

GSA ORDER

Subject: General Services Administration Acquisition Manual; GSAM Case 2020-G514, Clarifying Subcontracting Requirements

1. **Purpose.** This order transmits a revision to the General Services Administration Acquisition Manual (GSAM) to streamline, remove, and reorganize existing text on subcontracting requirements. Additionally, the GSAM is revised to provide clarity on certain elements of subcontracting, including the use of small business participation evaluation factors.
2. **Background.** Current GSAM text is vague concerning various elements and requirements at different stages of subcontracting. This revision:
 - Formalizes the existing practice of encouraging early involvement of the Office of Small Disadvantaged Business Utilization (OSDBU) in the procurement process.
 - Encourages use of small business participation evaluation factors in line with recent Office of Management and Budget (OMB) direction. Distinguishes the evaluation factor from small business subcontracting requirements.
 - Clarifies that revisions to subcontracting plans do not constitute discussions. The acceptability of subcontracting plans is generally a matter of responsibility.
 - Removes ambiguity on subcontracting requirements at pre-award, award, and post-award stages of the contract life-cycle.
3. **Effective date.** July 2, 2024
4. **Explanation of changes.** This order includes non-regulatory changes. For full text changes of the amendment see Attachment A, GSAM Text Line-In/Line-Out. This amendment revises the language of the following GSAM subparts, changes summarized below:
 - A. **508.4 Federal Supply Schedules**
 - Revises existing section 508.404, *Use of Federal Supply Schedules*.
 - Adds text to highlight the small business participation evaluation factor as described in section 515.304.
 - B. **515.3 Source Selection**
 - Adds new section 515.304, *Evaluation factors and significant subfactors*.

- Explains the difference between a small business subcontracting plan and a small business participation evaluation factor.
- Describes the small business participation evaluation factor and significant subfactors. Includes examples for contracting officer consideration.
- Provides guidance on how to evaluate when a small business participation factor is used.

C. 516.5 Indefinite Delivery Contracts

- Adds new subsection 516.500-1, *General*.
 - Adds text to highlight the small business participation evaluation factor as described in section 515.304.

D. 519.7 The Small Business Subcontracting Program

- Removes existing subsection 519.700-70, *Additional responsibilities*.
 - Moves relevant language to section 519.705.
 - Removes reference to sealed bidding as GSA no longer uses sealed bidding procedures.
- Adds new section 519.704, *Subcontracting plan requirements*.
 - Clarifies that GSA subcontracting plans do not require listing goals as a percentage of total contract value.
 - Clarifies the difference of a master plan from that of a commercial and individual plan.
- Revises existing section 519.705, *Responsibilities of the contracting officer under the subcontracting assistance program*.
 - Adds new subsection 519.705-1, *General*. Adds language to emphasize negotiation of subcontracting goals as part of the CO's responsibilities.
 - 519.705-2: Edits instructions for COs when it has been determined there are no subcontracting possibilities. Adds language for resolving disagreements regarding determinations that no subcontracting possibilities exist.
 - 519.705-3: Moves text regarding the Model Subcontracting Plan from 519.705-4. Removes target goals in sealed bidding text. Edits text for COs to ensure evaluation criteria does not limit subcontracting opportunities unnecessarily and to consider use of small business participation evaluation factors for negotiated acquisitions. Maintains text for COs to allow OSDBU a reasonable time of 10 business days to review the solicitation when the CO desires a review.
 - 519.705-4: Reorganizes information into topic areas and provides better guidance on how to review subcontracting plans and conduct negotiations, including resources. Adds language stating that the apparent successful offeror may submit a revised subcontracting plan prior to award at the CO's request, and informs COs that acceptability of the apparent successful offeror's subcontracting plan is generally a matter of responsibility and therefore, exchanges related to such subcontracting plans do not constitute discussions.

