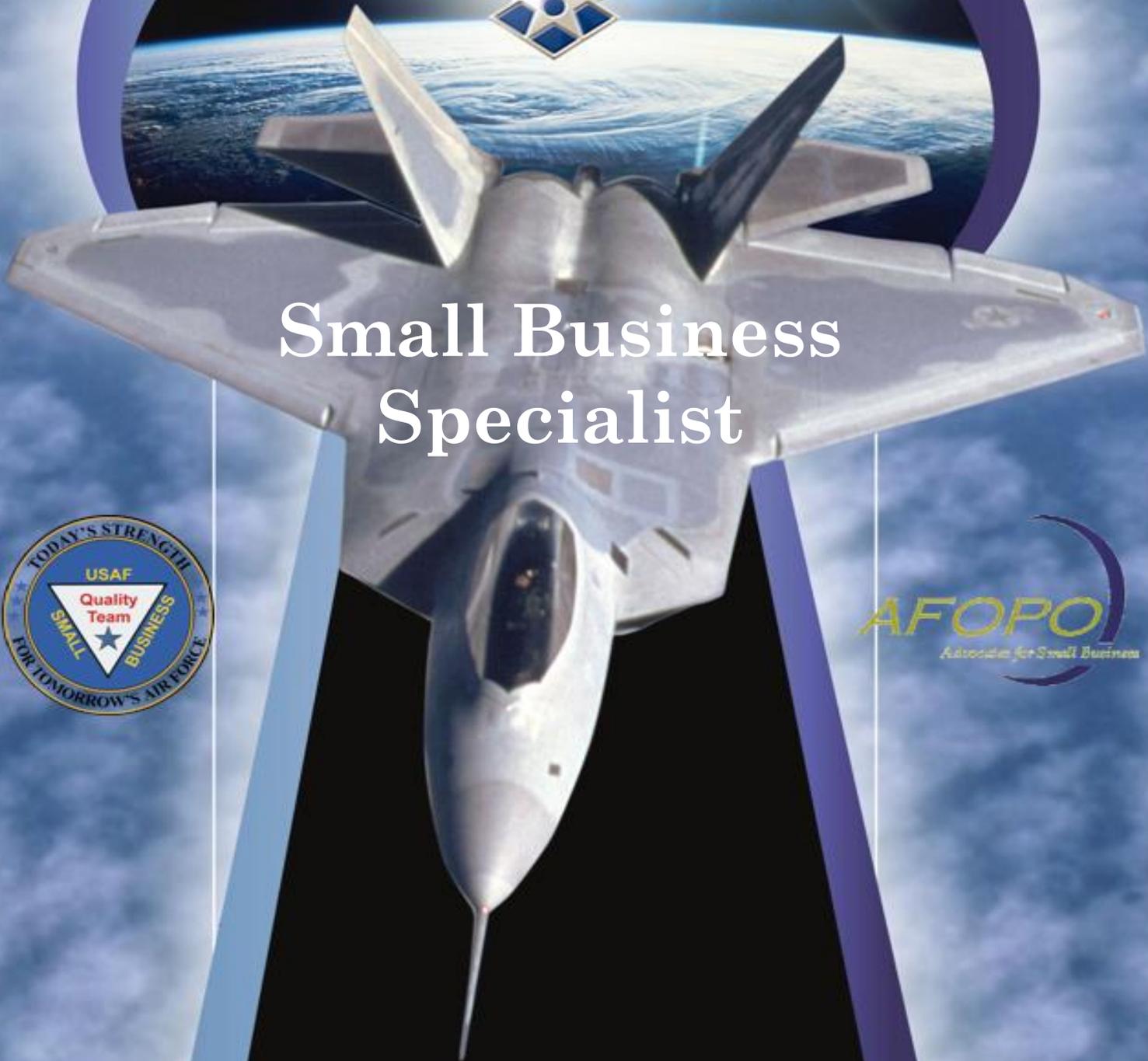


Small Business is Key!

U.S. Air Force

U.S. Air Force



# Small Business Specialist



# Guide

# Small Business “101” Guide Book

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*NOTE: The materials included in this handout may serve as ready references to the regulations being cited, but they may not be used in lieu of the regulations themselves... we are in an ever-changing world!*

*Revised February 2006*

# **WHY WE HAVE SMALL BUSINESS PROGRAMS**

## ***What is the History of Small Business Legislation?***

---

### **Small Business Mobilization Act of 1942**

In 1942, Congress recognized that business concerns operating small plants may not have the “economies of scale” necessary to compete with large plants, and that a price differential might be required to keep such plants mobilized....

**BUT, ONLY FOR WAR EFFORTS!**

### **Armed Services Procurement Act of 1947**

In 1947, Congress declared the policy that: “... A fair proportion of total Federal purchases and contracts be placed with small business concerns.”

The intent of Congress was to: “...Continue in peacetime the policy which prompted enactment of the “Small Business Mobilization Act” in 1942.”

### **Defense Production Act of 1950**

The Korean War provided more emphasis for small business. Congress determined that preservation of small business mobilization capability was of utmost importance, and that, again, awards could be made to small businesses at *other than the lowest possible price*.

### **Quote From the 82<sup>nd</sup> Congress in 1951**

“... In the early years of World War II, 100 large corporations received 67 percent of Federal prime contracts.”

“... During this same period, one-sixth of the Nation’s Small Businesses closed their doors!”

“... This mistake must not be repeated. Our mobilization program must extend down into the small plants because they are the major source of our productive strength.”

### **Small Business Act of 1953 (Public Law 83-163 and Public Law 85-536)**

- Created the Small Business Administration (SBA) as an independent agency within the Executive Branch. Authorized SBA to make direct and “guaranteed” loans to small businesses.
- Directed SBA to provide technical and management assistance to small business concerns.
- Authorized SBA to enter into contracts with Federal agencies, and then sublet those contracts to minority firms under Section 8(a) of the Act.
- Directed SBA to assist small businesses in obtaining government contracts.
- Directed inclusion of small business subcontracting clauses in all contracts over \$10,000.
- Required Federal agencies to publicize in the Commerce Business Daily (CBD) all procurements over the small purchase threshold and those with subcontract potential.

### **Why We Have Small Business Programs:**

**It’s Congressionally mandated but perhaps more importantly because “small businesses and minority institutions of higher education assure that we have available the widest range of products and services to maintain a strong Defense Industrial Base, and continue our national economic growth and development.”\***

**\* Joseph Diamond, Director, AF Small Business Programs**

### **Revision to the Small Business Act of 1953 (Public Law 95-507)(1978)**

- Redefined minority firms as Socially and Economically Disadvantaged Small Business Concerns (SDBs)
- Required Federal agencies to establish small business goals and explain to Congress when goals were not met.
- Required small and small disadvantaged business subcontracting goals for major contracts awarded to large businesses.
- Reserved all awards under \$25,000 for small business.
- Required establishment of the Office of Small and Disadvantaged Business Utilization
  - Director appointed by Head of Agency or Deputy

### **National Defense Authorization Act (Public Law 99-661)**

- Passed in 1987
- Established the Small Disadvantaged Business Program and the 5% minority owned business goal.
- Emphasizes contracting with Historically Black Colleges and Universities/Minority Institutions.

### **National Defense Authorization Act (Public Law 101-510)**

- Passed in 1991
- Established the Pilot Mentor-Protégé Program to provide incentives to major DoD contractors to assist protégé firms in enhancing their capabilities to satisfy DoD requirements.

### **Federal Acquisition Streamlining Act Of 1994 (Public Law 103-355)**

- Enacted 10 October 1994
- Replaced the term “small purchases”, established “micro-purchases” at \$2,500 or less, and established the Simplified Acquisition Threshold at \$100,000. Automatic Small Business Reservation became \$2,500 to \$100,000 and the Act added women-owned small businesses to subcontracting plans.

### **HUBZones Empowerment (Public Law 105-135)**

- Enacted in 1997
- Established the HUBZone Empowerment Contracting Program (HUBZone Program) to stimulate economic development and creates jobs in urban and rural communities by providing contracting preferences to small businesses – that are located in a HUBZone and that hire employees who live in a HUBZone.

“Provide federal contracting assistance for qualified small business concerns located in *historically underutilized business zones* in an effort to increase employment opportunities and investment in those areas.”

### **Veterans Benefit Act (Public Law 108-183)**

- Enacted in 2003
- Created procurement program for small business concerns owned and controlled by service – disabled veterans

Provides Federal-contracting assistance to service-disabled veteran owned small business concerns.



**National Policy**  
**FAR 19.201(a)**

“It is the policy of the Government to provide maximum practicable opportunities in its acquisitions to small business, veteran-owned small business, service-disabled veteran-own small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. Such concerns shall also have the maximum practicable opportunity to participate as subcontractors in the contracts awarded by any executive agency, consistent with efficient contract performance. The Small Business Administration (SBA) counsels and assists small business concerns and assists contracting personnel to ensure that a fair proportion of contracts for supplies and services is placed with small business.”

**The President's Small Business Agenda**

“The role of government is not to create wealth, but to create an environment where entrepreneurs can flourish. The President believes that low taxes and clear, sensible regulations are essential to helping all 25 million small businesses in America....And for those small businesses that deal with the federal government, the contracting process should be fair, open, and straightforward.”



**DoD Policy**  
**DoD Directive**  
**4205.1 (Under revision)**

“It is DOD policy that a fair proportion of DOD total purchases, contracts, subcontracts, and other service, and sales of property be placed with small business concerns, small disadvantaged business concerns, women-owned small business concerns, and historically black colleges and universities and minority institutions in accordance with 10 U.S.C. 2323 and 15 U.S.C., 631-656 (references (b) and (c)).



The Code of Federal Regulations (CFR) is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government. Title 13 Business Credit and Assistance. Chapter 1 covers the Small Business Administration.



