



Homeland
Security

MEMORANDUM FOR: Heads of Contracting Activities

FROM: Soraya Correa **SORAYA CORREA** Digitally signed by SORAYA CORREA
Chief Procurement Officer Date: 2020.08.18 17:29:07 -04'00'

SUBJECT: Federal Acquisition Regulation Class Deviation (Number 19-01, Revision 1) – Limitations on Subcontracting for Small Business Concerns

Purpose: This class deviation is issued in accordance with Federal Acquisition Regulation (FAR) 1.404. The purpose of this deviation is to implement regulatory changes made by the Small Business Administration (SBA) to the limitations on subcontracting in its final rule published in the Federal Register at 81 FR 34243 on May 31, 2016.

This revision supersedes DHS FAR Class Deviation Number 19-01 in its entirety.

Effective Date: This deviation is effective on the date of signature.

Background: On April 3, 2019, Civilian Agency Acquisition Council (CAAC) Letter 2019-01, Class Deviation from the Federal Acquisition Regulation Regarding Limitations on Subcontracting for Small Business Concerns, was issued and served as consultation to agencies in accordance with FAR 1.404. The final rule changed and standardized the limitations on subcontracting and the nonmanufacturer rule with which small businesses must comply under Government contracts awarded pursuant to the set-aside, sole source, or HUBZone price evaluation preference authorities of the Small Business Act.

Since the issuance of CAAC letter 2019-01, FAR Case 2014-002, Set-Asides under Multiple Award Contracts was issued as a final rule, and became effective on March 30, 2020. FAR Case 2014-002 significantly changed FAR Part 19 and the clauses related to awards under FAR Part 19. The purpose of this revision is to update the limitations on subcontracting and the nonmanufacturer rule for all small businesses in the clauses relating to awards under FAR Part 19.

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration have undertaken rulemaking to formally incorporate this change. Pending publication of the amendment to the FAR via FAR case 2016-011, Revision of Limitations on Subcontracting, agencies may authorize a class deviation to implement these updates to limitations on subcontracting and the nonmanufacturer rule.

Requirement:

- All awards under FAR Part 19 will use (1) FAR 52.219-14 Limitations on Subcontracting (DEVIATION 19-01) (AUG 2020) in lieu of either the current FAR clause or the

deviation clause from the original CAAC letter, and (2) FAR 52.219-33 Nonmanufacturer Rule (DEVIATION 19-01) (AUG 2020) in lieu of the current FAR clause. These clauses are shown in Attachment 8;

- Small business set-asides will use the current FAR clauses 52.219-6 or 52.219-7; and
- Clauses for HUBZones (FAR 52.219-3 and FAR 52.219-4), for Service-Disabled Veteran-Owned Small Businesses (SDVOSBs) (FAR 52.219-27), for Economically Disadvantaged Women-Owned Small Businesses (EDWOSBs) (FAR 52.219-29) and for Women-Owned Small Businesses (WOSBs) (FAR 52.219-30), have been updated with new deviated language, in Attachments 4 through 7.

Applicability: This class deviation applies to all solicitations and contracts (see definition of contract at FAR 2.101) under FAR Part 19.

Expiration: This class deviation will remain in effect until rescinded.

Attachments:

- Attachment 1 – CAAC Letter 2019-01 Supplement 1: Supplement to the Class Deviation from the Federal Acquisition Regulation Regarding Limitations on Subcontracting for Small Business Concerns
- Attachment 2 - Small Business Concerns
- Attachment 3 - 8(a) Program Participants
- Attachment 4 - HUBZone Small Business Concerns
- Attachment 5 - SDVOSB Concerns
- Attachment 6 - EDWOSB Concerns
- Attachment 7 - WOSB Concerns Eligible under the WOSB Program
- Attachment 8 - All awards under FAR Part 19

Additional Information: DHS Component contracting activities should update their contract writing systems to include the clauses/instructions in Attachments 1 through 8.

Questions or comments about this class deviation may be directed to Candace Lightfoot at (202) 447-0882 or email at Candace.Lightfoot@hq.dhs.gov.

Attachment 2 - Small Business Concerns

No deviation is necessary for FAR 52.219-6 or FAR 52.219-7; use the current FAR clause as prescribed in the FAR. Also, use deviated clauses FAR 52.219-14 and FAR 52.219-33 shown in Attachment 8, instead of their current FAR clause equivalents; those clauses apply to small business set-asides for contracts that exceed the simplified acquisition threshold.

