

disadvantaged, or women-owned small businesses for the firms listed in the subcontracting plan. Notifications shall be in writing and shall occur within a reasonable period of time after award of the subcontract. Contractor specified formats shall be acceptable.

6. Section 219.1006 is amended by revising paragraph (b)(1)(B) to read as follows:

219.1006 Procedures.

(b) * * *

(1) * * *

(B) The evaluation preference at 219.70 shall not be used. However, note the test program at 219.72 for construction acquisitions.

* * * * *

7. Section 219.7001 is amended by revising paragraph (a) to read as follows:

219.7001 Applicability.

(a) The evaluation preference shall be used in competitive acquisitions except as provided in paragraph (b) of this section and in 219.1006(b)(1)(B).

* * * * *

8. Subpart 219.72 is added to read as follows:

219.72—Evaluation Preference for Small Disadvantaged Business (SDB) Concerns in Construction Acquisitions—Test Program

Sec.

219.7200 Policy.

219.7201 Administration of the Test Program.

219.7202 Applicability.

219.7203 Procedures.

219.7204 Contract Clause.

219.72—Evaluation Preference for Small Disadvantaged Business (SDB) Concerns in Construction Acquisitions—Test Program

219.7200 Policy.

DoD policy is to ensure that, during this test program, offers from small disadvantaged business (SDB) concerns shall be given an evaluation preference in construction acquisitions.

219.7201 Administration of the test program.

The test program will be conducted over an eighteen-month period. The test program will be conducted by all DoD contracting activities that award construction contracts. The focal point for the test program is the Director, Small and Disadvantaged Business Utilization, Office of the Under Secretary of Defense for Acquisition and Technology (Director, SADBU). Fourteen months after the initiation of this test program, the military departments and defense agencies shall submit a status report to the Director, SADBU. This report shall specify the

impact of the evaluation preference over the first twelve months of the test program, and shall provide recommendations with respect to continuation and/or modification of the evaluation preference.

219.7202 Applicability.

(a) The evaluation preference shall be used in competitive acquisitions for construction (see definition in FAR subpart 36.1) when work is to be performed inside the United States, its territories or possessions, Puerto Rico, the Trust Territory of the Pacific Islands, or the District of Columbia.

(b) Do not use the evaluation preference in acquisitions which—

(1) Are less than or equal to the simplified acquisition threshold;

(2) Are set aside for small businesses;

or

(3) Are awarded under section 8(a) procedures.

(c) The evaluation preference need not be applied when the head of the contracting activity expects that—

(1) The contracting activity will meet its goal for SDB concerns, established pursuant to 10 U.S.C. 2323, during the current fiscal year, without this preference;

(2) The evaluation preference is having a disproportionate impact on non-SDB concerns; or

(3) The preference is otherwise not in the best interest of the Government.

219.7203 Procedures.

(a) Solicitations that require bonding shall require offerors to separately state bond costs in the offer. Bond costs include the costs of bid, performance, and payment bonds.

(b) Evaluate total offers. If the apparently successful offeror is an SDB concern, no further preference-based evaluation is required under this subpart.

(c) If the apparently successful offeror is not an SDB concern, evaluate offers excluding bond costs. If, after excluding bond costs, the apparently successful offeror is an SDB concern, add bond costs back to all offers, and give offers from SDB concerns a preference in evaluation by adding a factor of 10 percent to the total price of all offers, except—

(1) Offers from SDBs which have not waived the evaluation preference; and

(2) Offers from historically black colleges and universities or minority institutions, which have not waived the evaluation preference.

(d) When using the procedures in 36.303–70, Additive or deductive items, the evaluation preference in this subpart shall be applied.

219.7204 Contract clause.

Use the clause at 252.219–7010, Notice of Evaluation Preference for Small Disadvantaged Business Concerns—Construction Acquisitions—Test Program, in all solicitations—

(1) That involve the evaluation preference; and

(2) Where work is to be performed inside the U.S., its territories or possessions, Puerto Rico, the Trust Territory of the Pacific Islands, or the District of Columbia.

PART 236—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

9. Section 236.303–70 is amended by revising the introductory text of paragraph (c)(2) to read as follows:

236.303–70 Additive or deductive items.

* * * * *

(c) * * *

(2) Evaluate all bids, including those using the procedures in 219.703, on the basis of the same additive or deductive bid items.

* * * * *

PART 242—CONTRACT ADMINISTRATION

10. Subpart 242.15 is added to read as follows:

Subpart 242.15—Contractor Performance Information

Sec.

242.1503 Procedures.

242.1503 Procedures.

Evaluations should consider any notifications submitted under paragraph (g) of the clause at 252.219–7003, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (DoD Contracts).

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

11. Section 252.219–7003 is amended by adding paragraph (g) to read as follows:

252.219–7003 Small, small disadvantaged and women-owned small business subcontracting plan (DoD contracts).

* * * * *

(g) In those subcontracting plans which specifically identify small, small disadvantaged, and women-owned small businesses, the Contractor shall notify the Administrative Contracting Officer of any substitutions of firms that are not small, small disadvantaged, or women-owned small businesses for the firms listed in the subcontracting plan. Notifications shall be in writing and