

VA



U.S. Department of Veterans Affairs

National Acquisition Center
Federal Supply Schedule Service

Small Business Subcontracting Plan Preparation

September 2017

Topics



- Legal Overview
- Commercial vs. Individual Plans
- Plan Components (Step-by-Step)
- Justification for Goals
- Quick Check
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- Plan Assistance Contacts



Legal Overview



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Who Must File a Plan?



Per FAR 19.702, there are three tests. Plans are required for all contracts

- 1) with an estimated value over \$700,000 (for the full contract term, including options),
- 2) with further subcontracting opportunities, and
- 3) when the contract holder is a classified as an “other than small business”.

Legal Resources



FAR 52.219-8

Utilization of Small Business Concerns

FAR 52.219-9

Small Business Subcontracting Plan

FAR 52.219-16

Liquidated Damages – Subcontracting Plans

FAR 19.7

The Small Business Subcontracting Program

Public Law 95-507

The Small Business Act

Legal Resources - Continued



GSAR 552.219-71

Notice to Offerors of Subcontracting Plan Requirements

GSAR 552.219-72

Preparation, Submission, and Negotiation of Subcontracting Plans

13 USC 121

Small Business Size Regulations

13 USC 125

Government Contracting Programs



Commercial vs. Individual Plans



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FAR 52.219-9(g)



“A commercial plan **is the preferred type** of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror’s planned subcontracting generally, for both commercial **and** Government business, rather than solely to the Government contract.”

Plan Type Comparisons



	Commercial Plans (Division & Company-wide)	Individual Plans
Plans (goals)	Submitted annually	Submitted for the entire performance period
	Goals can be adjusted annually based upon your company's current climate	Separate goals are set for the base and each option period in a single, approved plan
	Includes all company spend	Includes only dollars spent in support of the VA contract <i>Note: You must maintain documentation of how each pool of spend is allocated/attributed to supporting the specific VA contract.</i>
	One signed plan can be used for all government contracts	Must have a separate individual plan for each government contract
eSRS Reports (actual results)	Submit annual SSR (due by October 30 th)	Submit annual SSR (due by October 30 th)
		Also submit biannual ISR (due by March 30 th and October 30 th)



Plan Components



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Subcontracting Plan Period



Commercial Plans

- Per FAR 52.219-9(b), the plan period for commercial plans must coincide with your company's fiscal year.
- Prior to the approval of an **initial** plan, the dollars will be pro-rated and the start date adjusted so that the initial plan start date coincides with the contract award date and ends with the company's fiscal year-end (e.g. October 1, 2016 – December 31, 2017, a 15-month period).

Individual Plans

- Individual plans cover the entire performance period of the specific contract, including potential option years.
- For FSS the performance period would be 10 years: The first five-year base period and one, five-year option period.

SUBCONTRACTING PLAN PERIOD:

1) Type of Plan



- Select a) Individual, b) Commercial Division-wide, or c) Commercial Company-wide.
- List the **total value of projected subcontracts**. This is your company's total "spend", which includes spend with both **small and "other than small"** businesses.
- Include your total projected sales for the period and calculate the requested percentage, per FAR 52.219-9(d)(2)(i).

Total value of projected subcontracts (both **large and small** businesses) \$
Total projected sales \$ (Subcontracts Represent % of Total Annual Sales)

1) Excluded Categories



- **Specific Category Exclusions:** Per 13 CFR 125.3(a)(1)(iii), the following categories should not be included in the total subcontracting spend base in #1, the proposed goals in #2, nor in the categories of spend listed in #3:
Internally generated costs such as salaries and wages; employee insurance; other employee benefits; payments for petty cash; depreciation; interest; income taxes; property taxes; lease payments; bank fees; fines, claims, and dues; Original Equipment Manufacturer relationships during warranty periods (negotiated up front with product); utilities such as electricity, water, sewer, and other services purchased from a municipality or solely authorized by the municipality to provide those services in a particular geographical region; and philanthropic contributions. 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.
- **Lower Tier Spending:** You may only include spend made by you, the prime. You cannot include spend by your subcontractors.

2) Goals



- You must state separate goals for small businesses and **each** subcategory.
- Keep in mind that **we are negotiating percentage goals** (percentages of total available spend). The dollars you list are your projections so that we can calculate the category percentages.
- You may not have a 0% goal for any category.

2) Goals – 2a vs. 2b



- **#2a – Commercial Plans:** This section is to be completed by commercial plan holders only with one year goals.

