

OFFICE SMALL BUSINESS PROGRAMS (OSBP)

FY23 SUBCONTRACTING PLAN TRAINING
02 FEBRUARY 2023

PRESENTERS:

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General Information!

- During presentation, please mute
- In the essence of time, use “Chat” to submit any questions
- During the presentation, we will response to some questions in the “Chat”.
- There will be a short Question and Answer Session at the end. All questions submitted in the “Chat” will receive a response via a follow-up method
- Presentation slides will be made available via a follow-up method



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Subcontracting Plans



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WHAT IS A SUBCONTRACT?

Any agreement (other than one involving an employer-employee relationship) entered by a Federal Government prime contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.



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BASICS

➤ FAR 19.7, The Small Business Subcontracting Program:

Subcontracting Plan Required:

– From “**Other than Small” Business**”
(Includes Non-profits, Educational Institutions, Government Entities, & Foreign-owned Firms)

– For contract or modification **over \$750,000 (\$1.5M for construction)**

➤ FAR Clause 52.219-9, Small Business Subcontracting Plan

➤ FAR 19.702(a)(1)(i) - **Acceptable Subcontracting Plan must be negotiated prior to contract award**



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WHEN IS A SUBCONTRACTING PLAN NOT REQUIRED

- Small Business Concerns
- Personal Services Contracts
- No Subcontracting Opportunities Exist
 - Approved one level above the Contracting Officer
 - Place documentation in contract file
- Work Performed Entirely of Outside the United States & Outlying Areas



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4 TYPES OF SUBCONTRACTING PLANS

- Individual Subcontracting Plan
- Master Subcontracting Plan
- Commercial Plan
- DOD Comprehensive Plan

Note: A contract may have no more than one Subcontracting Plan (FAR 19.705-2(e))



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INDIVIDUAL SUBCONTRACTING PLAN

- Applies to individual contract
- Covers entire contract period, including separate goals for each option period (FAR 19.704(c))
- Contains required plan elements (FAR 52.219-9(d))
- CO is responsible for negotiating goals (FAR 52.219-9(c)(1))
- Reporting Requirements:
 - Individual Subcontracting Report (ISR) or SF 294 required semiannually (FAR 19.704(a)(10)(iv)(A))
 - Summary Subcontracting Report (SSR) required annually (FAR 19.704(a)(10)(iv)(B))



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MASTER SUBCONTRACTING PLAN

- Developed on plant or division-wide basis
- Effective for 3 years after approved
- Contains required plan elements EXCEPT goals
- Goals negotiated for each contract by CO
- Master plan + goals are combined and become an individual plan effective for the life of the contract
- Reporting Requirements: N/A

FAR 19.704(b))



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COMMERCIAL PLAN

- Preferred type for “commercial items”
- Applies to the entire production of commercial items on a corporate, plant, division, or product line basis
- Annual plan based on Contractor’s fiscal year
- Remains in effect during the contractor’s fiscal year for all Federal government contracts in effect during that period
- Contains required plan elements
- Once a commercial plan has been approved, the Government shall not require another plan from the same contractor while the plan remains in effect
- Reporting Requirements: SSR required annually

(FAR 19.704(d))



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COMPREHENSIVE SUBCONTRACTING PLAN (DOD CONTRACTS ONLY)

- DFARS 219.702, Test Program for Negotiation of Comprehensive Small Business Subcontracting Plans
- Negotiated on corporate, plant, or division basis
- Annual plan for all DOD subcontracting, based on Government fiscal year
- Contains required plan elements
- DCMA administers program
- Reporting Requirements: SSR required semiannually



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WHO REVIEWS PLANS?

➤ Individual & Master Plans

- Contracting Officer (CO)
- Small Business Specialist (SBS)
- Procurement Center Representative (PCR)

- **FAR 19.705-4(d)(7)** - Obtain advice and recommendations from the SBA procurement center representative (or, if a procurement center representative is not assigned, see [19.402\(a\)](#)) and the agency small business specialist.



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WHO REVIEWS PLANS?

➤ Commercial Subcontracting Plan

- First Approval – CO for first Federal contract and SBS & PCR
- Subsequent Annual Approvals – CO responsible for the uncompleted contract with the latest completion date
- Contractor provides a copy of the approved plan to each CO responsible for an ongoing contract that is subject to the plan

➤ DOD Comprehensive Subcontracting Plans

- Negotiated with DCMA annually



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WHEN TO REJECT SUBCONTRACTING PLANS?

