

GSA ORDER

Subject: General Services Administration Acquisition Manual; Part 519 Update

1. Purpose. This order transmits a revision to the General Services Administration Acquisition Manual.
2. Background. This change updates the General Services Administration Acquisition Manual (GSAM), Part 519, Small Business Programs, to supplement revisions to the Federal Acquisition Regulation (FAR), Part 19, Small Business Programs, and updates other references associated with the Small Business Programs.
3. Effective date. October 1, 2006.
4. Explanation of changes. This change:
 - a. Changes the "Office of Enterprise Development" to the "Office of Small Business Utilization".
 - b. Clarifies the definition of the Office of Small Business Utilization staff in 519.001.
 - c. Updates 519.201, General policy.
 - d. Adds requirements to 519.202-1 addressing additional responsibilities for the acquisition planner pertaining to contract bundling and HUBZone non set-asides.
 - e. Updates 519.202-2, 519.705-4 and 519.870 for the small business programs and replaces SBA's PRO-Net database with the Central Contractor Registration database link to the Dynamic Small Business Search.
 - f. Deletes 519.202-4 "Solicitation" as unnecessary.
 - g. Revises the Subpart 519.3 title to "Determination of Small Business Status for Small Business Programs" to conform with the FAR subpart title.
 - h. Adds new Section 519.307, "Protesting a firm's status as a Service-Disabled Veteran-Owned small business concern".
 - i. Updates 519.502-1 to add landscaping services and exterminating and pest control services, and revising the architectural and engineering services threshold from \$25,000 to \$50,000.

j. Adds language to 519.502-1 and 519.803-70 that the contracting officer should consider the availability of Federal Prison Industries, Inc. and Nonprofit Agencies Employing People Who Are Blind or Severely Disabled (JWOD) mandatory sources which may not have existed at the time of the original requirement are sufficient reason to discontinue setting aside a continuing requirement.

k. Revises the title of 519.506, "Withdrawing or modifying small business set-asides" to conform to the FAR.

l. Adds an additional requirement to 519.705-2(b) for subcontracting plans for negotiated acquisitions.

m. Moves 519.700-70(c) to 519.705-2(d)

n. Updates 519.870, Direct 8(a) contracting to reflect that the 8(a) Memorandum of Understanding is now referred to as Partnership Agreement.

o. Revises 519.10, 519.12, and Appendix 519A, to change references from SIC to NAICS.

p. Updates Subpart 519.10 to add landscaping services and exterminating and pest control services to the Small Business Competitiveness Demonstration Program, and deletes outdated sections "Goal attainment for period Fiscal Year 1999" and "Procurement procedures for solicitations issued on or after February 1, 2000."

q. The following are deleted and reserved in the GSAM:

(1) Subpart 519.11 "Price Evaluation Adjustment for Small Disadvantaged Business Concerns." The authority expired in FAR Subpart 19.11 for civilian agencies, other than NASA and the Coast Guard, to apply the price evaluation adjustment to certain small disadvantaged business concerns in competitive acquisitions. The Department of Defense, National Aeronautics and Space Administration, and the U.S. Coast Guard are authorized to continue applying the price evaluation adjustment.

(2) Appendix 519C – "Reports on Small Business Participation – The Small Business Competitiveness Demonstration Program."

(3) Appendix 519 D – "SDB Price Evaluation Adjustment Decision Charts".

(4) Appendix 519 E – "Examples: Applying the SDB Price Evaluation Adjustment and HUBZone Price Evaluation Preference"

r. Adds new Subpart 519.14 – "Service-Disabled Veteran-Owned Small Business Procurement Program." This includes new sections 519.1405, "Service-disabled veteran-owned small business set-aside procedures" for setting aside a class of acquisitions and procedures for

r. Adds new Subpart 519.14 – “Service-Disabled Veteran-Owned Small Business Procurement Program.” This includes new sections 519.1405, “Service-disabled veteran-owned small business set-aside procedures” for setting aside a class of acquisitions and procedures for withdrawing or modifying SDVOSB concern set-asides, and 519.1401-70, “Additional Responsibilities - Service Disabled Veteran Executive Order”.

s. Adds Appendix F –“ GSA Acquisition Alert 2006-04, Contract Bundling.”

Remove pages

General Structure,
pp. v and vi
501-1 and 501-2
505-1 and 505-2
508-1 and 508-2
Part 519 TOC,
pp. 519-i and 519-ii
519-1 thru 519-14
519A-1 thru 519A-6
519B-1 thru 519B-4
519C-1 thru 519C-12
519D-1 and 519D-2
519E-1 and 519E-2

Insert pages

General Structure,
pp. v and vi
501-1 and 501-2
505-1 and 505-2
508-1 and 508-2
Part 519 TOC,
pp. 519-i and 519-ii
519-1 thru 519-14
519A-1 thru 519A-6
519B-1 thru 519B-6
519C-1 and 519C-2
519D-1 and 519D-2
519E-1 and 519E-2
519F-1 thru 519F-6



Roger Waldron
Acting Senior Procurement Executive
Office of the Chief Acquisition Officer

9/29/06

(BLANK PAGE)

PART 516—TYPES OF CONTRACTS

- 516.2 Fixed Price Contracts
- 516.4 Incentive Contracts
- 516.5 Indefinite-Delivery Contracts
- 516.6 Time-and-Materials, Labor-Hour, and Letter Contracts

PART 517—SPECIAL CONTRACTING METHODS

- 517.1 Multiyear Contracting
- 517.2 Options

PART 518—[RESERVED]

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

PART 519—SMALL BUSINESS PROGRAMS

- 519.2 Policies
- 519.3 Determination of Small Business Status for Small Business Programs
- 519.4 Cooperation With the Small Business Administration
- 519.5 Set-asides for Small Business
- 519.6 Certificates of Competency and Determinations of Responsibility
- 519.7 The Small Business Subcontracting Program
- 519.8 Contracting With the Small Business Administration (The 8(a) Program)
- 519.10 Small Business Competitiveness Demonstration Program
- 519.11 [Reserved]
- 519.12 Small Disadvantaged Business Participation Program
- 519.13 Historically Underutilized Business Zone (HUBZone) Program
- 519.14 Service-Disabled Veteran-Owned Small Business Procurement Program
- Appendix 519A Small Business Subcontracting Plan Outline (Model)
- Appendix 519B Subcontracting Plan Evaluation Checklist
- Appendix 519C [Removed and Reserved]
- Appendix 519D [Removed and Reserved]
- Appendix 519E [Reserved]
- Appendix 519F GSA Acquisition Alert–Contract Bundling

PART 520—[RESERVED]

PART 521—[RESERVED]

PART 522—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

- 522.1 Basic Labor Policies
- 522.3 Contract Work Hours and Safety Standards Act
- 522.4 Labor Standards for Contracts Involving Construction
- 522.6 Walsh-Healey Public Contracts Act
- 522.8 Equal Employment Opportunity
- 522.10 Service Contract Act of 1965, As Amended
- 522.13 Disabled Veterans and Veterans of the Vietnam Era
- 522.14 Employment of Workers With Disabilities

PART 523—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY AND DRUG-FREE WORKPLACE

- 523.3 Hazardous Materials Identification and Material Safety Data
- 523.4 Use of Recovered Materials
- Appendix 523A GSA Affirmative Procurement Program
GSA Order OGP 2851.1

PART 524—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

- 524.1 Protection of Individual Privacy
- 524.2 Freedom of Information Act

PART 525—FOREIGN ACQUISITION

- 525.1 Buy American Act—Supplies
- 525.2 Buy American Act—Construction Materials
- 525.3 Balance of Payments Program
- 525.5 Evaluating Foreign Offers—Supply Contracts
- 525.6 Trade Sanctions
- 525.11 Solicitation Provisions and Contract Clauses

PART 526—OTHER SOCIOECONOMIC PROGRAMS [RESERVED]**SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS****PART 527—PATENTS, DATA, AND COPYRIGHTS**

- 527.4 Rights in Data and Copyrights

PART 528—BONDS AND INSURANCE

- 528.1 Bonds and Other Financial Protections
- 528.2 Sureties and Other Security for Bonds
- 528.3 Insurance

PART 529—TAXES

- 529.4 Contract Clauses

PART 530—COST ACCOUNTING STANDARDS ADMINISTRATION

- 530.2 Subpart 530.2 CAS Program Requirements

PART 531—CONTRACT COST PRINCIPLES AND PROCEDURES

- 531.1 Applicability

PART 501—GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION SYSTEM

Subpart 501.1—Purpose, Authority, Issuance

501.101 Purpose.

(a) The General Services Acquisition Regulation (GSAR) contains agency acquisition policies and practices, contract clauses, solicitation provisions, and forms that control the relationship between GSA and contractors and prospective contractors.

(b) The GSAR addresses rules directly to you, the contracting officer, unless otherwise indicated.

501.103 Authority.

GSA's Senior Procurement Executive issues the GSAR under the authority of the Federal Property and Administrative Services Act of 1949, as amended.

501.104 Applicability.

(a) *General.* The GSAR applies to contracts for supplies or services, including construction.

(b) *Acquisition of leasehold interests in real property.* [Part 570](#) establishes rules for the acquisition of leasehold interests in real property. Other provisions of 48 CFR Chapter 5 (GSAR) do not apply to leases of real property unless specifically cross-referenced in [Part 570](#).

(c) *Relationship to statute.* Some GSAR rules implement and interpret laws and other authorities affecting procurement. A GSAR rule specifically directed by statute has the force and effect of law.

(d) *GSAR/FAR Relationship.* The GSAR may deviate from the Federal Acquisition Regulation (FAR) if authorized. If the GSAR does not implement the FAR, the FAR alone governs.

501.105 Issuance.

501.105-1 Publication and code arrangement.

The GSAR is published in the following sources:

- (a) Daily issue of the Federal Register.
- (b) Annual Code of Federal Regulations (CFR), as Chapter 5 of Title 48.
- (c) GSA Acquisition Manual distributed within GSA.
- (d) GSA Home Page at <http://www.gsa.gov>. Click on either "Government Agencies" or on "Business and Industry," then click on "Acquisition."

501.105-2 Arrangement of regulations.

(a) The GSAR numbers and captions policies and procedures to correspond to how they appear in the FAR, e.g., 1.104 in the FAR is 501.104 in the GSAR.

(b) GSAR rules not implementing the FAR have numbers beginning with 70, e.g., part 570, subsection 515.209-70.

(c) The GSAR may have gaps in its numbering scheme because a FAR rule may not require GSAR implementation.

501.105-3 Copies.

The GSAR in CFR form may be purchased from: Superintendent of Documents, Government Printing Office, Washington, DC 20402.

501.106 OMB Approval under the Paperwork Reduction Act.

GSAR Reference	OMB Control No.	GSAR Reference	OMB Control No.
509.105-1(a)	3090-0007	552.211-78	3090-0204
511.104-70	3090-0203	552.211-82	3090-0204
511.204(d)	3090-0246	552.214-71	3090-0200
511.404(a)(1)	3090-0204	552.216-70	3090-0243
511.404(a)(2)	3090-0204	552.216-72	3090-0248
511.404(a)(5)	3090-0204	552.216-73	3090-0248
514.201-7(a)	3090-0200	552.219-72	3090-0252
516.203-4(a)(1)	3090-0243	552.232-72	3090-0205
516.506	3090-0248	552.232-72	3090-0080
519.708(b)	3090-0252	552.237-70	3090-0197
522.406-6	1215-0149	552.237-71	3090-0006
523.370	3090-0205	552.238-70	3090-0250
532.111(c)	3090-0080	552.238-72	3090-0262
532.905-70	9000-0102	552.238-74	3090-0121 3090-0250
532.905-71	3090-0080	552.242-70	3090-0027
537.110(a)	3090-0197	552.246-70	3090-0027
537.110(b)	3090-0006	552.246-71	3090-0027
538.273(a)(1)	3090-0250	552.249-71	3090-0227
538.273(a)(3)	3090-0262	GSA-72-A	3090-0121
538.273(b)(1)	3090-0121	GSA-527	3090-0007
542.1107	3090-0027	GSA-618-D	1215-0149
546.302-70	3090-0027	GSA-1142	3090-0080
546.302-71	3090-0027	GSA-1364	3090-0086
549.502(b)	3090-0027	GSA-1678	3090-0027
552.211-8	3090-0204	GSA-2419	9000-0102
552.211-77	3090-0246	570.702(c)	3090-0086

501.170 General Services Administration Acquisition Management System.

(a) *Description.* The General Services Administration Acquisition Management System consists of the General Services Administration Acquisition Regulation (GSAR) and agency and Service non-regulatory acquisition guidance documents.

(b) *Format.* For users' convenience, the General Services Administration Acquisition Manual (GSAM) contains the GSAR and nonregulatory agency acquisition guidance. The GSAM adheres to GSAR numbering and drafting conventions. GSAR material is shaded. Non-shaded material is non-regulatory. The shading distinguishes regulatory material from material that applies internally to GSA.

(c) *Agency policy.* Although GSAM requirements are not all regulatory, occasionally the requirements are mandatory for GSA personnel. The mandatory requirements reflect agency policy which must be followed to ensure uniformity or for other reasons.

(d) *Applicability.* The GSAM applies to contracts for supplies or services, including construction.

(e) *Acquisition of leasehold interests in real property.* [Part 570](#) establishes requirements for the acquisition of leasehold interests in real property. Other provisions of the GSAM do not apply to leases of real property unless specifically cross-referenced in [Part 570](#).

(f) *Availability.* The GSAM is available on the GSA Home Page at <http://www.gsa.gov>. Click on either "Government Agencies" or on "Business and Industry," then click on "Acquisition." You may also link to the GSAM on Insite at <http://insite.gsa.private>. Click on "Business Hot Links," then on "Acquisition."

