

**BONNEVILLE PURCHASING INSTRUCTIONS  
APPENDIX 8-B**

**SUBCONTRACTING PLANS**

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**APPENDIX 8-B -- SUBCONTRACTING PLANS**

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**SECTION 1 SUBCONTRACTING PLANS**

The policy contained in BPI 8.3 requires subcontracting plans, except as otherwise provided in BPI 8.3.1(d). The successful offeror(s) of contracts exceeding \$50,000 are expected to use best efforts to afford small and small disadvantaged businesses the opportunity to participate as subcontractors if such an arrangement is consistent with efficient contract performance. Contractors receiving awards that exceed \$500,000 for supplies and services, and \$1,000,000 for construction, for the total contract including optional extensions, shall submit an appropriate subcontracting plan. This Appendix provides detailed guidance to Contracting Officers and Contractors for preparation, approval, and administration of subcontracting plans.

**1.1 Subcontracting Plan Requirements.**

(a) Each subcontracting plan must include the following information:

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

(2) A statement of--

(A) Total dollars planned to be subcontracted;

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

(C) Total dollars planned to be subcontracted to small disadvantaged business concerns.

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to (i) small business concerns and (ii) small disadvantaged business concerns.

(4) A description of the method used to develop the subcontracting goals in (1) above.

(5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the federal Central Contractor Registration website at [www.ccr.gov](http://www.ccr.gov), 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 and small disadvantaged business concerns trade associations).

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

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share of indirect costs to be incurred with (i) small business concerns and (ii) small disadvantaged business concerns.

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

(8) A description of the efforts the offeror will make to assure that small business concerns and small disadvantaged business concerns have an equitable opportunity to compete for subcontracts.

(9) Assurances that the offeror will include the clause 8-3, "Utilization of Small Business Concerns and Small Disadvantaged Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) who receive subcontracts in excess of \$500,000 (\$1,000,000 for construction of any public facility), to adopt a plan similar to the plan agreed to by the offeror.

(10) Assurances that the offeror will

(A) cooperate in any studies or surveys that may be required,

(B) submit periodic reports in order to allow BPA to determine the extent of compliance by the offeror with the subcontracting plan,

(C) submit, not later than the 25th day of the succeeding month, Standard Form (SF) 294, Subcontracting Report for Individual Contracts, on a semi-annual basis current as of the last day of June and December, and upon contract completion, in accordance with the instructions on the form, and additionally shall indicate at the "Remarks" block the number and dollar amount of awards made to labor surplus area concerns to the extent such reporting is required by the terms of their contract, and

(D) ensure that its subcontractors agree to submit Standard Form 294 in accordance with the instructions at (C) above.

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

(A) Source lists, guides, and other data that identify small and small disadvantaged business concerns.

(B) Organizations contacted in an attempt to locate sources that are small or small disadvantaged business concerns.

(C) Records on each subcontract solicitation resulting in an award of more than \$100,000, indicating (i) whether small business concerns were solicited and if not, why not, (ii) whether small disadvantaged business concerns were solicited and if not, why not, and (iii) if applicable, the reason award was not made to a small business concern.

(D) Records of any outreach efforts to contact (i) trade associations, (ii) business development organizations, and (iii) conferences and trade fairs to locate small and small disadvantaged business sources.

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(E) Records of internal guidance and encouragement provided to buyers through (i) workshops, seminars, training, etc., and (ii) monitoring performance to evaluate compliance with the program's requirements.

(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. Contractors having company or division-wide annual plans need not comply with this requirement.

(b) Contractors may establish, on a plant or division-wide basis, a master subcontracting plan which contains all the elements required by Section 1.1 of this Appendix, except goals. Master plans shall be effective for a one-year period after approval by the CO; however, a master plan when incorporated by reference in an individual plan shall apply to that contract throughout the life of the contract. The master subcontracting plan may be accepted provided,

- (1) the master plan has been approved,
- (2) the offeror provides copies of the approved master plan and evidence of its approval to the CO, and
- (3) goals and any deviations from the master plan deemed necessary by the CO to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

(c) If a commercial product is offered, the subcontracting plan required by this clause may relate to the offeror's total production operations, rather than solely to the BPA contract. In these cases, the offeror shall, with the concurrence of the CO, submit one company-wide or division-wide annual plan.