Subcontracting plans shall be rejected if they do not meet ALL of the elements of FAR 52.219-9(d), to include ALL 15 different assurances.



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SUBCONTRACTING PLANS NOTIFICATIONS/CONCURRENCES

FAR 19.705-4 & 19.707-5

Notify the contracting activity's small business office of the opportunity to review the proposed subcontracting plan and provide a reasonable amount of time to review the material and make recommendations. You should also consider coordinating with the small business office at the cognizant administration office (e.g., DCMA), when appropriate.

Notify the PCR of the opportunity to review the proposed contract (including the subcontracting plan and supporting documentation) and provide a reasonable amount of time to review the material and submit recommendations to the contracting officer. As a best practice, you should coordinate with the PCR through your local small business office and should generally allow at least 7 working days for this review.

FAR 19.705-6(d)

(d) Notify the SBA procurement center representative (or, if a procurement center representative is not assigned, see 19.402(a)) of the opportunity to review subcontracting plans in connection with contract modifications.



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FAR 52.219-9(d)

15 Elements - Checklist



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FAR 52.219-9(d)(1)

(d) The Offeror's subcontracting plan shall include the following:

(1) Separate goals, expressed in terms of total dollars subcontracted, and as a percentage of total planned subcontracting dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. For individual subcontracting plans, and if required by the Contracting Officer, goals shall also be expressed in terms of percentage of total contract dollars, in addition to the goals expressed as a percentage of total subcontract dollars. The Offeror shall include all subcontracts that contribute to contract performance and may include a proportionate share of products and services that are normally allocated as indirect costs. In accordance with [43 U.S.C. 1626](#):

(i) Subcontracts awarded to an ANC or Indian tribe shall be counted towards the subcontracting goals for small business and small disadvantaged business concerns, regardless of the size or Small Business Administration certification status of the ANC or Indian tribe; and

(ii) Where one or more subcontractors are in the subcontract tier between the prime Contractor and the ANC or Indian tribe, the ANC or Indian tribe shall designate the appropriate Contractor(s) to count the subcontract towards its small business and small disadvantaged business subcontracting goals.

(A) In most cases, the appropriate Contractor is the Contractor that awarded the subcontract to the ANC or Indian tribe.

(B) If the ANC or Indian tribe designates more than one Contractor to count the subcontract toward its goals, the ANC or Indian tribe shall designate only a portion of the total subcontract award to each Contractor. The sum of the amounts designated to various Contractors cannot exceed the total value of the subcontract.

(C) The ANC or Indian tribe shall give a copy of the written designation to the Contracting Officer, the prime Contractor, and the subcontractors in between the prime Contractor and the ANC or Indian tribe within 30 days of the date of the subcontract award.

(D) If the Contracting Officer does not receive a copy of the ANC's or the Indian tribe's written designation within 30 days of the subcontract award, the Contractor that awarded the subcontract to the ANC or Indian tribe will be considered the designated Contractor.



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FAR 52.219-9(d)(1)

(1) Separate goals, expressed in terms of total dollars subcontracted, and as a percentage of total planned subcontracting dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. For individual subcontracting plans, and if required by the Contracting Officer, goals shall also be expressed in terms of percentage of total contract dollars, in addition to the goals expressed as a percentage of total subcontract dollars. The Offeror shall include all subcontracts that contribute to contract performance and may include a proportionate share of products and services that are normally allocated as indirect costs. In accordance with [43 U.S.C. 1626](#):



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FAR 52.219-9(d)(1)

Example:

Planned Subcontracting by Business Size	Sample Dollars	XXX Goals (FY21)
Total Subcontracted Dollars	\$1,000,000	100%
Other than Small Business (OTSB/Large)	\$800,000	80%
All Small (includes Veteran-Owned Small, Service-Disabled Veteran-Owned Small, HUBZone small, Small Disadvantaged Business, Women-Owned Small, and other small business concerns, i.e. ANCs, etc.	\$200,000	20%

Planned Subcontracting by Business Size	Sample Dollars	XXX Goal (FY 21)
Veteran-Owned Small Business	\$30,000	3%
Service-Disabled Veteran-Owned Small Business	\$30,000	3%
HubZone Small Business	\$30,000	3%
Small Disadvantaged Business	\$50,000	5%
Women-Owned Small Business	\$50,000	5%