- 519.705-5: The relevant text of 519.705-5 moves to 519.705-4. All remaining text of 519.705-5 is deleted.
- 519.705-6: Revised to clarify and consolidate existing CO responsibilities involved in review and approval of subcontracting plan reports.
- 519.705-7: Changes title from “Liquidated damages” to “Compliance with the subcontracting plan”. Adds requirement that the CO shall coordinate with the Office of General the Counsel (OGC) prior to seeking liquidated damages. Clarifies CO responsibilities regarding final decisions.
- Revises existing section 519.706, *Responsibilities of the cognizant administrative contracting officer*.
 - Requires COs to specify reasons for rejecting reports in the eSRS system to prevent recurring mistakes.
 - Requires any shortcomings in timeliness or quality to be noted in the contract file and any past performance evaluation.
 - Requires notification to the contractor within 30 days of missing eSRS report filings.
 - Removes language which requires COs to consider beginning termination for default procedures for failure to comply. FAR 52.219-9(k) sufficiently addresses this and states that failure to comply is a material breach of the contract and may be considered in any past performance evaluation of the contractor.

E. 570.8 The Small Business Subcontracting Program

- Revises existing section 570.801 to add requirements to use the Standard Form 294 instead of the ISR to report subcontracting achievements. The SSR is still required to be completed in the eSRS system.

5. **Point of contact.** For clarification of content, contact Vernita Misidor, GSA Acquisition Policy Division, at gsarpolicy@gsa.gov.

Jeffrey Koses
 Senior Procurement Executive
 Office of Acquisition Policy
 Office of Government-wide Policy

ATTACHMENT A
GSAM Text, Line-In/Line-Out

GSAM Baseline: Change 181 effective 05/20/2024

- Additions to baseline made by rule are indicated by **[bold text in brackets]**
- Deletions to baseline made by rule are indicated by ~~strikethroughs~~
- Five asterisks (* * * * *) indicate that there are no revisions between the preceding and following sections
- Three asterisks (* * *) indicate that there are no revisions between the material shown within a subsection

Part 508—Required Sources of Supplies And Services

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Subpart 508.4—Federal Supply Schedules

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508.404 Use of Federal Supply Schedules.

[(a)] Although FAR 19 (except for the requirement at **[FAR]** 19.202-1(e)(1)(iii)) does not apply to BPAs or orders placed against Federal Supply Schedule (FSS) contracts, they are not exempt from [part 519](#).

[(b) Requests for quotes under FSS contracts that are not set-aside for small business should consider inclusion of a small business participation evaluation factor as described in section 515.304.]

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Part 515—Contracting by Negotiation

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Subpart 515.3—Source Selection

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[515.304 Evaluation factors and significant subfactors

(a) *Small business consideration.* Solicitations that are not set-aside for small business concerns should consider inclusion of a small business participation evaluation factor

(see FAR 15.304(c)(4)) for additional requirements for procurements involving consolidation or bundling). The small business participation evaluation factor is separate from the small business subcontracting plan required at the contract level under FAR 19.7. Differences between the subcontracting plan and the evaluation factor include:

(1) *Small business subcontracting plan.* Established at the contract level only for offerors that are other than small businesses. Prior compliance by the offeror with subcontracting plans under separate contracts will be considered by the contracting officer in determining the responsibility of the offeror for award of the contract, as required by FAR 19.705-5. Contracting officers are required to review the plan to ensure it meets the requirements of FAR 19.704. No award can be made to an offeror with an unacceptable subcontracting plan per FAR 19.702(a).

(2) *Small business participation evaluation factor.* Can be used at the contract level as well as at the order level. Evaluated in accordance with the source selection or evaluation criteria. Sample evaluation factor language and further details can be found on the Small Business Topic Page on the GSA Acquisition Portal at <https://insite.gsa.gov/acquisitionportal>.

(b) *Evaluation of small business participation factor.*

(1) Small business participation evaluation considerations may include:

(i) Extent to which socioeconomic small businesses will participate throughout the life of the contract.

(ii) Extent to which specific small businesses are identified, including the products and services such firms will provide.

(iii) Extent of commitments made by the prime contractor to small businesses. Greater weight should be given to enforceable commitments such as signed Contractor Teaming Arrangements, or written pledges to pay subcontractors within a specific number of days.

(iv) Variety and complexity of the work performed by small businesses.

(2) When using a small business participation evaluation factor, responses from small business offerors should receive full credit.

(3) Contracting officers should review responses from other than small business offerors for consistency with the required subcontracting plan. Examples of evaluating the small business participation factor responses consistent with the required subcontracting plan can be found on the OSDDBU subcontracting page at <https://insite.gsa.gov/subcontracting>.]

