____

Mailing Address: _____

Physical Address (if different): _____

City, State, Zip: _____

DUNS #: _____ (numerical – 9 digits)

Company Website: _____

Small Business Link: _____

CEO/President: _____

Address if different: _____

SBLO: _____

Phone: _____

Email: _____

Alternate SBLO: _____

Phone: _____

Email: _____

How many prime contracts with subcontracting plans does the LPC have? ____

Name agencies: _____

How many subcontracts with subcontracting plans (i.e., required by prime contractors or higher-tier subcontracts under the flow-down provision) does the LPC have?

Name the prime contractors or higher-tier subcontractors:

Does the Company have a Master Plan / Commercial Plan / Comprehensive Plan?

If so, what period is the plan based on? _____

Are subsequent plans submitted in a timely manner?⁵ Y () N ()

Is this LPC or any of its divisions nationwide also covered by another CMR?

Explain⁶. _____

A. Sourcing

SBA may be able to help an LPC to identify small business concerns for its current or future contracts.

⁵ Commercial Plans are due annually at least 30 days prior to the expiration of the previous year’s plan (FAR 19.704(d)(2)), Comprehensive Plans are due annually 45 days prior the expiration of the previous year’s plan and Master Plans are valid for a three year period.

⁶ If any of the LPCs other divisions are also covered by another CMR, you may need to consider a Tandem Team Review in accordance with SOP 60 03 6.

Are there any current jobs for which the LPC is not meeting its goals? In what commodity and category (i.e. DDB) can SBA assist the LP in finding sources? Does the LPC have to identify upfront all of its suppliers/subcontractors in its proposal? If so, how can SBA get involved in the process at that time? Is the LPC an active user of CCR and SUB-Net? Are there any areas in which the SBA can be on the lookout for small businesses? Does the LPC use any resources other than CCR or its own database to locate SB sources?

B. Validation of Subcontracting Report(s) for Individual Contracts /Summary Subcontract Report(s)

Ask the SBLO to demonstrate how a subcontract is tied to its size self-certification and to the *Subcontracting Report for Individual Contracts/Summary Subcontract Reports*. To verify accuracy, randomly select about ten vendors/subcontractor that the LPCs has recently used in each category of small business (SB/SDB/WOSB/HUBZone SB, VOSB, SD-VOSB) and request the supporting size self-certifications. Verify that the company is correctly classified in the LPC's vendor database and reports. Review the document that is used to prepare the *Subcontracting Report for Individual Contracts/Summary Subcontract Reports* (often a computer generated tabulation).

		Y	N
1)	Is the LPC correctly categorizing the companies on the <i>Subcontracting Report for Individual Contracts/Summary Subcontract Reports</i> ? (i.e. WOSB/SDB counted in three categories; HUBZone/SDB must be SBA certified)	()	()
2)	Is the LPC verifying SDB and HUBZone SBs in CCR?	()	()
3)	Does the LPC have a written size self-certifications for every SB it is counting on the reports? At what regularity are size self-certifications required? _____	()	()
		()	()

C. Trend Analysis

An analysis of the contractor's past year's Summary Subcontract Report data reveals a trend. Ideally, this trend should be increasing slightly each year as a contractor focuses on utilizing small businesses. However, the number of contracts, buying trends, and other factors often impact the trend.

Over the past five years (or as many as applicable), have awards to SB, SDB, WOSB, HUBZone SB, VOSB, and SD-VOSB shown an improving, stagnant, or decreasing trend? What has caused this? Do the figures for the last fiscal year demonstrate maximum practicable opportunity for small business? Are there any trends in the company's purchasing that are adverse for small business (ie. reducing supplier base, corporate-wide agreements)? If so, how is the LPC overcoming these so that SBs are not adversely affected?

Comments:

D. Overall Evaluation of the Subcontracting Program

D1. Management's Support of the Program.

(Request an organization chart as well as a process flow chart).

	Y	N
Does the CEO issue a Policy Letter supporting the program?	()	()
Is the policy letter current and signed by the current CEO?	()	()
Is the SBLO the one named in the plan? If not, is there a letter of appointment?	()	()
Is the SBLO able to spend a sufficient amount of time on the program?	()	()
Does management allow sufficient resources for the program?	()	()
Is the SBLO at a level to adequately administer the program?	()	()
Does the SBLO have the cooperation and support of other department heads/managers?	()	()
Does the SBLO brief its management on the status of the SB Program?	()	()
Are the policies and procedures to support the program adequate?	()	()

Comments:

D2. Training.

Does the LPC conduct training for individuals that make purchasing decisions including those located at other sites throughout the country? Is there an incentive program to recognize buyers? If so explain.

D3. Outreach.**Y N**

Does management provide the necessary resources to conduct adequate outreach? () ()

Does the LPC attend/sponsor trade fairs and conferences? () ()

Is the LPC active in local organizations and councils that support small business? () ()

Does the SBLO have an efficient means of referring SBs to those who purchase? () ()

Does the LPC participate in national activities such as MED/SBWeek/Sub of the Year? () ()

Does the LPC participate in the Mentor Protégé Program (if so, describe efforts below): () ()

Does the LPC offer counseling to small businesses that are interested in doing business? () ()

Does the LPC host workshops or trade fairs for SBs interested in doing business? () ()

When a subcontract is issued over \$100,000 and a preference is used, does the LPC identify the successful offeror in writing to each unsuccessful offeror prior to award? () ()

Comments:

D4. Assistance to Small Business.

How is a small business treated when it attempts to do business with the LPC? Describe what forms of assistance the LPC provides to small business (technical, quality, financial, equipment, etc.). How many examples, if any, can the LPC provide to show that it is taking the actions described in 13 CFR 125.3(b) *Responsibilities of prime contractors*, (3)(i) through (ix)? Does the LPC appear to be going above and beyond the requirements of the regulation as suggested in 125(c) *Additional responsibilities of large prime contractors*, (vi) “As a best practice”?

D5. Success Stories:

Describe efforts the LPC took that resulted in the success of a small business (i.e. successful outreach, utilizing a SBA referred company, assistance provided to a small business, removing obstacles for a small business to be able to participate on a bid, redirecting a purchase from a LB to a SB, etc.).

E. Sampling Plan Goal Analysis

(Complete SBA FORM 1907. Use alternate SBA Form 1907A/B for Commercial or Comprehensive Plans)

How are the goals in the subcontracting plans formulated? Are the goals in the subcontracting plan realistic yet challenging? Is the SBLO involved in formulating the goals for the plan?

Comments:

Based on your random sampling of contracts, is the LPC meeting or exceeding its goals in each category? If not, explain what categories are deficient. Do these numbers support maximum utilization of small businesses? Does the contractor have an action plan to raise its achievements in goals it is currently not meeting?

Alternate: For LPCs with a Commercial Plan, did the company meet its most recently completed year's goals? Is the LPC offering realistic and challenging goals each year? Does the LPC's achievements support maximum utilization of small businesses?

Alternate: For LPCs with a DoD Comprehensive Plan, did the company meet its most recently completed year's goals and SDB targets? Is the LPC offering realistic and challenging goals/targets each year? Does the LPC's achievements support maximum utilization of small businesses?

Comments:

F. Subcontracts Issued to Large Businesses

(Complete SBA Form 1908)

Does the contractor document subcontracts⁷ to large business over \$100,000 with the requirements of FAR 52.219-9(d)(11)(iii) -- whether SB/SDB/WOSB/HUBZone SB/VOSB/SD-VOSB were solicited (and if not why not?) and the reason that an award was not made to a SB? Are the reasons provided valid?

Comments:

Does the contractor consider small businesses when Corporate-wide Agreements or Blanket Purchase Orders are established?

⁷“Subcontracts” is defined in FAR Part 19.701 as “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 the performance of the contract, contract modification, or subcontract.”

Does the LPC flow-down FAR 52.219-8 in every subcontract with subcontracting opportunities? This requirement, as prescribed by the FAR clause at 52.219-9(d)(9), is applicable to all types of subcontracting plans. Yes () No ()

Does the LPC receive a subcontracting plan from its subcontractors with subcontracts over \$550,000 (\$1 million for construction)? What is the LPC's means of reviewing this plan and monitoring the subcontractor's compliance with their plans? Is the LPC receiving *Subcontracting Reports for Individual Contracts* from these subcontractors? (This requirement is not applicable to subcontracts for commercial items in contracts that contain either of the following FAR clauses: 52.212-5 or 52.244-6.)