Attachment 3 - 8(a) Program Participants

Use deviated clauses FAR 52.219-14 and FAR 52.219-33 shown in Attachment 8 instead of the current FAR clause equivalents. The limitations on subcontracting clause applies to contracts and task or delivery orders awarded pursuant to competitive 8(a) procurements and 8(a) sole source awards regardless of the dollar value of the award.

Attachment 4 - HUB Zone Small Business Concerns

In solicitations, contracts, and task or delivery orders that are set aside for, or awarded on a sole source basis to, HUBZone small business concerns under FAR Part 19, as well as procurements using the HUBZone price evaluation preference, contracting officers shall use the FAR 52.219-3 and FAR 52.219-4 deviation clauses below, in lieu of the current FAR clauses. *Contracting officers shall not use Alternate I of FAR 52.219-3 or Alternate I of FAR 52.219-4, as those alternates conflict with the deviation clauses below.*

Also, use deviated clauses FAR 52.219-14 and FAR 52.219-33 shown in Attachment 8, instead of their current FAR clause equivalents. The limitations on subcontracting and the nonmanufacturer rule apply to contracts and task or delivery orders that are set aside for, or awarded on a sole- source basis to, HUBZone small business concerns under FAR Part 19, or awarded using the HUBZone price evaluation preference, regardless of the dollar value of the award.

Baseline is FAC 2020-05, effective March 30, 2020.

52.219-3 Notice of HUBZone Set-Aside or Sole-Source Award. (DEVIATION 19-01) (AUG 2020)

As prescribed in 19.1309(a), insert the following clause:

Notice of HUBZone Set-Aside or Sole- Source Award (DEVIATION 19-01) (AUG 2020)

(a) Definition. "HUBZone small business concern," as used in this clause, means a small business concern, certified by the Small Business Administration (SBA), that appears on the List of Qualified HUBZone Small Business Concerns maintained by the SBA (13 CFR 126.103).

(b) *Applicability.* This clause applies only to—

(1) Contracts that have been set aside or awarded on a sole source basis to, HUBZone small business concerns;

(2) Part or parts of a multiple-award contract that have been set aside for HUBZone small business concerns;

(3) Orders set aside for HUBZone small business concerns under multiple-award contracts as described in 8.405-5 and 16.505(b) (2) (i) (F); and

(4) Orders issued directly to HUBZone small business concerns under multiple-award contracts as described in 19.504(c) (1) (ii).

(c) *General.*

(1) Offers are solicited only from HUBZone small business concerns. Offers received from concerns that are not HUBZone small business concerns will not be considered.

(2) Any award resulting from this solicitation will be made to a HUBZone small business concern.

(d) *Notice.* The HUBZone small business offeror acknowledges that a prospective HUBZone awardee must be a HUBZone small business concern at the time of award of this contract. The HUBZone offeror shall provide the Contracting Officer a copy of the notice required by 13 CFR 126.501 if material changes occur before contract award that could affect its HUBZone eligibility. If the apparently successful HUBZone offeror is not a HUBZone small business concern at the time of award of this contract, the Contracting Officer will proceed to award to the next otherwise successful HUBZone small business concern or other offeror.

(End of clause)

52.219-4 Notice of Price Evaluation Preference for HUBZone Small Business Concerns. (DEVIATION 19-01) (AUG 2020)

As prescribed in 19.1309(b) (1), insert the following clause:

**Notice of Price Evaluation preference for HUBZone Small
Business Concerns (DEVIATION 19-01) (AUG 2020)**

(a) *Evaluation preference.*

(1) Offers will be evaluated by adding a factor of 10 percent to the price of all offers, except—

(i) Offers from HUBZone small business concerns that have not waived the evaluation preference; and

(ii) Otherwise successful offers from small business concerns.

(2) The factor of 10 percent shall be applied on a line item basis or to any group of items on which award may be made. Other evaluation factors described in the solicitation shall be applied before application of the factor.

(3) When the two highest rated offerors are a HUBZone small business concern and a large business, and the evaluated offer of the HUBZone small business concern is equal to the evaluated offer of the large business after considering the price evaluation preference, award will be made to the HUBZone small business concern.

(b) *Waiver of evaluation preference.* A HUBZone small business concern may elect to waive the evaluation preference, in which case the factor will be added to its offer for evaluation purposes.

