



U.S. General Services Administration

## Public Buildings Service

# SMALL BUSINESS SUBCONTRACTING BEST PRACTICES FOR UTILITY AREAWIDE CONTRACTS

April 18, 2017

## GENERAL INFORMATION

- Requirement for over 40 years and implemented in FAR 19.7 and FAR 52.219-9 (See: PL 111-240 & PL 95-507)
- Plan required if contractor is “other than small business” and value of award is \$700,000 or higher, *inclusive of options and value of all orders issued*.
- Any contractor or subcontractor failing to comply in **good faith** with the requirements of the subcontracting plan is in **material breach of its contract**.

## **IMPORTANT NOTE: FAR 52.219-8(b)**

*It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency.*

## **TYPES OF PLANS: INDIVIDUAL**

- Covers all spending attributable to the contract
- Must be negotiated prior to award and is in force for entire period of performance
- Ordering agencies can now receive subcontracting credit for orders under contract thru eSRS reports.
- Reporting on actual subcontracting amounts must be done in March and October
- eSRS has been modified for order level reporting

## TYPES OF PLANS: COMMERCIAL

- Negotiated annually, covers the utility's fiscal year.
- Applies to entire production of commercial items including non-Federal business.
  - Entire business is the base; not just work under the AWC contract
- Only one plan needs to be submitted annually
- One SSR submitted annually
- This is the preferred plan for utilities but utility chooses the type of plan that meets their business need.

## **SUBCONTRACTING PLAN BEST PRACTICES**

- Plan has goals that are realistic yet a “stretch”
  - Build on past year achievement
  - Proper credit in each socio-economic category
  - Percentages in each category make sense (ie SDVOSB not more than VOSB)
  - Percentages should not equal 100%
- Plan describes a sound plan for ensuring supplier diversity and how to maximize SB participation

## **SUBCONTRACTING PLAN BEST PRACTICES**

- Plan has all required signatures and a valid POC
- Plan is not just copied year to year
- Remember: Affiliates are not subcontracts for commercial reporting
- Once the GSA CO has reviewed it, it is routed to
  - GSA Small Business Technical Advisor (OSBU)
  - SBA Procurement Center Representative
- GSA CO is the approver but OSBU and SBA are the technical experts in small business subcontracting.

## SUBCONTRACTING PLAN BEST PRACTICES

- Encourage subcontractors to register by the appropriate NAICS in SAM (note this is not a requirement)
- Keep market research fresh -- good small businesses often do not stay small forever.
- [SBA Dynamic Small Business Search](#) is a good way to check for certified HUBZone contractors.



## HOW TO ALLOCATE SMALL BUSINESS CREDIT

Award subcontract of \$150K to a woman-owned, service disabled veteran-owned small business who is HUBZone certified by the SBA.

- \$150K to SB category
- \$150K to WOSB category
- \$150K to HUBZone category
- \$150K to SDVOSB category
- \$150K to VOSB

## HOW IS REPORTED DATA USED?

- Monitor progress against the plan:
  - Individual: On track to meet goals
  - Commercial: Did you meet the goals
- Performance evaluations in CPARS
- Future responsibility determinations
- Assess agency performance by SBA and Congress

**Electrical Service (S112) is included in the agency small business subcontracting measure for FY18**

## **SUMMARY SUBCONTRACTING REPORT TIPS**

- Covers subcontracting for Government FY
  - Due Oct 30
- Should reflect company wide revenue and subcontracting to determine percentages used
  - System allocates subcontracting dollars to agencies based on their percentage of total company revenue
- Correctly entering this data helps agencies meet their subcontracting goals

## Example of Subcontracting Calculations

- Electric Utility calculates \$10M in total small business subcontracting for previous government FY
- Electric Utility has two Federal Customers
  - Agency A represents 3% of total revenue
  - Agency B represents 1% of total revenue
- eSRS will allocate the small business subcontracting spend to the two agencies.
  - \$300K to Agency A subcontracting goals
  - \$100K to Agency B subcontracting goals

## **IMPORTANT DATES TO REMEMBER**

- Commercial Plans due to CO 60 days before end of contractor's fiscal year
- Commercial SSRs due in eSRS by Oct 30 and cover subcontracting over Government's fiscal year
- ISRs are due March 30 and Oct 30

## FREQUENTLY ASKED QUESTIONS

**QUESTION** – How do I know what format to use for my plan?

**ANSWER** – The required elements are contained in the FAR 52.219-9 which implements the relevant section of the Small Business Jobs Act. Commercial Plans must always use the current version of this clause.

