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COMMERCE ACQUISITION MANUAL
1319.70

DEPARTMENT OF COMMERCE
SMALL BUSINESS PROGRAMS

COMMERCE ACQUISITION MANUAL
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SMALL BUSINESS PROGRAMS

SECTION 1 – OVERVIEW

1.1 Background

In accordance with the Small Business Act (Act), as promulgated by Federal Acquisition Regulation (FAR), it is the policy of the Government to provide maximum practicable opportunities in its acquisitions to small, small disadvantaged business (SDB), women-owned small business (WOSB) including economically disadvantaged women-owned small business concerns, historically underutilized business zones (HUBZone), veteran-owned, and service-disabled veteran owned small business (SDVOSB) concerns. Such concerns must also have the maximum practicable opportunity to participate as subcontractors, consistent with efficient contract performance. The Department of Commerce (DOC, Department) firmly supports small business concerns as a successful and strong small business community is integral in job creation, community empowerment and economic revitalization. The strength and viability of small businesses are of significant importance to the nation's economy and a key component of DOC's mission to create conditions for economic growth and opportunity.

1.2 Purpose

The purpose of this Commerce Acquisition Manual (CAM) chapter is to provide policy and guidance to maximize acquisition opportunities to small business concerns to the fullest extent practicable.

1.3 Applicability

The requirements of this chapter are applicable to all acquisitions within the Department of Commerce and its Operating Units, with the exception of acquisitions in which the award will be made or the work will be performed entirely outside the United States or its outlying areas (see FAR 2.101 for current list of outlying areas).

1.4 Policy

It is the policy of the Department to foster and promote, to the maximum extent practicable, opportunities for small business and socio-economic concerns to compete and participate in contracts and subcontracts consistent with efficient and effective contract performance.

1.5 Small Business Goals

The Small Business Act, as amended, establishes statutory prime and subcontracting goals for small, service-disabled veteran-owned, HUBZone, small disadvantaged, and women-owned small business concerns. Further, the Act directs the Small Business Administration (SBA) to negotiate goals with federal agencies. Toward this end, the Department negotiates very robust small business goals for prime and subcontract awards to small and socio-economic business concerns and has consistently maintained an impressive track record toward statutory goal achievement.

In addition to the statutory requirements, the Department has taken the initiative to establish prime contracting goals for minority-owned small businesses who participate in SBA's 8(a) Business Development Program, 8(a) and for veteran-owned small businesses (VOSB). The current small business and socio-economic prime and subcontracting goals for the Department are provided in *Appendix B, Small Business and Socio-Economic Goals*.

1.6 Roles and Responsibilities

1.6.1 Chief Acquisition Officer (CAO)

The Chief Acquisition Officer is responsible for:

a. Providing a response to SBA on appeals of decisions to reject SBA recommendations;

b. Determining disposition of certain actions if SBA and Contracting Officer cannot agree, issue an appeal decision if requested by SBA and document reasons for decision; and

c. Confirming or withdrawing request by Contracting Officer to SBA for waiver to terminate requirement.

1.6.2 Senior Procurement Executive (SPE)

The Senior Procurement Executive is responsible for:

a. Developing and implementing policies, procedures and practices for acquisitions throughout DOC that ensure compliance with the Small Business Act and Federal Acquisition Regulations;

b. Ensuring performance of acquisition activities increase awards to small business concerns, in all categories, to achieve the Department's small business goals;

c. Overseeing the Department's implementation of small business programs through normal oversight reviews of procurement offices; and

d. Approving Justifications and Approvals for sole-source 8(a) contracts over $25 million.

1.6.3 Senior Bureau Procurement Official (BPO)

The Senior Bureau Procurement Official is responsible for:

a. Complying with regulations, policies and guidance that support the Department's Small Business Program within their Operating Unit(s);

b. Ensuring all planned acquisition forecasts requirements above the SAT within Operating Unit(s) are entered into the Advanced Acquisition Planning (AAP) Module of PRISM;

c. Nominating a Bureau Small Business Specialist who is well qualified, technically trained, and familiar with the supplies and services contracted for by the activity;

d. Working with the Bureau Small Business Specialist to identify advance planned acquisitions that are amendable to be set-aside for small businesses, cannot be set-aside for small businesses, or require additional research to make a set-aside determination;

e. Establishing internal controls to ensure contract files are appropriately documented to reflect small business requirements;

f. Sponsoring small business outreach events;

g. Developing, on an annual basis, a strategic plan to increase award dollars to small business concerns and achieve small business goals to the fullest extent practicable;

h. Providing concurrence on Justifications and Approvals for sole-source 8(a) contracts over $25 million;

i. Providing an annual projection of anticipated set-aside dollars and actions, and reporting the progress of achieving those anticipated goals quarterly; and

j. Validating the accuracy of data regarding contractor size and type, set-aside information, and "bundled" actions in the Federal Procurement Data System.