The *United States Code* contains a consolidation and codification of the general and permanent laws of the United States arranged according to subject matter under 50 title headings, largely in alphabetical order. It sets out the current status of the laws, as amended, without repeating all the language of the amendatory acts except where necessary. The Small Business Act is included in 15 U.S.C 631, et seq).



Parts 19 and 26 of the Federal Acquisition Regulation, Parts 219 and 226 of the Defense Federal Acquisition Regulation Supplement and Part 5319 of the Air Force Federal Acquisition Regulation Supplement contain the regulations on the Small Business Program and Other Socioeconomic Programs that pertain to Air Force contracts.

# WHAT IS A SMALL BUSINESS?

## *How Small Is Small?*

---

### **Definitions - FAR 19.001**

- Small Business: *“A concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on government contracts, and qualified as a small business under the criteria and size standards in 13 CFR Part 121. “*
- Concern: *“Any business entity organized for profit (even if its ownership is in the hands of a nonprofit entity) with a place of business located in the United States and which makes a significant contribution to the US economy through payment of taxes and/or use of American products, material, labor, etc. “ Includes but is not limited to an individual, partnership, corporation, joint venture, association, or cooperative.*

### **Invented by Small Business:.....**

- Air-conditioning
- Airplane
- Assembly Line
- Bakelite
- CAT Scanner
- Computer
- Heart Valve
- Hydraulic Brake
- Inertial Guidance
- Insulin
- Optical Scanner
- Personal Computer
- Polaroid Camera
- Soft Contact Lenses

# **WHAT IS A SMALL BUSINESS?**

## **NAICS Codes and Small Business Size Standards**

---

### **FAR 19.102 and 13 CFR 121 - Size Standards**

*The SBA establishes small business size standards on an industry-by-industry basis. (See 13 CFR 121.)*

*(b) Small business size standards are applied by –*

*(1) Classifying the product or service being acquired in the industry whose definition, as found in the North American Industry Classification System (NAICS) Manual (available via the internet at <http://www.census.gov/epcd/www/naics.html>), best describes the principal nature of the product or service being acquired;*

*(2) Identifying the size standard SBA established for that industry; and*

*(3) Specifying the size standard in the solicitation, so that offerors can appropriately represent themselves as small or large.*

**“To help you understand how the federal government determines what a small business is, let’s discuss NAICS codes and size standards.”**

### **North American Industry Classification System (NAICS)**

As a result of NAFTA, there was a three-country agreement (U.S., Canada and Mexico) to develop a common industry classification system. The purpose was to develop a new industry classification system, not to revise small business size standards.

Effective October 1, 2000, the North American Industry Classification System (NAICS) replaced the U.S. Standard Industrial Classification (SIC) system. NAICS was developed jointly by the U.S., Canada, and Mexico to provide comparability in statistics about business activity across North America.

Industry revisions were accomplished for NAICS 2002, primarily affecting construction and wholesale trade. NAICS 2002 will be implemented in the 2002 Economic Census. A new North American Product Classification System (NAPCS) is also being proposed for 2002, starting in certain services sectors. Information regarding NAICS can be found at <http://www.census.gov/epcd/www/naics.html>

Federal contracting organizations use NAICS Codes to establish the size standards for individual contracting actions. The contracting officer determines the appropriate NAICS code that applies to the acquisition and identifies it and the small business size standard in each solicitation (above the micro-purchase threshold ... FAR 19.303(a)) so firms can determine if they are a large or small business for that particular acquisition. The size standards for each NAICS Code are found in 13 CFR 121.

- If a commodity or end item is being purchased, the size standard is based on the number of employees in the firm...



- If a service or construction is being purchased, the size standard is based on the firm's average annual receipts for the preceding three fiscal years...

**Examples of Small Business Size Standards (13 CFR 121)**

<i>TYPE OF BUSINESS</i>	<i>SMALL BUSINESS SIZE STANDARD</i>
• Heavy Construction	\$28.5 Million Annually
• Special Trades	\$12 Million Annually
• Computer Programming	\$21 Million Annually
• Computers	1000 Employees
• Janitorial Services	\$14 Million Annually
• Environmental Remediation	500 employees
• Telephone Equipment	1000 Employees
• Electronics	500 Employees
• Aircraft	1500 Employees
• Radar Equipment	750 Employees

**Appealing the Product or Service Classification (NAICS Code) - FAR 19.303(c)**

The Contracting Officer's NAICS code and size standard determination are final. However, if an interested party believes the NAICS code determined by the Contracting Officer and included in the solicitation is erroneous, it can be appealed in writing to the Office of Hearings and Appeals, Small Business Administration, Washington, D.C. 20416.

The appeal must be served and filed within 10 calendar days after issuance of the initial solicitation, the bid opening or proposal submission date. SBA's Office of Hearings and Appeals will summarily dismiss an untimely NAICS code appeal.

The SBA's decision, if received before the date offers are due, shall be considered final and the solicitation shall be amended to reflect the decision. SBA rulings received after the due date shall not apply to the pending acquisition, but shall apply to future acquisitions of the same products or services.

# **WHAT IS A SMALL BUSINESS?**

## ***Determination of Status as a Small Business Concern***

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### **FAR 19.301**

(a) A contractor self-certifies their small business status.

(b) The contracting officer shall accept an offeror's self-certification unless (1) another offeror or interested party challenges it, or (2) the contracting officer has a reason to question the representation.

**“Since there is no formal certification process for small businesses, how can you be sure the successful contractor is really small?”**

### **Protesting a Small Business Representation - FAR 19.302**

When a contracting officer receives a small business size protest, it shall be promptly forwarded to the Small Business Administration (SBA) Government Contracting Area Office for the geographical area where the principal office of the concern in question is located. The SBA will dismiss protests that do not contain specific justification for the protest.

To be timely, a protest from an interested party must be received by the contracting officer by the close of business of the 5<sup>th</sup> business day after bid opening (in sealed bid acquisitions) or receipt of the special notification from the contracting officer that identifies the apparently successful offeror (in negotiated acquisitions) (see FAR 15.503(a)(2)).

A contracting officer's protest is always considered timely whether filed before or after an award.

After receiving a protest involving an offeror being considered for an award, the contracting officer shall not award the contract until: SBA has made a size determination, or ten (10) business days have expired since SBA's receipt of a protest.

Contract award, however, shall not be withheld when the contracting officer determines in writing that an award must be made to protect the public interest.

A protest under a Multiple Award Schedule will be timely if received by the SBA at any time prior to the expiration time of the contract period, including renewals.

# CONTRACTING PROGRAMS FOR SMALL BUSINESS

## *Small Business Set-Aside*

---

### **Small Business Set-Asides - FAR 19.5**

A “*set-aside for small business*” is the reserving of an acquisition exclusively for participation by small business concerns.

This requirement **does not apply** to purchases of \$2,500 or less, or purchases from required sources of supply under FAR Part 8 (e.g., Federal Prison Industries, Committee for Purchase from People Who are Blind or Severely Disabled, and Federal Supply Schedule contracts).

**Important:** Except as authorized by law, a contract may not be awarded as a result of a set-aside if the cost exceeds the fair market price (FAR 19.501(i)).

### **Two SB Set-Aside Methods - FAR 19.501(b)**

- (1) **Unilateral** – One that is made by the contracting officer, giving consideration to the recommendations of the small business specialist.
- (2) **Joint** – One is which is recommended by the Contracting Officer, and concurred in by the Small Business Specialist, and Small Business Administration Procurement Center Representative (PCR)

### **Set-Asides for Acquisitions Estimated From \$2,500 to \$100,000 - FAR 19.502-2(a)**

- Each acquisition using *Simplified Acquisition Procedures* is automatically reserved exclusively for small business concerns if the contracting officer is able to obtain offers from two or more small business concerns competitive with market prices, etc.
- If the contracting officer decides not to proceed with the small business set-aside and purchases on an unrestricted basis, he/she shall include the reason for this unrestricted purchase in the contract file along with the market research to support this rationale.
- If the contracting officer proceeds with the small business set-aside and receives only one acceptable offer from a responsible small business concern, he/she should make an award to that firm.
- If the contracting officer receives no acceptable offers from responsible small business concerns, the set-aside shall be withdrawn and the requirement shall be resolicited on an unrestricted basis.

### **SB Set-Asides for Acquisitions Estimated Over \$100,000 - FAR 19.502-2(b)**

Acquisitions exceeding \$100,000 shall be set-aside for small business participation when there is a reasonable expectation that:

1. Offers will be obtained from at least two responsible small business concerns offering the products of different small business concerns (see waivers and exception to nonmanufacturer rule below),

and

2. Awards will be made at fair market prices,

and

3. In making R&D set-asides, there must be a reasonable expectation of obtaining from small businesses the best scientific and technological sources consistent with the demands of the proposed acquisition.

### **...Nonmanufacturer Rule Applies to SB Set-Asides**

#### **Definition - FAR 19.001**

*“Nonmanufacturer rule “ means that a contractor under a small business set-aside or 8(a) contract shall be a small business under the applicable size standard and shall provide either its own product or that of another domestic small business manufacturing or processing concern.*

#### **For Set-Asides - FAR 19 .502 2(c)**

*“For set-asides other than for construction or services, any concern proposing to furnish a product which it **did not itself** manufacture must furnish the product of a small business manufacturer unless the SBA has granted either a waiver or exception to the nonmanufacturer rule.”*

#### **Exception to Nonmanufacturer Rule - FAR 19.502.2(c)**

*...SBA has excepted procurements processed under simplified acquisition procedures (see Part 13), where the anticipated cost of the procurement will not exceed \$25,000, from the nonmanufacturer rule. Waivers permit small businesses to provide any firm’s product. The exception permits small businesses to provide any domestic firm’s product.*

#### **Waivers to Nonmanufacturer Rule - FAR 19.102(f)(4)**

*“...when the acquisition is for a specific product (or a product in a class of products) for which the SBA has determined that there are no small business manufacturers or processors in the Federal market, then the SBA may grant a class waiver so that a nonmanufacturer does not have to furnish the product of a small business.”*

--Waivers permit SB’s to provide any firm’s product.