Total estimated dollar value and percent of planned subcontracting with **veteran-owned small businesses (VO)**: \$ and %

- **#2b – Individual Plans:** This section is to be completed by individual plan holders only with two, separate five-year goals.

Total estimated dollar value and percent of planned subcontracting with **veteran-owned small businesses (VO)**:

Base (5-years): \$ & % & 5-Year Option: \$ & %

2) Goals – Calculations



- **Calculations:** The calculated percentage for each category is based upon **the total available subcontracting dollars** that you listed in the previous section (#1). For example, HUBZone dollars of \$400,000 ÷ Total Subcontracting dollars of \$2,500,000 = 16%.
- **Rounding: *NEW!!!*** All percentage goals must be properly rounded to the nearest 10th of a percent (e.g. 6.5234% = 6.5% or 1.054% = 1.1%) to mirror online reporting of goals at eSRS.gov.
- **Multiple Category Counting:** All small business dollars count once in the Small Business category and can count multiple times in the subcategories. For example, a \$500,000 subcontract with a small, veteran, woman-owned business would count in all three categories.

2) Goals – VO & SDVO



Please be aware that the SDVO category is a subset of the VO category. Therefore, all businesses that qualify as an SDVO also fall under the VO category.

- VO Goal should therefore be higher than your SDVO goal.
- Having the same VO and SDVO goal essentially means that you would not be seeking out any VO businesses, just those in the SDVO category.

3) Products and/or Services



- You must propose something for **every** category.
- Do not just list the same things for each category. You should be examining each category independently.
- Please make note of categories that should be excluded from this listing and from your dollars in #1 and #2 (see prior slide on excluded categories).

3. PRODUCTS AND/OR SERVICES

The types of products and/or services to be subcontracted are:

LB:

SDB:

SB:

WO:

VO:

HUB:

SDVO:

4) Goal Development



This question asks how you actually arrived at the dollar/percentage goals that you are proposing. Are your goals based on

- Historical data, previous spend history
- Projected forecast based upon current year's data
- Projected goals based on experience, business forecasts, & commitment to improvement, etc.

4. GOAL DEVELOPMENT

The following method was used in developing the subcontracting goals:



5) Identifying Potential Sources



As identified in FAR 52.219-9(d)(5), this question is asking about specific resources you are using to find small businesses, such as

- SBA Dynamic Small Business Search ([DSBS](#))
- [VetBiz.Gov](#)
- Women's Business Enterprise National Council ([WBENC](#))
- National Minority Business Council ([NMBC](#))

5. **IDENTIFYING POTENTIAL SOURCES**

The following methods were used to identify potential sources for solicitation purposes (See FAR 52.219-9(d)(5) for examples of methods that may be used.):



6) Indirect Costs



- You **must** choose “have” or “have not been” included. Even commercial plans are given a choice per FAR 52.219-9(d)(6).
- If you have a commercial plan type (not an individual) and choose “have been”, you do not need to determine a proportionate share. Commercial plans that choose to include indirect costs apply them at 100%.

6. INDIRECT COSTS

Indirect costs ☐ have ☐ have not been included in the dollar and percentage subcontracting goals stated above. (Check one.)

6) Indirect Costs – Impact on eSRS Reporting



- Effective 11/1/2016, the FAR at 52.219-9(l)(2) was revised to require plan holders to include indirect spend when filing their annual spending report at eSRS.gov.
- **Commercial Plans:** For those commercial plan holders who did not include indirect spend in their plans, they are required to report all indirect spend in eSRS.gov.
- **Individual Plans:** Individual plan holders who did not include indirect spend in their plans will be required to include indirect spend on a pro-rated basis in eSRS.gov.
- *Be aware that choosing not to include indirect spend in your subcontracting plan will create difficulties for your filing of and our review of your actual annual achievements.*

6. INDIRECT COSTS

Indirect costs ☐ have ☐ have not been included in the dollar and percentage subcontracting goals stated above. (Check one.)

7) Program Administrator



- The individual you list here will be the individual contacted by us for all subcontracting plan and eSRS issues, including instructions, reminders, delinquency notices, etc.
- Be sure to be specific and comprehensive when listing duties.