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Part 516—Types of Contracts

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Subpart 516.5—Indefinite Delivery Contracts

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[516.500-1 General

Solicitations under indefinite delivery contracts that are not set-aside should consider inclusion of a small business participation evaluation factor as described in 515.304.]

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Part 519—Small Business Programs

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Subpart 519.7—The Small Business Subcontracting Program

519.700 [Reserved]

519.700-70 ~~Additional responsibilities.~~

~~In addition to FAR 19.705 responsibilities, the contracting officer's 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.~~

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[519.704 Subcontracting plan requirements.

(a) *Subcontracting plan goals for individual and commercial subcontracting plans.* Subcontracting plans for GSA acquisitions must identify subcontracting goals in terms of total subcontract dollars planned and percentages of total subcontract dollars planned

for each category (e.g., other than small business, small business, women owned small business). However, it is not required to list goals as a percentage of total contract value for GSA acquisitions.

(b) Master plans. Master plans (see FAR 19.701 and 19.704(b)) are separate from commercial plans and individual plans, and do not contain subcontracting goals. As such, offerors may use a master plan in developing an individual subcontracting plan, but an individual plan must still be submitted specific to the contract.

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

[519.705-1 General.

In addition to FAR 19.705 responsibilities, the contracting officer is responsible for negotiating subcontracting goals when necessary to ensure the plan reflects maximum practicable opportunities for small businesses, small disadvantaged businesses, women-owned small businesses, veteran-owned small businesses, service-disabled veteran-owned small businesses, and HUBZone small businesses to participate as subcontractors to the fullest extent. This negotiation does not constitute discussions per FAR 15.306.]

519.705-2 Determining the need for a subcontracting plan.

~~(a) When the contracting officer calculates the applicable threshold, consider [Total value. Use] the actual or estimated value of the contract for the entire term of the contract, including [all] any option[s.] period(s). This also applies to [For Multiple Award S] schedule contracts and other indefinite delivery type contracts[, calculate] Consider the estimated value of all orders expected to be placed during the term plus all options.~~

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

- ~~(1) The contracting officer anticipates receiving individual subcontracting plans (not commercial plans).~~
- ~~(2) The contracting officer 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 in the solicitation.~~

~~(c) Nothing in paragraph (b) above limits the contracting officer's ability to request subcontracting plans with initial offers under other negotiated acquisitions when he or she~~

~~decides 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[b]) [Determination of no subcontracting possibilities.] Notify the AA OSDBU after receipt of offers if [If] the contracting officer determines that an apparent successful offeror's proposal has no subcontracting possibilities.[:]~~

~~(1) Coordinate the notice through the contracting officer's SBTA.~~

~~(2) Include justification documenting [(1) **Written determination. Prepare a written determination supporting**] the rationale behind a determination of [that] no subcontracting possibilities [exist]. The contracting officer may use [Attach a copy of] the justification provided by the apparent successful offeror.~~

~~[(2)] (3) [AA OSDBU review.] Obtain AA OSDBU concurrence on the determination prior to contract award. [Coordinate the concurrence through the GSA SBTA.]~~

~~[(3) **Non-concur.** If a "Non-Concur" is received on the determination, the contracting officer is required to re-submit for concurrence. The time-frame for review is reset when the determination is re-submitted (see 519.705-4).]~~

~~[(4) **Disagreements.** If the AA OSDBU disagrees with the contracting officer's determination that an apparent successful offeror's proposal has no subcontracting possibilities, the GSA SBTA will provide the contracting officer the rationale for the disagreement. The contracting officer must review and consider any information provided by the GSA SBTA before re-submitting.~~

~~(5) **Resolving disagreements.** The HCA or their designee resolves disagreements between the contracting officer and AA OSDBU.]~~

519.705-3 Preparing the solicitation.

[(a) *Model subcontracting plan.* Contracting officers are encouraged to include GSA's Model Subcontracting Plans, available on the OSDBU subcontracting page at <https://insite.gsa.gov/subcontracting>, in solicitations to facilitate preparation of subcontracting plans.