#### **To obtain most current list of class waivers:**

- Go to SBA’s Internet Homepage at:

<http://www.sba.gov/GC/approved.html>

(Click on List of Approved Non-manufacturer Waivers), or

- Contact an SBA Office of Government Contracting

## **Withdrawing Small Business Set-Asides - FAR 19.506**

- (a) If, before award of a contract involving a set-aside, the contracting officer considers that award would be detrimental to the public interest (e.g., payment of more than a fair market price), the contracting officer may withdraw the set-aside determination whether it was unilateral or joint. The contracting officer shall initiate a withdrawal of a set-aside by giving written notice to the agency small business specialist and the SBA procurement center representative, if one is assigned, stating the reasons.
- (b) If the agency small business specialist does not agree to a withdrawal or modification, the case shall be promptly referred to the SBA representative (if one is assigned) for review. If an SBA representative is not assigned, disagreements between the agency small business specialist and the contracting officer shall be resolved using agency procedures.

## **Rejecting Small Business Administration Recommendations for SB Set-Aside - FAR 19. 505**

As noted earlier, the SBA Procurement Center Representative (PCR) can recommend an acquisition be set-aside for small business. If the contracting officer rejects the recommendation, he/she must send written notice to the PCR within 5 working days.

The SBA PCR may appeal the CO's rejection to the head of the contracting activity within 2 working days after receiving the notice..

The head of the contracting activity shall render a decision in writing, and provide it to the SBA with 7 working days.

If the head of the contracting activity agrees with the CO, the SBA PCR may:

- Within 1 working day, request the contracting officer suspend action on the acquisition until the SBA Administrator appeals to the agency head; and
- The SBA shall be allowed 15 working days after making such a written request, within which the Administrator of SBA may:

(1) appeal to the Secretary of the Department concerned, and (2) notify the CO whether the further appeal has been taken.

The agency head shall reply to SBA within 30 working days after receiving the appeal. The decision of the agency head is final.

# **CONTRACTING PROGRAMS FOR SMALL BUSINESS**

## ***Small Business Competitiveness Demonstration Program***

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### **FAR 19.10**

The Small Business Competitiveness Demonstration Program was established by the Small Business Competitiveness Demonstration Program Act of 1988, Public Law 100-656 (15 U.S.C. 644 note). Pursuant to the Small Business Reauthorization Act of 1997 (Public Law 105-135), the Small Business Competitiveness Demonstration Program has been made permanent. The program is implemented by OFPP and SBA Policy Directive and Implementation Plan dated May 25, 1999. Pursuant to Section 713(a) of Public Law 100-656, the requirements of the FAR that are inconsistent with the program procedures are waived. The program consists of two major components –

(a) *Unrestricted competition in four designated industry groups; and*

(b) *Enhanced small business participation in 10 agency targeted industry categories.*

### **Designated Industry Groups (DIGS) - FAR 19.1005**

One goal of the Comp Demo Program is to assess the ability of small business to compete successfully in certain industries *without* the use of small business set-asides.

This portion of the program is limited to the four **designated industry groups (DIGs)**, listed in section 19.10 of the FAR (Also see DFARS coverage).

- Construction – (NAICS major groups 236, 237, 238 with some exclusions)
- Architect and Engineering Services – (NAICS 54131, 54133, 54136, 54137, 541310, 541330)
- Refuse Systems and Related Services – (NAICS 562111, 562119, 562219)
- Non-nuclear Ship Building & Repair – (NAICS 336611)
- Landscaping and Pest Control – (NAICS 561710, 561730)

The face of each award made pursuant to the Program must contain a statement that the award is being issued pursuant to the Small Business Competitiveness Demonstration Program.

**Note:** In accordance with DFARS 219.1005(a)(i), architect-engineering services in support of military construction projects or military family housing projects are exempt from the Small Business Competitiveness program, **except** for the emerging small business (ESB) set-aside requirements.

### **Emerging Small Business (ESB) - FAR 19.1002**

Another goal of the Comp Demo Program is to measure the extent to which awards are made to a category of small businesses known as ***emerging small businesses (ESBs)***.

*“An ESB is a small business concern whose size is no greater than 50 percent of the numerical size standard applicable to the North American Industry Classification System code (NAICS) assigned to a contracting opportunity.”* (FAR 19.1002).

This part of the Comp Demo Program established an “Emerging Small Business Set-Aside”. This set-aside applies to acquisitions of \$25,000 or less for construction, refuse systems and related services and nonnuclear ship repair; and \$50,000 or less for A&E if the contracting officer determines there is reasonable expectation of obtaining offers from two or more responsible ESB’s.

**TARGETED INDUSTRY CATAGORIES (TICs) - FAR 19.1005(b) & DFARS 219.1005(b)**

In addition to **DIGs and ESBs**, the Comp Demo Program established a test of enhanced small business participation in ten **targeted industry categories (TICs)**.

The intent is to expand participation by SBs in certain targeted industries (TICS), through the continued use of set-asides, increased management attention, and specifically tailored acquisition procedures. Firms in these TICs should be encouraged to use teaming and joint venture arrangements that enable them to effectively compete for contracts.

**DoD Targeted Industry Categories (TICs) - DFARS 219.1005(b)**

(1) Pharmaceutical Preparation Manufacturing	325412
(2) Ammunition (except Small Arms) Manufacturing	332993
(3) Other Ordnance and Accessories Manufacturing	332995
(4) Turbine and Turbine Generator Set Unit Manufacturing	333611
(5) Aircraft Engine and Engine Parts Manufacturing (including Research and Development)	336412
(6) Guided Missile and Space Vehicle Manufacturing (including Research and Development)	336414
(7) Other Guided Missile and Space Vehicle Parts and Auxiliary Equipment Manufacturing (including Research and Development)	336419
(8) Military Armored Vehicle, Tank and Tank Component Manufacturing	336992
(9) Search and Navigation System and Instrument Manufacturing	334511
(10) (i) Cellular and Other Wireless Telecommunications	517212
(ii) Satellite Telecommunications	517410
(iii) Other Telecommunications	517910

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# **CONTRACTING PROGRAMS FOR SMALL BUSINESS**

## **Certificate of Competency Program (COC)**

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### **FAR 19.6**

*“A Certificate of Competency is the certificate issued by the Small Business Administration (SBA) stating that the holder is responsible (with respect to all elements of responsibility, including but not limited to capability, competency, capacity, credit, integrity, perseverance, tenacity and limitations on subcontracting) for the purpose of receiving and performing a specific Government contract.”*

### **Referral - FAR 19.602-1**

If a contracting officer has made a determination of non-responsibility for a small business, the matter must be referred to the cognizant SBA Government contracting area office for review and request for a COC.

The referral shall consist of:

- A notice that a small business concern has been determined to be nonresponsible, specifying the elements of responsibility the contracting officer found lacking; and
- If applicable, a copy of the solicitation, the firm’s final offer, drawings and specifications, preaward survey findings, pertinent technical and financial information, abstract of bids (if available) or price negotiation memorandum, and any other pertinent information that supports the contracting officer’s determination.

There are no waivers to the Certificate of Competency requirements even for emergency buys; however, the CO may proceed with contract award to another qualified bidder or offeror, if the SBA fails to issue a COC within 15 business days after receiving the referral.

If the SBA issues a COC, then the CO shall award the contract to the firm in question. However, disagreement by the CO with the SBA’s decision may be appealed to the SBA Headquarters for review, which in turn will forward the case to SAF/SB for review. An appeal file must be prepared and forwarded through SAF/SB for approval at the Secretarial level, before presenting the matter to the SBA Headquarters.

<p><b><u>DoD FAR Sup 219.602-1</u></b></p>
--

<p>When making a nonresponsibility determination on a small business concern, the contracting officer shall notify the contracting activity’s <b>small business specialist</b>.</p>
---

# **CONTRACTING PROGRAMS FOR SMALL BUSINESS**

## ***Small Business Innovation Research (SBIR) Program***

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The government-sponsored Small Business Innovation Research (SBIR) program was created in 1982 to stimulate research and development activity among small businesses while providing the government innovative technical and scientific solutions to challenging problems. This highly competitive, three-phase award program offers qualified small businesses funding for high risk research as well as encouragement for commercialization opportunities.

Eleven Government agencies, including the Dept of Defense, Dept of Energy, Homeland Security, Dept of Commerce, EPA and NASA participate in the program. Three times a year (Air Force participates only once a year), these agencies publish listings of scientific and technical problems requiring innovative solutions under the SBIR program. Contracts are awarded competitively based on standardized evaluation criteria that include scientific and technical merit, qualifications of the principal investigator, and potential for commercial application.

**SBIR Qualifications:** To qualify for the SBIR program, a proposing firm must:

- Be a United States-owned and operated company, organized for profit, that employs 500 or fewer people;
- Employ the principal investigator involved in the research;
- Perform two-thirds of Phase I and one-half of Phase II work; and
- Perform the work within the United States

### **SBIR contracts are awarded in three phases...**

- Phase I is the startup phase. In this phase, awards of up to \$100,000 are made to test the scientific, technical, and commercial merit/feasibility of a concept. Phase I contracts last approximately six - nine months.
- Phase II contracts are awarded to successful Phase I winners to further develop their Phase I results, usually to the prototype stage. Phase II contracts are valued up to \$750,000 and are normally awarded for about two years.

(Note: Companies are now asked to briefly explain their commercialization strategies in their Phase I and Phase II proposals.)

- At Phase III, small companies leverage their progress to obtain funding from the private sector or from government sources to develop their concept. Phase III involves private sector or federal agency funding (outside the SBIR program) to commercialize a Phase II project. While small business is ultimately responsible for the commercial marketing and sale of the technology, the government encourages commercialization and makes every reasonable effort to contract follow-up actions with the same SBIR small business that originally worked on developing the technology.