7. PROGRAM ADMINISTRATOR

The following individual will administer the subcontracting program:

NAME:

TELEPHONE:

TITLE:

E-MAIL:

ADDRESS:

This individual's specific duties, as they relate to the firm's subcontracting program, are as follows:

8) Equitable Opportunity



In this section you will outline your company's **internal and external proactive efforts**. This goes a long way towards showing that your company is making a "good faith effort". Some examples include

- Contacts w/ SB, minority, WO, etc. trade associations (list specific names)
- Contacts w/ business development organizations (list specific names)
- SB conferences, trade shows, workshops, seminars, training programs, etc. that you will attend or sponsor (specifically list which ones)

8. EQUITABLE OPPORTUNITY

The following good faith efforts (internal and external) will be taken to assure that small business, veteran-owned small business, service-disabled veteran-owned small business, small disadvantaged business, women-owned small business, and HUBZone small business concerns will have an equitable opportunity to compete for subcontracts:



9) Flow-Down Clause



The offeror agrees that the FAR clause of this contract entitled “Utilization of Small Business Concerns” (52.219-8) will be included in all subcontracts that offer further subcontracting opportunities, and that the Offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of \$700,000 (\$1.5 million for construction of any public facility) with further subcontracting possibilities to adopt a subcontracting plan that complies with the requirements of this clause.

NOTE: See exceptions listed in FAR 52.219-9(j).

See Also: FAR 52.219-9(d)(9) and 52.212-5(e)(1)(i)(C), Alternate II

Sections (9) – (15)



- **Agreement by Signature:** By signing the plan, you are agreeing to the text of these sections. The text in the plan template was taken directly from FAR 52.219-9(d) so that the template would be in compliance with the FAR required components of an acceptable subcontracting plan.
- **Altering FAR Language:** You may add to this language; however, you may not paraphrase or deviate from it such that it changes the intent of the FAR.

10) Reporting & Cooperation



52.219-9(d)(10): Assurances that the offeror will -

- (i) Cooperate in any studies or surveys as may be required;
- (ii) Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;
- (iii) After November 30, 2017, include subcontracting data for each order when reporting subcontracting achievements for indefinite-delivery, indefinite-quantity contracts intended for use by multiple agencies;
- (iv) Submit the Individual Subcontracting Report (ISR) and/or the Summary Subcontract Report (SSR), in accordance with the paragraph (I) of this clause using the Electronic Subcontracting Reporting System ([eSRS](#))

*Sections (v) – (vii) refer to the responsibilities regarding subcontractors of the prime contractor ***Note: See exception in FAR 52.219-9(j).***

11) Recordkeeping



52.219-9(d)(11) describes “the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan”, including

- Source lists that identify small business types
- Organizations contacted in an attempt to locate sources
- Records with FAR-specified information on each subcontract solicitation resulting in an award of more than \$150,000
- Records of any outreach efforts
- Records of internal guidance and encouragement provided to buyers

12 & 13) Utilization of SB Concerns Used in Bid/Proposal



52.219-9(d)(12): The offeror agrees to make a good faith effort to acquire articles, equipment, supplies, services, or materials, or obtain the performance of construction work from the small business concerns that it used in preparing the bid or proposal, in the same or greater scope, amount, and quality used in preparing and submitting the bid or proposal...

52.219-9(d)(13): The Contractor agrees to provide the Contracting Officer with a written explanation if the Contractor fails to acquire articles, equipment, supplies, services or materials or obtain the performance of construction work as described in (12) above. This written explanation must be submitted to the Contracting Officer within 30 days of contract completion.

14) Subcontractor Discussions with CO



52.219-9(d)(14) requires that The Contractor agrees not to prohibit a subcontractor from discussing with the Contracting Officer any material matter pertaining to payment to or utilization of a subcontractor.

15) Prompt Payment Of SB Subcontractors



52.219-9(d)(15) requires that the Contractor agree to pay its small business subcontractors on time and in accordance with the terms and conditions of the underlying subcontract, and notify the contracting officer when the prime contractor makes either a reduced or an untimely payment to a small business subcontractor (see FAR 52.242-5).

Signature



You must provide a signed copy of the plan. We do not need an original copy. A scanned copy sent via e-mail is sufficient.

Note: We cannot accept digital/electronic signatures at this time; therefore, you must submit a scanned copy of a wet signature.

*Signed: _____	Date Signed: _____
Typed Name: <input type="text"/>	Title: <input type="text"/>

Additional Documentation



Feel free to attach any documentation that you feel will support your plan and show your company's "good faith effort" in complying with plan requirements. However, be sure that your actual plan includes the required information/details.