□ Offeror elects to waive the evaluation preference.

(c) *Notice.* The HUBZone small business offeror acknowledges that a prospective HUBZone awardee must be a HUBZone small business concern at the time of award of this contract. The HUBZone offeror shall provide the Contracting Officer a copy

of the notice required by 13 CFR 126.501 if material changes occur before contract award that could affect its HUBZone eligibility. If the apparently successful HUBZone offeror is not a HUBZone small business concern at the time of award of this contract, the Contracting Officer will proceed to award to the next otherwise successful HUBZone small business concern or other offeror.

(End of clause)

Attachment 5 - SDVOSB Concerns

In solicitations, contracts, and task or delivery orders that are set aside for Service-Disabled Veteran-Owned Small Business (SDVOSB) concerns under FAR Part 19, contracting officers shall use the FAR 52.219-27 clause below in lieu of the current FAR clause.

Also, use deviated clauses FAR 52.219-14 and FAR 52.219-33 shown in Attachment 8, instead of their current FAR clause equivalents. The limitations on subcontracting and the nonmanufacturer rule apply to contracts and task or delivery orders that are set aside for, or awarded on a sole-source basis to, SDVOSB concerns under FAR Part 19 regardless of the dollar value of the award.

Baseline is FAC 2020-05, effective March 30, 2020.

52.219-27 Notice of Service-Disabled Veteran-Owned Small Business Set-Aside. (DEVIATION 19-01) (AUG 2020)

As prescribed in 19.1408, insert the following clause:

Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (DEVIATION 19-01) (AUG 2020)

(a) * * *

(b) *Applicability.* This clause applies only to-

(1) Contracts that have been set aside for service-disabled veteran-owned small business concerns;

(2) Part or parts of a multiple-award contract that have been set aside for service-disabled veteran-owned small business concerns;

(3) Orders set aside for service-disabled veteran-owned small business concerns under multiple-award contracts as described in 8.405-5 and 16.505(b) (2) (i) (F); and

(4) Orders issued directly to service-disabled veteran-owned small business concerns under multiple-award contracts as described in 19.504(c) (1) (ii).

(c) *General.*

(1) Offers are solicited only from service-disabled veteran- owned small business concerns. Offers received from concerns that are not service-disabled veteran-owned small business concerns shall not be considered.

(2) Any award resulting from this solicitation will be made to a service-disabled veteran-owned small business concern.

(d) A joint venture may be considered a service-disabled veteran owned small business concern if-

(1) At least one member of the joint venture is a service- disabled veteran-owned small business concern, and makes the following representations:

(i) That it is a service-disabled veteran-owned small business concern, and

(ii) That it is a small business concern under the North American Industry Classification Systems (NAICS) code assigned to the procurement;

(2) Each other concern is small under the size standard corresponding to the NAICS code assigned to the procurement;

(3) The joint venture meets the requirements of 13 CFR 121.103(h); and

(4) The joint venture meets the requirements of 13 CFR 125.15(b).

(End of clause)

Attachment 6 - EDWOSB Concerns

In solicitations, contracts, and task or delivery orders that are set aside for, or awarded on a sole source basis to, Economically Disadvantaged Women-Owned Small Business (EDWOSB) concerns under FAR Part 19, contracting officers shall use the FAR 52.219-29 deviation clause below in lieu of the current FAR clause. The FAR prescription reference in FAR 19.1508(a)(2) is obsolete and can be disregarded.

Also, use deviated clauses FAR 52.219-14 and FAR 52.219-33 shown in Attachment 8, instead of their current FAR clause equivalents. The limitations on subcontracting and the nonmanufacturer rule apply to contracts and task or delivery orders that are set aside for, or awarded on a sole- source basis to, EDWOSB concerns under FAR Part 19 regardless of the dollar value of the award.

Baseline is FAC 2020-05, effective March 30, 2020.

52.219-29 Notice of Set-Aside for, or Sole- Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns. (DEVIATION 19-01) (AUG 2020)

As prescribed in 19.1508(a)(1), insert the following clause:

Notice of Set-Aside for, or Sole- Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns. (DEVIATION 19-01) (AUG 2020)

(a) *Definitions.* "Economically disadvantaged women-owned small business (EDWOSB) concern" means— a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127.

It automatically qualifies as a women-owned small business (WOSB) concern eligible under the WOSB Program.