- (1) The annual plan shall be reviewed for approval by the agency awarding the offeror its first prime contract requiring a subcontracting plan during the fiscal year, or by an agency satisfactory to the CO.
- (2) The approved plan shall remain in effect during the offeror's fiscal year for all of the offeror's commercial products.

(d) For contracts containing options, the cumulative value of the basic contract and all options is considered in determining whether a subcontracting plan is necessary. If a plan is necessary and the offeror is submitting an individual contract plan, the plan shall contain all the elements required by Section 1.1 of this Appendix and shall contain separate parts, one for the basic contract and one for each option.

#### **1.2 Reviewing the Subcontracting Plan.**

The CO shall review the subcontracting plan for adequacy. Assistance with this review may be obtained from BPA's Small Business Specialist.

(a) No detailed standards apply to every subcontracting plan. Instead, the CO must consider each plan in terms of the circumstances of the particular purchase, including --

- (1) Previous involvement of small business concerns as prime contractors or subcontractors in similar purchases;
- (2) Proven methods of involving small business concerns as subcontractors in similar purchases; and

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(3) The relative success of methods the contractor intends to use to meet the goals and requirements of the plan, as evidenced by records maintained by contractors.

(b) The CO shall determine whether the plan is acceptable based on the negotiation of each of the elements of the plan. Subcontracting goals should be set at a level that the parties reasonably expect can result from the offeror expending good faith efforts to use small and small disadvantaged subcontractors to the maximum practicable extent. Particular attention should be paid to the identification of steps that, if taken, would be considered a good faith effort. No goal should be negotiated upward if it is apparent that a higher goal will significantly increase BPA's cost or seriously impede the attainment of purchase objectives.

(c) In determining the acceptability of a proposed subcontracting plan, the CO may obtain advice and recommendations from the BPA Small Business Specialist.

(d) The CO should ensure that the goals offered are attainable in relation to:

(1) The subcontracting opportunities available to the contractor, commensurate with the efficient and economical performance of the contract;

(2) The pool of eligible subcontractors available to fulfill the subcontracting opportunities; and

(3) The actual performance of such contractor in fulfilling the subcontracting goals specified in prior plans.

#### **1.3 Awards Involving Subcontracting Plans.**

In making an award that requires a subcontracting plan, the CO shall:

(a) Consider the contractor's compliance with the subcontracting plans submitted on previous contracts as a factor in determining contractor responsibility.

(b) Assure that a subcontracting plan was submitted when required.

(c) Notify the BPA Small Business Specialist of the opportunity to review the proposed contract (including the plan and supporting documentation). The notice shall be issued in sufficient time to provide the representative a reasonable time to review the material and submit advisory recommendations to the CO. Failure of the representative to respond in a reasonable period of time shall not delay award of the contract.

(d) Determine any fee that may be payable if an incentive is used in conjunction with the subcontracting plan.

(e) Ensure that an acceptable plan is incorporated into and made a material part of the contract.

#### **1.4 Postaward Responsibilities of the Contracting Officer.**

After a contract or contract modification containing a subcontracting plan is awarded, the CO is responsible for the following:

(a) Notifying the BPA Small Business Specialist, if not done so during negotiations.

(b) Forwarding a copy of each plan and any associated approvals to the BPA Small Business Specialist.

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(c) Giving to the BPA Small Business Specialist a copy of the final negotiated subcontracting plan that was incorporated into a contract or contract modification.

(d) Notifying the BPA Small Business Specialist of the opportunity to review subcontracting plans in connection with contract modifications.

(e) Monitoring, evaluating, and documenting contractor performance under the subcontracting plan included in the contract. This will include, as appropriate --

(1) Information on the extent to which the contractor is meeting the plan's goals for subcontracting with eligible small and small disadvantaged business concerns;

(2) Information on whether the contractor's efforts to ensure the participation of small and small disadvantaged business concerns are in accordance with its subcontracting plan;

(3) Information on whether the contractor is requiring its subcontractors to adopt similar subcontracting plans;

(4) Immediate notice if, during performance, the contractor is failing to meet its commitments under the contract or the subcontracting plan; and

(5) Immediate notice if, during performance, the contractor is failing to comply in good faith with the subcontracting plan.

(f) Initiating action to assess liquidated damages in accordance with BPI 8.3.2 upon receipt of evidence to indicate that such action is warranted.

#### **1.5 Liquidated damages.**

(a) When a contractor fails to make a good faith effort to comply with a subcontracting plan, 15 U.S.C. 637(d)(4)(F) directs that liquidated damages shall be paid by the contractor.