If the contractor has no instances where the P.O. \$100,000 justification and/or \$550,000 flow-down applies, are the proper procedures in place to ensure that this information will be gathered should subcontracts of these values be issued?

Comments:

G. Follow-Up on SBA's Prior Recommendations

Did the LPC submit an implementation plan in a timely manner that addressed the deficiencies noted during the last program compliance review? Has SBA's findings from the previous review been taken seriously and corrected?

Comments:

Rating

The following rating criteria should be used to determine the contractor's rating. Note that the rating criteria is the same as DCMA per the 2003 DCMA/SBA Memorandum of Understanding.

Outstanding – **Exceeded** all negotiated goals or exceeded at least one goal and met all of the others.⁸ Has exceptional success with initiatives to assist, promote and utilize small business (SB), small disadvantaged business (SDB), women-owned small business (WOSB), HUBZone small business, veteran-owned small business (VOSB), and service-disabled VOSB (SD/VOSB).⁹ An outstanding rating signifies that the company has an exemplary program that could be used as a model by other contractors in similar industries.

Highly Successful – **Met** all of its negotiated goals in the traditional socio-economic categories (SB, SDB, and WOSB) and met at least one of the newer socio-economic goals (HUBZone small business, VOSB, and SD/VOSB) for each contract that contains two or more of those goals. Has significant success with initiatives to assist, promote and utilize SB, SDB, WOSB, HUBZone small business, VOSB, and SD/VOSB. Makes an effort to go above and beyond the required elements of the program and can provide documentation and success stories to support such efforts.

Acceptable – **Demonstrated a good-faith effort** to meet **all** of its goals, but has not met the rigorous criteria for a *Highly Successful* or *Outstanding* rating. Fulfills the requirements of its subcontracting plan and the regulations. *Subcontracting Reports for Individual Contracts* and *Summary Subcontract Reports* are complete and accurate.

⁸ “Negotiated goals” refers to the dollar and percentage goals in the approved subcontracting plan. (For rating purposes, the reviewer will compare the percentage goals to the percentage achievements.)

⁹ Examples of such initiatives include, but are not limited to, participating in a Mentor-Protégé program, performing compliance reviews at subcontractors' sites, administering a buyer incentive program, participating in trade fairs, promoting registration in the CCR, and contacting suppliers to encourage SDB and HUBZone certification.

Marginal – **Deficient** in meeting key subcontracting plan elements, the *Subcontracting Report for Individual Contracts* and/or *Summary Subcontract Reports* are not correct, or the contractor has failed to satisfy one or more requirements of a corrective action plan currently in place. However, contractor's management does show an interest in bringing its program to an acceptable level and has demonstrated a commitment to apply the necessary resources to do so. A corrective action plan is required, and the Administrative Contracting Officer(s) must be notified.

Unsatisfactory – **Noncompliant** with the contractual requirements of DFARS and FAR 52.219-8 and 52.219-9. Contractor's management shows little interest in bringing its program to an acceptable level or is generally uncooperative.¹⁰ A corrective action plan is required, and the Administrative Contracting Officer(s) must be notified.

¹⁰ For example, recommendations made by SBA or DCMA on previous reviews have never been implemented.

Comments:

SBA FORM 1907 (for

companies with individual or master plans)

SBA FORM 1908

Appendix 15

Follow-Up Review Checklist

Company Name: _____

Date of Follow-Up Review: _____

Last Program Compliance Review: Date _____

Rating _____

Y N

Did SBA request a Corrective Action Plan after the last review? () ()

Did the contractor submit a Corrective Action Plan a timely manner? () ()

Has the LPC completed the items in its Corrective Action Plan? () ()

Attach a copy of your findings from your last review and the contractor's Corrective Action Plan (if applicable). Describe any items that still need further attention.

Based on the contractor's actions since the last review, the rating is:

Upgraded by one level to _____

Left unchanged

Downgraded one level to _____

The next Subcontracting Program Compliance Review planned for this contractor is

_____.

Appendix 16

MEMORANDUM OF UNDERSTANDING**between****DEFENSE CONTRACT MANAGEMENT AGENCY****and the****THE U.S. SMALL BUSINESS ADMINISTRATION****May 9, 2003**

WHEREAS the Defense Contract Management Agency (DCMA) and the Small Business Administration (SBA) both perform compliance reviews of Department of Defense (DOD) prime contractors; and

WHEREAS DCMA and SBA wish to support the Administration's efforts to streamline Government and to eliminate duplication;

THEREFORE DCMA and SBA agree to the following:

SUMMARY:

By means of this Memorandum of Understanding (MOU), DCMA and SBA agree to redefine and strengthen their respective roles in administering and enforcing Section 8(d) of the Small Business Act.

BACKGROUND:

SBA derives its authority for the subcontracting program from Section 8(d) of the Small Business Act (15 U.S.C. 637(d)). This statutory authority is implemented in the Code of Federal Regulations (CFR) for SBA (13 CFR 125.3) and the Federal Acquisition Regulation (FAR) (48 CFR, Subpart 19.7 and clauses 52.219-8 and 52.219-9). Additional guidance is provided to SBA's field staff in the Standard Operating Procedures (SOP) for the subcontracting assistance program (SOP 60 03 5) and in various checklists and forms contained in the appendixes to this SOP, including those mentioned below under Details of the Agreement.

SBA currently performs four types of compliance reviews of large business prime contractors and subcontractors: Program Compliance Reviews, Follow-up Reviews, Performance Reviews (also known as Desk Reviews), and Subcontracting Orientation and Assistance Reviews (SOAR). SBA reviews contractors of both DoD and civilian agencies, including both large prime contractors and also large subcontractors (the latter under the flow-down requirement). SBA's compliance reviews consist of the following seven elements:

- (1) Follow-up on SBA referrals;

- (2) Validation of the prime contractor's methodology for preparing the *Subcontracting Report for Individual Contracts* and the *Summary Subcontract Reports* and verification of a sampling of the supporting self-certifications;
- (3) Five-year trend analysis;
- (4) Overall evaluation of the prime contractor's small business programs;
- (5) Sampling of contracts containing subcontracting plans;
- (6) Sampling of purchase orders to large business; and
- (7) Follow-up on prior SBA recommendations.

In accordance with FAR 42.302 (a)(51,52,53,54 and 55), DCMA performs surveillance reviews on contractors over which it has administrative authority. It reviews prime contractors only since it has no privity of contract with subcontractors. It does not review contractors of the Army Corps of Engineers, the Office of Naval Research, the Naval Facilities Engineering Command, and a number of other DoD agencies. Reviews performed by DCMA include the seven elements performed by SBA, except for the follow-up on referrals and the follow-up on prior SBA recommendations.

DETAILS OF THE AGREEMENT:

1. DCMA and SBA agree to continue using, respectively, the DCMA Review of Contractor Subcontracting Program Report (replaces DLA Form 640) and the SBA Subcontracting Program Compliance Review Checklist, along with the attached forms or their equivalent (Form 1907, Analysis of Government Contracts Containing Subcontracting Plans; Form 1907A, Analysis of Subcontracting Plan Goal Attainment for Companies with a DoD Comprehensive Plan; Form 1907B, Analysis of Subcontracting Plan Goal Attainment for Companies with a Commercial Plan; and Form 1908, Purchase Order Review Checklist—Awards to Large Business).
2. DCMA and SBA agree to expand all checklists and worksheets as may be needed to include all socioeconomic categories (the new categories include HUBZone small business concerns, Veteran-Owned small business concerns (VOSB) and Service-Disabled VOSB concerns).
3. DCMA and SBA agree to strengthen their audit procedures (checklists and forms) by validating the dollars and percentages reported on the latest *Subcontracting Report for Individual Contracts* and *Summary Subcontract Reports*; and by examining the contractors' methodology and records for verifying certification of HUBZone small business concerns

and small disadvantaged businesses (SDBs) as required by 48 CFR 19.703(b); 13 CFR Part 124, Subpart B, and Part 126; and in various other regulations.¹¹