1.6.4 Head of Contracting Office (HCO)

The Head of Contracting Office is responsible for:

a. Ensuring acquisition professionals within their contracting offices comply with requirements identified in this policy;

b. Authorizing partial set-aside when only one large business and one small business might respond;

c. Promoting goals for the small business programs as set forth in FAR Part 19 and herein; and

d. Ensuring the Small Business Administration Procurement Center Representative (PCR) is provided support, cooperation, and access to all reasonably obtainable contract information pertinent to the representative's official duties.

1.6.5 Contracting Officers (CO)

The Contracting Officer is responsible for:

a. Facilitating regular collaboration among the acquisition team to include the Small Business Specialist and PCR;

b. Conducting meaningful market research to support a set-aside/non-set-aside determination;

c. Documenting the contract file to support an action not set-aside or reserved for small businesses;

d. Preparing and submitting a CD-570, *Small Business Programs Review* Form as required;

e. Determining appropriateness of using business size as an evaluation factor;

f. Considering contractor's past compliance with subcontracting plans as a factor in determining contractor's responsibility prior to contract awards and/or exercising options;

g. Reviewing the Offeror's subcontracting plans and forwarding copies of proposed plans to the Small Business Specialist;

h. Preparing written justifications for contracts in excess of $25 million awarded on a sole-source basis to an 8(a) firm;

i. Acknowledging receipt of or rejecting the Individual Subcontracting Report, the Summary Subcontracting Report for Commercial Item Subcontracting Plans, and/or the Small Disadvantaged Business Participation Report in the electronic Subcontracting Reporting System; and

j. Monitoring contractor's progress in complying with their established subcontracting plan requirements.

1.6.6 Bureau Small Business Specialist

The Bureau Small Business Specialist is responsible for:

a. Collaborating with the acquisition team on the acquisition strategy and assisting with market research;

b. Reviewing planned procurements and making recommendations as to whether a particular acquisition should be set-aside or reserved for one of the small business categories or socio-economic programs;

c. Reviewing CD-570*, Small Business Programs Review* Forms;

d. Monitoring bureau-level acquisition forecasts submitted in the AAP Module of PRISM;

e. Working with BPOs to identify advance planned acquisitions that are amendable to be set-aside for small businesses, cannot be set-aside for small businesses or require additional research for the Contracting Officer to make a set-aside determination;

f. Working collaboratively with Office of Small and Disadvantaged Business Utilization, other Bureau Small Business Specialists and the PCR to coordinate participation in small business outreach events and conferences;

g. Counseling small businesses on doing business with DOC and providing information on known requirements to assist small business concerns pursue contracting opportunities; and

h. Making a subcontracting plan acceptability recommendation prior to forwarding the proposed contract and subcontracting plan to the PCR for review.

1.6.7 Program Official

The Program Official is responsible for:

a. Executing advance acquisition plans to permit development of appropriate acquisition strategy;

b. Ensuring requirements are not unduly restrictive, thereby enabling small business participation to the maximum extent possible;

c. Conducting market research targeting small business concerns and meeting with small businesses to exchange meaningful information about specific acquisitions;

d. Supporting the Contracting Officer in developing acquisition strategy documentation to accompany the CD-570 Form; and

e. Coordinating with the Small Business Specialist, PCR and OSDBU as applicable.