(b) If, at contract completion, or in the case of a commercial products plan, at the close of the fiscal year for which the plan is applicable, a contractor has failed to meet its subcontracting goals, and the CO decides that the contractor failed to make a good-faith effort to comply with the subcontracting plan, the CO shall give the contractor written notice specifying the failure, advising the contractor of the possibility that the contractor may have to pay to BPA liquidated damages, and providing a period of 10 days (or longer period as necessary) within which to respond. The notice shall give the contractor an opportunity to demonstrate what good-faith efforts have been made before the CO issues the final decision, and shall further state that failure of the contractor to respond may be taken as an admission that no valid explanation exists. The notice may invite the contractor to discuss the matter.

(c) In determining whether a contractor failed to make a good-faith effort to comply with its subcontracting plan, a CO must examine the totality of the contractor's actions, consistent with the information and assurances provided in its plan. The fact that the contractor failed to meet its subcontracting goals does not, in and of itself, constitute a failure to make a good-faith effort. For example, notwithstanding a contractor's diligent effort to identify and solicit offers from small business and small disadvantaged business concerns, factors such as unavailability of anticipated sources or unreasonable prices may frustrate achievement of the contractor's goals. However, when considered in the context of the contractor's total effort in accordance with its plan, the following may be considered as indications of a failure to make a good faith effort: a failure to attempt to identify, contact, solicit, or consider for contract award, small business or small disadvantaged business concerns; a failure to designate a company official to administer the subcontracting program; a failure to maintain records or otherwise demonstrate procedures

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adopted to comply with the plan; and the adoption of company policies or procedures which have as their objectives the frustration of the objectives of the plan.

(d) If, after consideration of all the pertinent data, the CO finds that the contractor failed to make a good-faith effort to comply with its subcontracting plan, the CO shall issue a final decision to the contractor to that effect and require the payment of liquidated damages in an amount stated. The CO's final decision shall state that the contractor has the right to appeal under the Disputes clause.

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**SECTION 2 EXHIBIT 2-A-1 SUBCONTRACTING PLAN**

SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS  
 SUBCONTRACTING PLAN OUTLINE

The following outline meets the minimal requirements of Public Law 95-507 and BPI 8.3. This outline is not intended to replace any existing corporate master plan which is more extensive. If assistance is needed to locate small and small disadvantaged business sources, Contact the BPA Small Business/Disadvantaged Business Specialist at\_\_\_\_\_.

Identification Data:

Solicitation Number:

Contract Number:

Contract Value:

Contractor:

Address:

Date Plan Prepared:

Item Description:

**I. Goals**

Separate dollar and percentage goals for using small business concerns and small disadvantaged business concerns as subcontractors

A. Total estimated dollar value of all planned subcontracting, i.e.. to all types of business concerns under this contract, is \$\_\_\_\_\_.

B. Total estimated dollar value of planned subcontracting to small business concerns\* is \$\_\_\_\_\_and\_\_\_\_\_%. (\* This figure includes the amount in C. below.)

C. Total estimated dollar value of planned subcontracting to small disadvantaged business concerns is \$\_\_\_\_\_and\_\_\_\_\_%

D. Items to be subcontracted under this contract, and the types of businesses supplying them, are:

(check all that apply)

Subcontracted Items	Lg. Bus.	Sm. Bus.	Sm. Disad..



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(Attach additional sheets if necessary.)

E. Methods used to develop the subcontracting goals for small business and small disadvantaged business concerns (i.e., explain how the product and service areas to be subcontracted were established, how the areas to be subcontracted to small and small disadvantaged business concerns were determined, and how the capabilities of small and small disadvantaged businesses were determined--include any source lists used in the determination process).

F. Indirect and overhead costs have been \_\_\_\_\_ have not been \_\_\_\_\_ included in the dollar and percentage subcontracting goals stated above. (check one) '

G. If indirect and overhead costs have been included, explain the method used to determine the proportionate share of such costs to be allocated as subcontracts to small business and small disadvantaged business concerns.

**II. Program Administrator**

Name, title, position within the corporate structure, and duties of. the employee who will administer the contractor's subcontracting program (BPI 8.3).

