

PRINCETON UNIVERSITY
Princeton, New Jersey

TERMS AND CONDITIONS WHICH ARE PART OF PURCHASE ORDERS ISSUED UNDER
GOVERNMENT CONTRACTS AND GRANTS FOR A PRICE IN EXCESS OF \$500,000

1. **Subcontracting Plan for Small Business and Small Disadvantaged Business Concerns (Negotiated)**
 - a. This provision does not apply to small business concerns.
 - b. The apparent successful offeror, upon request by the Buyer, shall submit and negotiate a subcontracting plan which addresses separately subcontracting with small business concerns and small disadvantaged business concerns and which shall be included in and made a part of the resultant purchase order. The subcontracting plan shall be negotiated within the time specified by the Buyer. Failure to submit and negotiate the subcontracting plan shall make the offeror ineligible for award of a contract. As a minimum, the subcontracting plan shall include--
 - (1) Separate percentage goals (expressed in terms of percentage of total planned subcontracting dollars) for the utilization as subcontractors of small business concerns owned and controlled by socially and economically disadvantaged individuals. For the purposes of the subcontracting plan, the Seller shall include all subcontracts to be awarded for the specific purpose of performing this purchase order and may include a proportionate share of supplies and services whose costs are normally allocated as indirect or overhead costs when reasonably determined to be attributable to this purchase order.
 - (a) A statement of: i. total dollars planned to be subcontracted; ii. total dollars planned to be subcontracted to small business; and iii. total dollars planned to be subcontracted to small disadvantaged business.
 - (b) A description of the principal supply and service areas to be subcontracted and an identification of those areas where it is planned to use i. small business subcontractors, and ii. small disadvantaged business subcontractors.
 - (c) A statement of the method used in developing proposed subcontracting goals for small business and small disadvantaged business concerns.
 - (d) If the offeror includes indirect and overhead costs as an element in establishing the goals in the subcontracting plan, the method used in determining the proportionate share of indirect and overhead costs incurred with i. small business, and ii. small disadvantaged business concerns.
 - (e) A statement of the method used for solicitation purposes (e.g., did the offeror use company source lists, the small business and disadvantaged small business source identification system provided by the Small Business Administration's Procurement Automated Source System, the National Minority Purchasing Council Vendor Information Service, or the services provided by the U.S. Department of Commerce Minority Business Development Agency's Research and Information Division, and the facilities of small business and disadvantaged business trade associations?).
 - (2) The name of an individual within the employ of the offeror who will administer the subcontracting plan of the offeror and a description of the duties of such individual;
 - (3) A description of the efforts the offeror will make to assure that small business and small disadvantaged business concerns will have an equitable opportunity to compete for subcontracts;
 - (4) Assurances that the offeror will include the clause entitled Utilization of Small Business and Small Disadvantaged Business Concerns in all subcontracts which offer further subcontracting possibilities in the United States and will require all subcontractors (except small business concerns) who receive subcontracts in excess of \$500,000 or, in the case of a contract for the construction of any public facility, \$1 million, to adopt a plan in consonance with this clause;
 - (5) Assurances that the offeror will submit such periodic reports and cooperate in any studies or surveys as may be required by the contracting agency or the Small Business Administration in order to determine the extent of compliance by the offeror with the subcontracting plan; and
 - (6) A recitation of the types of records the offeror will maintain to demonstrate procedures which have been adopted to comply with the requirements and goals set forth in the plan, including the establishment of source lists of small business and small disadvantaged business concerns; and efforts to identify and award subcontracts to such small business concerns. The records shall include at least the following (these records may be maintained on a plant-wide or company wide basis unless otherwise indicated):
 - (a) Small and disadvantaged business source lists, guides, and other data identifying small and small disadvantaged business vendors.
 - (b) Organizations contacted for small and disadvantaged business sources.
 - (c) On a contract-by-contract basis, records on all subcontract solicitations over \$100,000 indicating on each solicitation i. whether small business was solicited and if not, why not; ii. whether small disadvantaged business was solicited and if not, why not; and iii. reasons for the failure of responding small businesses to receive the subcontract award.
 - (d) Records to support such efforts as:
 - i. contacts with disadvantaged and small business trade associations;
 - ii. contacts with business development organizations; and
 - iii. attendance at small and disadvantaged business procurement conferences and trade fairs.
 - (e) Records to support internal activities to guide and encourage buyers such as:
 - i. workshops, seminars, training programs, etc.; and
 - ii. monitoring activities to evaluate compliance.
 - (f) On a contract-by-contract basis, records to support award data submitted to the Buyer to include name, address, and size status of subcontractor.
 - c. In order to effectively implement this plan the Seller shall:
 - (1) Issue and promulgate company-wide policy statements in support of this effort, develop written procedures and work instructions, and assign specific responsibilities regarding requirements of this clause.
 - (2) Demonstrate continuing management interest and involvement in support of this effort through such actions as regular reviews of progress and establishment of overall corporate and divisional goals and objectives.
 - (3) Train and motivate contractor personnel regarding the support of small and small disadvantaged business firms.
 - (4) Assist small business and small disadvantaged business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Seller's lists of potential small business and disadvantaged subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.
 - (5) Provide adequate and timely consideration of the potentialities of small business and small disadvantaged business concerns in all "make-or-buy" decisions.
 - (6) Counsel and discuss subcontracting opportunities with representatives of small and small disadvantaged business firms as are referred by the Small and Disadvantaged Business Utilization Specialist responsible for monitoring performance under this program and representatives of the SBA.
 - d. The Seller shall submit DD Form 1140-1 in accordance with instructions provided on the form.
 - e. The offeror understands that:
 - (1) An acceptable plan must, in the determination of the Buyer, provide the maximum practicable opportunity for small business and small disadvantaged business concerns to participate in the performance of the contract.
 - (2) The Buyer shall notify the Seller in writing of his reasons for determining a subcontracting plan to be unacceptable. Such notice shall be given early enough in the negotiation process to allow the Seller sufficient time to modify the plan within the time limits prescribed.
 - (3) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Buyer in determining the responsibility of the offeror for award of the contract.