1.6.8 Office of Small and Disadvantaged Business Utilization (OSDBU)

The Director of the Office of Small and Disadvantaged Business Utilization is responsible for:

a. Serving as the Department's focal point and advocate for small business and socio-economic concerns and interaction with the SBA in carrying out the Department's functions and duties in sections 8, 15, and 31 of the Small Business Act;

b. Coordinating the development of the Department's small business contracting goals with the Chief Financial Officer/Assistant Secretary for Administration, Deputy Assistant Secretary for Administration, and the Office of Acquisition Management, with input from other Departmental offices as appropriate and negotiating small business contracting and related goals with SBA, and recommending Secretarial approval of such goals;

c. Appointing a Bureau Small Business Specialist who is well qualified, technically trained, and familiar with the supplies and services contracted for by the activity;

d. Providing the Chief Acquisition Officer and Senior Procurement Executive advice and comments on acquisition strategies, market research, and justifications; and

e. Participating in acquisition planning and making recommendations to acquisition officials on strategies to make the acquisition more conducive to small business participation.

1.6.9 Small Business Administration Procurement Center Representative (PCR)

The Small Business Administration Procurement Center Representative is responsible for:

a. Reviewing proposed acquisition packages provided in accordance with FAR Subpart 19.202-1 and approving the CD-570 Form for acquisitions valued over the Simplified Acquisition Threshold not set-aside for small business participation;

b. Reviewing proposed contracts that require a subcontracting plan along with the accompanying subcontracting plan and supporting documents;

c. Recommending alternate contracting methods to increase small business prime contracting and subcontracting opportunities;

d. Conducting periodic reviews to ascertain the Department's compliance with small business statutory regulations;

e. Responding to inquiries from small businesses regarding contracting opportunities;

f. Initiating appeals of Contracting Officers' decisions;

g. Providing research tools, assistance and training to contracting staff and small businesses;

h. Sponsoring and participating in conferences and outreach events designed to increase small business participation; and

i. Reviewing solicitations that require subcontracting plans to submit advisory findings to the Contracting Officer prior to solicitation issuance.

END OF SECTION 1

SECTION 2 – MAXIMIZING SMALL BUSINESS PARTICIPATION

2.1 Background

It is the policy of the Department to engage in meaningful, aggressive outreach activities and programs to assist, counsel and advise small business concerns on how to pursue contracting opportunities as prime or subcontractors. Contracting Officers shall ensure that small business concerns have a fair opportunity to compete for Federal contracts.

2.2 Outreach and Market Research

Senior Bureau Procurement Officials shall cooperate with the OSDBU and PCR and participate in small business outreach events as well as sponsor at least one vendor and/or small business outreach event annually. In addition, when planning an acquisition, Contracting Officers shall conduct market research and outreach activities, as appropriate to the circumstances, such as:

a. Taking advantage of the full range of market research data to understand marketplace capabilities and identify all reasonable potential solutions;

b. Providing a general description of the scope or purpose of the requirement through a request for information, and inviting potential small business Offerors to submit information or attend an industry day to have discussions regarding marketplace capabilities;

c. Through a pre-solicitation notice, encouraging small businesses to submit capability statements so that they can be advised of their potential competitive viability;

d. Collaborating with Bureau Small Business Specialist, PCR and OSDBU to assist with market research in order to identify qualified and capable small business concerns for prime and subcontracting opportunities; and/or

e. Utilizing tools such as the *Dynamic Small Business Search* to identify all small businesses capable of performing a contract.

2.3 Acquisition Planning

Contracting Officers shall facilitate regular collaboration of contracting and program offices with the Small Business Specialist during acquisition planning to identify requirements that can be met effectively through small businesses, and the most suitable acquisition strategy that will aid in meeting and exceeding the Department's small business goals.

Pursuant to FAR Part 7, acquisition planning should begin as soon as the need is identified. As an integral part of planning, the Contracting Officer and Small Business Specialist must ensure socio-economic and small business set-asides are considered with every acquisition and, as appropriate, actions are taken to consider such firms are well documented in the contract file.

To effectively identify potential contract opportunities suitable for small businesses, Program Officials shall develop advance acquisition forecasts or execute planned acquisitions as soon as a need is identified to allow coordination with the Bureau Small Business Specialist and PCR. As forecasts are required prior to appropriation of funds for the next fiscal year, forecast may be based on the best estimate available from budget requests. Each Senior Bureau Procurement Official may develop and issue specific guidance for their Operating Unit(s) regarding acquisition forecast submissions that includes the use of the AAP Module in PRISM. Forecast information will be posted to the Department's Office of Small and Disadvantaged Business Utilization webpage at:

https://www.commerce.gov/osdbu. In addition, acquisition forecast will be available on the Department's primary webpage at:

https://www.commerce.gov/work-with-us/grants-and-contract-opportunities.