"WOSB Program Repository" means a secure, Web-based application that collects, stores, and disseminates documents to the

contracting community and SBA, which verify the eligibility of a business concern for a contract to be awarded under the WOSB Program.

(b) *Applicability.* This clause applies only to—

(1) Contracts that have been set aside for, or awarded on a sole source basis to, EDWOSB concerns;

(2) Part or parts of a multiple-award contract that have been set aside for EDWOSB concerns;

(3) Orders set aside for EDWOSB concerns under multiple-award contracts as described in 8.405-5 and 16.505(b) (2) (i) (F); and

(4) Orders issued directly to EDWOSB concerns under multiple- award contracts as described in 19.504(c) (1) (ii).

(c) *General.*

(1) Offers are solicited only from EDWOSB concerns. Offers received from concerns that are not EDWOSB concerns will not be considered.

(2) Any award resulting from this solicitation will be made to an EDWOSB concern.

(3) The Contracting Officer will ensure that the apparent successful offeror has provided all required documents to the WOSB Program Repository. The contract will not be awarded until all required documents are received

(d) *Joint Venture.* A joint venture may be considered an EDWOSB concern if—

(1) It meets the applicable size standard corresponding to the North American Industry Classification System code assigned to the contract, unless an exception to affiliation applies pursuant to 13 CFR 121.103(h) (3);

(2) The EDWOSB participant of the joint venture is designated in the System for Award Management as an EDWOSB concern;

(3) The parties to the joint venture have entered into a written joint venture agreement that contains provisions—

(i) Setting forth the purpose of the joint venture;

(ii) Designating an EDWOSB concern as the managing venturer of the joint venture, and an employee of the managing venturer as the project manager responsible for the performance of the contract;

(iii) Stating that not less than 51 percent of the net profits earned by the joint venture will be distributed to the EDWOSB;

(iv) Specifying the responsibilities of the parties with regard to contract performance, sources of labor, and negotiation of the EDWOSB contract; and

(v) Requiring the final original records be retained by the managing venturer upon completion of the EDWOSB contract performed by the joint venture; and

(4) The Contracting Officer executes the contract in the name of the EDWOSB or joint venture.

(End of clause)

Attachment 7 - WOSB Concerns Eligible under the WOSB Program

In solicitations, contracts, and task or delivery orders that are set aside for, or awarded on a sole source basis to, Women-Owned Small Business (WOSB) concerns eligible under the WOSB Program under FAR Part 19, contracting officers shall use the FAR 52.219-30 deviation clause below in lieu of the current FAR clause. The FAR prescription reference at FAR 19.1508(b)(2) is obsolete and can be disregarded.

Also, use deviated clauses FAR 52.219-14 and FAR 52.219-33 shown in Attachment 8, instead of their current FAR clause equivalents. The limitations on subcontracting and the nonmanufacturer rule apply to contracts and task or delivery orders that are set aside for, or awarded on a sole-source basis to, WOSB concerns eligible under the WOSB Program under FAR Part 19 regardless of the dollar value of the award.

Baseline is FAC 2020-05, effective March 30, 2020.

52.219-30 Notice of Set-Aside for, or Sole- Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program. (DEVIATION 19-01) (AUG 2020)

As prescribed in 19.1508(b)(1), insert the following clause:

Notice of Set-Aside for, or Sole- Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program. (DEVIATION 19-01) (AUG 2020)

(a) *Definitions.* As used in this clause—

“Women-owned small business (WOSB) concern eligible under the WOSB Program” (in accordance with 13 CFR part 127), means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States.

“WOSB Program Repository” means a secure, Web-based application that collects, stores, and disseminates documents to the contracting community and SBA, which verify the eligibility of a business concern for a contract to be awarded under the WOSB Program.

(b) *Applicability.* This clause applies only to—

(1) Contracts that have been set aside for, or awarded on a sole source basis to, WOSB concerns eligible under the WOSB Program;

(2) Part or parts of a multiple-award contract that have been set aside for WOSB concerns eligible under the WOSB Program;

(3) Orders set aside for WOSB concerns eligible under the WOSB Program, under multiple-award contracts as described in 8.405-5 and 16.505(b)(2)(i)(F); and

(4) Orders issued directly to WOSB concerns eligible under the WOSB Program under multiple-award contracts as described in 19.504(c)(1)(ii).

(c) *General.*

(1) Offers are solicited only from WOSB concerns eligible under the WOSB Program. Offers received from concerns that are not WOSB concerns eligible under the WOSB Program shall not be considered.