4. In cases where a contractor has contracts with both DoD and civilian agencies, if either agency finds the contractor is not complying with the requirements of its subcontracting plan and has a compelling reason to believe that the company is not making a good-faith effort, they will immediately bring it to the attention of the other agency and discuss a plan of action.
5. Upon completing a compliance review, DCMA will forward a copy of its final report, with findings, to the appropriate contracting officers (or administrative contracting officers) and to the SBA Commercial Market Representative (CMR). If SBA is doing a compliance review and discovers that the firm has DoD contracts that have not been evaluated by DCMA, SBA will send a copy of its final report and/or compliance review checklist to the appropriate DCMA office. DCMA will be responsible for forwarding final reports to the DOD contracting officers, and SBA will be responsible for forwarding final reports to the civilian agency contracting officers.
6. DCMA and SBA agree to enforce the flow-down requirement (FAR 19.704(a)(9) and 52.219-9(d)(9)) as follows: (a) If the subcontractor is a participant in DoD's Test Program for Comprehensive Subcontracting Plans, the prime contractor may satisfy this requirement by verifying that the subcontractor is a current participant and documenting the file accordingly;¹² (b) if the subcontractor has a Commercial Plan approved by a Government agency for the current year, the prime contractor may satisfy this requirement by obtaining a hard copy of the Commercial Plan with the signature of the approving official; or (c) if the subcontractor is not a participant in DoD's Test Program for Comprehensive Subcontracting Plans and does not have a Commercial Plan, the prime contractor must obtain an individual contract plan (FAR 19.701) for the instant subcontract and retain it in the contract file with the other contract documents.
7. In cases where a prime contractor has active contracts containing subcontracting plans with both DoD and civilian agencies, the DCMA and SBA field personnel shall attempt to do a joint review whenever possible. However, SBA may decline to participate in the review if the number and dollar value of contracts with civilian agencies do not, in the CMR's judgment, warrant a review at that time. If the SBA CMR declines to participate, he or she would not normally conduct another review during the remainder of the fiscal year unless there is a compelling reason to do so (e.g., the semi-annual Subcontracting Report for Individual Contracts shows deterioration in goal achievement).
8. Other guidelines that apply to joint reviews are as follows:

¹¹ As of the date of this agreement, SBA is working with the FAR Council to clarify and strengthen the regulatory language in 48 CFR, subpart 19.7, and in the related contract clauses and forms (*Subcontracting Report for Individual Contracts* and *Summary Subcontract Reports*) on HUBZone and SDB certification requirements.

¹² A list of participants may be found on the Internet at <http://www.acq.osd.mil/sadbu/csp/procurement.html> or by contacting the Program Manager in the DOD OSD OSDBU at (703) 588-8618.

- a. Such reviews may be scheduled by either DCMA or SBA, but adequate notice (at least 30 days) must be provided to the other agency.
 - b. DCMA and SBA may use their own forms and procedures for the review (see *Details of the Agreement*, item #1).
 - c. DCMA shall limit its sampling of contracts and subcontracting plans to those over which it has appropriate administrative authority. DCMA shall focus on DoD contracts, and the SBA shall focus on the remaining contracts. However this does not preclude SBA from assisting DCMA in reviewing DoD contracts.
 - d. In order to gain greater insight into the contractor's purchasing cycles and socio-economic trends, SBA and DCMA will perform separate analyses of the contractor's five-year trend table. DCMA will examine the trend for DoD contracts, and SBA will do the same for all contracts; accordingly, the contractors will be asked to provide separate data, to the extent possible, to accommodate each reviewer's requirements.¹³
 - e. Since SBA's rating is representative of all contracts, including the DoD contracts, the CMR must determine the contractor's overall program rating on every joint DCMA/SBA compliance review. SBA will be the lead agency on all joint compliance reviews.
 - f. Where practical, DCMA and SBA should try to agree on the contractor's rating. However, if DCMA disagrees with SBA's overall rating, or if SBA disagrees with DCMA's recommendation for the rating, either reviewer may request a ruling from DCMA and SBA headquarters. In such instances, the individual disputing the other agency's rating should prepare a memorandum to his/her headquarters summarizing their objections; the program managers in the respective agency headquarters will then discuss the objections and resolve the dispute. If necessary, the two individuals signing this agreement, or their successors, shall make the final decision.
 - g. DCMA and SBA shall prepare one letter to the contractor summarizing the results of the review. The letter should clearly state contractor performance on DoD as well as overall contracts.
9. SBA has sole authority to perform compliance reviews of prime contractors of civilian agencies. When DCMA is tasked by a civilian agency to perform a compliance review, the civilian agency should be redirected to SBA headquarters. If SBA has the resources to conduct the review, it will do so; if not, SBA headquarters will contact DCMA headquarters and delegate its authority to conduct a compliance review for the instant request. This will be done on a case-by-case basis based on the resources available and the merits of the

¹³ The Government is developing a web-based system for collecting *Subcontracting Report for Individual Contracts* and Summary Subcontracts Reports data, which will eventually make the five-year trend table an automated function.

request. DCMA will not enter into any formal or informal agreements with civilian agencies to perform compliance reviews of civilian contractors.

10. In accordance with 48 CFR (FAR) 19.705-4(d)(7), DCMA will obtain advice and recommendations from the SBA Procurement Center Representative (PCR) prior to approving any subcontracting plan under DOD's *Test Program for Comprehensive Subcontracting Plans*. The PCR shall be given reasonable time (not less than 10 working days) to review such plans.

RATINGS:

DCMA and SBA agree to use standard criteria for determining the contractors' ratings (see Attachment).

DURATION OF THE AGREEMENT:

This initiative is intended to be permanent. However, it may be canceled by either party at any time upon written notification of the other.

The parties have agreed that it would be beneficial to review this agreement after one year, and periodically thereafter, to consider possible improvements. Such a review may be initiated at any time by either party.

RESPONSIBLE PARTIES:

Each of the parties to this agreement has designated the following officials to be responsible for its implementation:

1. SBA

Name: Linda G. Williams

Title: Associate Administrator for Government Contracting

Telephone Number: (202) 205-6460

2. DCMA

Name: Barbara Little

Title: Director, Small and Disadvantaged Business Utilization

Telephone Number: (703) 428-0787

SIGNATURES:

SBA: _____

Name: Fred C. Armendariz

Title: Associate Deputy

Administrator For Government

DCMA: _____

Name: Robert Schmitt

Title: Executive Director,

Contract Management Operations

Contracting and Business Development

Attachment: Rating Criteria

A copy with original signatures is maintained in SBA Headquarters in the Office of Government Contracting, Office of Contract Assistance.

RATINGS¹⁴

Outstanding – Exceeded all negotiated goals or exceeded at least one goal and met all of the others.¹⁵ Has exceptional success with initiatives to assist, promote and utilize small business (SB) small disadvantaged business (SDB), women-owned small businesses (WOSB), HUBZone small business, veteran-owned small business (VOSB), and service-disabled SD/VOSB.^{16 An}

outstanding rating signifies that the company has an exemplary program that could be used as a model by other contractors in similar industries.

Highly Successful – Met all of its negotiated goals in the traditional socio-economic categories (SB, SDB, and WOSB) and met at least one of the newer socio-economic goals (HUBZone small business, VOSB, and SD/VOSB) for each contract that contains two or more of those goals. Has as significant success with initiatives to assist, promote and utilize SB, SDB, WOSB, HUBZone small business, VOSB, SD/VOSB. Makes an effort to go above and beyond the required elements of the program and can provide documentation and success stories to support such efforts.

Acceptable – Demonstrated a good faith effort to meet all of its goals, but has not met the rigorous criteria for a Highly Successful or Outstanding rating. Fulfills the requirements of its subcontracting plan and the regulations. *Subcontracting Reports for Individual Contracts* and *Summary Subcontract Reports* are complete and accurate.

Marginal – Deficient in meeting key subcontracting plan elements the *Subcontracting Report for Individual Contracts* and/or *Summary Subcontract Reports* are not correct, or the contractor has failed to satisfy one or more requirements of a corrective action plan currently in place. However, contractor's management does show an interest in bringing its program to an acceptable level and has demonstrated a commitment to apply the necessary resources to do so. A corrective action plan is required, and the Administrative Contracting Officer(S) must be notified.

Unsatisfactory – Noncompliant with the contractual requirements of DFARS and FAR 52.219-8 and 52.219-9. Contractor's management shows little interest in bringing its program to an acceptable level or is generally uncooperative.¹⁷ A corrective action plan is required, and the Administrative Contracting Officer(s) must be notified.