Small Business Specialist shall review bureau-level advance acquisition planning forecast in the AAP Module of PRISM on a routine basis. Small Business Specialist shall also meet with their Senior Bureau Procurement Officials periodically to identify those planned acquisitions that:

a. Are known to be amendable to set-aside for small business concerns;

b. Cannot be set-aside; or

c. Need further investigation before a set-aside determination can be made.

Any planned acquisition identified in the acquisition forecast that either cannot be set-aside for small business concerns or requires further investigation before a set-aside determination can be made, should be assigned as early as practicable to a Contract Specialist/Officer to ensure adequate time is available to conduct meaningful market research to develop and support the acquisition strategy.

END OF SECTION 2

SECTION 3 – SET-ASIDES FOR SMALL BUSINESS

3.1 Background

The Small Business Act, as amended, establishes statutory authority that requires certain acquisitions to be set-aside exclusively for participation by small businesses and socio-economic concerns to ensure small businesses are awarded a fair proportion of Government contracts. To promote the use of small business concerns and assist in meeting small business goals, Contracting Officers shall utilize small business procurement mechanisms to include set-asides, under which certain contracts are reserved for competition among small businesses. *Refer to FAR Part 19 for applicable small business set-asides statutory requirements, including parity rules and socio-economic program determination.*

3.2 Recommendation for Small Business Set-Aside

Acquisitions that are not set-aside for small business concerns or actions intended for award using procurement mechanisms under the Small Business Program with expected life-cycle costs in excess of the Simplified Acquisition threshold (SAT) require review and concurrence of the proposed acquisition strategy prior to release of the solicitation utilizing the CD-570, *Small Business Programs Review* Form. Concurrence of the recommended action from the Bureau Small Business Specialist and PCR must be obtained prior to release of the solicitation.

3.3 Small Business Set-Aside Appeal Process

Any dispute between the PCR and Contracting Officer may be resolved either informally through further discussion between the parties and members of the acquisition team or facilitation by OSDBU to provide clarification on the acquisition strategy; or formally through the appeal process as described in FAR 19.505 and herein using the SBA Form 70. An attempt to resolve a dispute should be made informally, and only if a mutually agreeable resolution cannot be reached, should the formal appeal process initiate.

If the Contracting Officer rejects the PCR's recommended action and a resolution cannot be reached informally, the following steps must be conducted within the stated timeframes:

Action Taken	Timeframe Allotted
CO must provide the PCR written notice formally rejecting the recommendation and stating the reasons for disapproval.	Within 5 working days of receipt of the PCR's recommendation.
PCR may either concur with the CO's decision, or appeal to the CAO	Within 2 working days upon receipt of the CO's rejection notice.
CAO shall render a written decision to the PCR.	Within 7 working days of receipt of the PCR's appeal.
If the CAO concurs with the CO's decision, then the PCR may request the CO to suspend action on the acquisition until the SBA Administrator appeals to the Department's Secretary.	Within 2 working days of receipt of the CAO's written decision.
The SBA Administrator may appeal to the Secretary and notify the Contracting Officer that such an appeal has been taken.	Within 15 working days.

The Contracting Officer shall suspend any further contract action until notification is received that the SBA appeal has been settled. If notification is not received by the Contracting Officer within 15 days, the Contracting Officer may conclude the SBA request to suspend the contract action has been withdrawn and the SBA Administrator did not submit an appeal to the Secretary. However, the request to suspend action on an acquisition need not be honored if the Contracting Officer determines that proceeding with award is in the public's interest. In this instance, the Contracting Officer shall promptly

notify the PCR of the determination to proceed, include in the contract file a statement of the facts justifying the determination, and provide a copy of the justification to the PCR.

The Senior Bureau Procurement Official shall forward to the Chief Acquisition Officer, the required written justification for rejecting the PCR's recommendation, including the history of discussions between the Contracting Officer and PCR, and any attempts to resolve the matter. The Chief Acquisition Officer shall reply on behalf of the Secretary to the SBA appeal within 30 working days. The decision of the Chief Acquisition Officer shall be final.

END OF SECTION 3

SECTION 4 – SMALL BUSINESS SUBCONTRACTING PROGRAM

4.1 Background

In accordance with FAR Subpart 19.7, any contractor, other than a small business concern, receiving a contract for more than the SAT must agree in the contract that small business, VOSB, SDVOSB, HUBZone, SDB, and WOSB will have the maximum practicable opportunity to participate in contract performance consistent with its efficient performance.

Subcontracting provides small business concerns the opportunity to meet federal government requirements that would otherwise be unattainable due to limited resources, including staffing and capital. As small businesses often provide expertise or fill specialized niches that only they can perform, it is necessary for Contracting Officers to devise acquisition strategies that encourage large prime contractors to team with small businesses and socio-economic concerns.

4.2 Encouraging Small Business Subcontracting

In solicitations for negotiated acquisitions, Contracting Officers may require submission of subcontracting plans with initial offers, or at any other time prior to award. In determining when subcontracting plans should be required, consider the integrity of the competitive process; the goal of affording maximum practicable opportunity for small business, VOSB, SDVOSB, HUBZone, SDB, and WOSB small business concerns to participate; and the burden placed on Offerors.

When subcontracting plans are submitted, Contracting Officers are required to evaluate the contents of the subcontracting plan to determine how small businesses will be utilized as an integrated component of the Offeror's overall proposal. In negotiated acquisitions, the Contracting Officer should consider including small business participation as an evaluation factor or significant subfactor as well as past performance in subcontracting plan compliance and goal achievement.

The Contracting Officer is encouraged to offer incentives to large prime contractors to provide subcontracting opportunities to small business concerns. In addition to source selection evaluation factors, other types of incentives include monetary payments based on actual subcontracting achievement or award-fees for exceeding goals.

4.3 Subcontracting Plans

All acquisitions with life-cycle costs expected to exceed $750,000 ($1.5 million for construction) that have subcontracting opportunities require the apparent successful Offeror to submit an acceptable subcontracting plan prior to the award of the contract, with the exception of:

a. Small business concerns;

b. Contracts for personal services;

c. Contracts or contract modifications that will be performed entirely outside of the United States and its outlying areas; or

d. Modifications to contracts within the general scope of the contract that do not contain FAR Clause at 52.219-8, *Utilization of Small Business Concerns, (*or equivalent prior clauses).

If it is determined that the planned acquisition has no subcontracting opportunities, the Contracting Officer must document the determination. Examples of acceptable justification to support this determination include: Offeror's make-or-buy policies or programs (the work is performed in-house), or the contract is for products or services that are particularly specialized or not generally available in the commercial market. *Refer to FAR Subpart 19.704 and Section8(d) of the Small Business Act, as amended, for subcontracting plan requirements*.

4.3.1 Subcontracting Plan Review

Contracting Officers must review the Offeror's subcontracting plan to ensure it adequately addresses all required elements and that the established goals are at levels that can be reasonably expected to be met from the Offeror expending good faith efforts.

The Contracting Officer shall evaluate the Offeror's performance in awarding subcontracts for the same or similar products or services to small business and socio-economic concerns and consider the contractor's compliance with previous subcontracting plans, as captured in the Contractor Performance Assessment Reporting System (CPARS)/Past Performance Information Retrieval System (PPIRS) or through other past performance evaluation methodologies, as a factor in determining contractor responsibility. Contracting Officers shall allow the PCR five (5) working days to review solicitations that require submission of a subcontracting plan and to submit advisory findings prior to issuing the solicitation.

The Small Business Specialist will be given five (5) working days to review subcontracting plans and upon concurrence, forward the plan to the PCR who will have 5 working days to review the negotiated contractual document and subcontracting plan before contract execution. The Small Business Specialist and PCR may provide advice and recommendations to the Contracting Officer regarding the goals of the subcontracting plan. The Contracting Officer shall provide final approval of the subcontracting plan and incorporate the approved plan and applicable reporting requirements (see Section 7.4 and FAR 19.704) into the awarded contract by reference.

4.3.2 Post-Award Activities

After contract award, the Contracting Officer must:

a. Send a copy of the award to the Area Director, Office of Government Contracting within the SBA area office in which the contract will be performed (the SBA District Offices may be found at https://www.sba.gov/about-sba/sba-district-offices/);

b. Forward a copy of each commercial subcontracting plan and any associated approvals to the Area Director, Office of Government Contracting within the SBA area office in which the contractor's headquarters is located;

c. Provide the PCR a copy of any subcontracting plan submitted in response to a sealed bid solicitation; or final negotiated subcontracting plan incorporated into the contract (unless version previously submitted for review prior to contract execution is unchanged);

d. Notify the PCR of the opportunity to review subcontracting plans for contract modifications;

e. For any contracts where contract administration has been delegated to a contract administration office, forward a copy of each subcontracting plan, or a determination that there is no requirement for a plan, to the cognizant contract administration office;

f. As applicable, initiate action to assess liquated damages in accordance with FAR 19.705-7 for contractor failure to make good faith efforts to comply with the subcontracting plan, or document contract file with rationale determining that the contractor has exerted good faith efforts to meet requirements of the plan;

g. Monitor contractor performance in fulfilling subcontracting commitments and furnish immediate notice and rationale if the contractor is failing to comply in good faith with the subcontracting plan;

h. Acknowledge receipt or reject the Individual Subcontracting Report and Summary Subcontracting Report for Commercial Plans in eSRS;

i. Include assessment of contractor's achievement of subcontracting plan goals as part of their past performance evaluation in CPARS/PPIRS;

j. At close-out, ensure all subcontracting requirements in accordance with FAR Subpart 19.7 have been met and document the contract file accordingly; and

k. To the extent a prime contractor is unable to make a good faith effort to utilize its small business subcontractors in accordance with its subcontracting plan, the Contracting Officer shall request the contractor to provide written explanation of why they were unable to do so within 30 days of contract competition.

END OF SECTION 4

SECTION 5 – THE SMALL BUSINESS 8(a) PROGRAM

5.1 Background

The Small Business Act authorized SBA to establish a business development program, which is known as the 8(a) Business Development Program. The 8(a) program promotes the development of small business concerns owned and controlled by socially and economically disadvantaged individuals. Pursuant to section 8(a) of the Small Business Act, SBA is authorized to enter into all types of contracts with other Federal agencies and to subcontract the performance of these contracts to qualified participants in the 8(a) Business Development Program.

5.2 8(a) Partnership Agreement

Through a Partnership Agreement, SBA has delegated to the Department of Commerce its authority under section 8(a) of the Small Business Act to enter into prime contracts and to subcontract the performance of the contracts to eligible 8(a) participants. Under the Partnership Agreement the SPE has authority to award contracts, modifications, options and purchase orders under the provisions of section 8(a) of the Small Business Act as implemented in FAR Subpart 19.8. The Senior Procurement Executive has authorized a class deviation from sections of FAR Subpart 19.8 and FAR Part 52, which re-delegates the authority to enter into 8(a) prime contracts and purchase orders to DOC Contracting Officers. A copy of the 8(a) Partnership Agreement between the SBA and DOC is provided as *Appendix C*.

When awarding 8(a) contracts and purchase orders, Contracting Officers shall operate in accordance with the terms of the Partnership Agreement and fully utilize streamlined procedures. Contracting Officers shall review and comply with responsibilities and procedures for 8(a) awards as outlined in the Partnership Agreement and work closely with their Small Business Specialist and the PCR. In addition, under the Partnership Agreement Contracting Officers shall:

a. Monitor and ensure 8(a) contract compliance requirements are in accordance with applicable regulations in FAR Parts 19, 42, 52, and 13 Code of Federal Regulation Part 124;

b. Follow requirements in the Partnership Agreement and operate in accordance with the class deviation to sections of FAR Subpart 19.8 and provisions and contract clauses in FAR Part 52;

c. Submit offering letters to the appropriate SBA office and a copy of all offering letters to the PCR. The SBA District Offices may be found at https://www.sba.gov/about-sba/sba-district-offices/;

d. Report all 8(a) awards in the Federal Procurement Data System – Next Generation (FPDS-NG);

e. Make available upon request during SBA's onsite agency reviews, any non-classified information in contract files awarded pursuant to section 8(a) authority and the Partnership Agreement;

f. Provide a copy of all contract awards, modifications, options and purchase orders executed under the Partnership Agreement to the SBA servicing district office within 15 working days of the date of award; and

g. Include provisions in all contract awards, modifications, options and purchase orders awarded or issued under the 8(a) Business Development Program that require Program Participants to comply with the Subcontracting Limitations and shall conduct and document an assessment at the time of contract award of the Participant's ability to comply.