501.171 Other GSA publications.

501.171-1 GSA orders and handbooks.

(a) Heads of contracting activities (HCA's) may issue internal agency guidance, as described in FAR 1.301(a)(2), in the form of a GSA order or handbook.

(b) GSA orders and handbooks must not unnecessarily repeat, paraphrase, or otherwise restate the FAR, GSAR, or GSAM.

(c) The handbook, Writing GSA Internal Directives (OAD P 1832.3B), prescribes policies and procedures for issuing GSA orders and handbooks.

501.171-2 Acquisition letters.

(a) Acquisition letters provide interim policies and procedures pending incorporation in GSA orders or handbooks.

(b) Acquisition letters expire one year after issuance, unless the letter indicates an earlier expiration date.

(c) The Senior Procurement Executive and HCAs, or designees, may issue acquisition letters.

(d) The issuing official must coordinate each acquisition letter with appropriate offices including Acquisition Policy, Counsel, and the Inspector General. Any proposed policy or procedure that affects the operation of the small business program, must be coordinated with the Office of Small Business Utilization (E).

(e) The issuing activity must identify each acquisition letter with an assigned number. The number should begin with the issuing office correspondence symbol, followed by the last two digits of the calendar year when issued, then numbered consecutively beginning with 1. For example, FC-97-5 would be the fifth acquisition letter issued by FSS in fiscal year 1997).

(f) The body of an acquisition letter should contain the following paragraphs, as appropriate:

- (1) Purpose.
- (2) Background.
- (3) Effective date.
- (4) Termination date.
- (5) Cancellation.
- (6) Applicability (offices to which the acquisition letter applies)
- (7) Reference to regulations (FAR or GSAR), handbooks, or orders.
- (8) Instructions/procedures.

(g) The issuing office is responsible for distributing its acquisition letters to affected contracting activities and the Office of Acquisition Policy. In addition copies should be distributed to:

- (1) For acquisition letters issued by the Office of Acquisition Policy or a Central Office Service:
 - (i) Associate General Counsel.
 - (ii) The Administrative Policy and Information Management Division (CAI).
- (2) For acquisition letters issued by a Region:
 - (i) Regional Counsel.
 - (ii) The regional clearance office as defined in the handbook, Writing GSA Internal Directives (OAD P 1832.3B).
 - (iii) Central office contracting activities, if appropriate.

(h) If an acquisition letter is distributed only electronically, then the issuing office may issue a notice to affected contracting activities, the Office of Acquisition Policy, and Associate General Counsel or Region Counsel in lieu of distributing paper copies. The notice must identify the subject, number, and location of the letter.

(i) Each issuing office must report on acquisition letters issued and canceled on a quarterly basis to the Office of Acquisition Policy. The Office of Acquisition Policy will issue a consolidated index of all acquisition letters issued or cancelled.

PART 505—PUBLICIZING CONTRACT ACTIONS

Subpart 505.1—Dissemination of Information

505.101 Methods of disseminating information.

(a) In Regions with a Business Service Center (BSC), you may post the notice required by FAR 5.101(a)(2) at the BSC.

(b) Use GSA's Electronic Posting System (EPS) to issue each synopsis required by FAR Part 5 or GSAR [505](#). When synopsising a solicitation, include the appropriate notice(s) required by [504.570\(c\)](#) and [\(d\)](#).

(c) For acquisitions involving real property:

If the acquisition is not exempt under FAR 5.202 or GSAR 505.202 , and...	Then you must publicize the proposed acquisition...
(1) The acquisition is for real property appraisal services estimated to cost \$25,000 or more.	(1) Either: (i) In local newspapers. (ii) In the Commerce Business Daily (CBD) through the EPS.
(2) The acquisition is for leasehold interests in real property estimated to exceed 10,000 square feet (except lease construction on a preselected site).	(2) Either: (i) In local newspapers. (ii) In the CBD through the EPS.
(3) The acquisition is for a leasehold interest in a building to be constructed on a preselected site.	(3) In the CBD through the EPS.

(d) You may publicize proposed leases of 10,000 square feet or less in local newspapers if it will serve to promote competition.

Subpart 505.2—Synopses of Proposed Contract Actions

505.202 Exceptions.

The Administrator has determined under section 18(c)(3) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 416 (c)(3)) and Section 8(g)(3) of the Small Business Act, as amended (15 U.S.C. 644(g)(3)) that:

(a) Synopsising in the CBD is not always appropriate for acquisitions of leasehold interests in real property (except lease construction on a designated site) or real property appraisal services. You may publicize such contract actions following the procedures in [505.101](#) and [505.203](#).

(b) It is not appropriate or reasonable to publish an advance notice of any of the following:

(1) Acquisitions of works of art, including the design, execution and installation of the artwork, under the Art-in-Architecture Program.

(2) Supplemental agreements to leases of real property involving any of the following:

(i) Expansion requests within the scope of a lease (See [570.403](#)).

(ii) Lease extensions under the conditions defined in [570.405](#).

(iii) Building alterations within the scope of a lease (see [570.5](#)).

505.203 Publicizing and response time.

(a) If you publicize in local newspapers under [505.101\(c\)](#), ensure that the notice appears in local newspapers at least 3 calendar days before issuance of the solicitation. Except as provided in paragraph [\(b\)](#) of this section, allow at least these minimum response times:

(1) For leasehold interests in real property, 20 calendar days between solicitation issuance and the date established for receipt of initial offers.

(2) For real property appraisal services valued at less than either the Trade Agreements Act (TAA) threshold or the North American Free Trade Agreement (NAFTA) threshold, 10 calendar days between solicitation issuance and the date established for receipt of initial offers. The lower of the two thresholds governs.

(3) For real property appraisal services valued at or over the TAA threshold or the NAFTA threshold, 40 calendar days from when the notice appears to receipt of initial offers. If the acquisition falls in a general category identified in an annual forecast, the period may be reduced to as few as 10 days. The lower of the two thresholds governs.

(b) The following exceptions to the publicizing and response times in paragraph [\(a\)](#) of this section apply only to proposed acquisitions of leasehold interests in real property:

(1) For a proposed acquisition conducted using simplified lease acquisition procedures (see [570.2](#)), consider the individual acquisition and establish a reasonable response time.

(2) In cases of urgency, provide as much time as possible and document the file.

505.270 Synopsis of amendments to solicitations.

Synopsise in the CBD any solicitation amendment when the amendment either:

- (a) Increases the anticipated value of the proposed acquisition above the dollar threshold requiring synopsis.
- (b) Alters the scope of the proposed acquisition so that increased interest of contractors can be reasonably anticipated.

Subpart 505.3—Synopses of Contract Awards

505.303 Announcement of contract awards.

Compliance with [505.303-70](#) fulfills the reporting requirements of FAR 5.303(a).

505.303-70 Notification of proposed substantial awards and awards involving congressional interest.

(a) *Applicability.* This subsection applies to any proposed award exceeding or estimated to exceed:

- (1) 100,000 for a contract under the 8(a) program.
- (2) 500,000 for a supply contract unless it involves any of the following:
 - (i) Motor vehicles.
 - (ii) Supplies with not readily identifiable points of origin.
 - (iii) Supplies with foreign production points.

(3) 500,000 for a design (Architect/Engineer) or construction contract.

(4) 100,000 for any other contract, or class of contract, if a Member of Congress has specifically requested notification of award to a contractor in their district or State.

(b) *Notification Procedures.* (1) The Office of Congressional and Intergovernmental Affairs (S) will provide in writing to the HCA the names of Members of Congress who wish to be notified of any award under subparagraph [\(a\)\(4\)](#) of this subsection.

- (2) Notify S either by:
 - (i) Electronic mail.
 - (ii) Facsimile.
 - (iii) Hand delivery.

(3) Except for awards under urgent and compelling circumstances, you must provide the notice to S on the day of award and 24 hours before telephonic notice (if applicable) is provided to the contractor. If you cannot meet this timeframe, the contracting director must telephonically notify S.

(4) For awards under subparagraph [\(a\)\(4\)](#) of this subsection, provide a copy of the notice to the Regional congressional liaison office.

(c) *Contents of notice.* (1) Identify the contractor by name and address [including county and Congressional district, if known]. Include the contractor’s point of contact and telephone number.

(2) Identify the type of contract and contractor by using these codes:

DQ	For definite quantity contract
SC	For schedule contract
TC	For indefinite delivery contract other than schedules
S	For small business concern, other than HUBZone
HS	For HUBZone small business concern
SD	For small disadvantaged business concern, other than HUBZone
WO	For women-owned small business concern
O	For other than a small business concern
VO	For veteran-owned small business concern
SDV	For service-disabled veteran-owned small business concern

(3) Briefly describe the supplies or services acquired, the duration of the contract period, and the dollar value of the award.

- (4) Include your name and telephone number.
- (5) For definite quantity awards:

(i) Indicate the quantity and unit, in parentheses, and dollar value for each production point. If items have multiple but unspecified production points or the number of production points exceed 10, write “multiple” and indicate immediately after, in parentheses, the total number of production points.

(ii) If applicable, identify the receiving agency next to the applicable quantity and state if any portion is for overseas use.

(iii) If available, identify by name and telephone number a point-of-contact for each production point.

(6) If the award involves Congressional interest, include the following statement:

“CONGRESSIONAL INTEREST:
[Name of Congressman/Senator]
[Indicate State/District]
[Describe interest]”

(7) The notification to S will contain sensitive preaward information. Label the notice accordingly. S and regional Congressional liaison offices are responsible for the security of such information and will establish procedures governing its release before official notification of award. Unless otherwise authorized by you, the release of such information before award is limited to Members of Congress and their staff.

(d) *Release of awards.* (1) The Associate Administrator for Congressional and Intergovernmental Affairs will identify notifications which require priority processing. S will release such notices at the time and date specified by the Associate Administrator.

PART 508—REQUIRED SOURCES OF SUPPLIES AND SERVICES**Subpart 508.6—Acquisition from Federal Prison Industries, Inc.****508.604 Ordering procedures.****508.604-70 Delinquent delivery orders.**

(a) Establish delivery schedules based on the lead time required by Federal Prison Industries (FPI).

(b) You may use delinquent orders as the reason for requesting clearance to procure from other sources until FPI can make deliveries.

508.605 Clearances.

Cite FPI clearance numbers in solicitations and award documents.

Subpart 508.7—Acquisition from Nonprofit Agencies Employing People Who Are Blind or Severely Disabled**508.705 Procedures.****508.705-4 Compliance with orders.**

(a) Until all deliveries are made on a delinquent order, take one of the following actions:

(1) For an excusable delay, extend the contract delivery schedule without obtaining consideration.

(2) For an inexcusable delay, review and adjust contract prices following normal procedures.

(b) If the central non-profit agency (CNA) delays acting on a request for, or refuses to grant, a purchase exception, refer the matter to the contracting director for resolution.

508.705-70 Adding items to the Procurement List.

(a) If a CNA expresses interest in adding an item to the Procurement List, provide the CNA with both:

(1) The most recent solicitations issued for the commodity or service.

(2) The award price(s) for the commodity or service.

(b) The Committee for Purchase from People Who Are Blind or Severely Disabled (the Committee), at the CNA's request may assign the supply or service to the CNA for development by a workshop.

(c) Before issuing a solicitation, ask the CNA about the status of any item in which the Committee has expressed interest.

(d) The Committee may request that a procurement be delayed pending Committee action. The contracting activity must consult with the Office of Small Business Utilization (E) before rejecting such a request.

508.705-71 Central non-profit agency performance capability.

(a) Include on the purchase document both the annual requirement and the estimated monthly requirement.

(b) With the permission of the Committee, you may verify the workshop's ability to satisfy the Government's estimated monthly requirement by requesting a preaward survey. If the CNA cannot satisfy the Government's requirement, you may request a purchase exception only for those quantities the CNA cannot provide in a timely manner.

508.706 Purchase exceptions.

Cite CNA purchase exception numbers in solicitations and award documents.

Subpart 508.8—Acquisition of Printing and Related Supplies**508.802 Policy.**

The Director of the Reproduction and Visual Arts Division in the Office of Communications (X) is both GSA's:

(a) Central printing authority.

(b) Liaison with the Joint Committee on Printing and the Public Printer on all matters related to printing.

This page intentionally left blank.

CHANGE 17 OCTOBER 1, 2006

PART 519—SMALL BUSINESS PROGRAMS

Sec.

- 519.001 Definitions.
- Subpart 519.2—Policies**
- 519.201 General policy.
- 519.202 Specific policies.
- 519.202-1 Encouraging small business participation in acquisitions.
- 519.202-2 Locating small business sources.

Subpart 519.3—Determination of Small Business Status for Small Business Programs

- 519.302 Protesting a small business representation.
- 519.305 Protesting a representation of disadvantaged business status.
- 519.306 Protesting a firm's status as a HUBZone small business concern.
- 519.307 Protesting a firm's status as a Service-Disabled Veteran-Owned small business concern.

Subpart 519.4—Cooperation With the Small Business Administration

Subpart 519.5—Set-asides for Small Business

- 519.502 Setting aside acquisitions.
- 519.502-1 Requirements for setting aside acquisitions.
- 519.502-70 Review of non-set-aside determinations.
- 519.503 Setting aside a class of acquisitions for small business.
- 519.506 Withdrawing or modifying small business set-asides.
- 519.508 Solicitation provisions and contract clauses.

Subpart 519.6—Certificates of Competency and Determinations of Responsibility

- 519.602 Procedures.
- 519.602-3 Resolving differences between the agency and the Small Business Administration.