**QUESTION** - Does a subcontractor have to be officially registered as a small business? We use a lot of freelancers, for example. Would that count?

**ANSWER** – The Prime vendor can rely upon a subcontractor's certification in SAM. Best practice is to encourage subcontractors to certify their business size in SAM but this is not required.

## FREQUENTLY ASKED QUESTIONS

**QUESTION** – Can we switch our plan mid-contract?

**ANSWER** – Work with your CO and GSA utility specialist! Your CO wants you to be successful with this requirement. We will do our best to work with you to develop a transition plan.

**QUESTION** – Who determined if a good faith effort is or is not being made?

**ANSWER** – This is determined by the CO. Regular communication is vital.

## FREQUENTLY ASKED QUESTIONS

**QUESTION** – Will every GSA Award have a commercial and an individual plan?

**ANSWER** No. The need for a plan is based on the estimated contract amount (\$700,000 or over) and contractor's business size (other than small business). The vendor will only need to submit one type of plan and it is the vendor's decision on which type of plan to submit.

An individual subcontracting plan is *contract-specific*.

A commercial plan is *company-specific* and will cover subcontracting under all federal contracts as well as commercial contracts. The commercial plan is approved by one federal government CO and that approval can be submitted to other contracting officers as long as the contract is for commercial items.



## FREQUENTLY ASKED QUESTIONS

**QUESTION** – Can I exclude certain expenses from my base to determine subcontracting goals?

**ANSWER** – 13 CFR 125.3(a)(1)(iii) states ‘Utility companies may be eligible for additional exclusions unique to their industry, which **may be approved** by the contracting officer on a **case-by-case basis**. (emphasis added)

## FREQUENTLY ASKED QUESTIONS

**QUESTION** – Since this is a GSA contract, should I report all small contracting spend as 4700 - GENERAL SERVICES ADMINISTRATION even though I also have accounts with other agencies?

**ANSWER** – No, please review the eSRS Quick Reference Guide or contact GSA. The other agencies should get “credit” in eSRS as well. Also, you should use 4740 - PUBLIC BUILDINGS SERVICE. The Energy Division is in GSA’s Public Building Service.

## FREQUENTLY ASKED QUESTIONS

**QUESTION** – Our fiscal year ends on 12/31 but our subcontracting spending plan is not approved until March; thus we do not have the data to fill out our annual commercial plan until March. How should we handle?

**ANSWER** – This will need to be addressed on a case by case basis. Please contact the approving CO for additional assistance.

## FREQUENTLY ASKED QUESTIONS

**QUESTION** – Can GSA/SBA accept the the supplier diversity plans that I submit to my PUC?

**ANSWER** – The format and content for subcontracting plans is found in FAR 19.7 and 52.219-9. We do not have the authority to accept plans other than those that conform to these instructions.

## FREQUENTLY ASKED QUESTIONS

**QUESTION** – My current year commercial subcontracting plan was approved by GSA, can ordering agencies require an additional subcontracting plan?

**ANSWER** – The format and content for subcontracting plans is found in FAR 19.7 and 52.219-9. We do not have the authority to accept plans other than those that conform to these instructions.

## RESOURCES

Federal Acquisition Regulation: [FAR 19.7](#) & [52.219-9](#)

[List of SBA Commercial Market Representatives](#)

[eSRS Reference Guides](#)

[GSA Model Subcontract Plan](#)

Your GSA Areawide Contract

Your CO/Utility Specialist

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