



United States Department of Agriculture  
Food and Nutrition Service

Southeast Region

Reply to  
Attn. of: SA 9-1

December 28, 1998

**Subject:** Policy 210.21-07: Contracting with Small and Minority Firms

**To:** All State NSLP Directors  
Southeast Region

This memorandum reissues policy previously released as NSLP/SBP/SMP 94-2: Contracting with Small and Minority Firms, Women's Business Enterprises and Labor Surplus Area Firms dated December 8, 1993. Any changes made to the original memorandum are in **bold**.

As required by Attachment O of OMB Circular A-102, Section 9:

“It is a National policy to award a fair share of contracts to small and minority business firms. Accordingly, affirmative steps must be taken to assure that small and minority businesses are utilized when possible as sources of supplies, equipment, and services.” **Affirmative steps shall include the following (see A-102, Section 9 for a complete list):**

1. To the extent possible, efforts must be made to include small and minority, women's businesses and labor surplus area firms on the solicitation list. These firms must be solicited when they are potential sources for purchased goods and services.
2. When economically feasible, requirements need to be divided into smaller tasks or quantities so as to permit maximum participation by these firms.
3. The services and assistance of the Small Business Administration, the Minority Business Development Agency of the Department of Commerce, and local community action agencies should be used.

The Federal regulations do not address set asides and preferences; however, these may be required by local or State governments and are permissible. If this is the case, the authorizing statute, executive order, regulation, court decree, etc. would generally set forth the bid solicitation, evaluation, and award criteria as well as any other requirements applicable to the preference or set aside. These requirements should be incorporated into the procurement plan and documents and should be carefully followed. Set asides and preferences which are not required legally by the State and local governments are not permissible.

All procurement transactions, regardless of whether by sealed bids or by negotiation, shall be conducted in a manner that provides maximum open and free competition. documentation must be maintained which supports the rationale for the method of procurement, selection of contract types, contractor selection or rejection, and the basis for the cost or price.

Should your staff have any questions regarding this matter, please have them contact our office.

CHARLIE SIMMONS  
Regional Director  
Special Nutrition Programs