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FAR 52.219-9(d)(2)

(2) A statement of—

- (i) Total dollars planned to be subcontracted for an individual subcontracting plan; or the Offeror's total projected sales, expressed in dollars, and the total value of projected subcontracts, including all indirect costs except as described in paragraph (g) of this clause, to support the sales for a commercial plan;
- (ii) Total dollars planned to be subcontracted to small business concerns (including ANC and Indian tribes);
- (iii) Total dollars planned to be subcontracted to veteran-owned small business concerns;
- (iv) Total dollars planned to be subcontracted to service-disabled veteran-owned small business;
- (v) Total dollars planned to be subcontracted to HUBZone small business concerns;
- (vi) Total dollars planned to be subcontracted to small disadvantaged business concerns (including ANCs and Indian tribes); and
- (vii) Total dollars planned to be subcontracted to women-owned small business concerns.



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DFARS 219.705-4(D)

Are the goals in all of the small business categories (small business [including ANC and Indian tribe], veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business [including ANC and Indian tribe], women-owned small business) positive (greater than zero) or is there a justification for zero goals?

Note: Applicable to Individual and Commercial Plans only, not Master Plans



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DFARS 219.705-4(d)

Is the proposed small disadvantaged business goal greater than five percent (5%)?

Note: Individual and commercial plans only, not master plans

If **no**, the proposed goal of less than five percent (5%) **must be approved one level above the contracting officer.**



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FAR 52.219-9(d)(3)

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to-

- (i) Small business concerns;
- (ii) Veteran-owned small business concerns;
- (iii) Service-disabled veteran-owned small business concerns;
- (iv) HUBZone small business concerns;
- (v) Small disadvantaged business concerns; and
- (vi) Women-owned small business concerns.



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FAR 52.219-9(d)(3)(Con't)

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to-

Example:

Firm Name	Item or Supply	CAGE Code	PSC Code	SB	SDB	VOSB	WOSB	ED WOSB	HUB Zone
ABC Company DUNS #	Scientific/ management	12345	AA11	X		X		X	X
DEF Company Duns#	Gas	54321	S111	X	X	X			
GHI Company DUNS#	Nuclear Ordnance	73355	L011						X
JKL Company DUNS#	Special Service Vessels	32912	1925	X	X		X		
MNO Company DUNS#	Fuel Burning Equipment Units	11634	4530	X			X		X



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FAR 52.219-9(d)(4) & FAR 52.219-9(d)(5)

(4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.

(5) A description of the method used to identify potential sources for solicitation purposes (*e.g.*, existing company source lists, SAM, veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in SAM as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of SAM as its source list does not relieve a firm of its responsibilities (*e.g.*, outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.



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FAR 52.219-9(d)(6)

(6) A statement as to whether or not the Offeror included **indirect costs** in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with—

- (i) Small business concerns (including ANC and Indian tribes);
- (ii) Veteran-owned small business concerns;
- (iii) Service-disabled veteran-owned small business concerns;
- (iv) HUBZone small business concerns;
- (v) Small disadvantaged business concerns (including ANC and Indian tribes); and
- (vi) Women-owned small business concerns.



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FAR 52.219-9(d)(7)(8) & (9)

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

(8) A description of the efforts the Offeror will make to assure that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.

(9) Assurances that the Offeror will include the clause of this contract entitled "Utilization of Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the Offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess **of the applicable threshold specified in FAR 19.702(a)** on the date of subcontract award, with further subcontracting possibilities to adopt a subcontracting plan that complies with the requirements of this clause.



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FAR 52.219-9(d)(10)

(10) Assurances that the Offeror will–

(i) Cooperate in any studies or surveys as may be required;

(ii) Submit periodic reports so that the Government can determine the extent of compliance by the Offeror with the subcontracting plan;

(iii) After November 30, 2017, include subcontracting data for each order when reporting subcontracting achievements for indefinite-delivery, indefinite-quantity *contracts with* individual subcontracting plans *where the contract is intended* for use by multiple agencies;