Name:  
 Title:  
 Address:

Telephone:  
 Position:

Duties: General overall responsibility for the contractor's subcontracting programs, 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/division policy statements that demonstrate the company's/division's support for awarding contracts and subcontracts to small and small disadvantaged business concerns;
- B. Developing and maintaining offerors' lists of small and small disadvantaged business concerns from all possible sources;
- C. Ensuring periodic rotation of potential subcontractors on offerors' lists;
- D. Assuring that small and small disadvantaged businesses are included on the offerors' list for every solicitation for items they are capable of providing;

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- E. Ensuring that procurement "packages" are designed to permit the maximum possible participation of small, small disadvantaged, and women-owned small businesses;
- F. Reviewing solicitations to remove statements, clauses, etc., which tend to restrict or prohibit small and small disadvantaged business participation;
- G. Ensuring that the bid review findings will document the reasons for not selecting any low bids submitted by small and small disadvantaged business concerns;
- H. Overseeing the establishment and maintenance of contract and subcontract award records;
- I. Attending or arranging for the attendance of company counselors at Business Opportunity Workshops, Minority Business Enterprise Seminars, Trade Fairs, etc.;
- J. Directly or indirectly counseling small and small disadvantaged business concerns on subcontracting opportunities and how to prepare solicitation responses;
- K. Conducting or arranging for the conduct of training for purchasing personnel regarding the intent and impact of Public Law 95-507 on purchasing procedures;
- L. Developing and maintaining an incentive program for buyers which supports the subcontracting program;
- M. Monitoring the company's performance and making any adjustments necessary to achieve the subcontract plan goals;
- N. Preparing, and submitting timely, required subcontract reports;
- O. Coordinating the company's activities during the conduct of compliance reviews; and
- P. Encouraging subcontracting when consistent with the efficient performance of the contract.

### **III. EQUITABLE OPPORTUNITY**

Describe efforts the offeror will make to ensure that small and small disadvantaged business concerns will have an equitable opportunity to compete for subcontracts (BPI 8.3). 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;
  - 3. Attending small and minority business procurement conferences and trade fairs; and
  - 4. Requesting sources from the Small Business-Administration's PRO-NET
- B. Internal efforts to guide and encourage purchasing personnel:
  - 1. Presenting workshops, seminars, and training programs;
  - 2. Establishing, maintaining, and using, small and small disadvantaged business source lists, guides, and other data for soliciting subcontracts; and

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3. Monitoring activities to evaluate compliance with the subcontracting plan.

C. Additional efforts:

#### **IV. Clause Flow-Down**

Including BPI 8.3, "Utilization of Small Business Concerns and Small Disadvantaged Business Concerns", in all subcontracts that offer further subcontracting opportunities. All subcontractors, except small business- concerns, that receive subcontracts in excess of \$500,000 (\$1,000,000 for construction) must adopt and comply with a plan similar to the plan required by BPI 8-3."Small Disadvantaged Business Subcontracting Plan."

The contractor agrees that the clause will be included and that the plans will be reviewed against the minimum requirements for such plans. The acceptability of percentage goals for small business and small disadvantaged business concerns will be determined on a case-by case basis depending on the supplies and services involved, the availability of potential small and small disadvantaged subcontractors and prior experience. Once the plans are negotiated, approved, and implemented, the plans must be monitored through the submission of periodic reports.

#### **V. Reporting and Cooperation**

Assure that contractors (1) cooperate in any studies or surveys as may be required; (2) submit periodic reports which show compliance with the subcontracting plan; (3) submit Standard Form (SF) 294. "Subcontracting Reports for Individual Contracts," in accordance with the instructions on the form; and (4) ensure that subcontractors submit Standard Form 294. This means that both the BPA and the (Contractor Name) must receive the report within 25 days after the close of each quarter.

Additional records

Additional subcontracting plan information:

Attachments to the subcontracting plan:

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Concurrences:

This subcontracting plan was submitted by:

Contractor \_\_\_\_\_ Signature/Date:

Contractor \_\_\_\_\_ Typed/Printed \_\_\_\_\_ Name:

Title: \_\_\_\_\_

Reviewed/Approved by Contracting Officer:

CO \_\_\_\_\_ Signature/Date:

CO \_\_\_\_\_ Typed/Printed \_\_\_\_\_ Name:

Reviewed by BPA Small Business Specialist:

Signature/Date: \_\_\_\_\_

SB \_\_\_\_\_ Specialist \_\_\_\_\_ Type/Printed \_\_\_\_\_ Name: