

52.219-33 NONMANUFACTURER RULE (MAR 2020)

(a) This clause does not apply to the unrestricted portion of a partial set-aside.

(b) Applicability. This clause applies to—

- (1) Contracts that have been set aside, in total or in part;
- (2) Orders under multiple-award contracts as described in 8.405-5 and 16.505(b)(2)(i)(F) that have been set aside for any of the small business concerns identified in 19.000(a)(3); and
- (3) Orders issued directly to any of the small business concerns identified in 19.000(a)(3) under multiple-award contracts as described in 19.504(c)(1)(ii).

(c)

(1) The Contractor shall—

(i) (A) Provide the end item of a small business manufacturer, or if set aside or awarded on a sole source basis to a HUBZone small business, provide the end item of a HUBZone small business manufacturer, that has been manufactured or produced in the United States or its outlying areas; or

(B) If this procurement is an order as described in 8.405-5 or 16.505(b)(2)(i)(F) or processed under simplified acquisition procedures (see part 13), and the total amount does not exceed \$25,000, provide the end item of any domestic manufacturer;

(ii) Not exceed 500 employees;

(iii) Be primarily engaged in the retail or wholesale trade and normally sell the type of item being supplied; and

(iv) Take ownership or possession of the item(s) with its personnel, equipment, or facilities in a manner consistent with industry practice.

(2) In addition to the requirements set forth in paragraph (c)(1) of this clause, when the end item being acquired is a kit of supplies or other goods, 50 percent of the total value of the components of the kit shall be manufactured in the United States or its outlying areas by small business concerns. Where the Government has specified an item for the kit which is not produced by U.S. small business concerns, such items shall be excluded from the 50 percent calculation. See 13 CFR 121.406(c) for further information regarding non-manufacturers.

(3) For size determination purposes, there can be only one manufacturer of the end product being acquired. For the purposes of the non-manufacturer rule, the manufacturer of the end product being acquired is the concern that transforms raw materials and/or miscellaneous parts or components into the end product. Firms which only minimally alter the item being procured do not qualify as manufacturers of the end item, such as firms that add substances, parts, or components to an existing end item to modify its performance, will not be considered the end item manufacturer, where those identical modifications can be performed by and are available from the manufacturer of the existing end item. See 13 CFR 121.406 for further information regarding manufacturers.

End of clause