

Transportation Acquisition Manual - (11/2006)

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CHAPTER 1219 - SMALL BUSINESS PROGRAMS

SUBCHAPTER 1219.2 - POLICIES

1219.201 General policy.

(c) The Head of the Contracting Activity (HCA) is responsible for effectively implementing the small business program within their Operating Administration (OA). This responsibility may not be delegated.

(d)(2) The authority of the agency head to appoint the Director of Small and Disadvantaged Business Utilization may not be delegated.

(d)(8) The HCA acting on behalf of the Director, Office of Small and Disadvantaged Business Utilization (OSDBU) is authorized to assign a small business technical advisor to each contracting office where the Small Business Administration (SBA) has assigned an SBA procurement center representative (PCR). The Director, OSDBU shall concur in the assignment of all small business technical advisors.

(d)(10) Each OA Small Business Specialist (SBS) acting on behalf of the OSDBU shall recommend that a suitable requirement be awarded as a small business set-aside ([FAR](#) 48 C.F.R. 19.5; as a Section 8(a) set-aside ([FAR](#) 48 C.F.R. 19.8; or as a HUBZone set-aside ([FAR](#) 48 C.F.R. 19.13).

(e) Each OA Small Business Specialist shall be appointed, in writing, by the responsible HCA. A copy of the appointment shall be provided to the OSDBU. The responsibilities of the SBS include:

(1) Ensures that all small businesses are given an equal opportunity to compete for DOT acquisitions.

(2) Assist contracting officers in locating small businesses to participate in DOT acquisitions.

(3) Assist the Director, OSDBU in carrying out the purpose of the Small Business Act, particularly Sections 8 and 15, and 31 (15 U.S.C. § 637, 644 and 657a).

(4) Cooperate with the SBA PCR in carrying out their assignments and responsibilities as related to DOT acquisitions.

(5) Advise small businesses of all known financial assistance available to them under existing laws and regulations and assist them in applying for financial assistance;

(6) Participate in the evaluation of prime contractor's small business subcontracting

programs;

(7) Assure that records are maintained and accurate reports prepared concerning small business participation in acquisition programs;

(8) Act as liaison with the appropriate SBA office or representative in connection with set-asides, certificates of competency, size classification, and any other matter concerning the small business programs; and

(9) Participate in business opportunity, Federal procurement and other Government-industry conferences and meetings as required.

(10) Unless the acquisition(s) is entirely set-aside for small business, review acquisition plan (AP) or strategy in accordance with (FAR) 48 C.F.R. 7.104(d) and [TAM 1207.171](#).

(11) Submit a quarterly report to the Director, OSDBU identifying the number of 8(a) awards made under the SBA Partnership Agreement (PA).

(f)(1) The Director, OSDBU is the agency designee responsible for making the determination under (FAR) 48 C.F.R. 19.201(f)(1). The HCA shall notify the OSDBU when it is believed or if it receives public notification of undue burden on the information required by [\(FAR\) 48 C.F.R. 19.201\(f\)\(1\)\(i\) through \(v\)](#). The [Federal Procurement Data System \(FPDS\)](#) may be used to assist in making the determination of burden. The HCA or designee is encouraged to discuss specific situations of burden with the OSDBU prior to submitting a formal notice to the OSDBU.

1219.201-70 Procurement Center Representative (PCR).

(a) An [SBA PCR](#) is located in the OSDBU and serves as the PCR for each contracting office located at or assigned to the OA Headquarters in the Washington, DC - Metropolitan Area.

(b) An SBA PCR is also located at the following DOT contracting offices:

(1) Federal Highway Administration contracting office located in Denver, CO.

(2) Volpe National Transportation Systems located at the SBA office in Augusta, ME.

1219.202 Specific policies. Revised 8/2005

Any requirement which has previously been procured under a small business (SB) set-aside program (e.g., 8(a), HUBZone, Small Disadvantaged Veteran Owned SB) and is now proposed not to be set-aside requires concurrence by the PCR and approval of the

Director, OSDBU on DOT F 4250.1, Small Business Program Review Form. The approval shall be obtained prior to any public notice or solicitation of the requirement.

1219.202-1 Encouraging small business participation in acquisitions.

(e) The contracting officer shall provide a copy of the proposed AP package to the SBA PCR at least 30 days before a solicitation is issued when the requirements at [\(FAR\) 48 C.F.R. 19.202-1\(e\)](#) apply.