¹⁴ For rating purposes, the sample should include all contracts completed during the past 12 months, or for companies with a Commercial Plan or the DoD *Test Program for Comprehensive Subcontracting Plans*, it should include the results of the most recent fiscal year ended September 30th (or other period ending date, if so authorized). Note: If a contractor with individual plans has no contracts that are completed during the past 12 months, the rating will be determined by contracts that are active, giving greater weight to those that are nearest to completion.

¹⁵ "Negotiated goals" refers to the dollar and percentage goals in the approved subcontracting plan. (For rating purposes, the reviewer will compare the percentage achievements.)

¹⁶ Examples of such initiative include, but are not limited to, participating in a Mentor-Protégé Program, performing compliance reviews at subcontractors' sites, administering a buyer incentive program, participating in trade fairs, promoting registration on CCR, and contacting suppliers to encourage SDB and HUBZone certification.

¹⁷ For example, recommendations made by SBA or DCMA on previous reviews have never been implemented

Appendix 17
Sample Interview Questions for Buyers/Management

1. Did you receive any training regarding your company's Small Business Program over the past year?
2. What did you learn at that training?

3. What do you purchase? Does your commodity lend itself toward purchasing from small businesses?
4. Do you use CCR?
5. Have you ever posted a requirement on SUB-Net?
6. What other tools have you used to find suppliers/subcontractors in the past year
7. Do you tend to stick with one “tried and true” supplier or do you give new contacts a chance to bid? Can you give me one example of this
8. How are small businesses that contact your company forwarded to you?
9. Have you attended any outreach events to find new small businesses?
10. Can you think of a success story regarding a small business that you have had personally?
11. What policies or procedures exist that provide you with guidance on purchasing from small businesses?
12. Do you think that the requirements to become a supplier are overly stringent for small businesses at your company?
13. Is your contribution to your company’s Small Business Program a part of your annual performance rating?
14. Is there any award or incentive to recognize you for your small business utilization?
15. In what ways do you think that management supports the Small Business Program?
16. In what areas could your company improve in its ability to subcontract to small businesses?
17. If you owned a small business, do you think that your company would give you a chance to become a supplier/subcontractor?

Appendix 18

Sample Letter Sent to a Prime Contractor after a Review

October 5, 2007

Mr. A.B. Report.

Effective Date: December 4, 2006

Page 172

President
Any Prime Contractor
234 Main
Anyplace, XX 12345-4564

Re: Small Business Program Compliance Review

Dear Mr. Report:

Pursuant to Section 8(d) of the Small Business Act, Federal contracts and modifications in excess of \$550,000 (\$1,000,000 for construction of a public facility) must contain a subcontracting plan that includes goals for small businesses (SB), small disadvantaged businesses (SDB), woman-owned small businesses (WOSB), HUBZone small businesses (HUBZone), veteran-owned small business (VOSB), and service-disabled veteran-owned small businesses (SD-VOSB). Any Prime Contractor has one federal contract with the U.S. Federal Agency that contains a subcontracting plan, ABCDX-03-D-XXXX.

The Small Business Administration (SBA) is legislatively mandated to perform Small Business Program Compliance Reviews on all prime and subcontractors with federal contracts containing subcontracting plans. A review was conducted at your downtown Anyplace location with Ms. SBLO on September 19, 2007.

Any Prime Contractor's small business subcontracting program was found to be in compliance with the federal regulations and has been rated as ACCEPTABLE. Ms. SBLO has demonstrated a firm commitment to utilizing small business subcontractors and suppliers on the contract. At this time, none of the goals are being met but the contract is still in its early stages. A few minor recommendations are made on the following page. SBA will conduct a follow-up review in early 2008 to evaluate your progress.

Once a year, SBA intends to share this rating with the head of the federal activity with which you have active subcontracting plans. Since this information may be used in the future to ascertain past performance, you may submit comments, rebutting statements, or additional information within 30 days after receipt of this letter, in accordance with the Federal Acquisition Regulation (FAR) subpart 42.1503.

I would like to thank Ms. SBLO for her cooperation during the review. I also want to thank you for providing the quality of leadership that encourages such a spirit of cooperation with the Government.

Sincerely,

John Doe
Commercial Market Representative

cc: The SBLO
The SBLO's Immediate Supervisor
All attendees of the exit briefing
Contracting officers¹⁸
DCMA (if applicable)
Your Area Director

¹⁸ All contracting officers of Federal agencies with which the contractor has open contracts containing subcontracting plans

Sample Format for the Attachment to the Letter in Appendix 18

Any Prime Contractor

Small Business Program Compliance Review Recommendations

[Date]

- 1.
- 2.
- 3.
- 4.

Appendix 19

Sample Notification of an Off-Site Small Business Program Compliance Review

January 12, 2007

Mr. Q. C. Report
Any Prime Contractor
Main Street
Anywhere, US 12345-6789

RE: Notification of Small Business Program Compliance Review

Dear Mr. Report:

Pursuant to Section 8(d) of the Small Business Act, Federal contracts and modifications in excess of \$550,000 (\$1,000,000 in construction of a public facility) must contain a subcontracting plan, including goals for small, small disadvantaged, small HUBZone, small veteran-owned, small service disabled veteran-owned, and small women-owned business concerns. The Small Business Administration is legislatively mandated to perform small business program reviews of all contracts containing such subcontracting plans. At the current time, Any Prime Contractor has two contracts containing subcontracting plans with Any Federal Agency.

I will be conducting a Small Business Program Compliance Review on February 12, 2007. As we discussed, I have enclosed a Preparation Checklist detailing the information that I need for you to provide to me by February 5th. I would appreciate if you would provide documentation to support each item in a binder in the order that it is shown on the Preparation Checklist. As noted in the checklist, there are three documents that I need at least one week prior to the review:

- (1) A list of all subcontracts awards to small businesses of any dollar value issued within the past year. The list should include the name of the small business, dollar amount of subcontracts received (either aggregate for the year or for each subcontract), and small business size classification (i.e. SB, SDB, HUZone, WOSB, VOSB, SD-VOSB).
- (2) A list of all subcontract awards over \$100,000 issued to large businesses within the past year. The list should include the subcontract number, date of the subcontract, large business name, and dollar amount of the subcontract.
- (3) A list of any blanket purchasing agreements, corporate-wide purchasing agreements, or similar agreements that were established during the past year by this company/division. Any agreement that requires a particular large business to be used for repetitive purchases should be included in the listing (For example, A corporate purchasing agreement with Staples for Office Supplies).

The listings above should include all direct and indirect subcontracts in accordance with the definition of "subcontracts" in FAR 19.701.

"Subcontract" means 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, contract modification, or subcontract. These include purchase orders, subcontracts, credit card expenditures, agreements, etc.

From these listings, I will randomly select several of the subcontracts so that you can include the selected small business size certifications and subcontract justifications (FAR 52.219-9(d)(11)(iii)) in your mailing to me.

During the review, we will be discussing your compliance with the flow-down provisions of the Small Business Act. The requirement for a subcontracting plan flows down to all other-than-small business subcontractors with subcontracts over \$550,000 (over \$1 million for construction of a public facility). According to the statute, other-than-small prime contractors with one or more subcontracting plans must require all other-than-small subcontractors to adopt a plan similar to their own. The prime contractor is responsible for obtaining, approving, and monitoring the subcontracting plans of its other-than-small subcontractors.

Since I find that there is often some confusion about flow-down, I will make one or two additional points at this time. A prime contractor's subcontractor is referred to as the first-tier subcontractor. If the first-tier subcontractor is an other-than-small business and it subcontracts to another other-than-small business, it must require that firm (the second-tier subcontractor) to adopt a subcontracting plan similar to its own. If the second-tier subcontractor subcontracts to yet another other-than-small business (the third-tier subcontractor), it would have to require that company to adopt a subcontracting plan as well. This process continues indefinitely, as long as the subcontractors are not small businesses and their subcontracts are over \$550,000 (over \$1 million for construction of a public facility).

Under the flow-down provision, other-than-small business subcontractors with subcontracting plans must submit *Subcontracting Report for Individual Contract* and *Summary Subcontract Report* just as the prime contractors do. However, the other-than-small subcontractor must submit the *Subcontracting Report for Individual Contracts* to its prime contractor or immediate higher-tier subcontractor rather than to the Government. This is done for monitoring purposes, and continues in this manner for all tiers. The other-than-small subcontractor still submits the *Summary Subcontract Report* to the Government in accordance with the instructions on the back of the form. This enables the Government to collect subcontracting statistics from all of the subcontracting tiers.