### **DoD “Fast Track” for Projects with Outside Financing**

The DoD SBIR and STTR programs offers a fast-track process for companies which, during their Phase I projects, attract independent third-party investors that will match both Phase II funding and interim funding (between Phases I and II). Companies that obtain such third-party matching funds and thereby qualify for the SBIR fast track must submit Phase II proposals for evaluation. These proposals must address technical approach, qualifications of the principal investigator and research team, and commercialization strategies. SBIR projects that qualify for Fast Track will:

- Receive interim funding between Phases I and II (generally between \$30,000 - \$50,000);
- Be evaluated for a Phase II award under a separate, expedited process (generally within two months after the completion of Phase I);
- If selected, receive its Phase II award within an average of five months from the completion of its Phase I project.

### **New On-Line Virtual Shopping Mall**

The Air Force SBIR and STTR programs can now be accessed 24 hours a day at the On-Line Virtual Shopping Mall website at [www.sbirstrmall.com](http://www.sbirstrmall.com). This website is a comprehensive one-stop resource for technology buyers looking for small businesses that have received early stage funding for projects that serve DOD needs.

### **SBIR program extended to 2008**

The Small Business Innovation Research Program Reauthorization Act of 2000 extended the program to September 30, 2008.

### **Help for Contractors:**

For questions about proposal preparation, contract negotiation, payment, accounting requirements, intellectual property protection, Fast Track, or financing strategy, contractors can contact the DoD SBIR/STTR Help Desk.

**Phone: 866-724-7457**

**Email: <http://www.acq.osd.mil/sadbu/sbir>**

Also, the DOD SBIR Home Page at <http://www.acq.osd.mil/sadbu/sbir> offers electronic access to model SBIR proposals and contracts, abstracts of ongoing SBIR projects, solicitations for the SBIR and STTR programs, the latest updates on the DoD SBIR and STTR programs, hyperlinks to sources of business assistance and financing, other useful information

# **CONTRACTING PROGRAMS FOR SMALL BUSINESS**

## **Small Business Technology Transfer (STTR) Program**

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*The Small Business Technology Transfer (STTR) Program is a program under which awards are made to small business concerns for cooperative research and development, conducted jointly by a small business and a research institution, through a uniform process having three phases. STTR, although modeled substantially on the SBIR Program, is a separate program and is separately financed. Subject to availability of funds, DoD Components support high quality cooperative research and development proposals of innovative concepts to solve defense-related scientific or engineering problems, especially those concepts that also have high potential for commercialization in the private sector.*

The STTR Program, mandated by Public Law 102-564, is designed to provide a strong incentive for small companies and research institutions to work together to move ideas from the laboratory to the marketplace, and advance US economic competitiveness.

### **Three Phase Program:**

- Phase I is to determine the scientific, technical and commercial feasibility of the proposed cooperative effort. Several different proposed solutions to a given topic may be funded. Proposals will be evaluated on a competitive basis giving primary consideration to the scientific and technical merit of the proposal along with its potential for commercialization. Phase I awards are generally limited to \$100,000 and extend for a 9-12 month period of performance.
- Subsequent Phase II awards will be made to firms on the basis of results from the Phase I effort and the scientific, technical merit and commercial potential of the proposed Phase II effort. Phase II awards are typically valued at \$750,000 or less and are not to exceed 24 months. Results from Phase II should culminate in a well-defined deliverable product or process.
- Under Phase III the small business is expected to use non-federal capital to pursue private sector applications of the research or development. Also under Phase III, federal agencies may award non-STTR funded follow-on contracts for products or processes that meet the mission of those agencies.

### **Eligibility and Limitations:**

- Each proposer must qualify as a small business. In addition, a minimum of 40 percent of each STTR project must be carried out by the small business concern and a minimum of 30 percent of the effort performed by the research institution.
- A small business concern must negotiate a written agreement between the small business and the research institution allocating intellectual property rights and rights to carry out follow-on research, development, or commercialization.
- For both Phase I and Phase II, the research, or research and development work, must be performed by the small business concern and a research institution in the United States.
  - Joint ventures and limited partnerships are permitted for the small business portion, provided that the entity created qualifies as a small business in accordance with the Small Business Act, 15 USC 632.

**Accessing the STTR Solicitation:** STTR solicitations are obtained electronically via the DOD SBIR/STTR website at <http://www.acq.osd.mil/sadbu/sbir> . For general inquiries, contact the DOD Help Desk at 1-866-724-7457 or by e-mail at [www.dodsbir.net/helpdesk](http://www.dodsbir.net/helpdesk)

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The Air Force Office of Scientific Research is responsible for scientific oversight and program execution of Air Force STTR projects. For additional information about AFRL/AFOSR, please contact 1-937-904-9201 or check the website at [www.afrl.af.mil](http://www.afrl.af.mil).

# OTHER CONTRACTING PROGRAMS FOR SMALL BUSINESS

## *Progress Payments*

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### Progress Payments

#### **Customary progress payment rates:**

##### **FAR 32.501-1**

- (a) The customary progress payment rate is 80 percent, applicable to the total costs of performing the contract. The customary rate for a contract with small business concerns is 85 percent.

##### **DFARS 232.501-1**

- (a) The customary progress payment rates for DoD contracts are 80 percent for large businesses, 90 percent for small businesses, and 95 percent for small disadvantaged businesses.

#### **Use of customary progress payments**

##### **FAR 32.104(d)(3)**

Unless otherwise authorized by agency procedures, the contracting officer may provide contract financing in the form of performance-based payments (see subpart 32.10) or customary progress payments (see subpart 32.5) if the following conditions are met:

- (1) The contractor is a **small business** concern and the contract price exceeds the simplified acquisition threshold
- (2) For an indefinite-delivery contract, a basic ordering agreement or a similar ordering instrument, the contracting officer expects the aggregate value of orders or contracts to exceed the simplified acquisition threshold.

##### **DFARS 232.502-1**

- (b)(1) If the contractor is a **small disadvantaged business**, progress payments may be provided when the contract will involve \$50,000 or more.

# **OTHER CONTRACTING PROGRAMS FOR SMALL BUSINESS**

## ***Historically Underutilized Business Zone Program***

### ***(HUBZone Program)***

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#### **HUBZone Program (Public Laws 105-135, 106-554, 108-447 and 109-059)**

The purpose of the HUBZone Program is to provide federal contracting assistance for qualified small business concerns located in *historically underutilized business zones* to:

- Increase employment opportunities,
- Stimulate capital investment in those areas, and
- Empower communities through economic leveraging and the “multiplier effect.”

There are four requirements to be qualified for as a HUBZone entity:

- 1) Must be a qualified small business by SBA size standards
- 2) Must be owned and controlled at least 51% by U.S. citizens, or a Community Development Corporation, or an agricultural cooperative or an Indian tribe
- 3) The principal office of the concern must be located in a HUBZone, which includes lands considered ‘Indian Country’ and military facilities closed by the Base Realignment and Closure Act; and
- 4) At least 35% of the concern’s employees must reside in a HUBZone

#### **HUBZone defined**

The categories are Urban, Rural and Native American. Currently there are over 11,600 urban areas and over 1,200 rural areas that qualify as HUBZones.

1. **A qualified census tract.** The definition for Qualified Census Tract is based on an Internal Revenue Service provision for the low income housing tax credit program that is developed in conjunction with the U.S. Department of Housing and Urban Development (HUD). The Secretary of HUD designates Qualified Census Tracts by a notice published periodically in the *Federal Register*. The most recent notice based on the results of the 2000 census data collection appeared December 12, 2002, and were represented on the HUBZone mapping system on May 19, 2003.
2. **A difficult development area.** The definition of Difficult Development Area is similar to Qualified Census Tract in that it is based on an Internal Revenue Service provision for the low income housing tax credit program that is developed in conjunction with the U.S. Department of Housing and Urban Development (HUD). (NOTE: By virtue of legislation signed into law on Aug. 10, 2005, the application of the Difficult Development Area status for HUBZone consideration only applies to Alaska, Hawaii, and the U.S. territories and possessions, not the 48 contiguous states.) The Secretary of HUD designates Difficult Development Areas by a notice published periodically in the *Federal Register*. The most recent notice appeared August 22, 2005.
3. **A qualified county.** The definition for qualified county is any county that, based on the most recent data available from the U.S. Census Bureau, is not located in a metropolitan statistical area and in which the median household income is less than 80 percent of the median household income for the entire non-metropolitan area of a state and/or any non-metropolitan county that, based on the most recent data available from the Bureau of Labor Statistics (BLS), has an

unemployment rate that is not less than 140 percent of the state average unemployment rate or the national average unemployment rate.

4. **A qualified Indian reservation.** The definitions for qualified Indian reservations, which include lands covered by the phrase ‘Indian Country,’ are those established and used by the Bureau of Indian Affairs. There is one exception, which applies to portions of the state of Oklahoma where HUBZone is using a definition arrived at by the Internal Revenue Service.
5. **A former military base closed by the Base Realignment and Closure Act (BRAC).** Congress determined that former military bases closed because of BRAC qualify for HUBZone status for a five-year period from the date of formal closure. For those locations closed as of the date the legislation was signed into law, the five-year period began on the date the law became effective, Dec. 8, 2004.

### **Applicability – FAR 19.1302**

Effective 30 September 2000, the HUBZone Program applies to all federal departments or agencies that employ one or more contracting officers.