(iv) Submit the Individual Subcontract Report (ISR) and/or the Summary Subcontract Report (SSR), in accordance with paragraph (l) of this clause using the Electronic Subcontracting Reporting System (eSRS) at <http://www.esrs.gov>. The reports shall provide information on subcontract awards to small business concerns (including ANCs and Indian tribes that are not small businesses), veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns (including ANCs and Indian tribes that have not been certified by the Small Business Administration as small disadvantaged businesses), women-owned small business concerns, and for NASA only, Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with this clause, or as provided in agency regulations;

(v) Ensure that its subcontractors with subcontracting plans agree to submit the ISR and/or the SSR using eSRS;

(vi) Provide its prime contract number, its **unique entity identifier**, and the e-mail address of the Offeror's official responsible for acknowledging receipt of or rejecting the ISRs, to all first-tier subcontractors with subcontracting plans so they can enter this information into the eSRS when submitting their ISRs; and

(vii) Require that each subcontractor with a subcontracting plan provide the prime contract number, its own **unique entity identifier**, and the e-mail address of the subcontractor's official responsible for acknowledging receipt of or rejecting the ISRs, to its subcontractors with subcontracting plans.



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FAR 52.219-9(d)(11)

(11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

(i) Source lists (e.g., SAM), guides, and other data that identify small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.



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FAR 52.219-9(d)(11) (Con't)

(iii) Records on each subcontract solicitation resulting in an award of more than the simplified acquisition threshold, as defined in FAR 2.101 on the date of subcontract award, indicating-

- (A) Whether small business concerns were solicited and, if not, why not;
- (B) Whether veteran-owned small business concerns were solicited and, if not, why not;
- (C) Whether service-disabled veteran-owned small business concerns were solicited and, if not, why not;
- (D) Whether HUBZone small business concerns were solicited and, if not, why not;
- (E) Whether small disadvantaged business concerns were solicited and, if not, why not;
- (F) Whether women-owned small business concerns were solicited and, if not, why not; and
- (G) If applicable, the reason award was not made to a small business concern.



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FAR 52.219-9(d)(11) (Con't)

- (iv) Records of any outreach efforts to contact-
 - (A) Trade associations;
 - (B) Business development organizations;
 - (C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, service-disabled veteran-owned, and women-owned small business sources; and
 - (D) Veterans service organizations.
- (v) Records of internal guidance and encouragement provided to buyers through-
 - (A) Workshops, seminars, training, etc.; and
 - (B) Monitoring performance to evaluate compliance with the program's requirements.
- (vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.



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FAR 52.219-9(d)(12)

(12) Assurances that the Offeror will make a **good faith effort** to acquire articles, equipment, supplies, services, or materials, or obtain the performance of construction work from the small business concerns that it used in preparing the bid or proposal, in the same or greater scope, amount, and quality used in preparing and submitting the bid or proposal. Responding to a request for a quote does not constitute use in preparing a bid or proposal. The Offeror used a small business concern in preparing the bid or proposal if—

- (i) The Offeror identifies the small business concern as a subcontractor in the bid or proposal or associated small business subcontracting plan, to furnish certain supplies or perform a portion of the subcontract; or
- (ii) The Offeror used the small business concern's pricing or cost information or technical expertise in preparing the bid or proposal, where there is written evidence of an intent or understanding that the small business concern will be awarded a subcontract for the related work if the Offeror is awarded the contract.



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FAR 52.219-9(d)(13)(14)(15)

(13) Assurances that the Contractor will provide the Contracting Officer with a written explanation if the Contractor fails to acquire articles, equipment, supplies, services or materials or obtain the performance of construction work as described in (d)(12) of this clause. This written explanation must be submitted to the Contracting Officer within 30 days of contract completion.

(14) Assurances that the Contractor will not prohibit a subcontractor from discussing with the Contracting Officer any material matter pertaining to payment to or utilization of a subcontractor.

(15) Assurances that the offeror will pay its small business subcontractors on time and in accordance with the terms and conditions of the underlying subcontract and notify the contracting officer when the prime contractor makes either a reduced or an untimely payment to a small business subcontractor (see [52.242-5](#)).



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SBA SURVEILLANCE REVIEW ISSUES

- Almost 100% of all Surveillance Reviews have a problem with subcontracting
 - No plan in file
 - Plan not made a material part of the contract
 - Goals not figured correctly
 - Plan not sent to SBA IAW FAR 19.705-6
 - Reporting requirements not verified and acknowledged/rejected by Contracting Officer



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QUESTIONS



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