

DEPARTMENT OF DEFENSE**Test Program for Negotiation of Comprehensive Small Business Subcontracting Plans**

AGENCY: Department of Defense (DoD).

ACTION: Notice of test program.

SUMMARY: The Department of Defense is proposing to amend the Test Program for Negotiation of Comprehensive Small Business Subcontracting Plans.

DATES: Comments on the test plan should be submitted in writing at the address shown below on or before September 8, 1995 to be considered in finalization of the program.

ADDRESSES: Interested parties should submit written comments to: Office of Small and Disadvantaged Business Utilization, ATTN: Ms. Susan Haley, USD (A&T) SADB, 3000 Defense Pentagon, Washington, DC 20301-3000. Telefax number (703) 693-7014.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Haley, (703) 697-9383.

SUPPLEMENTARY INFORMATION:**A. Background**

Under Section 834 of Pub. L. 101-189, as amended, the Department of Defense (DoD) established a test program to determine whether the use of comprehensive small business subcontracting plans would result in increased opportunities for small firms performing under Defense contracts. The initial test program covered a four-year period, beginning October 1, 1990.

The period of the test program has been extended through September 30, 1998, to implement Section 7103 of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103-355).

With regard to eligibility criteria, the revised plan clarifies that the requirement for business concerns to annually receive \$25 million or more under DoD contracts applies at the corporate level. Eligibility criteria are further revised to require firms to have achieved a small disadvantaged business (SDB) subcontracting performance rate of 5 percent or more in order to participate, or to submit a special request for participation which would include a plan to achieve the 5 percent participation rate. All participants will be required to accept a 5 percent or higher SDB goal and must agree to comply with the provisions of Section 215.605 of the Defense Federal Acquisition Regulation Supplement regarding evaluation of small business (SB)/SDB participation in source selections.

The revised plan reduces from quarterly to annually the requirement

for the contracting officer (CO) to review the progress of participating contractors toward achievement of the SB, SDB and women-owned small business goals as agreed upon in the comprehensive subcontracting plan. Submission of subcontracting reports (Standard Form (SF) 295) remains unchanged.

The test plan is also amended to recognize revisions related to women-owned small business.

The contracting activities under the military departments designated to participate remain unchanged. Defense agencies may nominate to the Director, Office of Small and Disadvantaged Business Utilization, Office of the Under Secretary of Defense (Acquisition and Technology) a contracting activity to participate in this program.

Susan Haley,

Office of Small and Disadvantaged Business Utilization.

The revised test plan is as follows:

Test Program for Negotiation of Comprehensive Small Business Subcontracting Plans*I. Purpose*

This document implements section 834 of Public Law 101-189, the National Defense Authorization Act for Fiscal Years 1990 and 1991, as amended. The primary purpose of the Test Program (the Program) is to determine whether the negotiation and administration of comprehensive small business subcontracting plans will result in increased opportunities for small business concerns performing under Department of Defense (DoD) contracts.

II. Authority

The Program is established pursuant to section 834 of the National Defense Authorization Act for Fiscal Years 1990 and 1991, as amended.

III. Program Requirements

A. The Program shall be conducted from October 1, 1990, through September 30, 1998.

B. The selection of contractors for participation in the Program shall be in accordance with section 834(b)(3). Large business concerns at the major (total) corporate level that, during the preceding fiscal year:

1. Pursuant to at least five Department of Defense (DoD) contracts, furnished supplies or services (including professional services) to the DoD, engaged in research and development for the Department, or performed construction for the Department; and were paid \$25,000,000 or more for such contract activities.

2. (a) Achieved a small disadvantaged business (SDB) subcontracting

participation rate of five percent or more during the preceding fiscal year 1994; or

(b) Firms with an SDB subcontracting participation rate of less than five percent during the preceding fiscal year 1994 may request through the designated contracting activity to participate under the Comprehensive Subcontracting Test Program. Requesting firms shall submit a detailed plan with milestones leading to attainment of at least five percent SDB subcontracting participation rate by fiscal year 1998. The provisions of paragraph B(2) do not apply to the eight original contractors accepted into the program.