Subpart 519.7—The Small Business Subcontracting Program

- 519.700-70 Additional responsibilities.
- 519.702 Statutory Requirements.
- 519.705 Responsibilities of the contracting officer under the subcontracting assistance program.
- 519.705-2 Determining the need for a subcontracting plan.
- 519.705-3 Preparing the solicitation.
- 519.705-4 Reviewing the subcontracting plan.
- 519.705-5 Awards involving subcontracting plans.
- 519.705-6 Postaward responsibilities of the contracting officer.
- 519.705-7 Liquidated damages.
- 519.706 Responsibilities of the cognizant administrative contracting officer.
- 519.708 Contract clauses.
- 519.708-70 Solicitation provisions.

Subpart 519.8—Contracting With the Small Business Administration (The 8(a) Program)

- 519.803 Selecting acquisitions for the 8(a) program.
- 519.803-70 Contracting officer evaluation of recommendations for 8(a) set-aside(s).
- 519.803-71 Withdrawing or modifying 8(a) set-asides.
- 519.870 Direct 8(a) contracting.
- 519.870-1 Authority and applicability.
- 519.870-2 Acquisitions at or under the SAT.
- 519.870-3 Acquisitions exceeding the SAT.
- 519.870-4 Sole source requirements.
- 519.870-5 Competitive requirements.
- 519.870-6 Contract administration.
- 519.870-7 Reporting.
- 519.870-8 Contract clauses.

Subpart 519.10—Small Business Competitiveness Demonstration Program

- 519.1007 Procedures.
- 519.1007-70 Designated industry goals.
- 519.1007-71 Procedures.

Subpart 519.11—[Reserved]

Subpart 519.12—Small Disadvantaged Business Participation Program

- 519.1201 General.
- 519.1202 Evaluation factor or subfactor.
- 519.1202-2 Applicability
- 519.1202-4 Procedures.
- 519.1203 Incentive subcontracting with small disadvantaged business concerns.

**Subpart 519.13—Historically Underutilized
Business Zone (HUBZone) Program**

519.1305 HUBZone set-aside procedures.

**Subpart 519.14—Service-Disabled Veteran-
Owned Small Business Procurement Program**

519.1405 Service-disabled veteran-owned small
business set-aside procedures.

519.1405-70 Additional Responsibilities—Service
Disabled Veteran Executive Order

**Appendix 519A—Small Business Subcontracting
Plan Outline (Model)**

**Appendix 519B—Subcontracting Plan
Evaluation Checklist**

Appendix 519C—[Removed and Reserved]

Appendix 519D—[Removed and Reserved]

Appendix 519E—[Reserved]

**Appendix 519F—GSA Acquisition Alert-
Contract Bundling**

PART 519—SMALL BUSINESS PROGRAMS

519.001 Definitions.

“Office of Small Business Utilization staff” is the staff with responsibility for supporting small business activities. In Central Office, this is the Office of Small Business Utilization, (OSBU) (E) and the Small Business Technical Advisors (SBTAs). In the Regions, this staff may be a separate office (*e.g.*, Small Business Utilization Centers (SBUCs)).

Subpart 519.2—Policies

519.201 General policy.

(a) The Associate Administrator, Office of Small Business Utilization (AAOSBU) is the Director of Small and Disadvantaged Business Utilization in GSA.

(b) The Office of Small Business Utilization, (OSBU) (E) appoints small business technical advisors (SBTAs), in writing, after consultation with HCAs. Each Central Office Service and each Region has at least one SBTA. All references to SBTA in this part refer to the SBTA designated to support his/her service or region, whichever is applicable.

(c) The Associate Administrator of the Office of Enterprise Development is the official designated to determine whether, in order to achieve GSA’s goal for Small Disadvantaged Business (SDB) concerns, the use of the SDB mechanism in FAR 19.11 has resulted in an undue burden on non-SDB firms. The following procedures apply to making such a determination:

(1) You prepare the determination required by FAR 19.201(f)(1). Forward the determination through appropriate channels, including the SBTA, for signature by the HCA. The HCA will forward the determination to E for review.

(2) If the Associate Administrator of the Office of Enterprise Development makes an affirmative determination that the SDB mechanism results in an undue burden or is otherwise inappropriate, E will concur and forward the determination to the Office of Federal Procurement Policy (OFPP).

519.202 Specific policies.

519.202-1 Encouraging small business participation in acquisitions.

(a) The acquisition planner is required to coordinate with the Small Business Technical Advisor or Small Business Specialist any acquisition that:

(1) Requires submission of a GSA Form 2689, Procurement Not Set Aside, under GSAM 519.502-70.

(2) Involves contract bundling (see FAR 19.202-1(e)).

(3) Is \$5,000,000 or more (See FAR 7.104(d)(2)).

(4) Exceeds the simplified acquisition threshold, if you decide not to set the acquisition aside for HUB-Zone Small Businesses (See 519.1305(a)).

(b) Bundled acquisitions (See Appendix F).

(1) If the planner and contracting officer have failed to recognize that the acquisition is bundled, the small business specialist shall notify the Office of Small Business Utilization.

(2) When substantial bundling is contemplated (see FAR 7.107(e)), coordination with the Office of Small Business Utilization is also required.

519.202-2 Locating small business sources.

(a) Confer with the appropriate SBTA when you need help to identify additional small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concern sources to solicit for a requirement. The SBTA will coordinate with the Small Business Administration (SBA) Procurement Center Representative (PCR).

(b) The SBTA should query Central Contractor Registration (CCR) database link, “Dynamic Small Business Search,” at www.ccr.gov.

Subpart 519.3—Determination of Small Business Status for Small Business Programs

519.302 Protesting a small business representation.

If SBA determines that an offeror is not a small business concern and there is evidence that the offeror knowingly misrepresented itself as a small business concern:

(a) Contracting activities in Central Office must refer the matter to the Inspector General (J).

(b) Regional contracting activities must refer the matter to the Regional Inspector General.

519.305 Protesting a representation of disadvantaged business status.

If SBA determines that a small business concern is not disadvantaged and there is evidence that the offeror knowingly misrepresented its disadvantaged status:

(a) Contracting activities in Central Office must refer the matter to the Inspector General (J).

(b) Regional contracting activities must refer the matter to the Regional Inspector General.

519.306 Protesting a firm’s status as a HUBZone small business concern.

If SBA determines that an offeror is not a HUBZone small business concern and there is evidence that the offeror knowingly misrepresented itself as such:

- (a) Contracting activities in Central Office must refer the matter to the Inspector General (J).
- (b) Regional contracting activities must refer the matter to the Regional Inspector General.

519.307 Protesting a firm’s status as a Service-Disabled Veteran-Owned small business concern.

If SBA determines that an offeror is not a service-disabled veteran-owned small business concern and there is evidence that the offeror knowingly misrepresented itself as such:

- (a) Contracting activities in Central Office must refer the matter to the Inspector General (J).
- (b) Regional contracting activities must refer the matter to the Regional Inspector General.

Subpart 519.4—Cooperation With the Small Business Administration

The Associate Administrator for the Office of Small Business Utilization is the focal point for interfacing with SBA. Refer issues relating to small business programs through the designated SBTA.

Subpart 519.5—Set-asides for Small Business

519.502 Setting aside acquisitions.

519.502-1 Requirements for setting aside acquisitions.

(a) A contracting activity that is meeting goals under the Small Business Competitiveness Demonstration Program must contract for construction, trash/garbage collection services, and landscaping and pest control services estimated to exceed \$25,000, and architectural and engineering services estimated to exceed \$50,000, using unrestricted procedures (see FAR 19.10 and 519.10.). If this circumstance applies, do not use the procedures in 519.502-70. You may make awards under the 8(a) program, or set aside for HUBZone small business or service-disabled veteran-owned small business concerns.

(b) Once a contracting activity acquires a product or service successfully on the basis of a set-aside, the activity must acquire all future requirements for that product or service using set-aside procedures. If you determine that you no longer can reasonably expect to receive offers from at least two responsible small business concerns and make awards at fair market prices, use the procedures in FAR 19.506 to with-

draw a repetitive set-aside. However, the availability of Federal Prison Industries, Inc. and Nonprofit Agencies Employing People Who Are Blind or Severely Disabled (JWOD) mandatory sources which may not have existed at the time of the original requirement are sufficient reason to discontinue setting aside a continuing requirement.

519.502-70 Review of non-set-aside determinations.

Acquisition expected to exceed \$100,000.

(a) *GSA Form 2689, Procurement Not Set Aside.* If you decide that an acquisition expected to exceed \$100,000 cannot be set aside for small business, record your decision on GSA Form 2689. Submit the form to the SBTA for review.

(b) *Reviews and timeframes.*

If...	Then...
(1) The acquisition meets any one of the following conditions: (i) It will be a multiple award schedule contract. (ii) The estimated value does not exceed \$500 million, including options. (iii) The contract will cover only one region or designated locations in one region (at any dollar value).	The SBTA provides a copy of the GSA Form 2689 to the SBA representative for review. The SBTA and the SBA representative must complete their review within 5 workdays after the SBTA receives the Form, or request an extension from you.
(2) The acquisition, excluding multiple award schedule contracts, meets either one of the following conditions: (i) The estimated value exceeds \$500 million (including options) and contract performance will occur in two or more regions. (ii) Based on political sensitivity or importance to GSA, the Associate Administrator for the Office of Small Business Utilization designates the acquisition for review.	The SBTA provides a copy of the GSA Form 2689 to the AAOSBU for review and comment on the decision. After the AAOSBU review, the SBTA submits the GSA Form 2689 to the SBA representative for review. The AAOSBU and SBTA each have 5 workdays to review the decision. All reviews and comments must be completed within 10 workdays after the SBTA receives the Form, or the SBTA must request a time extension from you.

(c) *Disagreements.* If a reviewing official disagrees with your decision not to set-aside an acquisition, the SBTA must provide you the rationale for the disagreement or provide you with additional small business sources that are interested in and capable of fulfilling the requirement. Review and consider any information provided by the SBTA before making a decision.

(d) *Resolving disagreements.* The Contracting Director resolves disagreements between you and the SBTA. To

resolve disagreements with the SBA representative, see FAR 19.505.

519.503 Setting aside a class of acquisitions for small business.

(a) *Definition.* A class set-aside is an item (or service), a group of related items under a Federal Supply Class (FSC), or a whole FSC set aside for exclusive small business participation on more than a one-time basis. If the item or group of items constitute only a small portion of an FSC, this definition still applies.

(b) *Determinations.* If you have procurement responsibility for the class of items or services involved, prepare the determination required by FAR 19.503. The determination can apply to either a total or partial set-aside.

519.506 Withdrawing or modifying small business set-asides.

If you and the SBTA disagree over the withdrawal or modification of a set-aside, the SBTA must notify the AAOSBU at the same time the matter is referred to the SBA PCR.

519.508 Solicitation provisions and contract clauses.

Insert [552.219-70](#), Allocation of Orders—Partially Set-Aside Items, in solicitations and requirements type supply contracts that are partially set aside for small business.

Subpart 519.6—Certificates of Competency and Determinations of Responsibility

519.602 Procedures.

519.602-3 Resolving differences between the agency and the Small Business Administration.

(a) Within 5 business days after requesting the SBA Area Office to refer an intention to issue a Certificate of Competency to SBA Headquarters for review, forward the information in paragraphs (a)(1) and (a)(2) of this subsection to the AAOSBU through your designated SBTA. This period may be extended by mutual agreement.

(1) Copies of all correspondence between GSA and SBA concerning the case. Include the initial referral notice of nonresponsibility.

(2) Copies of all technical documents sent to SBA (for example, the solicitation, preaward surveys, or any abstract of offers). Include any new information and justify your decision to continue the appeal.

(b) After considering all the facts and conferring with the applicable contracting activity, the AAOSBU will decide whether or not to file a formal appeal. Before deciding not to appeal, the AAOSBU must notify the concerned activity. The AAOSBU also must notify you of the OSBU decision regarding the appeal.

(c) For decisions on cases over \$25,000,000, the AAOSBU shall confer with the contracting activity before responding to SBA regarding either of the options in FAR 19.602-3(b)(1)(i) and (ii).

Subpart 519.7—The Small Business Subcontracting Program

519.700-70 Additional responsibilities.

In addition to FAR 19.705 responsibilities, your preaward responsibilities include:

(a) Developing target goals for sealed bid solicitations when practicable.

(b) Following FAR 15.306, conducting discussions with individual offerors, as appropriate, concerning the subcontracting plans submitted for a negotiated solicitation.

519.702 Statutory Requirements.

In addition to the exemptions in FAR 19.702(b), other exemptions to the requirement for subcontracting plans include contracts with:

(a) Unicor (Federal Prison Industries).

(b) Nonprofit agencies of the National Industries for the Blind (NIB) and NISH awarded under the provisions of the Javits-Wagner-O'Day Act.

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

519.705-2 Determining the need for a subcontracting plan.

(a) When you calculate the applicable threshold, consider the actual or estimated value of the contract for the entire term of the contract, including any option period(s). This also applies to schedule contracts and other indefinite delivery type contracts. Consider the estimated value of all orders expected to be placed during the term plus all options.

(b) FAR 19.705-2(d) permits you to require submission of subcontracting plans with initial offers under a negotiated acquisition. You must require all offerors (other than small business concerns) to submit subcontracting plans with their initial offers when a negotiated acquisition meets all conditions listed below:

(1) You anticipate receiving individual subcontracting plans (not commercial plans).

(2) You will award on the basis of trade-offs among cost or price and technical and/or management factors under FAR 15.101-1.

(3) The acquisition is not a commercial item acquisition.

(4) The acquisition offers more than minimal subcontracting opportunities.

(5) An offeror's subcontracting plan is identified as an evaluation factor in the solicitation.

(c) Nothing in paragraph (b) above limits your ability to request subcontracting plans with initial offers under other negotiated acquisitions when you decide such action is appropriate under FAR 19.705-2(d). For example, such action may be appropriate for multiple award schedules where GSA may have responsibility for negotiating commercial plans.