The flow-down process is intended to ensure that all small businesses receive "maximum practicable opportunity" to perform on Government contracts and subcontracts in accordance with Section 8(d), regardless of the subcontracting tier.

Please be available for phone calls between 8:00 a.m. and 4:00 p.m. on February 12th. I may need to discuss some of the items with you. I would also like to interview one buyer during the day.

At the conclusion of my review on February 12th, I will conduct a telephonic exit briefing at 4:00 p.m. Please invite the following individuals to be present on the call: the President and/or someone at the Vice President level, the Director of Purchasing, the Small Business Liaison Officer, the SBLO's supervisor, and any other individuals who you think impact, either directly or indirectly, the subcontracting program.

If you have any questions, please feel free to contact me at (123) 456-7890.

Sincerely,

John Doe
Subcontracting Program Specialist

Enclosure: Preparation Checklist (Appendix 13)

Appendix 20

**Sample Notification of a
Small Business Program Compliance Review Self-Assessment**

January 5, 2007

Mr. Q. C. Report
Any Prime Contractor
Main Street
Anywhere, US 12345-6789

RE: Notification of Small Business Program Compliance Review

Dear Mr. Report:

Pursuant to Section 8(d) of the Small Business Act, Federal contracts and modifications in excess of \$550,000 (\$1,000,000 in construction of a public facility) must contain a subcontracting plan, including goals for small, disadvantaged, HUBZone, veteran-owned, service disabled veteran-owned, and women-owned businesses concerns. The Small Business Administration is legislatively mandated to perform small business program reviews of all contracts containing such subcontracting plans. At the current time, Any Prime Contractor has two contracts containing subcontracting plans with Any Federal Agency.

Since Any Prime Contractor has established itself as a diligent prime contractor and was rated as *Highly Successful/Outstanding* by SBA in December 2002, you are eligible to conduct a Self-Assessment Program Compliance Review.

As we discussed, you will prepare and conduct the review yourself. All of the information and documentation that would have been prepared for an on-site SBA review must be prepared and mailed to SBA by March 31, 2004. You should assemble this information in a binder, following the Preparation Checklist enclosed. You should then review the information using the enclosed Subcontracting Program Compliance Review Checklist. Based on your review findings and the rating definitions provided, you should determine your rating. The Subcontracting Program Compliance Review Checklist and back0-uip material should be mailed to me by March 31st.

As noted in the Preparation Checklist, there are three documents that you should generate and conduct a random sampling:

- (1) A list of all subcontract awards to small businesses of any dollar value issued within the past year. The list should include the name of the small business, dollar amount of subcontracts received (either aggregate for the year or for each subcontract), and small business size classification (i.e. small businesses, small disadvantaged businesses, HUBZone small businesses, women-owned small businesses, veteran-owned small businesses, small disadvantaged veteran-owned small businesses).

From this listing, you should randomly select twenty small business subcontracts from different vendors. You may wish to select the small businesses that were awarded the largest aggregate dollar amounts since these companies have the largest impact on the of the small business groups (SB, SDB, WOSB, HUBZone, VOSB, and SDVOSB). You should verify that each company in your sampling has a written, current size self-certification and the size of the company is correctly coded in your vendor database and was captured correctly on your *Subcontracting Report for Individual Contracts* and *Summary Subcontract Reports*. If a company is SDB or HUBZone, you should attach the company's supporting CCR profile.

- (2) A list of all subcontract awards over \$100,000 issued to large businesses within the past year. The list should include the subcontract number, date of the subcontract,

large business name, and dollar amount of the subcontract.

From this listing you should randomly select at least ten awards, preferably awarded to different subcontractors. You should pull the associated subcontract file and verify that the acquisition contained a justification of why small businesses (and each of the subset groups) were not solicited/awarded (FAR 52.19-9(d)(11)(iii). You should document this on SBA Form 1908, "Subcontract Review Checklist – Awards to Large Business."

- (3) A list of any blanket purchasing agreements, corporate-wide purchasing agreements, or similar agreements that were established during the past year by this company/division. Any agreement that requires a particular large business to be used for repetitive purchases should be included in the listing (For example, a corporate purchasing agreement with Staples for office supplies).

From this listings above, you should examine at least five of the agreements and determine if small businesses were considered in the decision-making process (FAR 52.219-9(d)(11)(iii) and why you company chose to select a large business. You should also determine if your company considered how this agreement to a large business would impact its small business program.

Please evaluate your Small Business Program as it stands on the date of your review. Do not correct any of the deficiencies you find before providing your material to SBA.

On March 31 XXX, I will thoroughly review the Subcontracting Program Compliance Review Checklist and backup material. Please be available by phone this day incase I have any questions or need additional documentation. At the conclusion of my review, I will cal you to discuss whether I agree with your self-assigned rating. In a letter to your President, I will also Agree or disagree with your findings and self-assigned rating. The rating I assign in my letter will be your final rating for this review.

If you have any questions during the conduct of your Self-Assessment, please feel free to contact me at (123) 456-7890 or xxx@sba.gov.

If you have any questions, please feel free to contact me at (123) 456-7890.

Sincerely,

John Doe
Commercial Market Representative

Enclosure: Preparation Checklist (Appendix 13)
Subcontracting Program Compliance Review Checklist (Appendix 14)
(including appropriate SBA Form 1907 and SBA Form 1908

Appendix 21

Sample Letter Sent to a Prime Contractor after a Self-Assessment

March 12, 2007

Mr. A.B. Report

President

Any Prime Contractor

234 Main

Anyplace, XX 12345-4564

Re: Small Business Program Compliance Review

Dear Mr. Report:

Pursuant to Section 8(d) of the Small Business Act, Federal contracts and modifications in excess of \$550,000 (\$1,000,000 for construction of a public facility) must contain a subcontracting plan that includes goals for small businesses (SB), small disadvantaged businesses (SDB), woman-owned small businesses (WOSB), HUBZone small businesses (HUBZone), veteran-owned small business (VOSB), and service-disabled veteran-owned small businesses (SD-VOSB). Any Prime Contractor has one federal contract with the U.S. Federal Agency that contains a subcontracting plan, ABCDX-03-D-XXXX.

Since Any Prime Contractor has established itself as a diligent prime contractor and was rated as *Highly Successful/Outstanding* by SBA in December 2002, it was eligible to conduct a Self-Assessment Program Compliance Review.

This Self-Assessment was conducted by Ms. SBLO during the month of March 2003. Her Self-Assessment Review was forwarded to SBA and reviewed by SBA on March 31, 2003.

As a result of the Self-Assessment Review, Ms. SBLO determined that the proper rating for Any Prime Contractor's small business subcontracting program is **OUTSTANDING/HIGHLY SUCCESSFUL**. I have fully reviewed the Self-Assessment and agree with this rating. Items that were found to need further attention are noted on the following page.

Once a year, SBA intends to share your rating with the head of the federal activity for which you have active subcontracting plans. Since this information may be used in the future to ascertain past performance, you may submit comments, rebutting statements, or additional information within 30 days after receipt of this letter in accordance with FAR 42.1503.

I would like to thank Ms. SBLO for her cooperation in conducting the Self-Assessment Review. She performed a very thorough analysis in accordance with our guidelines. I also want to thank you for providing the quality of leadership that encourages such a spirit of cooperation with the Government.

Sincerely,

John Doe
Commercial Market Representative

cc: The SBLO
The SBLO's Immediate Supervisor
All attendees of the exit briefing
All federal agencies the contractor has subcontracting plans with
DCMA (if applicable)
Your Area Director

Sample Format for the Attachment to the Letter in Appendix 21

Any Prime Contractor

Small Business Program Compliance Review Recommendations

[Date]

- 1.**
- 2.**
- 3.**
- 4.**

Appendix 22

**AREA OFFICE CHECKLIST FORM FOR
DWIGHT D. EISENHOWER AWARD FOR EXCELLENCE
SELF-NOMINATION**

NAME OF NOMINEE _____

ADDRESS _____

NAME OF SBLO _____

NAME OF CEO: _____

SBLO Telephone No. _____

Category _____

	<u>YES</u>	<u>NO</u>
Has nominee been a recipient of the Dwight D. Eisenhower Award during the past three (3) years? (Yes to this question disqualifies nominee.)	_____	_____
Is nomination package complete? (No on any one of the three items below disqualifies nominee except as noted.) ¹⁹	_____	_____
1. 5-Year Trend	_____	_____
2. <i>Summary Subcontract Reports</i> for FY 20XX ²⁰	_____	_____
3. Does the company's narrative address all of the criteria listed on the current year's Official Guidelines?	_____	_____

¹⁹ SBA will not disqualify a nominee if they do not have a five-year trend because they have been a Government contractor for less than five years. Note: the Summary Subcontract Report for a commercial plan that is based on the contractor's fiscal year may be submitted at any time up until January 30th, or 30 days after the calendar year ending December 31st. Contractors whose fiscal year corresponds to neither the Government's fiscal year nor the calendar year may simply submit the most recent Summary Subcontract Report submitted to the Government as of the deadline for submission of the self-nomination.