1219.202-270 Procurement forecast.

(a) *Requirement.* Title V, Contract Planning, Goal Setting and Reviews of Pub. L. 100-656, requires each agency to prepare a procurement forecast for the next and succeeding fiscal years. The forecast must be also updated within the year. The procurement forecast can be used to satisfy the requirements of [\(FAR\) 48 C.F.R. 7](#) for acquisition planning when authorized under [TAM 1207.103](#).

(b) *Purpose.* The purpose of the procurement forecast is to make available to small businesses, those expected contract opportunities that small business concerns, including those owned and controlled by socially and economically disadvantaged individuals, are capable of performing. The following requirements apply:

(1) *Responsibility.* The Head of the Operating Administration (HOA) or designee shall ensure that forecasts and any updates are prepared for expected contract opportunities valued over \$100,000. The procurement forecast may be prepared manually using [DOT Form F 4220.12](#) or can be submitted electronically in accordance with instructions on the OSDBU web page which is available via the internet at http://osdbu.dot.gov/osdbu_services/Procurement/forecast.cfm.

(2) *Preparation and approval.* The forecast shall be prepared and approved the year preceding the fiscal year in which the procurement action will be initiated. The initial forecast shall be approved by the OA [approving official](#) no later than September 1 and submitted to the OSDBU by September 15. Updates shall occur quarterly, and be provided to the OSDBU by the 15th of the month following the end of the quarter. A written negative response (electronic or hardcopy) is required when neither an initial forecast nor update is contemplated for the period.

(c) *Exceptions.* The following proposed procurement actions should not be included in the forecast:

(1) Actions proposed under inter and intra agency agreements for work to be performed by Government employees;

- (2) General Working Agreements and supporting project plan agreements between RITA/Volpe National Transportation Systems Center and DOT OAs;
- (3) Actions conducted under the Small Business Innovative Research Program; and
- (4) Actions that will not be available for competition, such as Congressionally earmarked sources of supply, task order requirements to existing IDIQ contracts, and justifiable non-competitive actions known in advance.
- (d) *Reporting.* The OSDDBU will provide the initial forecast and any updates to it to the Administrator of the Small Business Administration and to small businesses as required by [Pub.L 100-656](#).

1219.202-5 Data collection and reporting requirements.

(b) On a monthly basis, the OSDDBU extracts contract award data from the Federal Procurement Data System (FPDS) at www.fpds-ng.gov. The data is used by OSDDBU and the OAs to measure small business participation. OSDDBU is responsible for furnishing end of the fiscal year data to SBA.

SUBCHAPTER 1219.5--SET-ASIDES FOR SMALL BUSINESS

1219.501 General.

(d) The assigned SBS shall review each [procurement request \(PR\)](#) exceeding the simplified acquisition threshold before it is synopsisized. PRs that must be reviewed include orders placed under Federal Supply Schedule (FSS) contracts, task or delivery orders awarded under Government-wide Acquisition Contracts (GWAC) or non-DOT Multi-agency Contracts (MAC) using the [DOT Form 4250.1](#). This review shall identify the possibility of a small business set-aside recommendation or a proposed bundled contract action. Disagreements between the contracting officer and the SBS will be resolved by the Chief of the Contracting Office (COCO), and the OSDDBU, if necessary. Disagreements pertaining to PRs that include proposed bundled requirements will be resolved in accordance with [TAM 1207.104-70](#).

1219.501-70 Small Business Program Review DOT Form 4250.1.

(a) The CO along with the SBS and program official shall jointly complete the Small Business Program Review [Form 4250.1](#) in accordance with the [form instructions](#). Approval or concurrence shall take place in the following order:

(1) Set Aside Recommendation.	
IF ...	THEN ...
i. IF the contracting officer recommends that the acquisition be set-aside,	THEN, the SBS is authorized to approve the form.
ii. IF the contracting officer does not recommend that the acquisition be set-aside OR recommends that the acquisition be removed from a set-aside program, or proposes to bundle a requirement,	THEN, the SBS must review the recommendation and determine whether or not to concur and the form shall be forwarded to the SBA PCR for review and action.
iii. IF the SBA PCR does not concur with the CO / SBS recommendation,	THEN, the form must be forwarded to the OSDBU for approval. However every effort should be made to reach a solution prior to involving the agency OSDBU.
iv. IF, the PCR's recommendation is not accepted by the CO/SBS and OSDBU	THEN, the PCR may appeal the decision per (FAR) 48 C.F.R. 19.505.

