

# New York University

## UNIVERSITY POLICIES

<b>Title:</b>	Small Business Program Policy for Federal Contracts
<b>Effective Date:</b>	December 1, 2017
<b>Supersedes:</b>	September 1, 2013
<b>Issuing Authority:</b>	Sponsored Programs Administration
<b>Responsible Officer:</b>	Assistant Vice President for Post-Award Administration

### Policy

It is the policy of New York University (NYU, “the University”) that NYU complies with the United States (Public Law 95-507) which states that small business concerns (e.g., women, minority) shall have the maximum practicable opportunity to participate in the performance of contracts awarded by any Federal agency. This policy requires that for each contract funded by a Federal agency that exceeds \$650,000 a Subcontracting Plan shall be negotiated and administered in accordance with Federal contract requirements.

### Purpose of this Policy

The purpose of this policy is to provide guidance on the coordination, preparation and administration of a Subcontracting Plan for Small Business Concerns for Federal contracts or pass-through funds. In this section we will discuss utilization of and procurements with small businesses under federally funded contracts, (in accordance with the Federal Acquisition Regulations requirement at 52.219-8 ‘Utilization of Small Business Concerns’ and 52.219-9 ‘Small Business Subcontracting Plan’).

### Scope of this Policy

This policy is applicable to all schools, departments, units and personnel of the University involved in administering sponsored awards.

### Procedures for Implementation

NYU, when submitting a proposal in response to a federally funded contract where the award amount is estimated to exceed the Simplified Acquisition Threshold, must comply with Federal Acquisition Regulation (FAR) requirements regarding the Utilization of Small Business Concerns. Specifically, a Small Business Subcontracting Plan must be proposed, negotiated at time of award, and monitored/reported upon during performance of the project.

The Office of Sponsored Programs will submit to and negotiate with the Federal agency a Small Business Subcontracting Plan that addresses procurement and subcontracting with small and disadvantaged (commonly minority and women owned) business concerns. Plans, created by the administrative unit developing the proposal with assistance from NYU's Procurement Office who maintains a list of vendors that qualify as minority or women owned small businesses under the program, will be reviewed by the Office of Sponsored Programs (OSP) along with the proposal budget and submitted to the sponsoring entity. When there may be no opportunities to subcontract to minority or woman owned small business vendors (based on the specialized nature of the work proposed, the lack of any need for procured goods and services, or due to budgetary constraints/economies of scale to name a few) OSP will state as such and request that the sponsoring agency consider granting a waiver of the requirement.

*Coordination* – NYU Procurement is designated as the Liaison Office for the Subcontracting/Subawards Program with the following responsibilities.

1. Maintain liaison with the Government on small business reporting.
2. Ensure that the Federal Procurement regulation clauses listed below are included in subcontracts/subawards issued under Federal contracts:
  - Subawards issued under a Federal Government Contract Prime Award that exceed the simplified acquisition threshold to all concerns (large and small);
  - Clause: "Utilization of Small Business Concerns";
  - Subawards issued under a Federal Government Contract Prime Award that exceed the simplified acquisition threshold to other than small business concerns;
  - Clause: "Small Business Subcontracting Plan."
3. Prepare procedures that govern Plan preparation, implementation and administration.
4. Coordinate activities between Procurement, Program Manager/PI, Department/Laboratory Administrator and Contract Officer to ensure timely submission of meaningful and appropriate Plans.
5. Maintain records and reports of compliance with and accomplishments under sponsor approved Plans as of March 31st and September 30th.
6. Submit reports of compliance and accomplishments under approved subcontracting plans to Program Managers/Pis, Subcontracting Plan Administrators and cognizant Institute personnel.

7. Prepare and submit required reports of accomplishments under approved subcontracting plans to the contracting agencies.

8. Reports:

i. Individual Subcontract Reports File ISR (Formerly Standard Form 294)

These reports should be submitted semi-annually for the periods ended March 31st and September 30th. Reports are due 30 days after the close of each reporting period. A separate report is required for each contract at contract completion and for each contract that contains a subcontracting plan. This report should document accomplishments under a subcontracting plan during the reporting period (6 months) and cumulatively from contract commencement.

ii. Summary Subcontract Reports File SSR (Formerly Standard Form 295)

Submitted semi-annually for the six months ended March 31st and the twelve months ended September 30th. Reports are due 30 days after the close of each reporting period.