### **Types of HUBZone Contracts**

- (1) HUBZone set-asides must be considered before sole-source awards or small business set-asides. A participating agency acquisition professional shall set aside acquisitions exceeding the simplified acquisition threshold (\$100,000) for competition restricted to HUBZone small business concerns. A HUBZone small business set-aside can be made if the contracting officer has a reasonable expectation that at least two qualified HUBZone small business firms will submit offers and that the contract will be awarded at a fair market price. As an exception to the \$100,000 rule, the Federal Acquisition Streamlining Act of 1994 set the micro-purchase threshold at \$2,500. This allows agencies to set-aside contracts that are worth less than \$100,000. In addition, A CO may award a requirement as a HUBZone contract to a qualified HUBZone SBC at or below the micro-purchase threshold.
- (2) A sole source HUBZone contract can be awarded if the contracting officer determines that only one qualified HUBZone SBC can satisfy the requirement; that HUBZone small business concern has been determined to be a responsible contractor with respect to performance; the requirement is not currently being performed by a non-HUBZone small business concern; and the anticipated award price of the proposed contract, including options, will not exceed \$5 million for manufacturing requirements or \$3 million for all other requirements.
- (3) A full and open competition contract can be awarded **with** a price evaluation preference. The offer of a HUBZone firm may displace the apparent low offeror (other than a small business) if its price is not more than 10% higher than the otherwise lowest, responsive and responsible offeror.
- (4) All subcontracting plans for large business Federal contractors must include a HUBZone subcontracting goal.

## **Goals Established**

The program applies to all federal departments and agencies and the government-wide prime contacting goal is 3%.

## **Requirements NOT available for HUBZone set-aside**

Federal Prison Industries (FPI)  
Javits-Wagner-O'Day Act (JWOD)  
Current 8(a) requirements

*Visit the SBA web site for more information*

<http://www.SBA.gov/hubzone>

## **WHAT IS A SMALL DISADVANTAGED BUSINESS?**

Full utilization of small disadvantaged businesses (SDBs) in DoD acquisitions has been determined by Congress and the President to be of the highest national interest.

The Congress recognized this interest in its passage of the Small Business Act, as amended by Public Law 95-507, Public Law 99-661, Section 1207, and various provisions of Public Law 100-656 which set the frame work and goals for increasing the level of participation of SDB in the DoD acquisition program.

Within DoD, the Section 8(a) Program, SDB evaluation preferences, outreach and technical assistance are used to expand SDB contract awards.

### **What Is a Small Disadvantaged Business? - FAR 19.304 and FAR 52.219-22**

**“Small disadvantaged business concern”** means an offeror that represents that it is a small business concern under the size standard applicable to the acquisition; and either

- (1) It has received certification by the Small Business Administration as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B; and,
  - (i) No material change in disadvantaged ownership and control has occurred since its certification;
  - (ii) Where the concern is owned by one or more disadvantaged individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and
  - (iii) It is identified on the date of its representation, as a certified SDB concern in the PRO-Net database maintained by the Small Business Administration (PRO-Net); or
- (2) It has submitted a completed application to the Small Business Administration or a private certifier to be certified as a SDB in accordance with 13 CFR Part 124, subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted. NOTE: In this case, a contractor must receive certification as a SDB by the SBA prior to contract award.

### **“Socially Disadvantaged” Individuals are:**

...those who have been subjected to racial or ethnic prejudice or cultural bias within American society because of their identities as members of groups and without regard to their individual qualities. The social disadvantage must stem from circumstances beyond their control.

### **“Economically Disadvantaged” Individuals are:**

...socially disadvantaged individuals whose ability to compete in the free-enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially disadvantaged.

Socially and Economically Disadvantaged include:

- Black Americans
- Hispanic Americans
- Native Americans (i.e.: American Indians including Indian tribes, Eskimos, Aleuts, and Native Hawaiians)
- Asian-Pacific Americans (i.e.: US Citizens whose origins are from Japan, China, Philippines, Vietnam, Korea, Samoa, Guam, Laos, Cambodia, Taiwan)
- Subcontinent Asian (Asian-Indian) American (India, Pakistan, Bangladesh, Sri Lanka, Bhutan, Nepal)
- Other minorities or individuals as defined by the Small Business Administration.

#### **Determination of Status as a SDB - FAR 19.304**

To be eligible to receive a benefit as a prime contractor based on its disadvantaged status, a concern, at the time of its offer, must be either certified as a small disadvantaged business concern or have a completed SDB application pending at the SBA or one a private certifier. The provision at FAR 52.219-22, Small Disadvantaged Business Status, or FAR 52.212-3(c)(9), Offeror Representations and Certifications – Commercial Items, is used to obtain SDB status when the prime contractor may receive a benefit based on its disadvantaged status. This includes the price evaluation preference (FAR 19.11) and an evaluation factor or subfactor (FAR 19.1202).

The contracting officer may confirm that the concern is identified as an SDB by accessing the SBA's PRO-Net database or by contacting the SBA's Office of Small Disadvantaged Business Certification and Eligibility (SDBCE).

If the apparently successful offeror has represented that its SDB application is pending at the SBA or a Private Certifier, the contracting officer shall notify the Small Business Administration, Assistant Administrator for SDBCE, 409 Third Street, SW, Washington, DC 20416.

The SBA will, within 15 days, determine the disadvantaged status of the apparently successful offeror. If the contracting officer does not receive an SBA determination within 15 days, he/she shall presume the apparently successful offeror is not SDB and shall make award accordingly. The contracting officer may grant the SBA an extension to the 15 day response period. However, no written determination is required by the contracting officer if the decision to award is made following the 15 day period.

To protect the public interest, the contracting officer may make a written determination to proceed to contract award without notifying the SBA or before receiving the determination of SDB status from SBA during the 15 day period. In both cases the contracting officer shall presume the apparently successful offeror is not an SDB and shall make award accordingly.

#### **Protesting a Representation of Disadvantaged Business Status - FAR 19.305**

An offeror, excluding an offeror determined by the contracting officer to be non-responsive or outside the competitive range, or an offeror that SBA has previously found to be ineligible for the requirement at issue, may protest the apparently successful offeror's representation of disadvantaged status by filing a protest in writing with the contracting officer. SBA regulations concerning protests are contained in 13 CFR 124, Subpart B. The protest-

(1) Must be filed by the close of business of the 5th business day after bid opening (in sealed bid acquisitions) or receipt of the special notification from the contracting officer that identifies the apparently successful offeror (in negotiated acquisitions) (see 15.503(a)(2)); and

(2) Must contain specific facts or allegations supporting the basis of protest.

The contracting officer or the SBA may protest in writing a concern's representation of disadvantaged status at any time following bid opening or notification of intended award.

(1) If a contracting officer's protest is based on information provided by a party ineligible to protest directly or ineligible to protest under the timeliness standard, the contracting officer must be persuaded by the evidence presented before adopting the grounds for protest as his or her own.

(2) The SBA may protest a concern's representation of disadvantaged status by filing directly with its Assistant Administrator for Small Disadvantaged Business Certification and Eligibility and notifying the contracting officer.

The contracting officer shall return premature protests to the protestor. A protest is considered to be premature if it is submitted before bid opening or notification of intended award. SBA normally will not consider a postaward protest. SBA may consider a postaward protest in its discretion where it determines that an SDB determination after award is meaningful (e. g., where the contracting officer agrees to terminate the contract if the protest is sustained).

Protests are forwarded to the Small Business Administration, Associate Administrator for SDBCE, 409 Third Street, SW, Washington, DC 20416.

If the contracting officer does not receive an SBA determination within 15 working days after SBA's receipt of the protest, the contracting officer shall presume that the challenged offeror is socially and economically disadvantaged and may award the contract, unless the SBA requests and the contracting officer grants an extension to the 15-day response period.

An SBA determination may be appealed by-

- (1) The party whose protest has been denied;
- (2) The concern whose status was protested; or
- (3) The contracting officer.

The appeal must be filed with the SBA's Administrator or designee within five working days after receipt of the determination. If the contracting officer receives the SBA's decision on the appeal before award, the decision shall apply to the instant acquisition. If the decision is received after award, it will not apply to the instant acquisition unless the contracting officer has agreed to terminate the contract based on the outcome of the appeal.

# PROGRAMS FOR SMALL DISADVANTAGED BUSINESS

## ***Section 8(a) Business Development Program***

### **Contracting with the Small Business Administration – The Section 8(a) Program - FAR 19.8**

The SBA's business development program for socially and economically disadvantaged (minority) firms is commonly called the 8(a) program because it's authorized under Section 8(a) of the Small Business Act. Under this program, the government awards prime contracts to the Small Business Administration (SBA) which, in turn, subcontracts with one of its approved Section 8(a) contractors. (Note: Please refer to the Partnership Agreement Between the Department of Defense and the SBA for contracting with 8(a) contractors)

The 8(a) program assists in the expansion and development of existing, newly organized, or prospective profit-oriented small firms. SB's may apply for the Section 8(a) program if they are owned and controlled by one or more persons who can provide evidence of having been deprived of the opportunity to develop and maintain a competitive position in the economy because of social and economic disadvantage.

Some of the basic eligibility requirements for participation in the 8(a) program: The principals of the firm being developed be persons of good character who are engaged full-time in day-to-business operations and management. There can be no absentee ownership. Further, the principals of applicant concerns must represent only one company and must not have had their eligibility previously approved by the SBA for another 8(a) concern. All eligible persons must be primary recipients of the program's benefits and objectives. Most importantly, the firms involved in the 8(a) program must be a for profit business.



### **Selecting Acquisitions for the 8(a) Program - FAR 19.803**

Selection is initiated in one of three ways –

- The SBA advises an agency contracting activity through a *search letter* of an 8(a) firm's capabilities and asks the agency to identify acquisitions to support the firm's business plan.
- The SBA identifies a specific requirement for a particular 8(a) firm and asks the agency to offer the acquisition through a *requirements letter*. "*Contracting activities should respond to SBA requests for contract support within 30 calendar days after receipt "... DFARS 219.803(b).*
- Agencies independently or through self-marketing efforts of an 8(a) firm, identify a requirement, and offer it on behalf of a specific 8(a) firm, for the 8(a) Program in general, or for 8(a) competition.

The key to maximizing 8(a) awards for any type of requirement is aggressive, up front planning and cooperative action. Requirements organizations must be involved in the review of Section 8(a) capabilities and expertise, as well as the selection of contractors.