5.3 Justification and Approval

In accordance with section 811 of the National Defense Authorization Act for Fiscal Year 2010 and FAR Subparts 6.303 and 19.808-1, a Justification and Approval (J&A) is required prior to awarding a sole-source contract in excess of $25 million under the 8(a) program. The statutory requirement for a justification is not a ceiling or a "cap" on sole-source awards over $25 million for 8(a) contractors; it specifically requires execution of a J&A documenting the reasons for making the award on a sole-source basis rather than competing among the small businesses in the 8(a) program. It further requires the J&A be approved and posted for public view within 14 days after award.

As such, J&As for sole-source awards made to an 8(a) firm in excess of $25 million must be submitted to the OAM mailbox for approval by the SPE at: OAM_Mailbox@doc.gov. The J&A shall not contain any contractor proprietary data or information exempt from disclosure under the Freedom of Information Act. If the justification appears to contain proprietary data, the Contracting Officer should provide the contractor an opportunity to review the justification before making it available for public inspection. This process must not prevent or delay the posting of the justification in accordance with the required timeframes.

At a minimum, the J&A shall include:

a. A description of the requirement and how the contract will meet the identified need;

b. Reference to the exception from the requirement to use competitive procedures when entering into contracts as outlined at FAR Subpart 19.805-1;

c. Determination that the use of a sole-source contract is in the best interest of the Department; and

d. Determination that the anticipated cost of the contract is fair and reasonable.

Additionally, the justification and related information must be posted for a minimum of 30 days on the Government-wide Point of Entry (GPE) website at: www.SAM.gov and also on OAM's website at: https://www.commerce.gov/oam.

5.4 Contract Clauses

Contracting Officers shall insert applicable Commerce Acquisition Regulation (CAR) clauses and provisions in 8(a) solicitations and contracts processed under the Partnership Agreement (see Appendix C for Partnership Agreement including class FAR deviation clauses).

The clauses at FAR 52.219-11, *Special 8(a) Contract Conditions,* 52.219-12, *Special 8(a) Subcontract Conditions*, 52.219-17*, Section 8(a) Award*, and 52.219-18, *Notification of Competition Limited to Eligible 8(a) Concerns* shall not be used.

END OF SECTION 5

SECTION 6 – REPORTING REQUIREMENTS

6.1 Small Business Contract Data Reporting

Complete, accurate, and timely contract data reporting in the Federal Procurement Data System is essential. Contracting Officers must ensure small business classification FPDS fields such as: “Bundled Contracts”; “Type Set Aside”; “Small Business Size Selection and Subcontract Plan;” etc., are complete and accurate prior to executing the award.

END OF SECTION 6
END OF CAM 1319.70

APPENDICES

APPENDIX A
Definitions

Rule of Two – A rule that requires a small business set-aside on contracts above the Simplified Acquisition Threshold when the Contracting Officer determines that there is a reasonable expectation that: (1) offers will be obtained from at least two responsible small business concerns offering the products of different small business concerns, and (2) award will be made at fair market prices. This rule is based on the assumption that two competing concerns will provide sufficient competition to ensure a fair and reasonable price.

Socio-Economic Programs – Programs that are incorporated into the procurement process to foster the achievement of national goals. The small business socio-economic programs referenced in this policy refer to the small business programs in FAR Part 19, which are: 8(a) Business Development participants, Historically Underutilized Business Zone small businesses, Service-Disabled Veteran-Owned Small Business and Woman-Owned Small Business programs. The reference to socio-economic programs in this policy does not refer to the programs in FAR Part 26.

APPENDIX B
SMALL BUSINESS & SOCIO-ECONOMIC GOALS

Fiscal Year 2027 Goals

The Fiscal Year 2027 small business and socio-economic goals for the Department are listed below.

Prime Contracting Goals	
Business Category	**Small Business Administration-Assigned Goal**
Small Business	38.66%
SDB	5.00%
WOSB	5.00%
HUBZone	3.00%
SDVOSB/VOSB	10.00%

Subcontracting Goals	
Business Category	**Small Business Administration-Assigned Goal**
Small Business	52.84%
SDB	5.00%
WOSB	5.00%
HUBZone	3.00%
SDVOSB	10.00%

APPENDIX C
8(a) Partnership Agreement