(d) Notify the AAOSBU after receipt of offers if you determine that an apparent successful offeror's proposal has no subcontracting opportunities.

(1) Coordinate the notice through your Small Business Technical Advisor. In a regional contracting activity, also coordinate the notice through the regional small business staff.

(2) Obtain AAOSBU concurrence on the determination prior to contract award.

519.705-3 Preparing the solicitation.

(a) If an acquisition, excluding any multiple award schedule contract, will cover two or more Regions and is estimated to exceed \$500 million (including options):

(1) In addition to the SBA PCR, provide the SBTA and Office of Small Business Utilization (E) a reasonable period of time to review any solicitation requiring submission of a subcontracting plan and to submit advisory findings before issuing the solicitation. Ensure that evaluation criteria contained in the solicitation do not unnecessarily limit subcontracting opportunities for small, HUBZone small, small disadvantaged, women-owned small, veteran-owned, and service-disabled veteran-owned small business concerns.

(2) For a negotiated acquisition, if you believe that the acquisition provides substantial subcontracting opportunities, consider including the offeror's subcontracting plan as an evaluation factor for award. This may be most appropriate in acquisitions when you expect individual plans or master plans. You should consult with your SBTA or regional SBUC to obtain any needed assistance with developing subcontracting plan evaluation criteria before incorporating the plan into the solicitation as an evaluation factor.

Target goals in sealed bidding

(b) Unrealistic target goals tend to inhibit competition or increase acquisition costs if goals are too high. Target goals that offer no challenge to potential contractors reflect poorly on GSA's commitment to ensure maximum practicable use of small, HUBZone small, small disadvantaged, women-owned small, veteran-owned, and service-disabled veteran-owned small business concerns as subcontractors.

(c) In establishing target goals for sealed bid solicitations, avoid using mechanical formulas or similar approaches that may be considered arbitrary. Reviewing historical performance by contractors performing similar work is valid, but

you should consider each solicitation independently in terms of the potential for subcontracting. Use as many information sources as practical, including your own knowledge of the supplies or services. Factors to consider in setting targets include:

- (1) Manufacturing processes involved.
- (2) Availability and location of potential subcontractors.
- (3) The basis for establishing subcontracting relationships.
- (4) The diversity in prevailing economic conditions in the place of contract performance.

(d) If you cannot establish realistic target goals, do not state specific targets in the solicitation.

(1) Establishing realistic target goals is likely to be a problem in contracting for supplies because the place of contract performance may not be known prior to contract award.

(2) Even if you can predict the area of contract performance because a particular industry is concentrated there, the diversity of manufacturing processes may affect the amount of subcontracting and how subcontracting relationships are established. For example, some manufacturers may use formal teaming arrangements or long term relationships versus nonrepetitive purchase orders.

519.705-4 Reviewing the subcontracting plan.

(a) You may provide offerors a model subcontracting plan when you determine it appropriate, *e.g.*, when it may facilitate evaluation or negotiation. You may use the model plan developed by the Office of Small Business Utilization (E) in [Appendix 519A](#). Include the following notice on the transmittal, if you provide a model in response to a single request, or in the solicitation, if you include it as an attachment:

Notice to Offerors: "GSA provides this model plan as a tool. You must adapt this model plan to fit your subcontracting situation. The plan is NOT a fill-in-the-blank form and you must remove instructional language. This model does not establish minimum requirements for an acceptable plan. The model reflects objectives GSA encourages contractors to adopt."

(b) Performance under other contracts is an indicator of an offeror's understanding of the reasons for the law and benefits of the program.

(1) If an offeror prepared a subcontracting plan for another contract, contact the contracting officer responsible for administering the earlier plan to determine if the offeror met the plan's objectives and submitted required reports in a timely manner.

(2) Consider overall compliance in your evaluation, not just whether or not the offeror met the goals established in the plan.

(3) Submission of timely reports is an indication the offeror takes its responsibilities seriously.

(c) Be flexible and guard against using arbitrary criteria when reviewing a subcontracting plan. If an offeror has not submitted a previously-approved commercial or master subcontracting plan, such detailed review may not be necessary. You may use the Subcontracting Plan Evaluation Checklist at [Appendix 519B](#) to identify potential weaknesses that should be called to the offeror's attention.

(1) Remember that a positive goal is required to establish a gauge for measuring results and to provide an incentive for continuing efforts to increase the dollar value of subcontracts placed with small, HUBZone small, small disadvantaged, women-owned small, veteran-owned, and service-disabled veteran-owned small business concerns. Carefully scrutinize any subcontracting category (e.g., small business, HUBZone small business, etc.) where the offeror does not specify a goal and accept it only after assuring that no subcontracting opportunities exist. If you accept any category with no goal:

(i) You must document the file explaining why you accepted it.

(ii) The subcontracting plan must include an assurance that the contractor will make every effort to continue seeking subcontracting opportunities in the category that lacks a goal.

(2) One measure of the adequacy of a subcontracting plan is that it provides a challenge to the offeror and then builds upon previous achievements in subsequent contracts.

(3) Include in the contract file your basis for determining the subcontracting plan's acceptability.

(d) You can not tell the offeror what its goals must be. You may tell the offeror what GSA's national goals are. Ensure that an offeror's subcontracting plan reflects realistic goals and provide the maximum opportunity practicable to small, HUBZone small, small disadvantaged, women-owned small, veteran-owned, and service-disabled veteran-owned small business concerns to participate as subcontractors. If necessary, obtain information from the offeror to substantiate the offeror's proposed goals, past performance with respect to subcontracting, and the proposed good faith effort. This information may include the names of proposed subcontractors and other such data.

(e) When you receive subcontracting plans with initial offers, provide an opportunity to the SBTA to review the subcontracting plans of those offers in the competitive range. Allow the SBTA 5 workdays for review. Consider the SBTA's comments in developing your negotiation strategy.

Negotiating Goals and Other Aspects of Plans

(f) For complex or large dollar value procurements, when an offeror proposes miniscule or minimally acceptable goals for small, HUBZone small, small disadvantaged, women-owned small, veteran-owned, and service-disabled veteran-owned small business concerns, ensure that the off-

eror has included all subcontracts that contribute to contract performance (see FAR 52.219-9(d)(1)).

(g) Develop a strategy for negotiating the subcontracting plan and goals just as you would for negotiating a contract. Be forceful in negotiating the subcontracting plan and, whenever possible, offer recommendations for subcontracting potential with small, HUBZone small, small disadvantaged, women-owned small, veteran-owned, and service-disabled veteran-owned small business concerns. Suggest organizations the offeror may contact to identify potential sources. For example, offerors may contact any of the following:

(1) Local SBA offices. These can provide an offeror assistance in accessing the Central Contractor Registration database to conduct market research and confirm the eligibility for SBA's procurement preference programs.

(2) Department of Commerce, Minority Business Development Agencies (MBDA's). An offeror can ask for access to the MBDA's Profile System. Refer offerors to Internet address <http://www.mbda.gov> for more information.

(3) GSA Regional small business staffs and SBTAs, as well as Office of Small Business Utilization.

(4) State, county, and city government minority business offices.

(5) Small, minority, women-owned, and veteran business associations by accessing Internet address www.gsa.gov/smallbusiness.

(6) Local chambers of commerce.

(7) Trade associations, professional organizations, and Procurement Technical Assistance Centers.

(8) www.vetbiz.gov

(h) In developing a negotiation strategy, consider whether the offeror's plan is realistic and does more than merely restate the elements required by FAR clause 52.219-9. Question aspects of the plan that do not appear to be realistic or do not demonstrate a serious attempt to address requirements.

Commercial plans

(i) Obtain from the contractor copies of any commercial plan for the company's fiscal year and approval document from another GSA contracting activity or another Federal agency. Incorporate these documents in the contract.

(j) If GSA is the first agency to enter into a contract with a company during the company's fiscal year, you must approve the commercial plan, ensure receipt of the SF 295, and evaluate compliance with the plan. If contract administration is delegated, the Administrative Contracting Officer (ACO) generally is assigned responsibility for receiving the SF 295 and evaluating compliance. Subsequent GSA contracts awarded during the company's same fiscal year and incorporating the previously approved plan will not require submission of subcontracting reports.

(k) If the commercial plan was approved by another agency, the first GSA contracting officer entering into a con-

CHANGE 17 OCTOBER 1, 2006

519.705-5

GENERAL SERVICES ADMINISTRATION ACQUISITION MANUAL

tract with the company during the company's same fiscal year in which the plan was approved requires the contractor to submit the SF 295 report and monitors receipt of the report. GSA requires no other monitoring or evaluation of this plan.

519.705-5 Awards involving subcontracting plans.

(a) For each contract that requires a subcontracting plan, both the SBTA and SBA PCR review the apparent successful offeror's subcontracting plan. When you make multiple awards under a solicitation, submit the subcontracting plans of all apparent successful offerors.

(1) Except as noted in (b) below, provide the SBTA a copy of the plan at least 5 workdays before the anticipated award date.

(2) Consider any recommendations the SBTA or SBA PCR provides about whether to accept or reject a subcontracting plan. In the case of an unresolved disagreement, notify the AAOED and consider any subsequent advice the AAOED provides.

(b) For contracts that meet either of the conditions listed below, the AAOSBU (through your designated SBTA or Regional SBUC) will review the SBTA's and SBA PCR's recommendations. Provide the SBTA a copy of the plan at least 10 days before the anticipated award date. The SBTA and SBA PCR have 5 workdays to review and comment on the plan and the AAOSBU (through your designated SBTA or Regional SBUC) has 5 workdays to review their recommendations. All reviews must be completed in 10 workdays unless you grant an extension.

(1) Contract performance will occur in two or more Regions and the estimated value of the acquisition exceeds \$500 million (including options), excluding multiple award schedule contracts.

(2) Based on political sensitivity or importance to GSA, the AAOSBU designates the procurement for review.

(c) *Notification letter for individual contract plans.* After approval of an individual contract plan, using the format below, send a letter to the contractor transmitting copies of the SF 294 and SF 295. Send the letter with the award package or as soon as practicable after award.

Name
Address
City, State, Zip Code

Re: Subcontracting Plan Reports for Contract No. _____

Dear _____:

Your individual contract plan submitted for the subject contract has been approved. You must submit subcontracting reports on Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and Standard Form (SF) 295, Summary Subcontract Report.

Use the SF 294 to report subcontracting activity under this contract. Submit the report semiannually by April 30 for the reporting period October 1–March 31 and by October 30 for the reporting period April 1–September 30. A separate report is required at contract completion. If requested by the Contracting Officer, you must furnish the name and size status of your subcontractor(s), and the dollar amount of the subcontract(s).

Use the SF 295 to report total subcontracting activity under all of your GSA contracts. Submit the report annually for the period October 1–September 30 (the Government fiscal year). The report is due on or before October 30th of each year. A new reporting cycle begins October 1st of each year.

Send the SF 294 report to: *[insert address of contracting office administering the contract]*, with a copy to: *[insert address of SBTA in Region or Central Office service where contract was awarded]*.

In addition to the Commercial Market Representative (CMR), forward the SF 295 to *[insert the address of the contracting officer administering the contract]* and to: GSA Office of Small Business Utilization (E), 1800 F Street, NW, Washington, DC 20405.

The SF 294 and SF 295 report forms are enclosed.

Sincerely,

Contracting Officer

Enclosures (SF 294 and SF 295)

(d) *Notification letter for commercial plans.* After approval of a commercial plan, send a letter to the contractor transmitting copies of the SF 295 using the format below. Send the letter with the award package or as soon as practicable after award.

Name
Address
City, State, Zip Code

Re: Subcontracting Plan Reports for Contract No. _____

Dear _____:

Your commercial plan, submitted in connection with the subject contract has been approved by *[insert name, address, and telephone number of approving official]*. You must submit subcontracting reports on Standard Form (SF) 295, Summary Subcontract Report.

The SF 295 is an annual report due on or before October 30th of each year. The reporting period is October 1–September 30, i.e., the Government fiscal year. The report should summarize subcontracting activity under all contracts awarded during the current fiscal year that are covered by this commercial plan.

If at any time during contract performance you are unable to identify capable small, HUBZone small, small disadvantaged, women-owned small, veteran-owned, and service-disabled veteran-owned small business concerns, please contact the Office of Small Business Utilization by telephone at (202) 501-1021 or by facsimile at (202) 208-5938.

In addition to the Commercial Market Representative (CMR), forward the SF 295 to both: *[insert address of contracting office administering the contract]*; and send a copy to: GSA Office of Small Business Utilization (E), 1800 F Street, NW, Washington, DC 20405.

The SF 295 report forms are enclosed.

Sincerely,

Contracting Officer

Enclosure (SF 295)

519.705-6 Postaward responsibilities of the contracting officer.

In addition to responsibilities described in FAR 19.705-6, you must give the SBTA and the Office of Small Business Utilization (E) a copy of the notice of award and the successful offeror's subcontracting plan within five days of contract award or contract modification when applicable. The notice of award must contain all the following:

- (a) Contractor's name, address, and phone number.
- (b) Subcontracting plan administrator's name, address, and phone number.
- (c) Contract number.
- (d) Place of performance.
- (e) Dollar amount of contract award.
- (f) Period of contract performance.
- (g) Description of items/services (including FPDS-NG Product/Service Code).
- (h) Contracting Officer's name, address, and phone number.
- (i) Administrative contracting office address and phone number.
- (j) Type of plan.
- (k) Approved goals stated both as percentages of total subcontracting planned and in dollars.
- (l) A notation, "Awarded under the Energy Policy Act of 1992", if the contract will be used to measure GSA achievements under Section 3021 of the Energy Policy Act of 1992.

519.705-7 Liquidated damages.

(a) *Initial assessment.* Provide your SBTA an information copy of your initial assessment that the contractor did not make a good faith effort to comply with the plan.