### **IMPORTANT:**

- (1) Acquisitions should be considered for contracting under the 8(a) Program before being considered for small business set-aside ... DFARS 219.803(c).**
- (2) 8(a) firms should be offered the opportunity to give a technical presentation ... DFARS 219.804-1(f).**

### **Partnership Agreement Between DoD and the SBA - 1 February 2002 – DFARS 219.800**

The Partnership Agreement (PA) dated February 1, 2002, between the Small Business Administration (SBA) and the Department of Defense (DoD), SBA delegated to DoD its authority to sign 8(a) prime contracts on its behalf. The SBA remains the prime contractor on all 8(a) contracts, continues to determine eligibility of concerns for contract awards, and retains appeal rights under FAR 19.810.

This Partnership Agreement is reissued annually on 1 October.

**Please refer to DFARS 219.8 for specific instructions on awarding under the PA.**

### **Fair Market Price - FAR 19.806**

Section 8(a) contracts shall be awarded at fair market prices. A fair market price is one which the government can be expected to pay in a competitive environment. It is not necessarily the lowest price resulting from a competition, nor is it the highest. It is more often something in between, which is competitive but reasonably fair in terms of producing some profit for the seller.

To negotiate an 8(a) contract, an estimated current fair market price must be determined. For items that have been repetitively purchased, this generally is not difficult. Recent bid prices can be adjusted for different requirements, inflation or changes caused by the government, e.g., new Department of Labor Wage rates. Comparisons to commercial products may be possible. If there is no repetitive price history, the CO will use another form of price analysis or cost analysis to determine the estimated current fair market price. In doing this, he/she may consider commercial prices for like services and products, available in-house cost estimates, data submitted by the SBA or the 8(a) contractor, or a DCAA audit.

### **Competitive 8(a) Awards - FAR 19.805**

Section 8(a) projects can be offered to SBA and awarded on a competitive basis if the following conditions exist:

- (a) There is a reasonable expectation that at least two eligible, responsible 8(a) firms will submit offers and that award can be made at a fair market price; and,

- (b) The anticipated award price of the contract, including options, will exceed \$5,000,000 for acquisitions assigned manufacturing North American Industry Classification System (NAICS) codes and \$3,000,000 for all other acquisitions.

The SBA may accept a requirement that exceeds the competitive threshold for a sole source 8(a) if-

- (a) There is not a reasonable expectation that at least two eligible and responsible 8(a) firms will submit offers at a fair market price; or
- (b) The 8(a) firm is owned by an Indian tribe or an Alaska Native Corporation.

**NOTES:**

1. If the SBA has not already accepted a requirement into the 8(a) program, an 8(a) firm owned and controlled by an Indian tribe or an Alaska Native Corporation can receive that 8(a) contract directly, at any dollar value, without competition. The competitive thresholds do *not* apply to these firms (13 CFR 124.506(b)).

2. A proposed 8(a) requirement with an estimated value exceeding the applicable competitive threshold amount shall not be divided into several requirements for lesser amounts in order to use 8(a) sole source procedures for award to a single firm (FAR 19.805-1(c)).

**8(a) Construction Competitions - FAR 19.804-2(c)**

All requirements for 8(a) construction competition should be forwarded to the district office servicing the geographical area *in which all or the major portion of the construction is to be performed*. All requirements, including construction, must be synopsized through the Governmentwide point of entry (GPE). For construction, the synopsis must include the geographical area of the competition set forth in the SBA's acceptance letter.

**8(a) Non-Construction Competitions - FAR 19.804-2(c)**

All requirements for 8(a) competition, other than construction, should be forwarded to the district office servicing the geographical area *in which the contracting office is located....* All requirements...must be synopsized through the Governmentwide point of entry (GPE).

**Competition Below the Thresholds**

Competition below the thresholds mentioned above may be approved by SBA on a limited basis primarily when technical competitions are appropriate or there are a large number of responsible 8(a) firms available for competition.

**How is a Section 8(a) firm different from an SDB firm?**

...A Section 8(a) firm is a small disadvantaged business (SDB) firm that has been certified to participate in a nine year business development program that offers a broad scope of assistance to socially and economically disadvantaged firms. All 8(a) firms are SDB firms, HOWEVER, not all SDBs are Section 8(a) firms.

# **PROGRAMS FOR SMALL DISADVANTAGED BUSINESS**

## ***Evaluation Preference***

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### **Authorized SDB Procurement Mechanisms and Applicable Factors (Percentages) – FAR 19.201(b)**

Section 1207 of Public Law 99-661 established an objective for DoD to award 5% of its total dollars to SDBs, Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs). To achieve the 5% goal, Section 1207 gave the DoD authority to provide SDB firms a price evaluation preference in some instances when awarding contracts.

A price evaluation adjustment for small disadvantaged business concerns shall be applied as determined by the Department of Commerce. FAR 19.201(b) states that the Department of Commerce will determine, on an annual basis, by Industry Subsector as contained in the North American Industry Classification System (NAICS) manual, and geographic region, if any, the authorized small disadvantaged business (SDB) procurement mechanisms and applicable factors (percentages).

The SDB procurement mechanisms are:

- 1) a price adjustment for SDB concerns (no more than 10% - see Subpart 19.11)(Currently Suspended)  
Use of the Price Evaluation Adjustment In the DoD

Section 2323(e) of Title 10, United States Code, as amended by Section 801 of the National Defense Authorization Act for 2000, says the head of an agency may not exercise the authority to enter into a contract for a price exceeding the fair market cost in the fiscal year following a fiscal year in which the DoD attained the 5% goal for SDB concerns. Historically, DoD has achieved the 5% SDB goal. If the goal is met, the Director of Defense Procurement, issues a letter suspending the use of the price evaluation adjustment (FAR 19.11).

The Department of Commerce determination shall also include the applicable factors, by NAICS Industry Subsector, to be used in the price evaluation adjustment for SDB concerns (see Subpart 19.1104). The determination is posted at: <http://www.arnet.gov/References/sdbadjustments.htm>.

- 2) an evaluation factor or subfactor for participation of SDB concerns (see Subpart 19.1202)  
Considerations in Developing an Evaluation Factor or Subfactor – FAR 19.1202-3  
In developing an SDB participation factor or subfactor for a solicitation, agencies may consider:

- 1) The extent to which SDBs are specifically identified;
- 2) The extent of commitment to use SDB concerns (enforceable or non-enforceable);
- 3) The complexity and variety of work SDB concerns are to perform;
- 4) The realism of the proposal;
- 5) Past performance in complying with subcontracting plan goals for SDBs and monetary targets for SDB participation;
- 6) The extent of participation of SDBs in terms of the total value of the acquisition;

**3) monetary subcontracting incentive clauses for SDB concerns (see Subpart 19.1203)  
Incentive Subcontracting with Small Disadvantaged Business Concerns - FAR 19.1203**

The contracting officer may encourage increased subcontracting opportunities in the NAICS Industry Subsector as determined by the Department of Commerce for SDB concerns in negotiated acquisitions by providing monetary incentives. See FAR clause 52.219-26 entitled Small Disadvantaged Business Participation Program – Incentive Subcontracting for specific parameters. Monetary incentives shall be based on actual achievement as compared to proposed monetary targets for SDB subcontracting. The incentive subcontracting program is separate and distinct from the establishment, monitoring and enforcement of SDB subcontracting goals in a subcontracting plan.

# **PROGRAMS FOR SMALL DISADVANTAGED BUSINESS VETERAN OWNED SMALL BUSINESS**

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## **Veterans Entrepreneurship and Small Business Development Act of 1999**

Purpose is to expand existing small business programs and establish new assistance programs for veterans who own and operate small business firms. This act recognizes that many veterans and/or reservists have been negatively impacted by the numerous military deployments in the past 10 years. It allows active duty reservists to defer repayment of loans when they are on active duty. The period of deferral shall begin when the eligible reservist is ordered to active duty and shall terminate 180 days after the reservist is released from active duty. The act also establishes the Associate Administrator of Veterans Business Development within the Small Business Administration. The act also defines service disabled veteran and veteran owned firm.

## **Service Disabled Veteran-Owned Small Business Concern - FAR 2.101**

- (1) A small business concern not less than 51 percent of which is owned by one or more service disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service disabled veterans, and
- (2) The management and daily business operations of which are controlled by one or more service disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran

Service disabled veteran means a veteran as defined in 38 U.S.C. 101(2), with a disability that is service connected as defined in 38 U.S.C. 101(16).

Veterans Benefit Act (Public Law 108-183)

## **Veteran Owned Small Business Concern - FAR 2.101**

- (1) A small business concern not less than 51 percent of which is owned by one or more veterans (as defined in 38 U.S.C.101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and
- (2) The management and daily operations of which are controlled by one or more veterans.

Service disabled veteran-owned small business concerns and veteran-owned small business concerns may self-certify their status through the provision in FAR 52.219-1.

## **Subcontracting with Veteran Owned Small Business Concerns - FAR 19.702**

Prime contractors submitting Small Business Subcontracting Plans in accordance with FAR 52.219-9 shall include goals for awards to veteran owned small business concerns. On October 22, 2001, the

FAR was amended to add a subcontracting plan goal requirement for service disabled veteran-owned small business concerns.

Set-Aside SDV Contracts,

In accordance with FAR 19.1405 --

The contracting officer may set-aside acquisitions exceeding the micro-purchase threshold for competition restricted to service-disabled veteran-owned small business concerns when

Offers will be received from two or more service-disabled veteran-owned small business concerns; and

Award will be made at a fair market price.

If the contracting officer receives only one acceptable offer from a service-disabled veteran-owned small business concern in response to a set-aside, the contracting officer should make an award to that concern

### **SOLE SOURCE SDV CONTRACTS**

**In accordance with FAR 19.1406** --

A contracting officer may award contracts to service-disabled veteran-owned small business concerns on a sole source basis (see 19.501(d) and 6.302-5), provided--

- (1) Only one service-disabled veteran-owned small business concern can satisfy the requirement;
- (2) The anticipated award price of the contract (including options) will not exceed--
  - (i) \$5 million for a requirement within the NAICS codes for manufacturing; or
  - (ii) \$3 million for a requirement within any other NAICS code;
- (3) The service-disabled veteran-owned small business concern has been determined to be a responsible contractor with respect to performance; and
- (4) Award can be made at a fair and reasonable price.