(b) *Subcontracting goals.* Contracting officers shall not tell offerors what a contract's subcontracting goals should be. The contracting officer may share historical data, Government-wide statutory goals or GSA's agency goals as a guide to industry. However, a contract's subcontracting goals must reflect maximum practicable opportunities for the acquisition as required by FAR 19.702.

[(c) *Small business consideration.* For a negotiated acquisition, if the contracting officer believes that the acquisition provides substantial subcontracting opportunities, the contracting officer should consider including a small business participation evaluation factor (see 515.304). The contracting officer may consult with the GSA SBTA to obtain any needed assistance with developing small business participation evaluation criteria.

(d) Any solicitation requiring a subcontracting plan must be reviewed internally by the appropriate GSA SBTA prior to submission to the SBA PCR, as required by FAR 19.705-3. Additionally, COs are reminded that the GSA SBTA will coordinate communications with SBA and will submit the solicitation to the SBA PCR, in accordance with 519.4. A reasonable timeframe for GSA SBTA and SBA PCR review is typically 10 business days combined.]

~~(a) If an acquisition, excluding any multiple award schedule contract, will cover two or more Regions and is estimated to exceed \$50 million (including options):~~

~~(1) In addition to the SBA PCR, the contracting officer shall provide the SBTA and OSDBU a reasonable period of time (approximately 10 days) to review any solicitation requiring submission of a subcontracting plan and to submit advisory findings before issuing the solicitation. The contracting officer shall 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 the contracting officer believes 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 the contracting officer expects individual plans or master plans. The contracting officer should consult with his or her 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, the contracting officer should avoid using mechanical formulas or similar approaches that may be considered arbitrary. Reviewing historical performance by contractors performing similar work is valid, but the contracting officer should consider each solicitation independently in terms of the potential for subcontracting. Use as many information sources as practical, including the contracting officer's 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 the contracting officer 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 the contracting officer 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) The contracting officer should provide offerors a model subcontracting plan when determined appropriate, e.g., when it may facilitate evaluation or negotiation. The contracting officer may use the model plan developed by the Office of Small Business Utilization (E) as found at <https://insite.gsa.gov/subcontracting>. Include the following notice on the transmittal, if providing a model in response to a single request, or in the solicitation, if including it as an attachment:~~

~~— Notice to Offerors: “GSA provides this model plan as a tool. The contracting officer must adapt this model plan to fit the subcontracting situation. The plan is NOT a fill-in-the-blank form and the contracting officer must remove instructional language. This model 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 subcontracting plans.”~~

[(a) Standards.

(1) The contracting officer shall review the subcontracting plan using the tools found on the OSDBU subcontracting page at <https://insite.gsa.gov/subcontracting>.

(2) Commercial plans approved by another Government contracting officer (see FAR 19.704(d)) do not require further review by the contracting officer, GSA SBTA or the SBA PCR. The approved commercial plan must be incorporated into the contract.]

[(b) *Subcontracting sources.* When reviewing subcontracting plans, contracting officers should ensure the contractor made a good faith effort in finding small businesses to meet their subcontracting goals, such as:

(1) Dynamic Small Business Search (DSBS) (<http://dsbs.sba.gov>), managed by the Small Business Administration (SBA).

(2) Local SBA Offices (<https://www.sba.gov/federal-contracting/counseling-help/commercial-market-representatives>). These offices provide offerors assistance in accessing the System for Award Management (SAM) database to conduct market research and confirm the eligibility for SBA’s procurement preference programs.

(3) APEX Accelerators (formerly known as Procurement Technical Assistance Centers (PTACs)) (<https://www.apexaccelerators.us/#/>), administered by the Department of Defense (DoD).

(4) Minority Business Development Agency (MBDA) (<https://www.mbda.gov/mbda-programs/business-centers>), part of the Department of Commerce.

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

(6) Local chambers of commerce.

(7) Small, minority, women-owned, and veteran business associations.

(8) Trade associations, and professional organizations.]

~~(b)~~ [(c) **Subcontracting past performance.** The contracting officer must consider the contractor's p]—Performance under other [active or completed] contracts [as] is an indicator of an offeror's understanding of the [statutory requirements expressed in FAR 52.219-8. This information may be utilized in negotiating goals that maximize opportunities for small businesses, small disadvantaged businesses, women-owned small businesses, veteran-owned small businesses, service-disabled veteran-owned small businesses, and HUBZone small businesses.]~~reasons for the law and benefits of the program.~~

(1) If an offeror prepared a subcontracting plan for another contract, the contracting officer should 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) The contracting officer shall consider overall compliance [(e.g., timely submittal of reports, making a good faith effort to meet subcontracting goals). Actions taken in accordance with the plan mean more than] in the evaluation, not just whether or not the offeror met the goals established in the plan. [Contractors are required to make a good faith effort. Good faith effort is further addressed in FAR 19.705-7.]

(3) Submission of timely [and accurate] reports is an indication [a contractor] the offeror takes its [small business subcontracting] responsibilities seriously. [The contracting officer should c]Check reports filed in eSRS if [a]the contractor holds GSA contracts. [The **Remarks section of past reports should be examined for any new or enhanced actions for low or zero dollars for small businesses. The contracting officer should engage with the contractor if no growth is achieved.**]

[(d) **Review Documentation.** The contracting officer shall document review of a subcontracting plan by using the Subcontracting Plan Review Checklist (GSA Form 4006). The subcontracting plan and the checklist shall be submitted to the GSA SBTA after the contracting officer has documented their review. The GSA SBTA will coordinate with the SBA PCR.]

~~(c) The contracting officer shall use the Subcontracting Plan Evaluation Checklist available on OSBU's website at <https://insite.gsa.gov/organizations/staff-offices/office-of-small-business-utilization-osbu> and GSAM [519.7](#) to evaluate an offeror's subcontracting plan.~~

~~(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 any category with no goal is accepted, the contracting officer must:~~

~~(i) Document the file explaining why the goal was accepted; and~~

~~(ii) Ensure the subcontracting plan includes 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 a basis for determining the subcontracting plan's acceptability.~~

~~(d) A contracting officer cannot tell the offeror what its goals must be. The contracting officer may tell the offeror what GSA's national goals are. Ensure that an offeror's subcontracting plan reflects realistic goals and provides 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 a contracting officer receives a subcontracting plan with initial offers, provide an opportunity for 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 a negotiation strategy.~~

[(e) *Engagement with OSDBU.* The contracting officer should engage the GSA SBTA early in the procurement process, especially for procurements that are complex, critical to agency strategic objectives and mission, highly visible or politically sensitive.

(1) When reviewing the subcontracting plan, contracting officers shall use the document entitled "GSA Subcontracting Plan Review Checklist (GSA Form 4006)." The document is available on the OSDBU subcontracting page at <https://insite.gsa.gov/subcontracting>.

(2) The contracting officer shall submit subcontracting plan(s) to the GSA SBTA who will coordinate the required review with the SBA PCR.

(3) Once apparent awardee is known, the GSA SBTA and SBA PCR generally has 5 business days to review subcontracting plans. AA OSDBU has 10 business days to review subcontracting plans for acquisitions that meet any of the conditions listed below. Leases of real property and multiple award schedules do not require AA OSDBU review.

(i) Contract performance will occur for two or more contracting activities/regions and the estimated value of the acquisition exceeds \$50 million, including options.

(ii) The contract will be used by more than one Federal agency and the estimated total value of the acquisition exceeds \$50 million, including options.

(iii) Based on political sensitivity or importance to GSA, the AA OSDBU designates the procurement for review.

(4) The contracting officer shall consider any recommendations the GSA SBTA, SBA PCR, or AA OSDBU provides about the subcontracting plan. The contracting officer must also document the contract file with the final decision, especially including justification for any recommendation not adopted.

(5) If the contracting officer does not receive comments from OSDBU within the timelines in (e)(3), the contracting officer shall document the contract file and continue with the award process (see FAR 19.705-5(a)(3)).]

[(f) *Revising subcontracting plans.* Unlike the small business participation evaluation factor described in 515.304, apparent successful offerors may submit revised subcontracting plans, when requested by the contracting officer, before award without such exchanges constituting discussions (see FAR 15.306). Acceptability of subcontracting plans relate to the apparent successful offeror's responsibility and exchanges related to such subcontracting plans are not considered discussions.]

~~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, the contracting officer shall ensure that the offeror has included all subcontracts that contribute to contract performance (see FAR 52.219-9(d)(1)).~~

~~(g) The contracting officer shall 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. The contracting officer should 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 System for Award Management (SAM) (www.sam.gov) database to conduct market research and confirm the eligibility for SBA's procurement preference programs.~~

~~(2) Department of Commerce, Minority Business Development Agencies (MBDAs) at <http://www.mbda.gov>.~~

~~(3) GSA SBUCs and SBTAs, as well as OSBU.~~

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

~~(5) Small, minority, women-owned, and veteran business associations at www.gsa.gov/smallbusiness~~

~~(6) Local chambers of commerce.~~

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

~~(8) Department of Veterans Affairs for assistance in identifying Service Disabled Veteran-Owned Small Businesses (SDVOSBs) and Veteran-Owned Small Businesses (VOSBs) at www.yetbiz.gov.~~

~~(9) Dynamic Small Business Search (DSBS) at <http://dsbs.sba.gov>.~~

~~(h) In developing a negotiation strategy, the contracting officer shall consider whether the offeror's plan is realistic and does more than merely restate the elements required by FAR clause 52.219-9 and shall 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) Contracting officers shall obtain from the contractor copies of any commercial plan for the company's current fiscal year and approval document from another GSA contracting activity or another Federal agency. Incorporate these documents into the contract.~~

~~(j) If GSA is the first agency to enter into a contract with a company during the company's fiscal year, the contracting officer must approve the commercial plan on behalf of the Federal Government, acknowledge receipt of the Summary Subcontract Report (SSR), accept or reject the SSR in the Electronic Subcontracting Reporting System (eSRS), and evaluate compliance with the approved commercial plan. If contract administration is delegated, the Administrative Contracting Officer (ACO) generally is assigned responsibility for accepting or rejecting the SSR and evaluating compliance with the approved commercial plan. Subsequent GSA contracts awarded during the company's same fiscal year and incorporating the previously approved commercial plan will only require the submission of the Summary Subcontract Report submitted at the end of the Government's fiscal year.~~

~~(k) If the commercial plan was approved by another agency, the first GSA contracting officer entering into a contract with the company during the company's same fiscal year in which the plan was approved, requires the contractor to submit the SSR 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) Subcontracting plans requiring SBTA and SBA PCR review.~~

~~(1) For each contract that requires a subcontracting plan, the contracting officer will submit electronically the apparent successful offeror's subcontracting plan to the SBTA who will coordinate review by the SBA PCR. When the contracting officer makes multiple awards under a solicitation, electronically submit the subcontracting plans of all apparent successful offerors.~~

~~(i) Except as noted in paragraph (b) of this section, provide the SBTA an electronic copy of the plan at least 5 workdays before the anticipated award date.~~

~~(ii) 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~~

~~AAOSBU and consider any subsequent advice the AAOSBU provides. Document the final decision in the contract file.~~

~~(iii) If the contracting officer does not receive review comments from the SBTA within 5 workdays, the contracting officer shall document the file and continue with the award process (see FAR 19.705-5(a)(3)).~~

~~(b) Subcontracting plans requiring AAOSBU review.~~

~~(1) The AAOSBU (through the contracting officer's designated SBTA or Regional SBUC) will review the SBTA's and SBA PCR's recommendations for contracts that meet either of these conditions:~~

~~(i) Contract performance will occur in two or more Regions and the estimated value of the acquisition exceeds \$50 million (including options), excluding multiple award schedule contracts.~~

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

~~(2) The contracting officer shall provide the SBTA an electronic 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 the contracting officer's designated SBTA or Regional SBUC) has 5 workdays to review their recommendations and respond. All reviews must be completed in 10 workdays unless the contracting officer grants an extension.~~

~~(3) The contracting officer shall consider any recommendations the SBTA, SBA PCR, or AAOSBU provides about whether to accept or reject a subcontracting plan. Document the final decision in the contract file.~~

~~(4) If the contracting officer does not receive review comments from the SBTA (inclusive of AAOSBU review) within 10 workdays, the contracting officer shall document the file and continue with the award process (see FAR 19.705-5(a)(3)).~~