3. Shall accept a SDB goal for each fiscal year of not less than five percent, or a SDB goal that is in accordance with the milestone established in paragraph B(2)(b) above.

4. Shall comply with the requirements of the Defense Federal Acquisition Regulation Supplement Subpart 215.605 for source selection purposes.

C. For the purposes of the Program, to the extent practicable, contractors selected to participate shall establish their comprehensive subcontracting plans on the same corporate, division or plant-wide basis under which they submitted the Standard Form (SF) 295 during the preceding fiscal year except that in the case of a division or plant that historically reported through a higher level division, but would meet the criteria under B(2) above, shall be permitted to participate in the program if the division, plant or profit center can demonstrate a five percent or greater subcontract performance level with SDB concerns.

D. Contractors selected for participation shall:

1. Be eligible in accordance with III (B) and (C),
2. Have reported to the DoD on the SF 295 for the last fiscal year, except as applicable under III(C) above,
3. Offer a broad range of subcontracting opportunities,
4. Voluntarily agree to participate, and
5. Have at least one active contract that requires a subcontracting plan at the designated DoD buying activity responsible for negotiating the Comprehensive Subcontracting Plan.

IV. Elements of the Comprehensive Small Business Subcontracting Plan

A. The comprehensive small business subcontracting plan shall address each of the eleven elements set forth in paragraph (d) of the clause at FAR 52.219-9, "Small Business and Small Disadvantaged Business Subcontracting Plan."

1. The subcontracting plan, percentage and corresponding dollar goals for awards to small business, small disadvantaged business and women-owned small business concerns shall be developed by the contractor for its entire business operation in support of all DoD contracts regardless of dollar value.

2. Participating contractors shall include separate specific goals and timetables for the awarding of subcontracts in two industry categories which have not historically been made available to small business, small disadvantaged business and women-owned small business. These industry categories will be recommended by the contractor and approved by the contracting officer. Subcontract awards made in support of the specific industry categories shall also count towards attainment of the overall small business, small disadvantaged business and women-owned small business goals.

3. The subcontracting plan shall set forth the prime contractor's actions to publicize prospective subcontract opportunities for small business, small disadvantaged business and women-owned small business concerns.

B. Subcontracting plans to be established under the Program shall be submitted each year by participating contractors to the designated contracting officer 45 days prior to the end of the Government's fiscal year (September 30). However, new contractors requesting participation under the Program shall submit subcontracting plans to the contracting officer as close as possible to September 30.

V. Procedures

A. The Service Acquisition Executive within each Military Department and Defense Agency having contractors that meet the requirements of III(B) shall designate one contracting activity to participate in the Program.

B. The designated contracting activity will accomplish the following:

1. With the coordination of the Director, Office of Small and Disadvantaged Business Utilization for their military Department or Defense Agency, select as many eligible prime contractors for participation under the Program as deemed appropriate.

2. Establish a "Comprehensive Small Business Subcontracting Plan" negotiating team(s) composed as follows:

a. A contracting officer(s) who will be responsible for negotiation and approval of the comprehensive subcontracting plan(s) as well as the responsibilities at FAR 19.705.

b. The contracting activity's Small and Disadvantaged Business Utilization Specialist.

c. The Small and Disadvantaged Business Utilization Specialist of the cognizant contract administration activity that administers the preponderance of the selected prime contractor's contracts and/or the appropriate individual who will administer contractor performance under the test in accordance with FAR 19.706 and the provisions herein.

d. Production specialist, price analyst and other functional specialists as appropriate.

C. The designated contracting officer shall:

1. Solicit proposed comprehensive subcontracting plans from selected contractor(s) as soon as possible and by July 1, annually thereafter.

2. By October 1, and annually thereafter, review, negotiate and approve on behalf of the DoD a comprehensive subcontracting plan for each selected contractor.

3. Distribute copies of the approved subcontracting plan in accordance with VI(A) below.

4. Upon negotiation and acceptance of the comprehensive subcontracting plan, the contracting officer shall obtain from the contractor:

a. A listing of all active DoD contracts that contain individual subcontracting plans required by section 211 of Public Law 95-507.

b. The listing shall include the following:

- i. Contract number.
- ii. Name and address of the contracting activity.
- iii. Contracting officer's name and phone number.