# **WOMEN-OWNED SMALL BUSINESS**

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## **A Women-Owned Business (WOB) Is a Small Business Concern - FAR 2.101 and 52.219-1**

- a) *Which is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and,*
- b) *Whose management and daily business operations are controlled by one or more women.*

The Federal Small Disadvantaged Business Definition does not include women unless they are ethnic minorities.

The Department of Transportation, Department of Energy, US Agency for International Development and NASA are mandated by Congress, however, to include all women-owned businesses in their disadvantaged business goals.

## **Federal Programs for Women-Owned Small Businesses:**

### **U.S. Small Business Administration**

- **The Office of Women's Business Ownership** at the **U.S. Small Business Administration** was established by Executive Order 12138, signed May 18, 1979, by President Carter, to help level the playing field for women entrepreneurs through advocacy, training and counseling. There is a women's business ownership representative in every SBA district office who coordinates programs and services for women.

**The SBA Women's Business Center Program** (formerly the Women's Business Owner Demonstration Program) was established under the Women's Business Ownership Act of 1988. Started with four demonstration sites, it is today a nationwide network of women's business centers in nearly every state and U.S. territory that provide long-term business training, counseling and mentoring to women, especially targeting those who are socially and economically disadvantaged. Each WBC is unique, tailoring its program and services to meet the needs of its individual community, whether urban, suburban or rural. Many offer languages other than English. WBCs are run by nonprofit organizations and administered through the SBA Office of Women's Business Ownership.

The **Women's Network for Entrepreneurial Training** (WNET), a program of the Office of Women's Business Ownership, provides expert and peer mentoring through a nationwide network of mentoring roundtables. Each roundtable is structured to meet the needs of its members. For information on existing roundtables or starting one, go to <http://www.wnet.bz>.

The **SBA Office of Federal Contract Assistance for Women Business Owners** (CAWBO) was established October 1, 2000, in the Office of Government Contracting at the SBA. The purpose of the office is to increase federal contracting opportunities for women-owned small business (WOSBs) and to increase the number of WOSBs that successfully compete in the federal marketplace. For more information, go to <http://www.sba.gov/GC/cawbofactsheet.html>.

In December 2000, CAWBO was given responsibility for the Women-Owned Small Business Federal Contract Assistance Program as part of the SBA's Reauthorization Act (Public Law 106-554) (incorporated into the Small Business Act, 15 U.S.C. S 637(m)).

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- The *Federal Acquisition Streamlining Act of 1994* (FASA) established a government-wide procurement goal of 5 percent of federal contract dollars to be awarded to WOSBs. FASA did not establish any specific means by which the 5 percent could be achieved and it did not specify how the goal would be accounted to prime and subcontracting.

While there is no "set-aside" or preference program for WOSBs within the Department of Defense, the law states that the contracting officer may restrict competition for any contract for the procurement of goods or services by the Federal Government to WOSBs if the contracting officer has a reasonable expectation that two or more WOSBs will submit offers and it is in an industry where WOSBs are substantially underrepresented. This set-aside has not been implemented into regulations as of this date.

# ***The Pilot Mentor-Protégé Program***

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## **Pilot Mentor-Protégé (M-P) Program - DFARS 219.71**

The Pilot Mentor-Protégé Program was established under Section 831 of the National Defense Authorization Act of 1991 (Public Law 101-105; 10 U.S.C. 2302), as amended by Section 807 of the National Defense Authorization Act of Fiscal Year 2005, 2001 (Public Law 106-398). The program provides incentives for major defense contractors (mentors) to furnish qualifying small disadvantaged business (SDB) concerns with developmental assistance in order to increase their participation in Federal procurement contracts. Incentives exist as direct reimbursement or credit against Small Business Subcontracting goals. The DoD component agencies offer only the reimbursement of costs incentive. The Defense Contract Management Agency (DCMA) is the approval authority for all DoD credit agreements.

A primary incentive to DoD contractors under the direct reimbursement route is reimbursement of the costs of providing developmental assistance to the protégé. For credit agreements mentors receive credit toward their subcontracting goals. Additional incentives include improved DCMA ratings for a mentor's Small Business Subcontracting Plan efforts, qualification of vendors to mentor standards, and development of strategic prime/sub associations.

### **The Agreement:**

Mentors and protégés are required to execute a formal agreement that sets forth the type of developmental assistance that will be provided to the protégé and the type of support the protégé will provide to the mentor. The agreement must be approved by the sponsoring Department of Defense agency.

Mentor-Protégé agreements are limited to three years but may be extended up to five years under extraordinary circumstances. Either the mentor or protégé can terminate the agreement voluntarily or the mentor can terminate the agreement for cause. Mentor-Protégé agreements are limited to no more than \$1 million per year.

Over the past few years, the services have taken differing approaches in implementing the Mentor-Protégé program. For example, the Air Force now issues a yearly Broad Agency Announcement for proposals that focus on top DoD and AF technologies. Proposals with a detailed outline of how the technology needs identified in a detailed protégé needs assessment will be transferred are evaluated on a pass/fail basis. At a minimum, HBCU/MI utilization must equal 5% of total contract dollars. The Army recently implemented a program that is similar to the Air Force's, based on technology improvement. The Navy's approach is linked to a specific program or contract currently being performed by the mentor and allows the mentor to apply for reimbursement under that contract. Go to the agency small business homepages for more information.

Funding amounts varied over the years from a high of \$45 million in FYs 93-94 to a low of \$20 million in FY 2001. Congress appropriated \$26 million for FY 2005.

### **Program Goal:**

A major stumbling block to the achievement of Small Business subcontracting goals mandated by Congress is the assertion by large DoD prime contractors that there are not enough qualified SDBs to

perform as subcontractors on DoD work. Therefore, a primary goal of the M-P program is to increase the capabilities of those small businesses for performance of work on DoD contracts.

## **The Team:**

### **Mentors**

In order for a company to qualify as a mentor, it must be currently performing under an approved, active subcontracting plan negotiated with DoD or another Federal agency pursuant to FAR 19.702 and currently be eligible for award of federal contracts. Small businesses may also qualify as mentors. Mentors may have more than one active M-P agreement.

### **Protégés**

A firm may qualify as a Protégé if it is a:

- Small disadvantaged business concern
- Business entity owned and controlled by an Indian tribe;
- Business entity owned and controlled by a Native Hawaiian Organization;
- Qualified organization employing the severely disabled;
- Women-owned small business concern;
- Service-disabled veteran-owned small business concern; and/or
- HUBZone small business concern

currently eligible for the award of Federal contracts, and selected by the mentor firm.

A protégé firm may have only one active M-P agreement under the DoD Pilot M-P Program.

### **HBCU/MIs/PTACs/SBDCs**

As an incentive to increase the participation of Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs) in DoD subcontracting, the AF M-P Program requires the mentor to subcontract at least 5% of its total funded contract amount with HBCU/MIs, and/or certain government-sponsored groups (Procurement Technical Assistance Centers (PTACs) and Small Business Development Centers (SBDCs)). The mentor can be reimbursed for this expense or may receive as credit toward its subcontracting plan an amount equal to four times the value of the service.

## **Metrics and Reviews:**

As with all programs funded by Congress, in order to secure continued funding, it is important to objectively measure program performance. Over the course of the program, several agencies are tasked to assess and report on the M-P Program; chief is the General Accounting Office (GAO). Within DoD, the Defense Contract Management Agency (DCMA) performs program audits and reports its findings to the DoD SADB. U.

The Defense Contract Management Agency (DCMA) conducts annual performance reviews of all DoD mentors and protégés active during any part of the previous fiscal year. These reviews include agreements that were completed or terminated during that fiscal year.

The cognizant Agency Program Office may also require program reviews during the course of the M-P agreement.

**Websites and Reference Information:**

Detailed information and copies of the formal agreement that sets forth the type of developmental assistance that will be provided to the protégé may be obtained at:

**[http://www.acq.osd.mil/sadbu/mentor\\_protege/participate/index.htm](http://www.acq.osd.mil/sadbu/mentor_protege/participate/index.htm) or**

**[http://selltoairforce.org/Programs/MentorProtege/mp\\_program.asp](http://selltoairforce.org/Programs/MentorProtege/mp_program.asp)**

Regulatory guidance is contained in the Defense Federal Acquisition Regulations (DFARs) Appendix I.

A listing of current HBCUs eligible to participate can be found at:

<http://www.ed.gov/about/inits/list/whhbcu/edlite-list.html>

A listing of current MIs eligible to participate can be found at:

<http://www.selltoairforce.org/Programs/MentorProtege/Documents/2004doeminorityinstitutionlistin.pdf>

**SB Specialist Involvement:**

Continuously *educate* potential protégé firms and large business prime contractors on the program and *encourage* both to become involved.

# ***The Manufacturing Technical Assistance Production Program (MTAPP)***

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Air Force MTAPP is a small business initiative that focuses on solving the supply issues of the Air Force (AF) and the Department of Defense (DoD) by expanding and enhancing the industrial base of domestic small business manufacturers.

MTAPP is managed out of the Air Force Outreach Program Office at Brooks City-Base, TX. Program support includes special activities that require program marketing and exchange of information with MTAPP stakeholders and partners such as the Air Force Material Command, Air Logistic Center's Commodity Councils, the Defense Logistics Agency, major Prime Contractors, industry associations and other government agencies.