- (4) The failure of any contractor or subcontractor to comply in good faith with i. the clause entitled Utilization of Small Business and Small Disadvantaged Business Concerns or ii. an approved plan required by this Small Business and Small Disadvantaged Business Subcontracting plan (Negotiated) provision, will be a material breach of such contract or subcontract.

f. In the acquisition of commercial products, the offeror further understands that:

- (1) If a commercial product (defined below) is offered, the required subcontracting plan may cover the company's commercial production generally, both for Government contracts and for regular commercial sales, rather than just this acquisition. In such cases, the Seller may request approval from the Buyer to submit one company-wide, or division-wide, annual plan. If such request is deemed appropriate, the offeror shall submit a proposed company-wide, or division-wide, annual plan for acceptance.
- (2) Upon approval by the Buyer, the plan will remain in effect for the company's entire fiscal year. During this period, Government contracts for commercial products of the affected company or division will not be required to contain individual subcontracting plans relating only to the supply or services being acquired, unless the Buyer determines for a particular contract that there are unforeseen possibilities for small business and small disadvantaged business subcontracting.
- (3) At least 60 days before the scheduled termination of the company or division-wide plan, the Seller may submit to the Buyer a proposed company or division-wide subcontracting plan for its commercial products for the succeeding fiscal year.
- (4) For the purpose of this program, the term "commercial product" means a product in regular production sold in substantial quantities to the general public and/or industry at established catalog or market prices. A product which, in the opinion of the Buyer, differs only insignificantly from the Seller's commercial product may be regarded for the purpose of this clause as a commercial product.

2. Labor Surplus Area Subcontracting Program

- a. The Seller agrees to establish and conduct a program which will encourage labor surplus area concerns to compete for subcontracts within their capabilities. In this connection, the Seller shall--
 - (1) Designate a liaison officer who will (a) maintain liaison with duly authorized representatives of the Buyer on labor surplus matters, (b) supervise compliance with the "Utilization of Labor Surplus Area Concerns" clause, and (c) administer the Seller's Labor Surplus Area Subcontracting Program.
 - (2) Provide adequate and timely consideration of the potentialities of labor surplus area concerns in all "make-or-buy" decisions;
 - (3) Assure that labor surplus area concerns will have an equitable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to fa-

ilitate the participation of labor surplus area concerns;

- (4) Maintain records showing procedures which have been adopted to comply with the policies set forth in this clause; and
 - (5) Include the "Utilization of Labor Surplus Area Concerns" clause in subcontracts which offer substantial labor surplus area subcontracting opportunities.
- b. For subcontracting purposes, a "labor surplus area concern" is a concern that has agreed to perform substantially in labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in a labor surplus area if the costs that the concern will incur on account of manufacturing or production in such areas amount to more than 50% of the price of such contract.
 - c. The Seller further agrees, with respect to any subcontract hereunder which is in excess of \$500,000 and which contains the clause entitled "Utilization of Labor Surplus Area Concerns" that he will insert provisions in the subcontract which will conform substantially to the language of this clause, including this paragraph c., and that he will furnish the names of such subcontractors to the Buyer.