(2) Bundled Acquisitions.	
IF ...	THEN ...
i. IF either the SBS or PCR determines that bundling is necessary and justified, but does not meet the measurable substantial benefits at (FAR) 48 C.F.R. 7.107(b)(1) and (2)	THEN, the OSDBU's signature is required for concurrence in the proposed bundled acquisition, and the Deputy Secretary must approve the action IAW (FAR) 48 C.F.R. 7.107(c) .
ii. IF an acquisition strategy involves contract bundling that is unnecessary, unjustified or unidentified as bundled in accordance with (FAR) 48 C.F.R. 7.104(d)(1) .	THEN, the SBS must notify the agency OSDBU.

(c) When a reviewer at any level, does not concur with another official's determination, the recommendation shall be justified in writing.

1219.502 Setting aside acquisitions.

1219.502-3 Partial set-asides.

(a)(5) The COCO authorized to make the determination under [\(FAR\) 48 C.F.R. 19.502-3\(a\)\(5\)](#). The determination shall be made on a case-by-case basis.

1219.505 Rejecting Small Business Administration recommendations.

(b) The COCO is authorized to render a written decision under [\(FAR\) 48 C.F.R. 19.505\(b\)](#) on the SBA procurement center representative's appeal.

(d) The COCO shall forward the justification that upheld the contracting officer's decision through the HCA to the Deputy Secretary (S-2).

(e) The Deputy Secretary (S-2) is authorized to reply to the SBA Administrator's appeal when the agency rejects SBA's recommendation.

1219.506 Withdrawing or modifying small business set-asides.

(b) The COCO is responsible for resolving disagreements between the contracting officer and the OA SBS.

SUBCHAPTER 1219.6--CERTIFICATES OF COMPETENCY AND DETERMINATIONS OF RESPONSIBILITY

1219.602 Procedures.

1219.602-1 Referral.

(a)(2) The contracting officer shall forward a copy of the notice of nonresponsibility determination sent to SBA to the OSDDBU.

1219.602-3 Resolving differences between the agency and the Small Business Administration.

(a) *Certificate of Competencies (COCs) valued between \$100,000 and \$25,000,000.*

(1) When the contracting officer and SBA cannot resolve disagreements regarding an SBA COC, the contracting officer shall discuss the differences of opinion with the COCO, OA SBS and the OSDDBU. If the contracting officer's determination of non-responsibility remains unchanged after the discussions, the contracting officer shall proceed in accordance with [\(FAR\) 48 C.F.R. 19.602-3](#).

(2) The COCO is authorized to receive SBA Headquarters' notice of a COC case file. A copy of the notice must be provided to the DOT OSDDBU.

(3) The COCO is authorized to notify SBA Headquarters that the agency intends to appeal to the issuance of the COC. A copy of the notice of appeal must be provided to the DOT OSDDBU.

SUBCHAPTER 1219.7--THE SMALL BUSINESS SUBCONTRACTING PROGRAM

1219.704 Subcontracting plan requirements.

1219.704-70 Reporting requirements. Revised 8/2005

Contractors must comply with the requirements of 15 U.S.C. 637 as implemented by [\(FAR\) 48 C.F.R. 52.219-9](#), and as shown in Chapter 1204, Appendix A.

1219.705 Responsibilities of the contracting officer under the subcontracting assistance program..

1219.705-2 Determining the need for a subcontracting plan.

A copy of the determination that there are no subcontracting opportunities (see [\(FAR\) 48 C.F.R. 19.705-2\(c\)](#)) shall be provided to the Director, OSDBU.

1219.705-3 Preparing the solicitation.

The contracting officer shall allow the SBA's resident PCR and the OSDBU five (5) days for a concurrent review of any solicitation requiring a subcontracting plan and to submission of advisory comments before the solicitation is issued. Failure of the PCR or OSDBU to submit comments within the time allotted will not delay issuance of the solicitation.

1219.705-5 Awards involving subcontracting plans.

(a)(3) The contracting officer shall forward a copy of the proposed contract (including the subcontracting plan and documentation) to the SBA resident PCR and OSDBU concurrently, allowing five (5) days for their review and submission of advisory comments. Failure of the PCR or OSDBU to submit comments within the five (5) day period shall not delay award.