5. Upon receipt of the information provided by the participating contractor under 4 above, the contracting officer shall notify the designated administrative contracting officer to issue a comprehensive change order, which modifies all of the contractor's active DoD contracts that include subcontracting plans. The modification will substitute the contractor's approved comprehensive subcontracting plan for the individual plans, will substitute the clause at DFARS 252.219-7004 for the clauses at FAR 52.219-9, and 52.219-16, respectively, and will delete the clauses at FAR 52.219-10 and DFARS 252.219-7003 and 252.219-7005, as appropriate.

6. Review annually, with the contract administration activity, contractor's performance under the plan. Document the review findings and distribute, in accordance with VI(A), within 45 days of the end of the fiscal year.

7. By November 15 of the year after acceptance and annually thereafter, determine whether the contractor has met its comprehensive subcontracting goals. If the goals have not been met, determine whether there is any indication that the contractor failed to make a good faith effort and take appropriate action.

8. By December 15, 1998, prepare and submit a report on each participating contractor's performance which details the results of the Program. The report must compare the contractor's performance under the Program with its performance for the three fiscal years prior to acceptance into the program. The report distribution will be in accordance with VI(A) below.

D. Participating contractors:

1. To the extent practicable, shall establish their comprehensive subcontracting plans on the same corporate, division or plant-wide basis under which they submitted the Standard Form (SF) 295 during fiscal year 1994, except those contractors that historically reported through a higher headquarters however as a separate reporting profit center, plant or division the contractor achieved an SDB subcontracting performance rate of five percent or greater in fiscal year 1994.

2. Upon negotiation of an acceptable comprehensive subcontracting plan shall be exempt from individual contract by contract reporting requirements for DoD contracts unless otherwise required in accordance with (III)(B)(5).

3. Shall continue individual contract reporting on non-DoD contracts.

4. Shall comply with the flow-down provisions of section 211 of Public Law 95-507. Large business concerns receiving a DoD subcontract in excess of \$500,000 (\$1,000,000 for construction) are required to adopt a plan similar to that mandated by the clause at 52.219-9. Participating contractors are prohibited from flowing down the "Comprehensive" subcontracting deviations provisions of 252.219-7004. Accordingly, large business subcontractors to the participating contractors shall be required to establish individual subcontracting plans with specific goals for awards to small business, small disadvantaged business and women-owned small business.

5. Upon expulsion from the Program or Program termination on September 30, 1998, shall negotiate and establish individual subcontracting plans on all future DoD contracts that otherwise meets the requirements of section 211 of Public Law 95-507.

VI. Monitoring and Reporting of Comprehensive Subcontracting Plans and Goals

A. Upon negotiation and acceptance of comprehensive subcontracting plans and goals the designated activity shall immediately forward one copy of the plan to each of the following:

1. Director, Small and Disadvantaged Business Utilization, Office of the Under Secretary of Defense (Acquisition and Technology), Room 2A338, The Pentagon, Washington, DC 20301-3061.

2. Director, Small and Disadvantaged Business Utilization, for the Military Department or Defense Agency of the activity that negotiated and accepted the comprehensive subcontracting plan.

3. The cognizant contract administration office.

B. Each participating contractor shall complete the Standard Form (SF) 295 "Summary Subcontract Report" in accordance with the instructions on the back of the form on a quarterly basis, except as noted below:

1. Participating contractors shall be exempt from completing items 17 and 18 under "Subcontract Goal Achievement."

2. Participating contractors shall enter in item 16 "Remarks" block the annual corporate, division or plant-wide small business, small disadvantaged business and women-owned small business percentage and corresponding dollar goals.

3. Participating contractors shall also enter separately in item 14 the percentage and corresponding dollar goals for each of the two selected industry category (see section IV(A)(2)).

4. Participating contractors shall also enter separately in item 14 on a quarterly cumulative basis the percentage and corresponding dollar amount of subcontract awards made in each of the two selected industry categories.

5. Participating contractors shall be exempt from the completion of SF 294 "Subcontract Report For Individual Contracts" for DoD contracts during their participation in the Program.

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