²⁰ The CMR must verify that nomination includes *Summary Subcontract Reports* for each agency with which the nominee had contracts containing subcontracting plans as of the preceding fiscal year ended September 30th and that the totals match the corresponding lines on the 5-year trend.

- | | | | |
|----|--|------------------------|-------|
| a. | Does the narrative demonstrate management's support of the small business program? | _____ | _____ |
| b. | Does the narrative elaborate on the effectiveness of the Small Business Liaison Officer (SBLO)? | _____ | _____ |
| c. | Does the narrative include outreach efforts during the past 12 months (e.g. seminars, conferences, trade shows and any other related procurement functions)? | _____ | _____ |
| d. | Does the narrative describe assistance to small businesses during the past two years and related success stories? | _____ | _____ |
| e. | Does the narrative describe participation in a Mentor-Protégé Program? | _____ | _____ |
| f. | Does the narrative note other awards received for small business activities (i.e. Federal, State, trade shows, etc.) during the past three years? | _____ | _____ |
| g. | Was the company a recipient of SBA's <i>Award of Distinction</i> during the past three years? ²¹ | (no longer applicable) | |
| h. | Does the narrative describe the contractor's use of SBA's CCR and SUB-Net? | _____ | _____ |
| i. | Does the narrative describe the contractor's participation in SBA's <i>Small Business Subcontractor-of-the-Year</i> award program during the past two years? | _____ | _____ |

²¹ The provision that nominees that have won this award will receive additional consideration in the judging was eliminated in fiscal year 2007.

j. Does the nominee intend to submit a nomination for *Small Business Subcontractor-of-the-Year* this year?²² _____

k. Does the narrative contain a list of all Federal agencies with which the contractor has contracts containing subcontracting plans? _____

Have you submitted an IG or EEO clearance? _____

Name of CMR (Printed or Typed)

Date

Signature:

Telephone No.

²² Nominees that have submitted nominations during the past two years or plan to submit a nomination during the current year will receive additional points in the judging.

Appendix 23

SAMPLE LETTER FOR LARGE PRIME CONTRACTORS AND LARGE SUBCONTRACTORS²³

Full-length version: includes language about both FAR 52.219-8 and FAR 52.219-9, and references Commercial and Comprehensive Plan

Dear Supplier:

You will find Federal Acquisition Regulation (FAR) clauses 52.219-8 and 52.219-9 included in the Terms and Conditions of your pending subcontract/purchase order since it is tied to a federal contract. You can readily look up FAR references at www.arnet.gov/far.

FAR 52.219-8 is titled “52.219-8 Utilization of Small Business Concerns.” If you plan to subcontract any further, the clause requires you to offer small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns with the maximum practicable opportunity to participate in performing subcontracts awarded by your company. It also requires that you establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns. The clause also contains the definition for each small business category.

FAR 52.219-9 requires large business subcontractors receiving an award over \$550,000 (\$1 M for construction) to prepare and submit a subcontracting plan. The types of subcontracting plans and minimum requirements of the plan can be found at FAR 52.219-9. If you have any questions about preparing a subcontracting plan, you may contact your local Commercial Market Representative (CMR) at the Small Business Administration, Office of Government Contracting.²⁴ We cannot award the pending subcontract to your company until we have received and approved your Subcontracting Plan. If you are participating in the DoD Test Pilot for Comprehensive Subcontracting Plans, please let me know. If you already have an approved annual Commercial Subcontracting Plan, please supply me with a signed copy. Once approved, we will be mailing a copy of your subcontracting plan to the SBA and you may receive subcontracting plan compliance reviews from this agency.

If you are supplying us with a “Commercial Item” that meets the definition of FAR

²³ The Commercial Market Representative may provide this sample letter to prime contractors to assist them to collect subcontracting plans from their large business subcontractors and suppliers under the flow-down requirement (see 48 CFR 52.219-9(d)(9)).

²⁴ See <http://www.sba.gov/GC/indexcontacts-cmrs.html>

52.202-1(c), you do not have to submit a subcontracting plan (in accordance with FAR 52.212-5(e) or 52.244-6(c)). In this case, please submit a letter to my attention that you are supplying us with a commercial item that meets the definition of FAR 52.202-1(c).

I would also like to remind you that Subcontracting Reports for Individual Contracts and Summary Subcontract Reports will be due each April 30th (for the period ending March 31st) and October 30th for the period ending September 30th) for the duration of this subcontract. You can find blank copies of these reports at www.gsa.gov/forms. The original Subcontracting Report for Individual Contracts should be mailed to my attention. The original Summary Subcontract Report should be mailed to the address below:

[Enter address of where you (as prime contractor) send your Summary Subcontract Report for this contract.]

Your appropriate SBA CMR should receive a copy of both reports. Note that companies with Commercial Subcontracting Plans or DoD Comprehensive Plans are required to submit only Summary Subcontract Reports, once a year.

You are also required to flow down both of these clauses to your suppliers, if applicable.

I am enclosing a Subcontracting Fact Sheet published by the SBA, which explains the subcontracting regulations, flow-down provision, and reporting requirements in layman's language. If you have any questions pertaining to this Fact Sheet or the FAR requirements mentioned above, please contact your CMR.

If you have any questions, please feel free to call me at XXX-XXX-XXXX.

Sincerely,

Director of Purchasing
(or other official authorized to sign for the
company)

Enclosure: SBA Subcontracting Fact Sheet (see Appendix 28)

Appendix 24

**SAMPLE LETTER FOR LARGE PRIME CONTRACTORS
AND LARGE SUBCONTRACTORS²⁵****Short Version: describes flow down requirement under FAR 52.219-9**

Dear Supplier:

As you may know, our company is a prime contractor to the Federal Government and, as such, we must comply with specific laws and regulations. Under the Federal Acquisition Regulation (FAR) clause at 52.219-9, we are required to flow down certain requirements to our subcontractors and suppliers to ensure utilization of small businesses in all subcontracts that offer further subcontracting opportunities. The purpose of this letter is to inform you that you must provide us with a formal subcontracting plan under the flow-down provision set forth in FAR 52.219-9(d)(9).

The provision at FAR 52.219-9(d)(9) requires all subcontractors (except small business concerns) that receive subcontracts in excess of \$550,000 (\$1,000,000 for construction of any public facility) to adopt a subcontracting plan that complies with the requirements of 52.219-9. Currently, our records indicate that your company has been awarded a contract/order in excess of \$550,000 for goods and/or services; therefore, the requirement referenced above is being flowed down to your company at this time.

Please forward a copy of your company's small business subcontracting plan to the undersigned. Upon its receipt, I will review it and approve it if the goals represent maximum practicable opportunity for small business and it meets the other requirements set forth in FAR 52.219-9. During the lifetime of your contract or order, you will be required to furnish the *Subcontracting Reports for Individual Contracts* and the *Summary Subcontract Reports* to us in accordance with the instructions on the forms (Reference: FAR Clause 52.219-9(d)10(iv)). You should also provide a courtesy copy of the *Summary Subcontract Report* to your Small Business Administration Commercial Market Representative (CMR) and copies of the *Subcontracting Reports for Individual Contracts* upon request. You can find a complete list of SBA's CMRs on the Internet at <http://www.sba.gov/GC/cmr.html>.

I am enclosing a Subcontracting Fact Sheet published by the SBA, which explains the subcontracting regulations, flow-down provision, and reporting requirements in layman's language. If you have any questions pertaining to this Fact Sheet or the FAR requirements mentioned above, please contact your CMR.

Sincerely,

Director of Purchasing
(or other official authorized to sign for the company)

Enclosure

²⁵ The Commercial Market Representative (CMR) may provide this sample letter to prime contractors to assist them to collect subcontracting plans from their large business subcontractors and suppliers under the flow-down requirement (see 48 CFR 52.219-9(d)(9)).

Appendix 25

Sample Letter for a Small Business to Market Itself to a Large Business

April 1, 20XX

Mr. Q. C. Report
Any Prime Contractor
Main Street
Anywhere, US 12345-6789

Dear Mr. Report:

I am writing to you at the suggestion of Ms. Mary Black, Commercial Market Representative at the U.S. Small Business Administration, Office of Government Contracting, in Anytown, US.

ABC is an SBA-certified small disadvantaged business specializing in fire and security alarm systems. I am enclosing a brochure of our systems and additional information about our company. Please note that we have been in business for 16 years and have completed over 14 Government contracts and more than 30 subcontracts successfully and on schedule.

I will contact you by telephone the week of April 12th to arrange a meeting. I am anxious to show you some photographs of jobs we have recently completed, similar to what I understand is your company's current requirement.

Thank you for your time and interest.

Sincerely,

XXX, President

cc: Ms. Mary Black
Commercial Market Representative

Enclosures

Appendix 26

**Sample Letter for Commercial Market Representative
(Sourcing)**

Date

Mr. John Doe
Small Business Liaison Officer
XYZ Co.
1235 Main Street
Anywhere, US 98765-0202

Dear Mr. Doe:

I want to thank you for taking the time to meet with me and Mary Smith, owner of Any Small Business, on March 25th.

As you know, Any Small Business is a small disadvantaged, woman-owned business, and any orders which you issue to this firm will make an important contribution to XYZ's efforts to increase its dollars to small, small disadvantaged, and small woman-owned businesses. More importantly, you will be doing business with an outstanding, quality-minded company, a fact which can do nothing but benefit both XYZ and the Government.

Thank you again for your time and interest.

Sincerely,

John Doe
Commercial Market Representative

Cc: Ms. Mary Smith
Any Small Business

Appendix 27

Prime Contractor Information

Company Name:

Parent/Affiliate of/Prior Name:

Mailing Address:

Physical Address (if different):

City, State, Zip:

DUNS #:

Company Phone Number:

Company Fax Number:

Company's Fiscal Year:

Company's website:

Small Business Website Link (if you have one):

Product/Service your Company provides Govt.:

CEO/President:

SBLO:

Name:

Title:

Phone:

Fax:

Email Address:

Alternate SBLO name and phone/email:

Anything else you'd like me to know about your small business program:

Questions/Concerns you'd like me to answer:

(FAX TO: John Doe 000-123-5656)

Appendix 28

U.S. Small Business Administration Office of Government Contracting December 2006

FACT SHEET

Subcontracting Assistance Program

Section 8(d) of the Small Business Act (15 USC 637(d)) requires that small businesses, small disadvantaged businesses, HUBZone small businesses, women-owned small businesses, veteran-owned small businesses, and service disabled veteran-owned small businesses have maximum practicable opportunity to participate as subcontractors on Federal contracts, to the extent that such opportunity is consistent with efficient contract performance. Under this statute, the U.S. Small Business Administration (SBA) is authorized to assist Federal agencies and businesses in complying with their statutory obligations and to evaluate the compliance of other-than-small businesses with their subcontracting plans.

The term "other-than-small" business refers to any entity that is not classified as a small business. This includes large businesses, state and local governments, and non-profit organizations. In most cases, it also includes public utilities, educational institutions, and foreign-owned firms. However, there may be certain instances where a public utility, educational institution, or foreign-owned firm could be considered a small business. When in doubt, you should contact your local SBA office.

Note: Foreign-owned firms that receive Federal contracts over the applicable dollar threshold are normally required to have subcontracting plans if any portion of their contract is to be performed in the United States. However, a foreign-owned firm can sometimes meet SBA's criteria for small business status, in which case they would be exempt from the requirement to submit a subcontracting plan. See 13 CFR Part 121, especially subpart 121.105(a) for additional information.

SBA employs Commercial Market Representatives (CMRs) throughout the Nation to provide assistance to small businesses in obtaining subcontracts and to help other-than-small businesses meet their subcontracting goals. The CMRs perform reviews of other-than-small Federal contractors to identify opportunities for small business and to ensure that subcontracting plan requirements are met. The CMRs also counsel small businesses on how to market their products and services.

Assistance to Federal agencies in evaluating proposed subcontracting plans is provided by Procurement Center Representatives (PCRs), who are stationed at Federal buying activities throughout the country. PCRs advise Federal contracting officers whether the goals for small business, small disadvantaged business, HUBZone small business, women-owned small business, veteran-owned small business, and service-disabled veteran-owned small business are adequate and realistic and whether the proposed plan contains all of the other elements required by the Federal Acquisition Regulations (FAR).

Subcontracting Requirements

Any other-than-small business that receives a Federal contract or subcontract over \$550,000 (over \$1,000,000 for construction of a public facility) must adopt a subcontracting plan with separate and distinct goals for small, small disadvantaged, small HUBZone, women-owned small, veteran-owned small, and service-disabled veteran-owned small businesses. The proposed subcontracting plan must be accepted and approved by the contracting officer before the contract can be awarded. Once approved, the subcontracting plan is incorporated into the resultant contract. This is significant because a other-than-small contractor that fails to make a good faith effort to achieve the goals in its subcontracting plan may be found in material breach of contract and terminated for default, or liquidated damages may be imposed.

The other-than-small contractor or subcontractor is required to submit periodic reports to the Government showing its achievements against the goals in each of its subcontracting plans, along with a summary report showing its aggregate subcontracting achievements on all Federal contracts. (See "Reporting Requirements for Other-Than-Small Businesses" on pages 4 and 5.)

Any company that receives a Federal contract over the simplified acquisition threshold must agree to provide maximum, practicable opportunity to small, small disadvantaged, small HUBZone, women-owned small, veteran-owned small, and service disabled veteran-owned small businesses consistent with the efficient performance of the contract. This requirement is sometimes referred to as the "best effort" clause. It applies to small businesses as well as to other-than-small businesses.

It is important to emphasize that small businesses are never required to adopt subcontracting plans for themselves or to submit such plans to the Government to obtain Federal contracts.

The Required Elements of a Subcontracting Plan

A subcontracting plan is required to contain eleven elements, and FAR 52.219-9(d) provides a detailed outline of these elements. They are: (1) separate percentage goals, expressed in terms of percentages of total planned subcontracting, for the use of small business, small disadvantaged business, small HUBZone business, women-owned small business, veteran-owned small business, and service-disabled veteran-owned small business; (2) total dollars planned to be subcontracted to each group; (3) a description of the types of supplies and services to be subcontracted to each group; (4) a description of the method used to develop each of the goals; (5) a description of the method used to identify potential sources; (6) a statement as to whether

or not indirect costs were included in the subcontracting goals; (7) the name of the subcontracting plan's administrator and a description of his or her duties; (8) a description of the efforts that the company will make to ensure that all small businesses will have an equitable opportunity to compete for subcontracts; (9) assurances that the company will "flow down" the subcontracting requirements to its subcontractors (see page 3); (10) assurances that the company will cooperate in any studies or surveys and submit periodic reports to the Government, including the *Subcontracting Reports for Individual Contracts* and the *Summary Subcontract Reports* (see pages 4 and 5); and (11) a recitation of the types of records the company will maintain to demonstrate its compliance with the plan.

The Flow-Down Process

The requirement for a subcontracting plan flows down to all other-than-small business subcontractors with subcontracts over \$550,000 (over \$1 million for construction of a public facility). According to the statute, an other-than-small prime contractor with a subcontracting plan must require all other-than-small subcontractors to adopt a plan similar to its own. The prime contractor is responsible for obtaining, approving, and monitoring the subcontracting plans of its other-than-small subcontractors.

A prime contractor's subcontractor is referred to as the first-tier subcontractor. If the first-tier subcontractor is an other-than-small business and it subcontracts to another other-than-small business, it must require that firm (the second-tier subcontractor) to adopt a subcontracting plan similar to its own. If the second-tier subcontractor subcontracts to yet another other-than-small business (the third-tier subcontractor), it would have to require that company to adopt a subcontracting plan as well. This process continues indefinitely, as long as the subcontractors are not small businesses and their subcontracts are over \$550,000 (over \$1 million for construction of a public facility).

Under the flow-down provision, other-than-small business subcontractors with subcontracting plans must submit *Subcontracting Report for Individual Contract* and *Summary Subcontract Report* (explained on pages 4 and 5) just as the prime contractors do. However, the other-than-small subcontractor must submit the *Subcontracting Report for Individual Contracts* to its prime contractor or immediate higher-tier subcontractor rather than to the Government. This is done for monitoring purposes, and continues in this manner for all tiers. The other-than-small subcontractor still submits the *Summary Subcontract Report* to the Government in accordance with the instructions on the back of the form. This enables the Government to collect subcontracting statistics from all of the subcontracting tiers.

The flow-down process is intended to ensure that all small businesses receive "maximum practicable opportunity" to perform on Government contracts and subcontracts in accordance with Section 8(d), regardless of the subcontracting tier.

Commercial Plan (formerly called Commercial Products Plan)

If an other-than-small business is selling a product or service to the Government which differs just slightly from what it is selling to the general public, it may be eligible for a Commercial Plan. Such a plan is company-wide or division-wide and relates to the company's production generally, for both commercial and noncommercial products or services, rather than solely to the Government contract. It must be approved by the first Federal agency awarding the company a contract requiring a subcontracting plan during the fiscal year. Once approved, the plan remains in effect during the company's fiscal year and covers all of its commercial products or services.

A Commercial Plan has several advantages over individual subcontracting plans. Paperwork and record keeping are vastly reduced, since there is only one plan for the entire company or division. Perhaps even more attractive is the fact that the company is required to submit one annual *Summary Subcontract Report* to the Government; no *Subcontracting Reports for Individual Contracts* are required.

Master Subcontracting Plans

A Master Subcontracting Plan is a subcontracting plan which contains all of the elements required by the Federal Acquisition Regulations 52.219-9 except goals for small business, small disadvantaged business, HUBZone small business, women-owned small business, veteran-owned small business, and service-disabled veteran-owned small business. Thereafter, as the company receives Government contracts requiring subcontracting plans; it simply develops specific goals for each plan. This process avoids a redundant effort and allows more time and effort for the substantive task of developing goals.

As in the case of a Commercial Plan, a Master Plan must be approved by the first Federal agency awarding the company a contract requiring a subcontracting plan during the fiscal year. A Master Plan is effective for three years; however, when incorporated into an individual plan, a master plan applies to that contract throughout the life of the contract.

Specific Goal Requirements

Section 15(g) of the Small Business Act (15 USC 644(g)) requires the President to establish annual subcontract goals of not less than 5% of the total value of all subcontract awards each fiscal year for both small disadvantaged businesses and women-owned small businesses and not less than 3% for service disabled veteran-owned small business. These are the only categories where the Small Business Act specifies a minimum percentage for subcontracting.

While there is no established minimum percentage subcontracting goal for small business itself, the Government-wide achievements have generally ranged from 35% to 42%. In recent years, the Government-wide percentage has been between 39% and 40%. The small business goal in any given subcontracting plan should reflect maximum practicable opportunity for small business consistent with the efficient performance of the contract.

Subcontracting plans must also include a goal for veteran-owned small business. The statute does not specify a minimum percentage for this category; however, since service disabled veteran-owned small business are included here, the goal must be greater than 3% to ensure that

the *non-service disabled* veteran-owned small business receive maximum practicable opportunity to participate as subcontractors.

The Small Business Act specifies a 3% goal for HUBZone small business concerns in *prime contracts*, and this percentage has generally been adopted as a benchmark for subcontracting plans as well. As in the case of other socio-economic goals, the percentage that is negotiated in a subcontracting plan should represent maximum practicable opportunity for small business consistent with the efficient performance of the contract.

Reporting Requirements for Other-Than-Small Businesses

- Subcontracting Report for Individual Contracts: Other-than-small business prime contractors must file a *Subcontract Report for Individual Contracts*, with their procuring agencies semi-annually during the performance of the contract and also upon each contract's completion. Other-than-small business subcontractors must file the *Subcontracting Report for Individual Contracts* with the prime contractor or immediate higher-tier subcontractor rather than with the Government. The *Subcontracting Report for Individual Contracts* is not required if the company is operating under a Commercial Plan or participating in the Department of Defense Test Program for Negotiation of Comprehensive Subcontracting Plans.
- Summary Subcontract Report: Other-than-small business prime contractors and subcontractors must periodically file a *Summary Subcontract Report*, with their procuring agencies. If the procuring agency is a civilian agency, the *Summary Subcontract Report* is required annually (by October 30th for the previous fiscal year ended September 30th); if the procuring agency is the Department of Defense, the *Summary Subcontract Report* is required semi-annually (by April 30 for the first six months of the fiscal year and by October 30 for the entire fiscal year).
- In the case of a commercial plan, the *Summary Subcontract Report* is required only once a year (within 30 days after the plan's expiration). See page 3 for additional information on commercial plans.
- Both other-than-small prime contractors and subcontractors must submit a copy of the *Summary Subcontract Report* to the cognizant SBA Commercial Market Representative.

The *Subcontracting Report for Individual Contracts* and *Summary Subcontract Report* are intended to document the dollars awarded to small, small disadvantaged, small HUBZone, women-owned small businesses, veteran-owned small businesses, and service-disabled veteran-owned small businesses. It is important to note that prime contractors may take credit for only their own subcontracting dollars, not for the dollars awarded by subcontractors at lower tiers. This is explained in more detail on the instructions on the back of the forms.

Assistance Available from SBA

Through its network of PCRs and CMRs, SBA can provide assistance to small businesses as well as to Federal agencies and large businesses. PCRs can help Federal agencies with solicitations and subcontracting requirements, and they can evaluate proposed subcontracting plans submitted by bidders and offerors. CMRs can counsel other-than-small businesses on how to prepare subcontracting plans and meet the other requirements of the law, and they can counsel small businesses on how to market their products and services to prime contractors.

For additional information on PCRs, CMRs, and other resources available to small businesses, please visit SBA's Office of Government Contracting home page on the Internet at <http://www.sba.gov/GC>. For current listings of the PCRs and CMRs, click on the button labeled "Contacts and Representatives" or go to <http://www.sba.gov/GC/indexcontacts.html>.

Appendix 29

Subcontracting Plan References

Federal Acquisition Regulation (FAR) - applies to all federal agencies

<http://www.arnet.gov/far>

Determining the Need for a Subcontracting Plan	FAR 19.705-2
Types of Subcontracting Plans	FAR 19.704
Utilization of Small Business Concerns	FAR 52.219-8
Subcontracting Plan Requirements	FAR 52.219-9
Liquidated Damages	FAR 52.219-16
Subcontracting Plan Incentive Clause	FAR 52.219-10
SDB Participation Program-Targets (Evaluation Factor)	FAR 52.219-24
SDB Participation Program Reporting Requirements (OF 312)	FAR 52.219-25
SDB Monetary Incentive Clause	FAR 52.219-26
Indian Incentive Program	FAR 26.101 & 52.226-1
Small Business Definitions (NAICS codes/size standards) (also see CFR references below)	FAR Part 19 & 52.219-8
Summary Subcontract Report	FAR Part 53 (forms)
Subcontracting Report for Individual Contracts	FAR Part 53 (forms)

Code of Federal Regulations (CFR) – SBA Programs and Regulations

<http://www.gpo.gov/nara/cfr-retrieve.html#page1>

Definitions for Small Businesses	13 CFR Part 121
NAICS Codes/Small Business Size Standards	13 CFR 121.102
Subcontracting Size Requirements/Self-certifications	13 CFR 121.411
HUBZone	13 CFR 126
Small Disadvantaged Business/8(a)	13 CFR 124
8(a) Mentor Protégé	13 CFR 124.520

FAR Supplements, DoD (DAR), Army (AFARS), GSA (GSAM), Air Force (AFFARS), DOE (DEARS)

<http://fedlaw.gsa.gov/legal25a.htm>

DoD Comprehensive Subcontracting Plans	DFARS 219.702
AFARS Subcontracting Plan Checklist	AFARS Appendix CC
HBCU/MI	DFARS 252.219-7003
DoD Mentor Protégé	DFARS 219.7100