(b) *Final decision.* Before making a final decision, consider all pertinent available information including the contractor's response, if any, to your notification letter required by FAR 19.705-7 that the contractor did not comply with the plan. Document your decision in a "final decision", which is appealable by the contractor under the "Disputes" clause of the contract. Provide your SBTA a copy of your final decision assessing liquidated damages. In addition to the FAR provisions, include in the final decision letter:

- (1) A description of the contractor's failure.
- (2) Reference to the appropriate contract terms.
- (3) A statement of the factual areas of agreement and disagreement.
- (4) A statement of your decision with supporting rationale.
- (5) A demand for liquidated damages.
- (6) An explanation of the contractor's appeal rights.

(c) *Funds withheld from payments.* If funds to collect liquidated damages are withheld from payments due, the funds may be returned to the applicable GSA account along with other funds that were obligated but not expended. If a commercial plan is involved, or if all payments have been made under a contract with an individual contract plan, instruct the contractor to submit a check to GSA. The GSA Office of Finance will transfer the funds to the Treasury Department for deposit in the general receipts account.

(d) Copy to the SBTA your final decision assessing liquidated damages.

519.706 Responsibilities of the cognizant administrative contracting officer.

(a) If you administer a contract with an individual contract plan, you must also monitor receipt of SF 294 reports.

(b) On all contracts with a subcontracting plan (individual or commercial), you must monitor receipt of the SF 295 reports.

(c) Review reports for progress in meeting subcontracting goals by comparing the applicable report with the plan. If percentage goals are not met, require the contractor to explain the shortfall in the "Remarks" block of the subcontracting report. You may also require the contractor to submit evidence of its outreach efforts to locate and provide subcontracting opportunities to small business, HUBZone small business, small disadvantaged business, women-owned small, veteran-owned, and service-disabled veteran-owned small business concerns.

(d) If an SF 294 or SF 295 is not received within 10 days of the due date, contact the contractor and request that the report be submitted immediately. For contracts with individual contract plans, pay particular attention to the final SF 294 required at contract completion. Issue to contractors who do not respond to the first notice a second notice by certified mail indicating:

- (1) The named report has not been received.
- (2) The contractor's failure to submit the report is a material breach of its contract (see FAR 52.219-9, Small Business Subcontracting Plan).

(3) If the report is not received within 10 days from the date of the notice, you will consider withholding payments until the report is received or terminating the contract for default. To ensure that the facts support a termination for default, the notice should provide the contractor with the

opportunity to show cause why the contract should not be terminated for default. [Note: These statements do not apply to leases of real property unless the terms of the lease expressly provide for withholding of payment or termination under this circumstance.]

(4) Failure to submit the report may affect the contractor's ability to receive future awards from GSA (see FAR 9.104-3(c)) and willful failure to perform or a history of failure to perform may result in debarment from future contracting with the Government for a period of time (see FAR 9.406-2(b)).

(5) That the report should be submitted to you and a copy of the report must be sent to the Office of Small Business Utilization (E), if it is an SF 295 report, or to the appropriate SBTA, if it is an SF 294 report.

519.708 Contract clauses.

519.708-70 Solicitation provisions.

Insert the following provisions as directed:

(a) [552.219-71](#), Notice to Offerors of Subcontracting Plan Requirements, on the cover page of solicitations containing the clause at FAR 52.219-9, Small Business Subcontracting Plan.

(b) [552.219-72](#), Preparation, Submission, and Negotiation of Subcontracting Plans, in solicitations requiring submission of the subcontracting plan with initial offers.

(c) [552.219-73](#), Goals for Subcontracting Plan as follows:

(1) Use the basic provision in sealed bid solicitations containing FAR 52.219-9 if you are able to establish realistic target goals.

(2) Use Alternate I in:

(i) Sealed bid solicitations if you cannot establish target goals.

(ii) Negotiated solicitations that include FAR 52.219-9, but do not include [552.219-72](#).

Subpart 519.8—Contracting With the Small Business Administration (The 8(a) Program)

519.803 Selecting acquisitions for the 8(a) program.

519.803-70 Contracting officer evaluation of recommendations for 8(a) set-aside(s).

(a) If you disagree with a recommendation by the Associate Administrator for the Office of Small Business Utilization or the SBTA to set aside a procurement for award under the 8(a) program, discuss the matter with the official who made the recommendation.

(b) If you decide not to award the contract under the 8(a) program, forward a copy of the documentation required by FAR 19.202-1(e)(4) to the Office of Small Business Utilization (E) within 10 working days.

(c) Once a contracting activity acquires a product or service successfully on the basis of an 8(a) set-aside, the activity must acquire all future requirements for that product or service using 8(a) set-aside procedures. However, the availability of Federal Prison Industries, Inc. and Nonprofit Agencies Employing People Who Are Blind or Severely Disabled (JWOD) mandatory sources which may not have existed at the time of the original requirement are sufficient reason to discontinue setting aside a continuing requirement. If you determine that acquiring the product or service as an 8(a) set-aside is no longer in the Government's best interest, use the procedures in FAR 19.506 to withdraw a repetitive set-aside.

519.803-71 Withdrawing or modifying 8(a) set-asides.

If you and the SBTA disagree over the withdrawal or modification of a set-aside, the SBTA must notify the Associate Administrator for Office of Small Business Utilization at the same time the matter is referred to the SBA PCR.

519.870 Direct 8(a) contracting.

519.870-1 Authority and applicability.

(a) Under a May 6, 1998, Memorandum of Understanding (MOU) which was subsequently renamed Partnership Agreement and signed March 4, 2004, (formerly referred to as the Direct 8(a) MOU), SBA delegated to GSA its authority under Section 8(a)(1)(a) of the Small Business Act to enter into prime contracts and Section 8(a)(1)(B) to subcontract the performance of the contracts to eligible 8(a) participants. To implement the MOU, GSA obtained a class deviation to the Federal Acquisition Regulation (FAR) permitting direct 8(a) contracting.

(b) The delegation streamlines the acquisition process for requirements not exceeding the simplified acquisition threshold (SAT) by eliminating offering letters and acceptance letters. For acquisitions over the SAT, this delegation expedites the contracting process by shortening the period of SBA's acceptance of the requirement for the 8(a) program from 15 working days to 5 working days, and eliminating the requirement for multiple copies of the award document, SBA's signature, and the tripartite agreement.

(c) This authority applies to all 8(a) acquisitions conducted by FSS, FTS, and PBS. It does not apply to FSS's multiple award schedule program.

519.870-2 Acquisitions at or under the SAT.

(a) For acquisitions over the micropurchase threshold but not over the SAT, use the simplified acquisition procedures of FAR Part 13 to issue purchase orders or contracts to 8(a) participants.

(b) You are not required to send offering letters to, nor obtain acceptance letters from, SBA.

(c) Use CCR “Dynamic Small Business Search” to establish that the selected 8(a) firm is a current program participant.

(d) Establish the price with the selected 8(a) firm and prepare and issue a purchase order or contract in accordance with FAR Part 13.

(e) Forward to the SBA District Office serving the 8(a) firm a copy of the purchase order or contract within 5 days after the order is issued.

519.870-3 Acquisitions exceeding the SAT.

(a) In addition to the requirements of FAR 19.804-2, the offering letter must:

(1) State that the requirement is being offered under the GSA/SBA Memorandum of Understanding.

(2) Ask SBA to fax or e-mail its acceptance letter to you.

(b) SBA will determine the eligibility of the firm(s) and advise you within 5 working days of the receipt of the request. If SBA determines the firm is ineligible, then submit information on the next low offeror or next apparent successful offeror (as applicable) to the cognizant SBA district office.

(c) SBA must transmit its decision whether to accept the requirement to you in writing within 5 working days of receipt of the offering letter.

(d) If you do not receive an acceptance or rejection of the offering from SBA within 5 days of SBA’s receipt of the offering letter, you may assume that SBA has accepted the requirement and proceed with the acquisition.

(e) The acceptance letter includes all elements of eligibility (e.g., determination of adverse impact, North American Industry Classification System code appropriateness, and program eligibility) of the recommended 8(a) contractor. SBA will make a final determination of size eligibility for the procurement as of the date of the 8(a) concern’s initial offer which includes price.

(f) When required by FAR 15.4, obtain cost or pricing data directly from the 8(a) contractor.

519.870-4 Sole source requirements.

(a) For a sole source 8(a) requirement over the simplified acquisition threshold, the selected contractor is responsible for negotiating with you within the time you establish. If the 8(a) contractor does not negotiate within the established time and you cannot allow additional time, notify SBA. When you receive SBA’s approval, proceed with the acquisition from other sources.

(b) You have authority to negotiate directly with the 8(a) participant. However, if requested by the 8(a) participant, the SBA may participate in negotiations.

(c) Prepare the contract award or order to the 8(a) firm using your contracting activity’s normal, non-8(a) procedures

for similar acquisitions (e.g., contract type and dollar amount), except for the following:

(1) The award form must 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 SBA’s requirement number on the contract for acquisitions exceeding the SAT.

(3) Use a single award document between GSA and the 8(a) contractor. As such, a single signature by the Contracting Officer who is identified as having concurrent authority under the MOU to enter into 8(a) contracts will suffice (i.e., an SBA signature is not required). The “Issued by” block must identify the awarding GSA office. Your title must include SBA and the appropriate GSA business line, as illustrated below:

Contracting Officer for

SBA and GSA/(Name of Business Line)

(4) For a contract, have the 8(a) contractor sign the award document as the prime contractor. Place the 8(a) contractor’s name and address in the “awarded to” or “contractor name” block on the appropriate forms. At your discretion, you may also have the contractor sign a purchase order (See FAR 13.302-3).

519.870-5 Competitive requirements.

(a) Advertise competitive 8(a) acquisitions in Government Point of Entry (GPE), <http://www.fedbizopps.gov> in accordance with FAR 5.101(a)(1) and GSAR [505.101](#). Provide a copy of the announcement to the SBA’s coordinating office.

(b) Prepare the contract or order, and signatures, using the procedures in [519.870-4\(c\)](#).

519.870-6 Contract administration.

(a) Awards under the MOU are subject to 15 U.S.C. 637(a)(21). These contracts and orders contain the clause at [52.219-74](#), Section 8(a) Direct Award, that requires the 8(a) contractor to notify the SBA and the Contracting Officer when ownership of the firm is being transferred.

(b) For any contract or purchase order awarded pursuant to this MOU, you must coordinate contract termination and novation proceedings with SBA prior to initiating action.

519.870-7 Reporting.

(a) Under the MOU, GSA must report quarterly to SBA on direct (8) actions. GSA will make these reports to SBA through the Office of Small Business Utilization (E).

(b) Each business line (FSS, FTS, PBS)) will be responsible for electronically reporting to E within 10 days at the close of each fiscal year quarter the following information for each direct 8(a) contract, order, and modification:

(1) Contractor’s name.

(2) Contract number.

(3) SBA requirement number (for new contract awards only).

(4) Dollar amount obligated.

(5) Contract type.

(6) Contract period.

(7) If applicable, the modification number, modification award date, modification dollar amount.

(c) To facilitate reporting and avoid duplication of effort, GSA has developed a pre-programmed retrieval from the Federal Procurement Data System-Next Generation (FPDS-NG). Each business line must designate a point of contact to access the system and retrieve the report. The report will have all of the required data fields except the “requirement number” which is provided by SBA to the contracting officer for new contract awards (not modifications or orders) over the SAT. The designated point of contact will need to obtain the “requirement number” for new actions that appear on the report and add the “requirement number” in the blank field provided for any new contracts over the SAT.

519.870-8 Contract clauses.

(a) Insert the following clauses in solicitations, contracts, and orders issued under the MOU:

(1) Insert the clause at [552.219-74](#), Section 8(a) Direct Award.

(2) Insert the clause at FAR 52.219-14, Limitation on Subcontracting.

(3) Insert the clause at FAR 52.219-18, Notification of Competition Limited to Eligible 8(a) Concerns. Substitute the paragraph below for paragraph (c) of the clause. Add the word “Deviation” at the end of the clause title.

“(c) Any award resulting from this solicitation will be made directly by the Contracting Officer to the successful 8(a) offeror selected through the evaluation criteria set forth in this solicitation.”

(b) Do not use the clauses at FAR 52.219-11, Special 8(a) Contract Conditions, FAR 52.219-12, Special 8(a) Subcontract Conditions, or FAR 52.219-17, Section 8(a) Award.

Subpart 519.10—Small Business Competitiveness Demonstration Program

519.1007 Procedures.

519.1007-70 Designated industry goals.

(a) *GSA goals.* GSA goals for designated industry groups are as follows:

Designated Industry	Small Business Goal	Emerging Small Business Goal
Construction under North American Industry Classification System (NAICS) codes that comprise Subsectors 236, 237, and 238 (excluding dredging)	40%	15%
Architect-Engineer (A-E) services (including surveying and mapping) under NAICS codes 541310, 541330, 541360, or 541370 (limited to FPDS-NG service codes C111 through C216, C219, T002, T004, T008, T009, T014, and R404) awarded under the Brooks A-E Act selection procedures	40%	15%
Refuse systems and related services, including portable sanitation services, under NAICS codes, 562111, 562119, or 562219 limited to FPDS-NG service code S205	40%	15%
Exterminating and Pest Control Services under NAICS 561710	40%	15%
Landscaping Services under NAICS 561730	40%	15%

(b) *Calculating goal achievement.* All prime contract awards to small business or emerging small business, including awards under the 8(a) program, sole source and the HUB-Zone Act of 1997, count toward goal attainment. Contract awards made to fulfill the 15 percent goal for emerging small business also count toward attainment of the 40 percent goals for small business.

(c) *Good faith effort for emerging small business awards.* GSA must make a good faith effort to award not less than 15 percent of the value of awards in the designated industry groups to emerging small business.

