STRATEGIES FOR FEDERAL SUBCONTRACTING
SUBCONTRACTING IS EASIER THAN YOU THINK!

• YOU FOUND THE PERFECT OPPORTUNITY, NOW WHAT?

• BASED ON THE REQUIREMENTS OF THE SOLICITATION YOU AS A COMPANY DETERMINE IF YOU REQUIRE A PORTION OF THE SERVICES OR SUPPLIES BE SUBCONTRACTED.

• WHAT IS A SUBCONTRACT?

• ANY AGREEMENT (OTHER THAN INVOLVING AN EMPLOYEE-EMPLOYEE RELATIONSHIP) ENTERED INTO BY A FEDERAL GOVERNMENT PRIME CONTRACTOR OR SUBCONTRACTOR CALLING FOR SUPPLIES OR SERVICES REQUIRED FOR PERFORMANCE OF THE CONTRACT OR SUBCONTRACT.
Small Business Goals

• The policy of the United States is that small businesses have the maximum practical opportunity to participate in providing goods and services to the Federal Government. Congress, in furtherance of that policy, enacted various small business goals for Federal procurement. The Small Business Act states that the Small Business Administration (SBA) is to "aid, counsel, assist, and protect, insofar as is possible, the interests of small business concerns in order to preserve free competitive enterprise, to ensure that a fair proportion of total purchases and contracts or subcontracts for property and services for the Government to maintain and strengthen the overall economy of the Nation." Negotiating individual agency small business procurement goals is one of the most important ways by which the SBA fulfills that mission.
SBCs
23% of the total value of all prime contract awards for each fiscal year

SDBs
5% of the total value of all prime contract and subcontract awards for each fiscal year

WOSBs
Not less than 5% of the total value of all prime contract and subcontract awards for each fiscal year

SDVOSB
Not less than 3% of the total value of all prime contract and subcontract awards for each fiscal year

HUBZone SBCs
Not less than 3% of the total value of all prime contract and subcontract awards for each fiscal year
LIMITATIONS ON SUBCONTRACTING FOR SMALL BUSINESS CONTRACTORS

• There are specific limitations on subcontracting to prevent a small business from subcontracting out too much of the work. The limitations on subcontracting (which apply to certain full or partial small business set-aside contracts, including 8(a) and Women-Owned Small Business contracts) are set out at 13 C.F.R. 125.6, including different requirements for self-performance based on industry:

• In the case of a contract for services (except construction), the small business concern will perform at least 50 percent of the cost of the contract incurred for personnel with its own employees.

• In the case of a contract for supplies or products (other than procurement from a non-manufacturer in such supplies or products), the concern will perform at least 50 percent of the cost of manufacturing the supplies or products.
• One of the common challenges for small business trying to comply with 125.6’s limitations on subcontracting is figuring out what it means to self-perform. Small businesses must be mindful of the limitation on subcontracting when bidding on set-aside procurements – and must make sure to follow through on complying with those requirements after the contract is awarded.
• The limitations on subcontracting do not apply to:

• (1) Small business set-aside contracts with a value that is greater than the micro-purchase threshold but less than or equal to the simplified acquisition threshold (as both terms are defined in the FAR at 48 CFR 2.101); or

• (2) Subcontracts (except where a prime is relying on a similarly situated entity to meet the applicable limitations on subcontracting).
The Offeror, upon request by the Contracting Officer, shall submit and negotiate a subcontracting plan, where applicable, that separately addresses subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. If the Offeror is submitting an individual subcontracting plan, the plan must separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The subcontracting plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate the subcontracting plan shall make the Offeror ineligible for award of a contract.
The Contractor may accept a subcontractor's written representations of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a women-owned small business if the subcontractor represents that the size and socioeconomic status representations with its offer are current, accurate, and complete as of the date of the offer for the subcontract.
The Contractor may accept a subcontractor's representations of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a women-owned small business in the System for Award Management (SAM) if—

(A) The subcontractor is registered in SAM; and

(B) The subcontractor represents that the size and socioeconomic status representations made in SAM are current, accurate and complete as of the date of the offer for the subcontract.

(iii) The Contractor may not require the use of SAM for the purposes of representing size or socioeconomic status in connection with a subcontract.
Subcontracting plan shall include the following:

Separate goals, expressed in terms of total dollars subcontracted, and as a percentage of total planned subcontracting dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. For individual subcontracting plans, and if required by the Contracting Officer, goals shall also be expressed in terms of percentage of total contract dollars, in addition to the goals expressed as a percentage of total subcontract dollars. The Offeror shall include all subcontracts that contribute to contract performance.
• A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, SAM, veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in SAM as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of SAM as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities)
• The name of the individual employed by the Offeror who will administer the Offeror's subcontracting program, and a description of the duties of the individual.

• Assurances that the Offeror will include the clause of this contract entitled “Utilization of Small Business Concerns” in all subcontracts that offer further subcontracting opportunities.

• Submit the Individual Subcontract Report (ISR) and/or the Summary Subcontract Report (SSR), in accordance with paragraph (I) of this clause using the Electronic Subcontracting Reporting System (eSRS) at http://www.esrs.gov.
The report shall be submitted semi-annually during contract performance for the periods ending March 31 and September 30. A report is also required for each contract within 30 days of contract completion. Reports are due 30 days after the close of each reporting period, unless otherwise directed by the Contracting Officer. Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or the previous reporting period. When the Contracting Officer rejects an ISR, the Contractor shall submit a corrected report within 30 days of receiving the notice of ISR rejection.

Assurances that the offeror will 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 52.242-5).
Pertinent Federal Acquisition Regulation (FAR) Clauses

- 52-219.9 Small Business Subcontracting Plan
- 52.244-2 Subcontracts
- 52.244-5 Competition in Subcontracting
- 52.244-6 Subcontracts for Commercial Contracts
- 52.219-14 Limitations on Subcontracting
FRIENDLY ADVICE

• You’ve likely heard it before, and I’ll say it again: There is no one right way to becoming and succeeding as a government contractor. The path from start to finish is not the same for all businesses. The starting point is (I’m interested in government contract work), as is the ending point (Congratulations, you’ve received a contract award), but getting there is part of the process. Subcontracting is one avenue to consider and, if you feel it will benefit you, pursue. You can easily identify potential subcontracting opportunities by reviewing opportunities in FBO (as you would when looking for contract opportunities). When you see a contract has been awarded that calls for your services and/or products, reach out to the business that received the contract, introduce yourself, and find out if there is potential subcontract work available.

• Also, some contracts — especially larger ones — require prime vendors to work with subcontractors. Other than doing your homework, there is no easy way to identify these opportunities.
• Virginia PTAC is a FREE resource to assist you
• Register as a client to get started with a counseling session
• Visit our website and join our mailing list
• Use us as a resource
• www.virginiaptac.org

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