1219.705-6 Postaward responsibilities of the contracting officer.

A copy of the approved small business subcontracting plan shall be provided to the Director, OSDBU within seven (7) days of contract award.

SUBCHAPTER 1219.8--CONTRACTING WITH THE SMALL BUSINESS ADMINISTRATION (THE 8(a) PROGRAM)

1219.800 General.

(f) The DOT and the SBA signed a [Memorandum of Understanding \(MOU\)](#) dated January 17, 1997, as amended, giving the HCA of each OA within the DOT, authority to contract directly with program participants under Section (8a) of the Small Business Act. The MOU was superseded by the current Partnership Agreement (PA) between the DOT and the SBA, dated September 27, 2000 . *The PA expired on June 30, 2003 , and has since been extended indefinitely until a new agreement is signed by the agencies.* Unless otherwise specified by the HCA, agency COs are authorized to contract directly with firms under the SBA 8(a) Program on behalf of the SBA.

1219.800-70 Reporting Direct 8(a) awards.

The SBS shall provide a quarterly report to the Director, OSDBU on the number of direct 8(a) awards issued under the DOT/SBA Partnership Agreement. The report is due on the 15th of October, January, April and July.

1219.803. Selecting acquisitions for the 8(a) Program

1219.803-70 Simplified procedures for 8(a) acquisitions under PAs.

Contracting officers may use the simplified acquisition procedures at [\(FAR\) 48 C.F.R. 13](#) to issue purchase orders or contracts not exceeding \$100,000, to 8(a) participants. Contracting officers must also follow the procedures set forth in the DOT/SBA [PA Section IV a3\(c\)](#) and [IV b](#) when using simplified acquisition procedures.

1219.804 Evaluation, offering, and acceptance.

1219.804-2 Agency offering.

(a) When applicable, this notification must identify that the offering is in accordance with the PA identified in [TAM 1219.800](#).

1219.804-3 SBA acceptance.

(d)(2) The HCA is authorized to issue a determination on SBA's appeal of the contracting officer's determination of the NAICS code designation.

1219.804-70 SBA acceptance of 8(a) requirements under the PA for acquisitions exceeding \$100,000.

Contracting officers shall follow the procedures set forth in the [PA Section IV\(a\)\(b\)](#) when offering a potential 8(a) requirement to SBA for acceptance.

1219.805 Competitive 8(a).

1219.805-2 Procedures.

Contracting officers shall follow the procedures set forth in the [PA Section IV \(a\)\(b\)](#) when submitting an offering letter for a competitive 8(a) procurement to SBA for acceptance.

1219.806 Pricing the 8(a) contract.

(a) When required by (FAR) 48 C.F.R. Part 15.4, the contracting officer shall obtain certified cost and pricing data directly from the 8(a) contractor if the contract is being awarded under the PA cited in [TAM 1219.800](#).

1219.808 Contract negotiations.

1219.808-1 Sole Source.

If the acquisition is being conducted under the PA cited in [TAM 1219.800](#), the following procedures shall apply:

(a) The 8(a) contractor is responsible for negotiating with the OA within the time established by the OA. If the 8(a) contractor does not negotiate within the established time and the OA cannot allow additional time, the OA may, after notification and approval by SBA, proceed with the acquisition from other sources.

(b) The OA contracting officer is authorized to negotiate directly with the 8(a) firm; however, if requested by the 8(a) firm, the SBA may participate in negotiations.

1219.810 SBA appeals.

The Deputy Secretary (S-2) is authorized to render decisions on SBA appeals in accordance with [\(FAR\) 48 C.F.R. 19.810](#).

1219.811 Preparing the contracts.

1219.811-1 Sole source.

(a) The contract to be awarded must be prepared in accordance with the current PA.

(d) The award should be prepared in accordance with DOT's normal contracting procedures except for the following:

(1) The award form shall cite 41 U.S.C. 253(c)(5) and 15 U.S.C.637(a) as the authority for use of other than full and open competition.

(2) Include the appropriate clauses at (TAR) 48 C.F.R. 1252.219-71, and 1252.219-72 which allow for direct award to the 8(a) contractor under the authority of the PA.

