

shall occur within a reasonable period of time after award of the subcontract. Contractor specified formats shall be acceptable.

12. Section 252.219-7010 is added to read as follows:

252.219-7010 Notice of evaluation preference for small disadvantaged business concerns—construction acquisitions—Test program.

As prescribed in 219.7204, use the following clause:

Notice of Evaluation Preference for Small Disadvantaged Business Concerns—Construction Acquisitions—Test Program (Date)

(a) **Definitions.**

As used in this clause—

“Historically black colleges and universities (HBCUs),” means institutions determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. The term also means any nonprofit research institution that was an integral part of such a college or university before November 14, 1986. “Minority institutions,” means institutions meeting the requirements of paragraphs (3), (4), and (5) of Section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3)). The term also includes Hispanic-serving institutions as defined in Section 316(b)(1) of such Act (20 U.S.C. 1059c(b)(1)).

“Small disadvantaged business (SDB) concern,” means a small business concern, owned and controlled by individuals who are both socially and economically disadvantaged, as defined by the Small Business Administration at 13 CFR part 124, the majority of earnings of which directly accrue to such individuals. This term also means a small business concern owned and controlled by an economically disadvantaged Indian tribe or Native Hawaiian organization which meets the requirements of 13 CFR 124.112 or 13 CFR 124.113, respectively.

(b) **Evaluation preference.** (1) Offerors shall separately state bond costs in the offer. Bond costs include the costs of bid, performance, and payment bonds.

(2) Offers will be evaluated initially based on their total prices. If the apparently successful offeror is an SDB concern, no further preference based evaluation will be conducted.

(3) If the apparently successful offeror is not an SDB concern, offers will be evaluated based on their prices excluding bond costs.

If, after excluding bond costs, the apparently successful offeror is an SDB concern, bond costs will be added back to all offers, and offers from SDB concerns will be given a preference in evaluation by adding a factor of ten percent to the total price of all offers, except—

(i) Offers from SDBs which have not waived the evaluation preference; or

(ii) Offers from HBCUs or minority institutions, which have not waived the evaluation preference.

(c) **Waiver of evaluation preference.** A small disadvantaged business, historically black college or university, or minority institution offeror may elect to waive the preference. The agreements in paragraph (d) of this clause do not apply to offers which waive the preference.

Offeror elects to waive the preference.

(d) **Agreements.** A small disadvantaged business concern, historically black college or university, or minority institution offeror, which did not waive the preference, agrees that in performance of the contract, in the case of a contract for—

(i) General construction, at least 15 percent of the cost of the contract, excluding the cost of materials, will be performed by employees of the concern.

(ii) Construction by special trade contractors, at least 25 percent of the cost of the contract, excluding the cost of materials, will be performed by employees of the concern.

(End of clause)

PART 253—FORMS

13. Section 253.204-70 is amended by revising paragraph (e)(3) to read as follows:

253.204-70 DD Form 350, Individual Contracting Action Report.

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(e) * * *

(3) **Block E3, Next Low Offer.**

(i) Complete Block E3 only if Block E2 is completed, or the evaluation preference for small disadvantaged business concerns in construction acquisitions set forth at 219.72 is applied. Otherwise, leave Block E3 blank.

(ii) If Block E2 is completed, enter the offered price from the small business firm that would have been the low

offeror if qualified nonprofit agencies employing people who are blind or severely disabled had not participated in the acquisition. If the evaluation preference for small disadvantaged business concerns in construction acquisitions set forth at 219.72 is applied, enter the offered price from the non-SDB concern that would have been the successful offeror if the evaluation preference had not been applied. Enter the amount in whole dollars.

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48 CFR Part 242

[DFARS Case 91-085D]

Defense Federal Acquisition Regulation Supplement; Personal Services Compensation

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule; withdrawal.

SUMMARY: The Department of Defense has decided to withdraw a proposed rule published on December 6, 1994 (59 FR 62704). The rule proposed revisions to the Defense Federal Acquisition Regulation Supplement (DFARS) to establish a dollar threshold for DoD contractors for application of the Federal Acquisition Regulation (FAR) requirements for contractor compensation system reviews. After review of public comments, DoD has determined the proposed DFARS revisions are unnecessary.

FOR FURTHER INFORMATION CONTACT:

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Executive Editor, Defense Acquisition Regulations Council.

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