(d) *Monitoring goal achievement.* The Senior Procurement Executive will monitor goal achievement on an annual basis through the Federal Procurement Data System-Next Generation. The Senior Procurement Executive will provide reports to the Office of Small Business Utilization (E) for forwarding to the Small Business Administration (SBA). These annual reviews and reports are due to SBA no later than January 31 of each year. GSA will measure goal achievement for the preceding 12 month period.

(e) *Notification of changes to procedures.* The Senior Procurement Executive will provide notice of changes to agency solicitation procedures based on goal attainment through an annual GSA Acquisition Letter.

Subpart 519.11—[Reserved]**519.1007-71 Procedures.**

(a) The reserve program applies only to new awards. Modifications within the scope of work of contracts having an initial award value in excess of the \$25,000 for construction and trash/garbage collection service or \$50,000 for A-E service are not subject to the reserve program.

(b) Unrestricted procurements are those procurements that will not be set aside for small business under Subpart 19.5 (but must be considered for 8(a) and HUBZone set aside before conducting a full and open competition). You may make procurements of construction or trash/garbage collection services with an estimated value in excess of \$25,000 and procurements of A-E services with an estimated value in excess of \$50,000 on an unrestricted basis as long as annual review shows that GSA, as an agency, has attained the 40 percent goals. The 40 percent goal applies to each of the 3 subsectors in construction, to trash/garbage collection services, to A-E services, exterminating and pest control services, and landscaping services.

(c) If goal attainment, for GSA as an agency, in any individual NAICS code or product service code drops below 40 percent, the Senior Procurement Executive will reinstate small business set-asides even if the major group met the 40 percent goal. Competition will be restricted to small business, in accordance with FAR 19.5, on future procurements by the GSA contracting activities (e.g., Regions) that failed to attain the goal. Other GSA contracting activities that meet the goals will continue to use unrestricted procedures. You may continue to use unrestricted procedures if GSA fails to meet the 15 percent goal for emerging small businesses.

(d) *Contract award documents.* For each procurement awarded under the program, include the following statement on the award document:

“This procurement is being made under the Small Business Competitiveness Demonstration Program.”

(e) The Small Business Competitiveness Demonstration Program does not apply to construction (including repair and alteration) services acquired from a lessor under the terms and conditions of a lease for space in buildings.

Subpart 519.12—Small Disadvantaged Business Participation Program**519.1201 General.**

A solicitation may separately contain source selection evaluation factors or subfactors for small and women-owned small business concerns. However, any factor or subfactor for SDB concerns must comply with FAR 19.12 and this subpart.

519.1202 Evaluation factor or subfactor.**519.1202-2 Applicability**

In addition to the exceptions in FAR 19.1202-2, do not evaluate the extent of participation of SDB concerns in performance of multiple award schedule contracts when all fair and reasonable offers from responsible sources are accepted.

519.1202-4 Procedures.

An offeror may receive credit under the evaluation factor only for proposed SDB participation by a prime contractor, joint venture partner, teaming arrangement member, or subcontractor in the authorized North American Industry Classification System (NAICS) Industry Subsectors.

519.1203 Incentive subcontracting with small disadvantaged business concerns.

(a) To include monetary incentives in a contract under FAR 19.1203, you must have funds available for the incentives and obligate these at the time of contract award.

(b) Do not provide for monetary incentives under FAR 19.1203 in a contract that includes an award fee.

Subpart 519.13—Historically Underutilized Business Zone (HUBZone) Program**519.1305 HUBZone set-aside procedures.**

(a) *Reviews and timeframes.* For an acquisition that exceeds the simplified acquisition threshold, if you decide not to set the acquisition aside for HUBZone Small Businesses,

submit your written decision to the SBTA for review. The following reviews and timeframes apply:

If...	Then...
(1) The acquisition meets any one of the following conditions: (i) It will be a multiple award schedule contract. (ii) The estimated value does not exceed \$500 million, including options. (iii) The contract will cover only one region or designated locations in one region (at any dollar value).	The SBTA provides a copy of the decision not to set aside for HUBZone small business concerns to the SBA representative for review. The SBTA and the SBA representative must complete their review within 5 workdays after the SBTA receives the decision, or request an extension from you.
(2) The acquisition, excluding multiple award schedule contracts, meets either one of the following conditions: (i) The estimated value exceeds \$500 million (including options) and contract performance will occur in two or more regions. (ii) Based on political sensitivity or importance to GSA, the Associate Administrator for the Office of Small Business Utilization designates the acquisition for review.	The SBTA provides a copy of the decision to the AAOSBU for review and comment. After the AAOSBU review, the SBTA submits the decision to the SBA representative for review. The AAOSBU and SBTA each have 5 workdays to review the decision. All reviews and comments must be completed within 10 workdays after the SBTA receives the decision, or the SBTA must request a time extension from you.

(b) *Disagreements.* If a reviewing official disagrees with your decision not to set-aside an acquisition, the SBTA must provide you the rationale for the disagreement or provide you with additional HUBZone small business sources that are interested in and capable of fulfilling the requirement. Review and consider any information provided by the SBTA before making a decision.

(c) *Resolving disagreements.* The Contracting Director resolves disagreements between you and the SBTA. Disagreements with the SBA representative, are resolved consistent with FAR 19.1305(e).

(d) *Setting aside a class of acquisitions.* (1) *Definition.* A HUBZone small business class set-aside means an item, a group of related items under a Federal Supply Class (FSC), or a whole FSC set aside for exclusive HUBZone small business participation on more than a one-time basis. If the item or group of items constitute only a small portion of an FSC, this definition still applies.

(2) *Determination.* If you have procurement responsibility for the class of items involved, prepare the determination required by FAR 19.503.

(3) *Withdrawing or modifying HUBZone small business concern set-asides:* If you and the SBTA disagree over

the withdrawal or modification of a HUBZone small business set-aside, the SBTA must notify the AAOSBU at the same time the matter is referred to the SBA PCR.

Subpart 519.14—Service-Disabled Veteran-Owned Small Business Procurement Program

519.1405 Service-disabled veteran-owned small business set-aside procedures.

(a) Setting aside a class of acquisitions.

(1) *Definition.* A SDVOSB class set-aside means an item, a group of related items under a Federal Supply Class (FSC), or a whole FSC set aside for exclusive SDVOSB participation on more than a one-time basis, including an item or group of items which constitute only a small portion of an FSC.

(2) *Determination.* If you have procurement responsibility for the class of items involved, prepare the determination required by FAR 19.503.

(b) Withdrawing or modifying *SDVOSB* concern set-asides: If you and the SBTA disagree over the withdrawal or modification of a SDVOSB set-aside, the SBTA must notify the AAOSBU at the same time the matter is referred to the SBA PCR.

519.1405-70 Additional Responsibilities—Service Disabled Veteran Executive Order

Executive Order 13360 (69 FR 62549, October 26, 2004) gives additional responsibilities to GSA to:

(a) Develop a strategy to implement the policy set forth in Executive Order 13360. This policy states that agencies shall provide the opportunity for service-disabled veteran businesses to significantly increase the Federal contracting and subcontracting of such businesses. To achieve that objective, agencies shall more effectively implement section 15(g) of the Small Business Act (15 U.S.C. 644(g)), which provides that the President must establish a goal of not less than 3 percent for participation by service-disabled veteran businesses in Federal contracting, and section 36 of that Act (15 U.S.C. 657f), which gives agency contracting officers the authority to reserve certain procurements for service-disabled veteran businesses.

(b) GSA must make its strategy publicly available and report annually to the Administrator of the Small Business Administration on implementation of the agency's strategy.

(c) The Administrator of General Services Administration shall:

CHANGE 17 OCTOBER 1, 2006

(1) Establish a Government-wide Acquisition Contract reserved for participation by service-disabled veteran businesses; and

(2) Assist service-disabled veteran businesses to be included in Federal Supply Schedules.

(d) GSA maintains a service-disabled veteran-owned small business website, (www.gsa.gov/service-disabled.)

This website targets the GSA acquisition community and service-disabled veteran-owned small businesses by providing current information about the program and other information such as Frequently Asked Questions.

This page intentionally left blank.

CHANGE 17 OCTOBER 1, 2006

Appendix 519A—Small Business Subcontracting Plan Outline (Model)

Appendix 519A—Small Business Subcontracting Plan Outline (Model)

GSA provides this plan as a tool. It does not establish minimum requirements for an acceptable plan. The model reflects objectives GSA encourages contractors to adopt. GSA expects offerors to thoroughly review the requirements set forth in FAR 19.704, Subcontracting plan requirements, and FAR clause 52.219-9, Small Business Subcontracting Plan, before submitting their contracting plans.

The model is not intended to replace any existing corporate plan which is more extensive. If you need assistance to locate small business sources, contact [Insert name of organization and phone number]. Please note that the General Services Administration has subcontracting goals of ___% for small business, ___% for HUBZone Small Business, ___% for Small Disadvantaged Business (SDB), ___% for Women-Owned Small Business (WOSB), ___% for veteran-owned small business (VOSB), and ___% for service-disabled veteran-owned small business (SDVOSB) for fiscal year ___.

Identification Data:

Company Name: _____

Address: _____

Type of Plan: _____

Date Prepared: _____ Solicitation Number: _____

Item/Service: _____

Period of Plan: _____

TYPE OF PLAN: (Check only one).

- _____ INDIVIDUAL PLAN: *In this type of plan, all elements are developed specifically for this contract and apply for the full term of this contract.*
- _____ MASTER PLAN: *In this type of plan, goals are separately developed for this contract in an individual plan; all other elements are standard. The master plan must be approved once every three years. Once incorporated into a contract with specific goals, it is valid for the life of the contract.*
- _____ COMMERCIAL PLAN: *This type of plan is used when the contractor sells large quantities of off-the-shelf commodities to many Government agencies. Plans and goals are negotiated with the initial agency on a company-wide basis rather than for individual contracts. The plan is effective only during year approved. The contractor must provide a copy of the initial agency approval, and must submit an annual SF 295 to GSA with a breakout of subcontracting prorated for GSA. Contractors must submit a new commercial plan on an annual basis. The subcontracting plan must be submitted at least 30 days prior to the expiration date of the currently in effect subcontracting plan.*

I. GOALS ((percentage and dollars)

State separate dollar and percentage goals for small business, HUBZone small, small disadvantaged business, women-owned small, veteran-owned small, and service-disabled veteran-owned small business in the following format. For individual plans, goals for each option must be provided. Express all dollar goals as a percentage of total planned subcontracting dollars..

A. Estimated dollar value of all planned subcontracting, i.e., to all types of business concerns under this contract is:

Estimated Dollar Value of All Planned Subcontracting				
Base	1 st Option	2 nd Option	3 rd Option	4 th Option
\$	\$	\$	\$	\$
100%	100%	100%	100%	100%

B. Estimated dollar value and percentage of total planned subcontracting to large business concerns (all business concerns classified as other than small):

Subcontracting to Large Business Concerns				
Base	1 st Option	2 nd Option	3 rd Option	4 th Option
\$	\$	\$	\$	\$
%	%	%	%	%

C. Estimated dollar value and percentage of total planned subcontracting to small business concerns is: (Include HUB-

CHANGE 17 OCTOBER 1, 2006

Appendix 519A—Small Business Subcontracting Plan Outline (Model)

small, HUBZone small, small disadvantaged, women-owned small, veteran-owned small, and service-disabled veteran-owned small business concerns.

V. PROGRAM ADMINISTRATOR

FAR 52.219-9(d)(7) requires information about the company employee who will administer the subcontracting program. Please provide the name, title, address, phone number, position within the corporate structure and the duties of that employee.

Name:

Title:

Address:

Telephone:

Email Address:

Facsimile Number:

Duties: The Program Administrator's general overall responsibility for the Contractor's subcontracting program, i.e., developing, preparing, and executing individual subcontracting plans and monitoring performance relative to this particular plan. These duties may 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, HUBZone small, small disadvantaged, and women-owned small business concerns.

B. Developing and maintaining bidders' lists of small, HUBZone small, small disadvantaged, women-owned small, veteran-owned small, and service-disabled veteran-owned small business concerns from all possible sources.

C. Ensuring periodic rotation of potential subcontractors on bidders' lists.

D. Assuring that small, HUBZone small, small disadvantaged, women-owned small, veteran-owned small, and service-disabled veteran-owned small business concerns are included on the bidders' list for every subcontract solicitation for products and services they are capable of providing.

E. Ensuring that subcontract procurement "packages" are designed to permit the maximum possible participation of

small, HUBZone small, small disadvantaged, women-owned small, veteran-owned small, and service-disabled veteran-owned small business concerns.

F. Reviewing subcontract solicitations to remove statements, clauses, etc., which might tend to restrict or prohibit small, HUBZone small, small disadvantaged, women-owned small, veteran-owned small, and service-disabled veteran-owned small business participation.

G. Ensuring that the subcontract bid proposal review board documents its reasons for not selecting any low bids submitted by small, HUBZone small, small disadvantaged, women-owned small, veteran-owned small, and service-disabled veteran-owned small 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, HUBZone small, small disadvantaged, women-owned small, veteran-owned small, and service-disabled veteran-owned small business concerns on subcontracting opportunities and how to prepare bids to the company

K. Providing notice to subcontractors concerning penalties for misrepresentations of business status as small, HUBZone small, small disadvantaged, women-owned small, veteran-owned small, or service-disabled veteran-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the contractor's subcontracting plan.

L. Conducting or arranging training for purchasing personnel regarding the intent and impact of Public Law 95-907 on purchasing procedures.