(3) A single award document shall be used between the OA and the 8(a) contractor. As such, a single signature by the agency's contracting officer who is identified as having concurrent authority under the PA cited in (FAR) 48 C.F.R. 19.800 to enter into 8(a) contracts will suffice (i.e., an SBA signature will not be required). The 8(a) contractor's signature shall be placed on the award document as the prime contractor. The 8(a) contractor's name and address shall be placed in the "awarded to" or "contractor name" block on the appropriate form(s).

1219.811-2 Competitive.

(a) Competitive 8(a) awards shall be prepared in accordance with the same standards in TAM 1219.811-1.

(b) The process for obtaining signatures shall be as specified in TAM 1219.811-1(d).

1219. 811-70 Additional contract procedures.

The contracting officer shall ensure that all proposed joint ventures involving 8(a) participants are approved by SBA before contracts are awarded.

1219.812 Contract administration.

(d) The COCO is authorized to either confirm or withdraw the contracting officer's request to SBA to waive the requirement for contract termination.

SUBCHAPTER 1219.9--RESERVED.

SUBCHAPTER 1219.10--SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM

1219.1003 Purpose.

(c) The DOT OSDBU negotiates the targeted industry categories with the SBA. Contracting officers must follow instructions and guidance issued by the OSDBU, unless such instructions violate Federal acquisition regulations or statutory requirements.

SUBCHAPTER 1219.70--SMALL BUSINESS INNOVATION RESEARCH PROGRAM

1219.7001 Small Business Innovation Research (SBIR) Program.

(a) On December 15, 2000, Congress reauthorized the program by P.L. 106-554 as the [Small Business Innovation Research Program Reauthorization Act of 2000](#). Section 103 of the Act extended the program until September 30, 2008. The Small Business Innovation Research program established under the Small Business Innovation Development Act of 1982, and reauthorized by the Small Business Research and Development Enhancement Act of 1992 seeks to encourage the initiative of the private sector and to use small businesses as effectively as possible in meeting Federal research and development objectives. Each agency is required to set aside a percentage of their budget for a Small Business Innovation Research Program (SBIR). To comply with obligations of the Act, a [DOT Small Business Innovation Research Program](#) was established to conform to these public laws and to guidelines and regulations of the Small Business Administration. By memorandum dated November 5, 1982, the Secretary delegated to the Volpe National Transportation Systems Center, the overall responsibility for coordinating and implementing the DOT SBIR.

(b) Annually, DOT solicits from small businesses, innovative research proposals that address high priority requirements of the DOT and have potential for commercialization. The DOT SBIR Program is a three-phase process:

(1) Phase I is the conduct of feasibility-related experimental or theoretical research or Research and Development (R&D) efforts on specified research topics. The dollar value of the proposal should not exceed \$100,000 and the period of performance may be up to six months. The primary basis for award will be the scientific and technical merit of the proposal and its relevance to DOT requirements. Only awardees in Phase I are eligible to participate in Phase II.

(2) Phase II is the principal research or R&D effort having a period of performance of approximately two years with a dollar value of up to \$750,000. Phase II proposals under the SBIR Program are accepted only from firms which have previously received a DOT Phase I award. Awards would be based upon the results achieved in Phase I, the technical

merit of the Phase II proposals, potential for commercialization and commitment for follow-on funding from non-federal sources for Phase III.

(3) Phase III is to be conducted by the small business with nonFederal funds to pursue commercial applications of the research or R&D funded in Phases I and II by DOT. Phase III may also involve follow-on non-SBIR funded contracts with components of DOT for products or processes for use by the Government.

(c) Pursuant to 15 U.S.C. 638(m), the authority to carry out the Small Business Innovation Research Program expires on September 30, 2008 unless the program is reauthorized by subsequent legislation.

1219.7002 Eligibility requirements.

To be eligible under the DOT SBIR Program, the firm must qualify as a small business having less than 500 employees; the primary employment of the principal investigator must be with the proposing firm at the time of award and during the proposed research effort; and, the research or R&D work must be performed in the United States, including its territories and possessions. Questions regarding the DOT SBIR Program should be addressed to the following:

DOT/SBIR Program Office, DTS-22
U.S. Department of Transportation
Research & Special Programs Administration
Volpe National Transportation Systems Center
55 Broadway, Kendall Square
Cambridge, Massachusetts 02142-1093
ATTN: DOT SBIR Program Director
Telephone: (617) 494-2051 FAX: (617) 494-2370
