



FAR FACTS
SEASON 2023, EPISODE 13
FAR PARTS 19 and 26

1. Depending upon its industry and North American Industry Classification System (NAICS) code, a business status as a small business will be based upon either (i) number of employees or (ii) amount of “annual receipts.” **13 CFR 121.**
2. Except for **FAR 19.6** (Certificates of Competency), the rest of FAR Part 19 only applies to work performed in the United States or its outlying areas. FAR 19.6 applies world-wide. **FAR 19.000.**
3. A CO shall accept an offeror’s representation that it is a small business unless another offeror or interested party challenges the concern’s small business representation. **FAR 19.301-1.** A prime contractor may accept in good faith a subcontractor’s representation that it is a small business unless there is evidence to suggest otherwise. **FAR 19.703(a).**
4. For long-term contracts, a contractor that represented itself as small must re-represent its size status prior to beginning the sixth year of the contract. See **FAR 19.301-2(b)** for other events that trigger re-representation.
5. If a contractor re-represents itself as other than small, the agency may no longer use the value of the options exercised, modifications issued, orders issued, or purchases made under the blanket purchase agreements to meet its small business contracting goals. **FAR 19.301-2(d).**
6. The Small Business Administration has sole jurisdiction to hear small business size status protests. **FAR 19.302.**
7. The CO must promptly forward a protest (timely or not) or his/her own protest to the SBA Government Contracting Area Office for the geographical area where the principal office of the concern in question is located. **FAR 19.302(c)(1).**
6. Contracting officers are required to “set aside” any acquisition over the simplified acquisition threshold for small business participation when there is a reasonable expectation that – (i) responsive offers will be obtained from at least two responsible small business concerns offering the products of different small business concerns and (ii) award will be made at a “fair market price.” **FAR 19.501.** Remember, however, that task orders issued under GSA Federal Supply Schedule contracts, controlled by FAR Part 8, are exempt from this rule. See **FAR 8.405-5** for discussion of use of small business set-asides under FSS Contracts.
7. Small business concerns performing work under a small business set-aside contract are subject to limitations on subcontracting. Contractors awarded set aside contracts must agree that a specific portion of the work will be self-performed. The amount of work/costs that must be incurred/performed by the contractor depends upon the whether the contract is for products, services or construction. These requirements are implemented by the inclusion of **FAR 52.219-14.**

8. A "Certificate of Competency" is the certificate issued by the SBA stating that the small business holder is responsible for the purpose of receiving and performing a specific Government contract. **FAR 19.601.**
9. A denial of a certificate of competency does not preclude a CO from awarding the contract to the referred concern, nor does it prevent the concern from making an offer on any other procurement. **FAR 19.602-3(c)(3).**
10. A contractor receiving a contract over the simplified acquisition threshold must agree to contract with small business concerns and usually demonstrates this agreement through the preparation of small business subcontracting plan. In most Government contracts, small business subcontracting requirements are "goals" and not mandatory contract obligations.
11. Subcontracting plans are not required for small business concerns, for personal service contracts, for contracts or modifications performed entirely outside the U.S., and for modifications to contracts within the general scope of the contract that do not contain the clause at **52.219-8**, Utilization of Small Business Concerns. **FAR 19.702(b).**
12. When a contractor fails to make a good faith effort to meet its small business subcontracting goals, the Government is entitled to "liquidated damages." **FAR 19.705-7 and FAR 52.219-16.**
13. The amount of damages attributable to the contractor's failure to comply with its proposed small business subcontracting goals is the total amount equal to the actual dollar amount by which the contractor failed to achieve each subcontracting goal. **FAR 19.705-7(b).**
14. The regulations governing the SBA 8(a) program can be found at **13 CFR 124.**
15. SBA is the prime under an 8(a) contract. **FAR 19.8.** SBA may not accept for negotiation a sole-source 8(a) contract that exceeds \$22 million unless the requesting agency has completed a justification. **FAR 19.808-1(a).**

16. The Indian Incentive Program allows an incentive payment equal to 5% of the amount paid to a subcontractor in performing the contract, if the contract so authorizes and the subcontractor is an Indian organization or Indian-owned economic enterprise. **FAR 26.102.**
17. When awarding emergency response contracts during the term of a major disaster or emergency declaration, preference shall be given, to the extent feasible and practicable, to local firms. **FAR 26.202.**
18. An executive agency and any contractor making food donations to a non-profit organization shall be exempt from civil and criminal liability to the extent provided under the Bill Emerson Good Samaritan Food Donation Act. **FAR 26.404 and FAR 52.226-6.**