****Pay particular attention to next section regarding providing justification for goals.***

Summary of Goals for Comm. Plans



Commercial Plan holders, unless the plan is an initial plan, should complete this table (not applicable for individual plan holders). This is designed to be a comprehensive snapshot of where you proposed that your company would be, where it landed, and where it is going with respect to subcontracting dollars. Please make sure that your prior year goals match your previous plan, and your current, proposed goals should match those listed in #1 and #2 of your plan template.

	<u>Prior Year Goals</u>	<u>Prior Year Achievements*</u>	<u>Current Goals</u>
1. Total Subcontracting Dollars (both large & small businesses)	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
2a. Small Business Dollars	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
SB Percent of Line 1	<input type="text"/> %	<input type="text"/> %	<input type="text"/> %



Justification for Goals

VA



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Justification



Justification (preferably provided in #4 Goal Development) is required whenever you are proposing percentage goals that are less than your actual percentage achievements (the prior plan period) **and/or** when you are proposing percentage goals that are lower than the VA suggested goals in any category. Currently, those goals are as follows:

Small Businesses: 17.0%

Veteran-Owned Small Businesses: 7.0%

Service Disabled Veteran-Owned Small Businesses: 5.0%

Disadvantaged Small Businesses: 5.0%

Women-Owned Small Businesses: 5.0%

HUBZone Small Businesses: 3.0%

Justification - Continued



Please be specific in explaining the challenges your company faces in meeting the VA's suggested goals. Address specific subcategories when applicable. Examples include:

- FDA registration/approval

- Quality control/technical requirements

- Buyer specifications

- Prior SBs are now LBs; must search for new SBs

- Proximity/Logistics – rural companies with few local SBs to meet needs



Quick Checks



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Quick Checks: Plan page 1



The following are checks to perform on your proposed plan to verify that it is ready for submission:

Plan Period: Does this reflect your company's fiscal year?

Date Submitted: If you made revisions to your plan, did you add the revised date to the plan?

1) Type of Plan: Do your total subcontracting dollars include spend with both large (other than small businesses) **and** small businesses? Did you make sure not to include any excluded category spend?

Quick Checks: Plan #2 - #4



- 2) Goals:** Did you include goals for **each** category (no 0.0% goals permitted)? Did you divide category dollars by the total subcontracting dollars in #1 to arrive at percentages? Did you round percentages to one decimal place (X.x%)? **3) Products and/or Services:** Did you propose something for each category? Did you examine each category independently? Did you make sure that you aren't listing any excluded categories?
- 4) Goal Development:** Did you properly answer the question providing the **method** you used to arrive at your actual goals? Did you provide any necessary justification for your goals?

Quick Checks: Plan #5 - #6



- 5) **Identifying Potential Sources:** Did you list specific resources that you are using?
- 6) **Indirect Costs:** Did you select “have” or “have not” (you **must** choose one)? If you selected “have not” and are filing an **individual** plan, did you answer the second question? The second question does not apply to commercial plans.
- 7) **Program Administrator:** Were you specific and comprehensive in listing the administrator’s duties?

Quick Checks: Plan #8 - End



8) Equitable Opportunity: Did you list any of your company's proactive efforts to demonstrate a "good faith effort"?

Signature: Did you provide a signed copy of the plan? A scanned copy is sufficient. At this time we cannot accept digital/electronic signatures.

Goals/Achievements Table (for commercial plans only): Do your prior year goals match last year's plan? Do your current year goals match the goals listed in #2? If this is your first plan, you should not complete the first two columns.



Review Process



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Review Process





Contacts



U.S. Department of Veterans Affairs
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NAC & PTAC Contacts



Subcontracting Plan Reviewers

VA Federal Supply Schedule (FSS)

SubcontractingVAFSS@va.gov

National Contract Service (NCS) Pharmaceutical Contracts

Teresa Hussain, Teresa.Hussain@va.gov, 708-786-5852

All Other NCS Contracts

Your assigned Contract Specialist

Other Plan Assistance

Procurement Technical Assistance Centers (PTAC)

APTAC-US.Org

SBA Regional Offices



- **AREA I:** (617) 565-5622 - Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island and Vermont and the Commonwealth of Puerto Rico & Virgin Islands
- **AREA II:** (202) 205-7311 - Delaware, Maryland, Pennsylvania, Virginia and West Virginia, and the Washington, DC Metropolitan Area
- **Area III:** 404-331-7587 - Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee
- **AREA IV:** 312-353-7381 - Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, & Wisconsin
- **AREA V:** 817-684-5302 - Arkansas, Colorado, Louisiana, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah and Wyoming
- **AREA VI:** 415-744-8429 - Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Washington, and Guam