M. Developing and maintaining an incentive program for buyers which supports the subcontracting program.

N. Monitoring the company's performance and making any adjustments necessary to achieve the subcontract plan goals.

O. Preparing and submitting timely reports.

P. Coordinating the company's activities during compliance reviews by Federal agencies.

VI. EQUITABLE OPPORTUNITY

FAR 52.219-9(d)(8) requires a description of the efforts your company will make to ensure that small, HUBZone small, small disadvantaged, women-owned small, veteran-owned small, and service-disabled veteran-owned small business concerns will have an equitable opportunity to compete for subcontracts. These efforts may include, but are not limited to the following activities:

Appendix 519A

A. Outreach efforts to obtain sources:

- _____ Contacting minority and small business trade associations
- _____ Contacting business development organizations
- _____ Requesting sources from the CCR website at <http://www.ccr.gov/> "Dynamic Small Business Search"
- _____ Attending small, minority, and women-owned business procurement conferences and trade fairs

B. Internal efforts to guide and encourage purchasing personnel:

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

C. Additional efforts: (Please describe.)

VII. CLAUSE INCLUSION AND FLOWDOWN

FAR 52.219-9(d)(9) requires that your company provide assurances that it will include the clause at FAR 52.219-8, "Utilization of Small Business Concerns," in all subcontracts that offer further subcontracting opportunities.

FAR 52.219-9(d)(9) also requires that your company agrees in this plan that it will require all subcontractors, except small business concerns, that receive subcontracts in excess of \$500,000 (\$1,000,000 for construction) to adopt a plan complies with the requirements of FAR 52.219-9, "Small Business Subcontracting Plan."

[Insert company name] 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, HUBZone small, small disadvantaged, women-owned small, veteran-owned small, and service-disabled veteran-owned small business concerns must be determined on a case-by-case basis depending on the supplies and services involved, the availability of potential small, HUBZone small, small disadvantaged, women-owned small, veteran-owned small, and service-disabled veteran-owned small business subcontractors and prior experience. Once the plans are negotiated, approved, and

implemented, the plans must be monitored through the submission of periodic reports, including Standard Form (SF) 294 and SF 295 reports.

In accordance with policy letters published by the Office of Federal Procurement Policy, such assurance must describe the offer's procedures for the review, approval and monitoring for compliance with such subcontracting plans.

VIII. REPORTING AND COOPERATION

FAR 52.219-9(d)(10) requires that your company (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," and SF 295,

"Summary Subcontract Report," in accordance with the instructions on the forms; and (4) ensure that subcontractors agree to submit SF 294 and SF 295.

Both the Associate Administrator for the Office of Small Business Utilization and the Small Business Technical Advisor must receive the report(s) within 30 days after the close of each calendar period. That is:

Calendar Period	Report Due	Date Due	Send Report To
10/01-03/31	SF 294	04/30	Contracting Officer/Small Business Technical Advisor
04/01-09/30	SF 294	10/30	Contracting Officer/Small Business Technical Advisor
10/01-09/30	SF 295*	10/30	Contracting Officer/Associate Administrator for Office of Small Business Utilization

*SF 295 Must be submitted to SBA's Commercial Market Representative

Small Business Technical Advisor address is: (To be completed by Contracting Officer)	Associate Administrator for Office of Small Business Utilization address is: (To be completed by Contracting Officer)
--	--

IX. RECORDKEEPING

FAR 52.219-9(d)(11) requires a list of the types of records your company will maintain to demonstrate the procedures adopted to comply with the requirements and goals in the subcontracting plan. These records include, but are not limited to, the following:

A. Small, HUBZone small, small disadvantaged, women-owned small, veteran-owned small, and service-disabled veteran-owned small business concern source lists, guides, and other data identifying such vendors.

CHANGE 17 OCTOBER 1, 2006

Appendix 519A—Small Business Subcontracting Plan Outline (Model)

B. Organizations contacted for small, HUBZone small, small disadvantaged, women-owned small, veteran-owned small, and service-disabled veteran-owned small business sources.

C. On a contract-by-contract basis, records on all subcontract solicitations over \$100,000 which indicate for each solicitation:

C1. Whether small business concerns were solicited, and if not, why not.

C2. Whether HUBZone small business concerns were solicited, and if not, why not.

C3. Whether small disadvantaged business concerns were solicited, and if not, why not.

C4. Whether women-owned small business concerns were solicited, and if not, why not.

C5. Whether veteran-owned small business concerns were solicited, and if not, why not.

C6. Whether service-disabled veteran-owned small business concerns were solicited, and if not, why not.

C7. Reasons for the failure of solicited small, small disadvantaged, women-owned small business, veteran-owned small business, service-disabled veteran-owned small business, and HUBZone small business concerns to receive the subcontract award.

D. Records to support other outreach efforts, e.g., contacts with minority and small business trade associations, attendance at small, HUBZone small, minority, women-owned small, veteran-owned small, and service-disabled veteran-owned small business procurement conferences and trade fairs.

E. Records to support internal activities to (1) guide and encourage purchasing personnel, e.g., workshops, seminars, training programs, incentive awards; and (2) monitor activities to evaluate compliance.

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 for company or division-wide commercial plans).

G. Other records to support your compliance with the subcontracting plan: (Please describe)

X. TIMELY PAYMENTS TO SUBCONTRACTORS

FAR 52.219-8(a) requires your company to establish and use procedures to ensure the timely payment of amounts due

pursuant to the terms of your subcontracts with small, HUBZone small, small disadvantaged, women-owned small, veteran-owned small, and service-disabled veteran-owned small business concerns.

[Insert company name] has established and uses such procedures:

XI. DESCRIPTION OF GOOD FAITH EFFORT

Maximum practicable utilization of small, HUBZone small, small disadvantaged, women-owned small, veteran-owned small, and service-disabled veteran-owned small business concerns as subcontractors in Government contracts is a matter of national interest with both social and economic benefits. When a contractor fails to make a good faith effort to comply with a subcontracting plan, these objectives are not achieved, and 15 U.S.C. 637(d)(4)(F) directs that the contractor must pay liquidated damages. In order to demonstrate your compliance with a good faith effort to achieve the small, HUBZone small, small disadvantaged, women-owned small, veteran-owned small, and service-disabled veteran-owned small business subcontracting goals, outline the steps your company plans to take. These steps will be negotiated with the contracting officer prior to approval of the plan.

The offeror is advised that submission of the subcontracting plan and Standard Form 294 and/or Standard Form 295 will be made a material part of the contract.

XII. SIGNATURES REQUIRED

This subcontracting plan was submitted by: Signature: Typed Name: Title: Date:
This subcontracting plan was accepted by: Signature: Typed Name: Title: Contracting Officer Date:

This page intentionally left blank.

CHANGE 17 OCTOBER 1, 2006

Appendix 519B—Subcontracting Plan Evaluation Checklist

Appendix 519B—Subcontracting Plan Evaluation Checklist

PART I. IDENTIFYING INFORMATION

1. Contracting Officer (CO): Address: Phone: FAX: E-mail:	2. Administrative CO: Address: Phone: FAX: E-mail:	3. Contractor: Address: Phone: FAX: E-mail:
4. Sub. Plan Administrator: Address: Phone: FAX: E-mail:	5. Place of Performance (if different from no. 3):	6. Type of Contract (fill in both A and B) A. <input type="checkbox"/> Commercial Item B. <input type="checkbox"/> Schedule <input type="checkbox"/> Sealed Bid <input type="checkbox"/> Non-Schedule <input type="checkbox"/> Negotiated
7. Solicitation No.:	9A. Date of Award: 9B. Contract Period: 9C. Contract Dollar Value:	10. Type of Plan (check one) <input type="checkbox"/> Individual Contract <input type="checkbox"/> Master <input type="checkbox"/> Plan
8. Contract No.:		
11. Description of Supplies or Services:		

PART II. ACCEPTABILITY OF GOALS

Goals Established	Percent	Dollar Amount	Contracting Officer		SBTA		SBA PCR	
			Yes	No	Yes	No	Yes	No
Total subcontracting planned	100							
Small business (include HUBZone small, small disadvantaged, and women-owned small), veteran-owned small, and service-disabled veteran-owned small business concerns)								
HUBZone small (% of total)								
Small disadvantaged business (% of total)								
Women-owned small (% of total)								
Veteran-owned small (% of total)								
Service-disabled veteran-owned small (% of total)								

PART III. MINIMUM REQUIREMENTS UNDER FAR CLAUSE 52.219-9

Element	Contracting Officer		SBTA		SBA PCR	
	Yes	No	Yes	No	Yes	No
(1) Does the offeror propose separate small, HUBZone small, small disadvantaged, women-owned small, veteran-owned small, and service-disabled veteran-owned small business percentage goals?						
(2) Does the offeror express the goals as a percentage of total planned subcontracting dollars?						
(3) Does the offeror provide a statement of the total dollars planned to be:						

CHANGE 17 OCTOBER 1, 2006

PART III. MINIMUM REQUIREMENTS UNDER FAR CLAUSE 52.219-9 (CONTINUED)

Element	Contracting Officer		SBTA		SBA PCR	
	Yes	No	Yes	No	Yes	No
(a) Subcontracted under an individual plan or total projected sales and the total value of projected subcontracts to support the sales for a commercial plan?						
(b) Subcontracted to small business concerns?						
(c) Subcontracted to HUBZone small business concerns?						
(d) Subcontracted to small disadvantaged business concerns?						
(e) Subcontracted to women-owned small business concerns?						
(f) Subcontracted to veteran-owned small business concerns?						
(g) Subcontracted to service-disabled veteran-owned small business concerns?						
(4) Does the offeror furnish a description of the major product and service areas to be subcontracted?						
(5) Does the offeror furnish a description of the major product and service areas where small, HUBZone small, small disadvantaged, veteran-owned small, service-disabled veteran-owned business small, and women-owned small business concerns will be considered for subcontract awards?						
(6) Does the offeror provide a statement of the method used to develop goals?						
(7) Does the offeror describe the method used to identify potential sources for solicitation purposes?						
(8) Does the offeror include a statement as to whether or not it includes indirect or overhead costs as an element in developing goals?						
(9) Where costs are elements in developing goals, does the offeror describe the method used in determining a proportionate share of the indirect and overhead?						
(10) Does the offeror provide the name and description of the duties of the individual who will administer the subcontracting plan?						
(11) Does the offeror describe the efforts it will make to assure that small, HUBZone small, small disadvantaged, women-owned small, veteran-owned small, and service-disabled veteran-owned small business concerns have an equitable opportunity to compete for subcontracts?						
(12) Does the offeror provide for the flow down of the clause entitled "Utilization of Small Business Concerns?"						
(13) Does the offeror require subcontractors to adopt subcontracting policies and subcontracting plans in accordance with the Small Business Act, as amended, and implementing regulations for all appropriate subcontracts?						
(14) Does the offeror provide assurance that it will:						
(a) Cooperate in any studies or surveys as may be required?						
(b) Submit periodic reports act to determine compliance with the plan?						
(c) Submit SF 294 and SF 295 reports following the instructions on the forms, paragraph (j) of the clause at FAR 52.219-9, and provided by GSA?						
(d) Ensure that its subcontractors, that are required to adopt a subcontracting plan, agree to submit SF 294 and SF 295 reports?						
(15) Does the offeror provide assurance that the following types of records will be maintained:						

CHANGE 17 OCTOBER 1, 2006

Appendix 519B—Subcontracting Plan Evaluation Checklist

PART III. MINIMUM REQUIREMENTS UNDER FAR CLAUSE 52.219-9 (CONTINUED)

Element	Contracting Officer		SBTA		SBA PCR	
	Yes	No	Yes	No	Yes	No
(a) Source lists, guides, and other data that identify small, HUBZone small, small disadvantaged, women-owned small, veteran-owned small, and service-disabled veteran-owned small business source lists?						
(b) List of organizations contacted for small, HUBZone small, small disadvantaged, women-owned small, veteran-owned small, and service-disabled veteran-owned small business sources?						
(c) List of solicitations resulting in awards over \$100,000 that identify whether small, HUBZone small, small disadvantaged, women-owned small, veteran-owned small, and service-disabled veteran-owned small business concerns were solicited (or reasons why not) and explain, if applicable, why award was not made to a small business concern?						
(d) Contacts with trade associations?						
(e) Contacts with business development associations?						
(f) Contacts with conferences and trade fairs to locate small, HUBZone small, small disadvantaged, women-owned small, veteran-owned small, and service-disabled veteran-owned small business concerns?						
(g) Records to support internal activities to promote and implement the subcontracting initiatives?						
(h) For each contract, records supporting award data submitted to the Government, including the name, address, and business size of each subcontractor? Commercial plans do not have to provide this assurance.						

PART IV. FACTORS TO CONSIDER UNDER GSAR [552.219-72](#) OR [552.219-73](#)

Element	Contracting Officer		SBTA		SBA PCR	
	Yes	No	Yes	No	Yes	No
(1) If the offeror identifies previous contracts with subcontracting plans, does the record indicate any significant achievements, <i>i.e.</i> , sustained increase in the number of dollars awarded to small, HUBZone small, small disadvantaged, women-owned small, veteran-owned small, and service-disabled veteran-owned small business concerns or the total number of subcontracts?						
(2) Does the offeror describe its strategies used to involve small, HUBZone small, small disadvantaged, women-owned small, veteran-owned small, and service-disabled veteran-owned small business concerns in subcontracting opportunities, <i>i.e.</i> , public announcements (newspaper or FedBizOpps notices or radio commercials), set-asides, counseling, long-term arrangements, contacts with local or national advocacy groups or trade associations, or workshops?						
(3) Does the offeror express or manifest an interest in diversifying or increasing the amount of subcontracting (<i>i.e.</i> , are subcontracting opportunities (1) only in very limited areas, (2) varied if the offeror has several plants in different locations, or (3) basically unchanged from previous contracts)?						
(4) Does the offeror have a program that seeks out new small, HUBZone small, small disadvantaged, women-owned small, veteran-owned small, and service-disabled veteran-owned small business concerns instead of relying upon them to come to the offeror?						