(2) Any award resulting from this solicitation will be made to a WOSB concern eligible under the WOSB Program.

(3) The Contracting Officer will ensure that the apparent successful offeror has provided the required documents to the WOSB Program Repository. The contract shall not be awarded until all required documents are received.

(d) *Joint Venture.* A joint venture may be considered a WOSB concern eligible under the WOSB Program if—

(1) It meets the applicable size standard corresponding to the North American Industry Classification System code assigned to the contract, unless an exception to affiliation applies pursuant to 13 CFR 121.103(h) (3);

(2) The WOSB participant of the joint venture is designated in the System for Award Management as a WOSB concern eligible under the WOSB Program;

(3) The parties to the joint venture have entered into a written joint venture agreement that contains provisions-

(i) Setting forth the purpose of the joint venture;

(ii) Designating a WOSB concern eligible under the WOSB Program as the managing venturer of the joint venture, and an employee of the managing venturer as the project manager responsible for the performance of the contract;

(iii) Stating that not less than 51 percent of the net profits earned by the joint venture will be distributed to the WOSB;

(iv) Specifying the responsibilities of the parties with regard to contract performance, sources of labor, and negotiation of the WOSB contract; and

(v) Requiring the final original records be retained by the managing venturer upon completion of the WOSB contract performed by the joint venture; and

(4) The Contracting Officer executes the contract in the name of the WOSB concern eligible under the WOSB Program or joint venture.

(End of clause)

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Attachment 8 - All awards under FAR Part 19

Limitations on Subcontracting and the Nonmanufacturer Rule Deviation Clauses

Use deviated clauses FAR 52.219-14 and FAR 52.219-33 below, instead of their current FAR clause equivalents.

Baseline is FAC 2020-05, effective March 30, 2020.

52.219-14 Limitations on Subcontracting. (DEVIATION 19-01) (AUG 2020)

As prescribed in 19.507(e), insert the following clause:

Limitations on Subcontracting (DEVIATION 19-01) (AUG 2020)

(a) This clause does not apply to the unrestricted portion of a partial set-aside.

(b) *Definition.* "Similarly situated entity," as used in this clause, means a first-tier subcontractor, including an independent contractor, that—

(1) Has the same small business program status as that which qualified the prime contractor for the award (e.g., for a small business set-aside contract, any small business concern, without regard to its socioeconomic status); and

(2) Is considered small for the size standard under the North American Industry Classification System (NAICS) code the prime contractor assigned to the subcontract.

(c) *Applicability.* This clause applies only to—

(1) Contracts that have been set aside for any of the small business concerns identified in 19.000(a)(3);

(2) Part or parts of a multiple-award contract that have been set aside for any of the small business concerns identified in 19.000(a)(3);

(3) Contracts that have been awarded on a sole-source basis in accordance with subparts 19.8, 19.13, 19.14, and 19.15;

(4) Orders expected to exceed the simplified acquisition threshold and that are—

(i) Set aside for small business concerns—under multiple-award contracts, as described in 8.405-5 and 16.505(b)(2)(i)(F); or

(ii) Issued directly to small business concerns under multiple-award contracts as described in 19.504(c)(1)(ii);

(5) Orders, regardless of dollar value, that are—

(i) Set aside in accordance with subparts 19.8, 19.13, 19.14, or 19.15 under multiple-award contracts, as described in 8.405-5 and 16.505(b)(2)(i)(F); or

(ii) Issued directly to concerns that qualify for the programs described in subparts 19.8, 19.13, 19.14, or 19.15 under multiple-award contracts, as described in 19.504(c)(1)(ii); and

(6) Contracts using the HUBZone price evaluation preference to award to a HUBZone small business concern unless the concern waived the evaluation preference.

(d) *Independent contractors.* An independent contractor shall be considered a subcontractor.