A separate report is required for each Federal department or agency (i.e., Department of Defense, Department of Transportation, Department of Energy, NASA) which is awarded at least one contract that contains a Subcontracting Plan.

This report document cumulatively the distribution of business (procurements) to small business concerns under all active contracts awarded by the same Federal department or agency whether or not each contract requires a subcontracting plan.

The report also documents the subcontracting plan accomplishments under all active contracts and contracts completed during the reporting period which were awarded by the same Federal department or agency.

*Preparation & Administration* - Program Manager/PI, Department/Laboratory Administrator, Contract Officer, NYU Procurement

*To be approved by the contracting sponsor, a subcontracting plan must:*

Provide the maximum practicable opportunity for small business concerns to participate in the performance of the contract. Accordingly, it is important that the details of the cost portion of the proposal be clearly broken out with respect to intended procurement of subcontracts, subawards, equipment, materials and services.

a. Several individuals and offices across the University have roles and responsibilities in the coordination and administration of small business programs:

- *Program Manager/PI* – PIs prepare budget estimates for the sponsored project, and ensure compliance with award terms and conditions as well as applicable Federal regulations including the development of Subcontracting Plans based on the sponsored project budget and selection of providers of goods and services;
  - *Department Administrator/Grant Manager* – Support PIs in preparing budget estimates and submitting budget estimates to Procurement. They initiate procurement actions with minority and women owned small businesses in accordance with executed Subcontracting Plans, thus ensuring compliance with Federal regulations;
  - *Procurement* – Maintains lists and reference materials for qualified vendors, supports PIs by identifying possible subcontracting opportunities, and signs off on small business subcontracting plans and reports of small business subcontracting;
  - *Office of Sponsored Programs/Contract Office* – The Office of Sponsored Programs supports the PI and Department in reviewing budgets and subcontracting plans and authorizing submission to the sponsor. The Contract Office ensures that a sponsors terms and conditions comply with federal regulatory compliance requirements and University policies and procedures and flows down small business subcontracting plan requirements in lower tier Subcontracts, as applicable.
- b. Reflect separate percentage goals in terms of percentage of total dollars planned for each category of procurement for awards to (i) small business concerns, (ii) small disadvantaged business concerns and (iii) small women-owned business concerns. Procurement personnel will recommend sources of supply for this purpose.

*Administration of Small Business Plan:*

- a. Procurement maintains listings of small disadvantaged business concerns and their products, provided by the Director of Procurement;
- b. Procurement reviews each request/requisition submitted under the contract to ensure that (i) business previously earmarked for small disadvantaged business concerns is directed to such firms, (ii) business not so previously earmarked which can be purchased from known small disadvantaged business concerns is directed to such firms;
- c. For all requests/requisitions submitted to Procurement for processing under a contract with a subcontracting plan, the Administrator should identify a Subcontracting Plan to enable review by Procurement for consideration for award to a small disadvantaged business concern.

## Policy Definitions

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Federal Contract (Procurement)	The appropriate agreement to be used in a relationship between the Federal government and a recipient whenever: (1) the principal purpose of the relationship is to acquire by purchase, lease, or barter property or services for the direct benefit or use of the Federal government; or (2) a Federal executive agency determines in a specific instance that the use of a type of procurement contract is appropriate. Federal contracts are governed by the Federal Acquisition Regulation (FAR).
Small Business Subcontract Plan	Mandated under FAR 52.219-9 and applicable to Federal contracts that exceed the simplified acquisition threshold (currently \$650,000); a plan is required which details the amount of goods or services, which will be acquired from Small Businesses.

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## Related Policies

- Managing Subawards Issued by NYU Policy  
<http://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/managing-subawards-issued-by-nyu-policy.html>
- Purchasing Policies & Procedure Manual  
<http://www.nyu.edu/content/nyu/en/about/policies-guidelines-compliance/policies-and-guidelines/purchasing-policies-and-procedures-manual.html>

## Federal Regulations

- Federal Acquisition Regulation, Subpart 19.7, The Small Business Subcontracting Program  
[https://www.acquisition.gov/far/html/Subpart%2019\\_7.html](https://www.acquisition.gov/far/html/Subpart%2019_7.html)
- Federal Acquisition Regulation, the contract clause for Subpart 19.7 at Subpart 52.219-9, Small Business Subcontracting Plan  
[https://www.acquisition.gov/far/current/html/52\\_217\\_221.html#wp1136058](https://www.acquisition.gov/far/current/html/52_217_221.html#wp1136058)