CHANGE 17 OCTOBER 1, 2006

PART IV. FACTORS TO CONSIDER UNDER GSAR [552.219-72](#) OR [552.219-73](#)

Element	Contracting Officer		SBTA		SBA PCR	
	Yes	No	Yes	No	Yes	No
(5) Does the offeror include specific examples of new concerns that were added to its subcontractor base as a result of (1) attendance at trade fairs or business conferences, (2) contacts with local or national advocacy groups or trade associations, (3) advance planning notices in newspapers, radio announcements, or FedBizOpps, (4) counseling, or (5) workshops?						
(6) Is the official responsible for administering the subcontracting plan a senior official?						
(7) Does this official review and approve required subcontracting plans of major subcontractors?						
(8) Does the offeror have a written policy statement that is distributed and provides guidance to employees involved in making purchasing decisions?						
(9) Does the offeror provide training to these employees concerning these policies?						
(10) Does the offeror, as part of its subcontracting program, establish annual goals for subcontracting to small, HUBZone small, small disadvantaged, women-owned small, veteran-owned small, and service-disabled veteran-owned small business concerns?						
(11) Does the offeror, as part of its subcontracting program, evaluate accomplishments under each of these goals and adjust the goals annually?						

Contracting Officer's Comments *(Include assessment of compliance with subcontracting plans on previous Federal contracts):*

Contracting Officer

Date

Small Business Technical Advisor (SBTA) Comments *(Include SBTA's name and date of comments, as well as observations concerning compliance with subcontracting plans and timely submission of SF 294 and SF 295 reports on previous Federal contracts):*

SBTA

Date

SBA Procurement Center Representative (PCR) Comments *(Include PCR's name and date of comments, if any):*

PCR

Date

Appendix 519B—Subcontracting Plan Evaluation Checklist

Contracting Officer's Record of Discussion with Offeror:

Decision: Plan is [] Acceptable [] Unacceptable _____
Contracting Officer Date

This page intentionally left blank.

CHANGE 17 OCTOBER 1, 2006

Appendix 519C—[Removed and Reserved]

Appendix 519C—[Removed and Reserved]

|

This page intentionally left blank.

CHANGE 17 OCTOBER 1, 2006

Appendix 519D—[Removed and Reserved]

Appendix 519D—[Removed and Reserved]

|

This page intentionally left blank.

CHANGE 17 OCTOBER 1, 2006

Appendix 519E—[Reserved]

Appendix 519E—[Reserved]

I

This page intentionally left blank.

CHANGE 17 OCTOBER 1, 2006

Appendix 519F—GSA Acquisition Alert—Contract Bundling

Appendix 519F—GSA Acquisition Alert—Contract Bundling

GSA Acquisition Alert 2006-04

MEMORANDUM FOR GSA ACQUISITION WORKFORCE ASSOCIATES

FROM: EMILY W. MURPHY
CHIEF ACQUISITION OFFICER

SUBJECT: CONTRACT BUNDLING

If you are considering consolidating into a single contract action (*e.g.* task or delivery order, single award contract, or multiple award contract) two or more existing contracts that are already performed by or could be performed by small business, then your acquisition planning must address contract bundling. Sound acquisition planning is the key to addressing contract bundling issues.

The Federal Acquisition Regulation (FAR), the General Services Administration Acquisition Manual (GSAM), and the Acquisition Planning Order prescribe policies and procedures pertaining to contract bundling. GSAM 507.103(a) states that you must “structure contract requirements to facilitate competition by and among small business concerns” and that you must “avoid unnecessary and unjustified bundling that precludes small business participation as contractors”. This applies to both *contracts and orders* (see GSA Order OGP 2800.1, Acquisition Planning).

Bundling. Bundling means consolidating 2 or more procurement requirements for goods or services previously provided or performed under separate smaller contracts into a solicitation of offers for a single contract that is likely to be unsuitable for award to a small-business concern due to:

1. The diversity, size, or specialized nature of the elements of the performance specified.
2. The aggregate dollar value of the anticipated award.
3. The geographical dispersion of the contract performance sites, or
4. Any combination of the factors described in 1 - 3 above. **FAR 2.101**

The bundling definition in the FAR states that a “single contract” includes multiple award IDIQ contracts (to two or more sources), issued under a single solicitation for the same or similar supplies or services. It also includes an order placed under a Federal Supply Schedule IDIQ contract. It also includes an order placed against a task-order contract or delivery-order contract awarded by another agency. Separate smaller contract means a contract that has been performed by one or more small business concerns or was suitable for award to one or more small business concerns. **FAR 2.101**

Steps to take once you realize you may have a bundled requirement:

- (1) *Small business impact.* Identify the incumbent contractors and contracts affected by the bundling. Assess the impact of bundling on small businesses. FAR 7.105(b)(1), 10.001 (a)(3)(vi), and (c).
- (2) *Market research.* Conduct market research to determine whether bundling is necessary and justified. [FAR 7.105(a)(1) and 10.001(a)(3)(vi). Consult with your GSA Small Business Technical Advisor/Small Business Specialist (SBTA/SBS) and the SBA procurement center representative (PCR). **FAR 10.001(c)(1)**
- (3) *Bundling determination.* Write a determination documenting that bundling would have sufficient “measurably substantial benefits”. If the market research authority was delegated to the contracting officer, the bundling determination must be approved one level above the contracting officer. If other than the contracting officer conducts the market research, the contracting officer may approve it. However, when bundling is necessary and the minimum “measurably substantial benefits” are not met, the

CHANGE 17 OCTOBER 1, 2006

determination must show benefits critical to the agency mission, maximum practical participation by small businesses, and be signed by the Deputy Administrator. **FAR 7.107; GSA Acquisition Planning Order OGP 2800.1 paragraph 9.b.(4)**

(4) *Acquisition plan.* Prepare a written comprehensive acquisition plan. Use the Acquisition Planning Wizard at apw.gsa.gov. Identify the incumbent contractors and the effect on small businesses. Include the bundling determination. Address the extent and results of the market research and indicate the impact on the various elements of the acquisition plan. If this also is "substantial bundling" document the additional required strategies in the acquisition plan. **FAR 7.105(b)(1), 7.107(e) and (f); The GSA Acquisition Planning Order paragraph 8.c.(1)(v)**

(5) *Source selection evaluation factors.* For solicitations involving bundling that offer a significant opportunity for subcontracting, the contracting officer must include two factors:

- Past performance indicating the extent to which the offeror attained applicable goals for small business participation under contracts that required subcontracting plans. FAR 15.304(c)(3)(iii)

- For the offeror's proposed use of small businesses as subcontractors and their past performance in meeting subcontracting goals. FAR 15.304(c)(5)

(6) *30 day notice.* At least 30 days before releasing your solicitation (or placing an order without a solicitation):

- Notify any affected incumbent small business concerns of the government's intention to bundle the requirement, and how the concerns may contact the appropriate SBA representative. FAR 10.001(c)(1)

- Provide a copy of the proposed acquisition package to your SBA PCR through your Small Business Specialist/Small Business Technical Advisor. If this is "substantial bundling" also provide it to the Office of Small Business Utilization (E).

FAR 19.202-1(e), and GSA Acquisition Planning Order paragraph 9.c.(2)(b)

(7) *Size status of joint ventures.* Apply size standards to individual persons or concerns, not to the combined assets, of the joint venture. FAR 19.101 "affiliates" paragraph 7(i)(A)

Please also note that the acquisition planner must coordinate all acquisition plans for requirements over the simplified acquisition threshold with their GSA small business technical advisor/small business specialist (SBTA/SBS), unless the requirement will be reserved or set-aside for small business under Part 19. GSA Acquisition Planning Order paragraph 9.c.(b)

For more information, see attached Frequently Asked Questions. Questions concerning this Acquisition Alert should be directed to Ms. Rhonda Cundiff at (202) 501-0044.

Attachment

CHANGE 17 OCTOBER 1, 2006

Appendix 519F—GSA Acquisition Alert—Contract Bundling

FREQUENTLY ASKED QUESTIONS CONTRACT BUNDLING

Question: Who checks whether a contract or order would be considered bundled?

Answer: Ideally, it should be the acquisition team but the ultimate responsibility is the contracting officer.

Question: Where in the Federal Acquisition Regulation (FAR) can I find bundling regulations?

Answer:

Part	Section
2	Definitions of “bundled contract” and “bundling” at 2.101
7	7.103(s), 7.104(d), 7.105(b)(1), and especially 7.107
8	8.404(c)(2)
10	10.001(a)(2)(iv), 10.001(a)(3)(vi) and 10.001(c)
15	15.304(c)(3)(iii) and (c)(5)
16	16.505(a)(7)
19	19.101 definition of “affiliates” in paragraph (7)(i)(A), 19.201(d)(5)(i) and (d)(11), 19.202-1(e)(1)(iii) and (2)(v).

References to bundling are also found in the GSA Acquisition Planning Order (OGP 2800.1, found at GSAM Appendix 507A), which requires a written comprehensive acquisition plan for bundled acquisitions.

Question: Is bundling prohibited?

Answer: No, after conducting market research, it may be determined that bundling is necessary and justified because the agency will derive sufficient “measurably substantial benefits”. If a cost comparison analysis will be performed in accordance with OMB Circular A-76, then this substitutes for the determination. Even if there are insufficient “measurably substantial benefits”, GSA’s Deputy Administrator can determine the bundling is necessary and justified. See FAR 7.107(a), (c), and (h)

Question: What are “measurably substantial benefits”?

Answer: “Measurably substantial benefits” from bundling may include, individually or in any combination or aggregate the following benefits:

- Cost savings or price reductions.
- Quality improvements that will save time or improve or enhance performance or efficiency.
- Reduction in acquisition cycle times.
- Better terms and conditions.
- Any other benefits.

The bundling determination must quantify identified benefits and explain how their impact would be measurably substantial. FAR 7.107(b)

CHANGE 17 OCTOBER 1, 2006

Question: How much must the “measurably substantial benefits” be?

Answer: “Measurably substantial benefits” must be equivalent to:

- (1) 10% of the estimated contract value (including options) if the value is \$75 million or less; or
- (2) 5% of the estimated contract value (including options) or \$7.5 million, whichever is greater, if the value exceeds \$75 million.

Reduction in administrative or personnel costs is not sufficient justification for bundling, unless the cost savings are expected to be at least 10% of the estimated value (including options) of the bundled requirement. FAR 7.107(b) and (d)

Question: When assessing cost savings that are expected to be at least 10% of the estimated value (including options) of the bundled requirement, what must be considered?

Answer: The contracting officer must consider the cost that has been charged (or where data is available, could be charged) by small business concerns for the same or similar work. FAR 7.107(g)

Question: Does the bundling definition apply to contracts that will be awarded and performed entirely outside of the United States?

Answer: No FAR 2.101

Question: What is “substantial bundling”?

Answer: Substantial bundling is “bundling” resulting in a contract or order of:

- \$7 million or more for the Department of Defense;
- \$5 million or more for the National Aeronautics and Space Administration, the Department of Energy, and the General Services Administration;
- \$2 million or more *for all other agencies.*

If the strategy contemplates the award of multiple contracts or orders, these thresholds apply to the cumulative maximum potential value, including options.

Question: What more do I have to do for a contract that is substantially bundled?

Answer: In cases involving substantial bundling, you not only need “measurably substantial benefits”, your acquisition strategies must:

- Identify the specific benefits anticipated to be derived from bundling;
- Include an assessment of the specific impediments to participation by small business concerns as contractors that result from bundling;
- Specify actions designed to maximize small business participation as contractors, including provisions that encourage small business teaming;
- Specify actions designed to maximize small business participation as subcontractors (including suppliers) at any tier under the contract, or order, that may be awarded to meet the requirements;
- Include a specific determination that the anticipated benefits of the proposed bundled contract or order justify its use; and
- Identify alternative strategies that would reduce or minimize the scope of the bundling, and the rationale for not choosing those alternatives. FAR 7.107(e)

Question: Does bundling apply when several contracts are consolidated but awards as a small business set-aside?

CHANGE 17 OCTOBER 1, 2006

Appendix 519F—GSA Acquisition Alert—Contract Bundling

Answer: No. The bundling definition answers this question. You can consolidate two or more requirements for supplies or services previously provided or performed under separate smaller contracts, into a solicitation for a single contract as long as it is likely that it is suitable for award to a small business concern. A small business set-aside is a likely award to a small business. FAR 2.101

Question: Are there any contract reporting requirements for contract bundling?

Answer: Yes, FAR 4.601(e) & (f) require identification through Federal Procurement Data System-Next Generation (FPDS-NG) bundled contracts with a total contract value (including options) exceeding \$5,000,000.

Question: Who makes the call on when a bundling review is necessary: the requiring activity, the Contracting Officer, the Small Business Specialist/Small Business Technical Adviser or Office of Small Business Utilization (OSBU)?

Answer: The planner and contracting officer are supposed to recognize a bundled procurement, and take the steps outlined in these FAQs. If they have failed to recognize that the acquisition is bundled, the small business specialist shall notify the Office of Small Business Utilization. FAR 7.104.

Question: Does the review level on orders placed against contracts apply to the thresholds of the requiring agencies or the thresholds of the agencies placing the orders?

Answer: The review levels apply to the requiring agency. For example, if agency A is requesting that agency B place an order against a Multiple Award Schedule contract, the threshold for agency A applies. GSA Acquisition Letter V-05-05 Purchases on Behalf of other Agencies.

Question: Are Architect and Engineering contracts exempt from the bundling definition?

Answer: No.

Question: Is there any additional guidance available other than these FAQs?

Answer: Yes, Department of Defense has guidance at <http://www.acq.osd.mil/osbp/news/contractconsolidation.pdf>

This page intentionally left blank.