(e) *Limitations on subcontracting.* By submission of an offer and execution of a contract, the Contractor agrees that, in performance of a contract assigned a North American Industry Classification System (NAICS) code for—

(1) Services (except construction), it will not pay more than 50 percent of the amount paid by the Government for contract performance to subcontractors that are not similarly situated entities. Any work that a similarly situated entity further subcontracts will count towards the prime contractor's 50 percent subcontract amount that cannot be exceeded. When a contract includes both services and supplies, the 50 percent limitation shall apply only to the service portion of the contract;

(2) Supplies (other than procurement from a non- manufacturer of such supplies), it will not pay more than 50 percent of the amount paid by the Government for contract performance, excluding the cost of materials, to subcontractors that are not similarly situated entities. Any work that a similarly situated entity further subcontracts will count towards the prime contractor's 50 percent subcontract amount that cannot be exceeded. When a contract includes both supplies and services, the 50 percent limitation shall apply only to the supply portion of the contract;

(3) General construction, it will not pay more than 85 percent of the amount paid by the Government for contract performance, excluding the cost of materials, to subcontractors that are not similarly situated entities. Any work that a similarly situated entity further subcontracts will count towards the

prime contractor's 85 percent subcontract amount that cannot be exceeded; or

(4) Construction by special trade contractors, it will not pay more than 75 percent of the amount paid by the Government for contract performance, excluding the cost of materials, to subcontractors that are not similarly situated entities. Any work that a similarly situated entity further subcontracts will count towards the prime contractor's 75 percent subcontract amount that cannot be exceeded.

(f) The Contractor shall comply with the limitations on subcontracting as follows:

(1) For contracts, in accordance with paragraphs (c) (1), (2), (3), and (6) of this clause -

Contracting Officer check as appropriate.

__ By the end of the base term of the contract and then by the end of each subsequent option period; or

__ By the end of the performance period for each order issued under the contract.

(2) For orders, in accordance with paragraphs (c) (4) and (5) of this clause, by the end of the performance period for the order.

(g) A joint venture agrees that, in the performance of the contract, the applicable percentage specified in paragraph (e) of this clause will be performed by the aggregate of the joint venture participants.

(End of clause)

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52.219-33 Non-manufacturer Rule. (DEVIATION 19-01) (AUG 2020)

As prescribed in 19.507(h), insert the following clause: **Non-manufacturer Rule (DEVIATION 19-01) (AUG 2020)**

(a) *Definitions.* As used in this clause—

“Manufacturer” means the concern that transforms raw materials, miscellaneous parts, or components into the end item. Concerns that only minimally alter the item being procured do not qualify as manufacturers of the end item. Concerns that add substances, parts, or components to an existing end item to modify its performance will not be considered the end item manufacturer, where those identical modifications can be performed by and are available from the manufacturer of the existing end item.

“Non-manufacturer” means a concern, including a supplier, that provides an end item it did not manufacture, process, or produce.

(b) *Applicability.*

(1) This clause does not apply to contracts awarded pursuant to the unrestricted portion of a partial set-aside or to a contractor that is the manufacturer of the product or end item.

(2) This clause applies to—

(i) Contracts that have been awarded pursuant to a set-aside, in total or in part, for any of the small business concerns identified in 19.000(a)(3);

(ii) Contracts that have been awarded on a sole-source basis in accordance with subparts 19.8, 19.13, 19.14, and 19.15;

(iii) Orders expected to exceed the simplified acquisition threshold and that are-

(A) Set aside for small business under multiple-award contracts as described in 8.405-5 and 16.505(b)(2)(i)(F); or

(B) Issued directly to a small business concern under multiple-award contracts as described in 19.504(c)(1)(ii);

(iv) Orders, regardless of dollar value, that are-

(A) Set aside in accordance with subparts 19.8, 19.13, 19.14, and 19.15 under multiple-award contracts as described in 8.405-5 and 16.505(b)(2)(i)(F); or

(B) Issued directly to concerns that qualify for the programs described in subparts 19.8, 19.13, 19.14, and 19.15 under multiple-award contracts as described in 19.504(c)(1)(ii), regardless of dollar value; and

(v) Contracts using the HUBZone price evaluation preference to award to a HUBZone concern unless the Contractor waived the evaluation preference.

(c) *Requirements.*

(1) The Contractor shall-

(i) Provide an end item that a small business has manufactured, processed, or produced in the United States or its outlying areas; for kit assemblers who are nonmanufacturers, see paragraph (c)(2) of this clause instead;

(ii) Be primarily engaged in the retail or wholesale trade and normally sell the type of item being supplied; and

(iii) Take ownership or possession of the item(s) with its personnel, equipment, or facilities in a manner consistent with industry practice; for example, providing storage, transportation, or delivery.

(2) When the end item being acquired is a kit of supplies, at least 50 percent of the total cost of the components of the kit shall be manufactured, processed, or produced in the United States or its outlying areas by small business concerns.

(End of clause)