

(iii) Submitting a timely, accurate, and complete SF-294, Subcontracting Report for Individual Contract, and SF-295, Summary Subcontract Report; or entering the same information into an electronic database approved by SBA;

(iv) Cooperating in the reviews of subcontracting plan compliance, including providing requested information and supporting documentation reflecting actual achievements and good-faith efforts to meet the goals and other elements in the subcontracting plan; and

(v) Providing pre-award written notification to unsuccessful small business offerors on all subcontracts over \$100,000 for which a small business concern received a preference. The written notification must include the name and location of the apparent successful offeror and if the successful offeror is a small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business.

(2) A commercial plan, also referred to as an annual plan or company-wide plan, is the preferred type of subcontracting plan for contractors furnishing commercial items. A commercial plan covers the offeror's fiscal year and applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line). Once approved, the plan remains in effect during the contractor's fiscal year for all Government contracts in effect during that period. The contracting officer of the agency that originally approved the commercial plan will exercise the functions of the contracting officer on behalf of all agencies that award contracts covered by the plan.

(3) The additional prime contractor responsibilities described in paragraph (c)(1) of this section do not apply if:

(i) The prime contractor is a small business concern;

(ii) The prime contract or contract modification is a personal services contract;

(iii) The prime contract or contract modification will be performed entirely outside of any state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico; or

(iv) The modification is to a contract that did not originally contain the clause at 48 CFR 52.219-8, Utilization of Small Business Concerns (or equivalent prior clauses).

(d) *Determination of good-faith efforts.* Evidence that a large business

prime contractor has made a good-faith effort to comply with its subcontracting plan or other subcontracting responsibilities includes supporting documentation that:

(1) The contractor performed the actions described in paragraph (b) of this section; or

(2) Other contractors awarded contracts of similar scope, size or dollar value have not achieved or exceeded the goals stated in their subcontracting plans, despite other evidence of their good-faith efforts to comply. The determination of the subcontracting plan compliance of other contractors may be based on available subcontracting past performance records and other information.

(e) *CMR Responsibilities.* Commercial Market Representatives (CMRs) are SBA's subcontracting specialists. CMRs are responsible for:

(1) Facilitating the matching of large prime contractors with small business concerns;

(2) Counseling large prime contractors on their responsibilities to maximize subcontracting opportunities for small business concerns;

(3) Instructing large prime contractors on identifying small business concerns by means of SBA's PRO-Net, SUB-Net, and other resources and tools;

(4) Counseling small business concerns on how to market themselves to large prime contractors;

(5) Maintaining a portfolio of large prime contractors and conducting Subcontracting Orientation and Assistance Reviews (SOAR). SOARs are conducted for the purpose of assisting prime contractors in understanding and complying with their small business subcontracting responsibilities, including developing subcontracting goals that reflect maximum practicable opportunity for small business; maintaining acceptable books and records; and periodically submitting reports to the Government; and

(6) Conducting periodic reviews, including compliance reviews in accordance with paragraph (f) of this section.

(f) *Compliance reviews.* (1) A prime contractor's performance under its subcontracting plan is evaluated by means of on-site compliance reviews and follow-up reviews. A compliance review is a surveillance review that determines a contractor's achievements in meeting the goals and other elements in its subcontracting plan for both open contracts and contracts completed during the previous twelve months. A follow-up review is done after a compliance review, generally within six to eight months, to determine if the

contractor has implemented SBA's recommendations.

(2) All compliance reviews begin with a validation of the contractor's most recent SF-295, Summary Subcontract Report, and SF-294, Subcontracting Report for Individual Contracts, if applicable. The validation includes a review of the contractor's methodology for completing these reports and a sampling of specific documentation to substantiate small business status.

(3) Upon completion of the review and evaluation of a contractor's performance and efforts to achieve the requirements in its subcontracting plans, the contractor's performance will be assigned one of the following ratings: Outstanding, Highly Successful, Acceptable, Marginal, or Unsatisfactory. The factors listed in paragraph (c) of this section will be taken into consideration, where applicable, in determining the contractor's rating. However, a contractor may be found Unsatisfactory, regardless of other factors, if it cannot substantiate the claimed achievements under its subcontracting plan.

(4) Reviews and evaluations of contractors with commercial plans are identical to reviews and evaluations of other contractors, except that contractors with commercial subcontracting plans do not submit the SF-294, Subcontracting Report for Individual Contracts. Instead, goal achievement is determined by comparing the goals in the approved commercial subcontracting plan against the cumulative achievements on the SF-295, Summary Subcontract Report, for the same period. The same ratings criteria set forth in paragraph (f)(3) of this section apply to contractors with commercial plans.

(5) SBA is authorized to enter into agreements with other Federal agencies or entities to conduct compliance reviews and otherwise further the objectives of the subcontracting program. Copies of these agreements will be published on www.sba.gov/GC. SBA is the lead agency on all joint compliance reviews with other agencies.

(g) *Subcontracting consideration in source selection.* When an ordering agency anticipates placing an order or entering into a blanket purchase agreement against a Federal Supply Schedule, government-wide acquisition contract (GWAC), or multi-agency contract (MAC), the ordering agency may evaluate subcontracting as an important factor in its source selection process. This evaluation may include any of the following:

(1) The subcontracting to be performed on the specific requirement;