~~(c) Notification letter for individual subcontracting plans.~~

~~(1) The contracting officer shall approve the subcontracting plan as part of the award. After approval of an individual subcontracting plan, using FORMAT A in paragraph (c) of this section, the contracting officer shall electronically send a notification letter to the contractor confirming the subcontracting plan effective dates and when a new or updated plan will be required. The contracting officer shall also inform the contractor of the reporting requirements and due dates for submitting their Individual Subcontract Report (ISR) and Summary Subcontract Report (SSR) through the eSRS.~~

~~(2) The contracting officer shall send the letter electronically with the award package or as soon as practicable after award.~~

FORMAT A

Name Address City, State, Zip Code

Re: Approved Subcontracting Plan and Required Reports for Contract

No. _____:

Dear _____:

~~Your individual subcontracting plan submitted for the subject contract has been approved for the base period [insert MM/DD/YY through MM/DD/YY] with goals that are subject to revision for each remaining option period (if any).~~

~~You must submit subcontracting reports through the Electronic Subcontracting Reporting System (www.esrs.gov) using the Individual Summary Report (semi-annually) and the Summary Subcontract Report (annually).~~

~~Use the Individual Summary Report (ISR) to report cumulative 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 Summary Subcontract Report (SSR) 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. Include the Contracting Officer (CO), Administrative Contracting Officer (ACO), the Small Business Administration (SBA) Commercial Market Representative (CMR), the Small Business Technical Advisor (SBTA), and GSA's Subcontracting Plan Program Manager in the email distribution when submitting the ISR and SSR via eSRS.~~

~~[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].~~

~~(d) Notification letter for commercial plans.~~

~~(1) The contracting officer shall approve the commercial plan as part of the award. After approval of a commercial plan, using FORMAT B in paragraph (d) of this section, electronically send a notification letter to the contractor informing them of requirements and due dates for submitting the SSR via eSRS and confirm the subcontracting plan effective dates and when a new or updated plan will be required.~~

~~(2) Send the letter with the award package or as soon as practicable after award.~~

FORMAT B

~~Name Address City, State, Zip Code~~

~~Re: Approved Subcontracting Plan and Required Reports for Contract~~

~~No. _____:~~

~~Dear _____:~~

~~Your commercial plan, submitted in connection with the subject contract has been approved for the period of [insert MM/DD/YY through MM/DD/YY], by [insert name, address, and telephone number of approving official]. You must submit your Summary Subcontract Report (SSR) via eSRS. The SSR 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 small and service-disabled~~

~~veteran-owned small business concerns, please contact your local Small Business Technical Advisor your local Small Business Technical Advisor found at <https://insite.gsa.gov/osbucontacts> or the Office of Small Business Utilization by telephone at (202) 501-1021.~~

~~In addition, please include the SBA Commercial Market Representative (CMR) in the email distribution on the SSR in eSRS, [insert email address of contracting office administering the contract].~~

~~Sincerely,
Contracting Officer.~~

519.705-6 Postaward responsibilities of the contracting officer.

~~In addition to responsibilities described in FAR 19.705-6, the contracting officer must give the SBA Area Director, SBTA and OSDDBU a copy of the notice of award and the successful offeror's subcontracting plan within five work 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 Product/Service Code).~~
- ~~(h) Contracting Officer's name, address, and phone number.~~
- ~~(i) Administrative contracting office address and phone number.~~
- ~~(j) Type of plan and dates that plan will cover.~~
- ~~(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.~~

[(a) If multiple contracting officers are responsible for contract administration (e.g., ACO and PCO), the responsibilities outlined in FAR 19.705-6 must be clearly documented (e.g., in the contract administration plan).]

[(b) *Subcontracting plan reports.*

(1) Contracting officers are responsible for ensuring the contractors submit timely and accurate reports in the electronic Subcontract Reporting System (eSRS) and ensuring the contractor submitted the correct type of report(s) for the type of subcontracting plan in the contract. Failing to submit reports may indicate a lack of a good faith effort.

(2) Examples of what to look for when reviewing commercial and/or individual subcontracting plan reports can be found on the OSDDBU subcontracting page at <https://insite.gsa.gov/subcontracting>.]

(3) Real property Lessors shall use the Standard Form (SF) 294 instead of the ISR in eSRS to report subcontracting achievements. Use of the SF-294 by contractors to report cumulative subcontracting achievement under a GSA contract should be rare.

(c) *Small business participation compliance.* If a small business participation factor is utilized for evaluation (see 515.304), it should be monitored as part of contract administration.

(d) *Re-representation.* While re-representation does not apply to acquisitions for leasehold interest in real property, leasing contracting officers may consider obtaining a subcontracting plan from other than small business lessors as a result of novations or mergers.

519.705-7 [Compliance with the subcontracting plan.] ~~Liquidated damages.~~

(a) [**Good faith effort notifications.**] ~~Initial assessment.~~ The contracting officer shall **[Contracting officers shall]** provide the **[GSA]** SBTA **[a]** ~~an information~~ copy of his or her initial assessment the **[any]** written notice **[to a contractor]** that the contractor did not make a good faith effort to comply with the **[subcontracting]** plan. **[Contracting officers shall engage the Office of the General Counsel before issuing a final decision to assess liquidated damages.]**

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

- (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 the contracting officer's decision with supporting rationale.
- (5) A demand for liquidated damages.
- (6) An explanation of the contractor's appeal rights. **[under the Disputes clause].**

[(b)] ~~(e)~~ *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) The contracting officer shall submit to the SBTAs his or her final decision assessing liquidated damages.~~

519.706 Responsibilities of the cognizant administrative contracting officer.

(a) If **[a contracting officer, or administrative contracting officer (ACO),]** ~~an ACO~~ administers a contract with an individual subcontracting plan, ~~the ACO~~ **[that contracting officer]** must also monitor receipt of and accept or reject the **[required reports]** ~~ISRs~~ in eSRS. **[Reasons for any report rejections must be recorded in eSRS to prevent recurring errors. Contracting officers must ensure contractors submit revised reports within 30 days of rejection as required by FAR 52.219-9(l).]**

~~(b) On all contracts with a subcontracting plan (individual or commercial), the ACO must monitor receipt of the SSRs. ACO~~ **[Contracting officers are responsible]** ~~must monitor receipt of the SSR in eSRS, and the, Contracting Officers will review the reports to ensure they~~ **[for ensuring required subcontracting reports]** are submitted timely and accurately. **[Any shortcomings in timeliness or quality should be noted in the contract file and any past performance evaluation.]**

~~(c) Contracting officers shall review reports for progress in meeting subcontracting goals by comparing the applicable report with the approved plan. If percentage goals are not met, the contracting officer shall require the~~ **[The]** contractor **[must]** to explain the **[any subcontracting plan]** shortfall**[s and]** in the "Remarks" block of the subcontracting report. The ACO may also require the contractor to submit evidence of its outreach efforts to locate and provide subcontracting opportunities to **[small businesses, small disadvantaged businesses, women-owned small businesses, veteran-owned small businesses, service-disabled veteran-owned small businesses, and HUBZone small businesses.]** ~~small business, HUBZone small business, small disadvantaged business, women-owned small, veteran-owned small, and service-disabled veteran-owned small business concerns.~~

(d) **[Contracting officers must contact the contractor within 30 days of any failure to submit required subcontracting report(s) by the due dates established in FAR 52.219-9(l), and request immediate submission. Contracting officers must notify contractors that failure to submit reports may be considered a lack of good faith effort and may result in assessment of liquidated damages or may be considered in any past performance evaluation of the contractor.]** ~~If the ISR or SSR has not been received by the due date, the contracting officer shall contact the contractor and request that the report be submitted immediately. For contracts with individual subcontracting plans, the contracting officer shall pay particular attention to the final ISR required at contract completion. Contracting officers shall~~

~~issue to contractors who do not respond to the first notice a second notice by certified mail indicating that:~~

~~(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, the ACO 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 shall 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(b) 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) The ISR and SSR shall be submitted through eSRS.~~

* * * * *

Part 570 - Acquiring Leasehold Interests in Real Property

* * * * *

Subpart 570.8 - Forms

570.801 Standard forms.

* * *

[In accordance with 519.705-6(b), lessors shall use the Standard Form (SF) 294 instead of the ISR to report subcontracting achievements. Use of the SF-294 by contractors to report cumulative subcontracting achievement under a GSA contract should be rare. SSRs are still required in the eSRS system.]

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