MTAPP impacts the Air Force warfighting capability by addressing supply problems that impact mission capability rates on Air Force weapons systems. MTAPP focuses on identifying particular issues such as addressing:

- Small business solutions to industrial policy issues
- Critical shortages of spare parts
- Sustainment support for legacy weapons / platforms
- Maintain surge production capability
- Diminishing Manufacturing Sources and Material Shortage (DMSMS) / developing alternative sources of supply of parts where one or no domestic sources exist
- Increasing competition in commodity areas
- Source of 'best in class' suppliers

As a production program, MTAPP improves the utilization of the small business supplier network by using an innovative approach of addressing supply problems with SB manufacturers.

- Annual research study is conducted to identify critical AF and DoD supply and procurement issues in manufacturing related commodities. The study also identifies areas of deficient or minimal participation by small manufacturing firms and identifies potential areas of opportunity such as: aerospace, medical, chemical/biological, environmental and homeland defense. This study is the cornerstone of the AF MTAPP implementation.
- AF MTAPP then assesses current small business participation levels in the commodities; and identifies small manufacturing companies with capabilities to potentially solve supply/ logistics shortfalls,
- A continuous improvement plan is developed to address training or technical assistance needs for the participating small business
- MTAPP then provides the required technical assistance to the companies to improve their business and manufacturing processes. This brings their capabilities and competencies (such as quality, cost, delivery, technology, etc.) to the established performance levels required by the AF, DoD and their major suppliers

MTAPP sponsors an annual training conference for all participating firms to provide program update information, specific training seminars and networking opportunities with government and Prime Contractor representatives. Quarterly regional training sessions are held to augment the objectives of the

annual training seminar. Web-based training courses available to MTAPP companies in a manufacturing module of the Small Business Learning Center (SBLC) at the [selltoairforce.org](http://selltoairforce.org) website

MTAPP Participants:

- MTAPP currently has 79 participating small manufacturing firms located across the nation
- Socio-classifications of MTAPP companies:
  - 15 - HUBZone
  - 28 - Woman owned
  - 9 - Native American
  - 7- 8(a) Companies
  - 16 - Small disadvantaged businesses
  - 4 - Service disabled veteran owned businesses
- Manufacturing capability, business acumen and technical sophistication varies with each firm

MTAPP suppliers supply chain efforts

- 70 - MTAPP companies active in the supply chain in FY04
- Defense related revenues = \$315.M
- Direct to DoD Revenues - \$74M

**Small Business Specialists and MTAPP Opportunities:**

- Small Business Specialists should be familiar with MTAPP and actively seek opportunities for MTAPP participating firms when manufacturing requirements occur at their installation
- [www.airforcemtapp.org](http://www.airforcemtapp.org)
  - MTAPP companies directory
  - Searchable database by commodity FSC, commodity NAICS, or small business classification
- Small Business Specialists are invited to participate in requirements symposiums and seek support from the MTAPP Program Manager as needed
- Small Business Specialists should promote MTAPP through program marketing/visibility at government-industry conferences

## **OTHER SOCIOECONOMIC PROGRAMS**

### ***Contracting with Historically Black Colleges and Universities and Minority Institutions***

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As early as 1978, the Federal Government has advocated that outreach and assistance be provided to culturally diverse institutions of higher education (IHE) in order to increase their participation in Federally-sponsored programs. Public Law 10 U.S.C. 2323 and Public Law 101-510 further strengthened this advocacy by requiring that a specific goal within the overall five percent goal for Institutions for Higher Education (IHE) be established annually for Historically Black Colleges and Universities and Minority Institutions participation.

Formal definitions for HBCU/MI can be found in FAR 52.226.2 and DFARS 252-226.7000. However, for easy reference, the following terms apply:

**Historically Black Colleges and Universities (HBCUs):** Accredited institutions of higher education established prior to 1964 with a principal mission of educating African-Americans.

**Minority Institutions (MIs):** Institutions of higher education (in addition to HBCU), having significant minority enrollments. Designated minority groups include African-Americans, Asian Americans, Alaskan Natives, Hispanic/Latino-Americans, Native Americans, and Pacific Islander-Americans.

While schools self-certify on solicitations concerning their HBCU/MI status, the authority for designation rests with the Secretary of Education. His/her office determines which schools qualify to be posted on the current listings of HBCU/MI (Accredited Postsecondary Minority Institutions). This listing is distributed electronically during the second quarter of each fiscal year. Visit <http://www.ed.gov/about/offices/list/ocr/edlite-minorityinst.html> for the current list.)

The primary goal of the HBCU/MI program is to invest in the nation's future by:

- Investing in technologically-sophisticated research programs that will give technical personnel the decisive edge in accomplishing their missions
- Investing in a future workforce that will be trained to resolve the global security and technological challenges of the future
- Investing in a dedicated educational structure willing to enhance academic and research environments at both the undergraduate and graduate levels to ensure future technical capabilities

To accomplish these objectives, it is DOD policy to use outreach efforts, technical assistance programs, advance payments, HBCU/MI set-asides, and evaluation preferences to meet its contract and subcontract goals. Specifically, small business specialist involvement in the HBCU/MI Program should entail:

- Identifying opportunities for HBCU/MIs in the areas of basic research and development activities; education and training; market research; information systems management, family services, etc.;
- Recommending set-aside opportunities, when appropriate
- Ensuring that HBCU/MIs participation is captured under the small disadvantaged business goal on subcontracting plans;
- Formulating an outreach program to train and encourage HBCU/MIs to participate in the Federal contracting process.

# OTHER SOCIOECONOMIC PROGRAMS

## *Indian Incentive Program*

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### **Authorization – FAR 26.100**

Authorized by 25 U.S.C. 1544, the Indian Incentive Program provides an incentive to prime contractors that use Indian organizations and Indian-owned economic enterprises as subcontractors.

The program allows an incentive payment equal to 5 percent of the amount paid to an eligible subcontractor in performing the contract, if it is authorized by the contract.

### **Definitions - FAR 26.101 and DFARS 252.226-7001**

***“Indian organization”*** means the governing body of any Indian tribe or entity established or recognized by the governing body of an Indian tribe for the purposes of 25 U.S.C., chapter 17.

***“Indian-owned economic enterprise”*** means any Indian-owned (as determined by the Secretary of the Interior) commercial, industrial, or business activity established or organized for the purpose of profit, provided that Indian ownership shall constitute not less than 51 percent of the enterprise.

***“Native Hawaiian small business concern”*** refers to an entity that is: a small business concern as defined in Section 3 of the Small Business Act (15 U.S.C. 632) and relevant implementing regulations; and owned and controlled by a Native Hawaiian as defined in 25 U.S.C. 4221(9).

### **Representation – FAR 26.103(a)(b)**

Contracting officers and prime contractors, acting in good faith, may rely on the representation of an Indian organization or Indian-owned economic enterprise as to its eligibility, unless an interested party challenges its status or the contracting officer has independent reason to question that status.

In the event of a challenge to the representation of a subcontractor, the contracting officer shall refer the matter to the U.S. Department of the Interior, Bureau of Indian Affairs (BIA). The BIA will determine the eligibility and notify the contracting officer.

### **For more information on the specifics of this program visit:**

<http://www.acq.osd.mil/sadbu/programs/iip>

## **SET-ASIDE ORDER OF PRECEDENCE**

Before considering a program for a set-aside, and if the program is subject to FAR Part 19, the contracting officer has to consider:

### **Purchase Priorities – FAR 8.603**

Supplies –

- 1) Federal Prison Industries (FPI)
- 2) Javits-Wagner-O’Day Act (JWOD) – NIB/NISH

Services –

- 1) Javits-Wagner-O’Day Act (JWOD) – NIB/NISH
- 2) Federal Prison Industries (FPI)

However, purchases from FPI are not mandatory. In fact, the contracting officer must conduct market research to determine whether the FPI item is comparable to supplies available from the private sector that best meets the Government’s needs in terms of price, quality and time of delivery.

### **8(a)'s currently performing the requirement.**

If an 8(a) participant is currently performing the requirement through the 8(a) program, it cannot be set-aside unless the SBA has consented to release the requirement from the 8(a) program.

### **Standard Order of Precedence**

- The DFARS does not set a standard order of precedence for HUBZone, 8(a), SDVOSB, except to say that “before considering a small business set-aside, review the acquisition for offering under the 8(a) program. (DFARS 219.803 (c)).
- However, it is noted that the CFR states that the contracting officer should consider setting aside the requirement for 8(a), HUBZone or SDVOSB before considering setting aside the requirement as a small business set-aside. (CFR 125.19). Further the CFR states that the contracting officer must identify qualified HUBZone 8(a) contractors and 8(a) concerns and must give first priority to qualified HUBZone 8(a) concerns (13 CFR 126.607)

- For each of the programs, the contracting officer has to determine whether or not it should be set aside for competition or sole source:
  - Except for the 8(a) program, competition for a set-aside program is preferred and should be considered if there is reasonable expectation of two or more responsible offerors and that the award can be made at fair market price.
    - 8(a) sole source awards may be made if the acquisition is under \$5M for manufacturing and \$3M for all other acquisitions.
    - HUBZone or SDV sole source awards under \$5M for manufacturing and \$3M for all other acquisitions may be made only if one responsible offeror can meet the requirement.

These dollar restrictions do not apply if SBA accepts the requirement on behalf of a concern owned by an Indian tribe or an Alaska Native Corporation.

- Full/Partial Small Business Set-Aside.
- Full and Open Competition w/Evaluation Preference and Subcontracting
- Other Sole Source

## **SMALL BUSINESS SUBCONTRACTING**

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### **Statutory Requirements - FAR 19.702**

*“Any contractor receiving a contract for more than the simplified acquisition threshold must agree in the contract that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, will have the maximum practicable opportunity to participate in contract performance consistent with its efficient performance. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.”*

### **When are Subcontracting Plans Required?**

Subcontracting plans are required for each contract or modification which exceeds \$500,000 (\$1,000,000 for construction) and offers subcontracting possibilities. (FAR 19-702 and 52.219-9)  
Subcontracting plans are not required:

- From small business concerns;
- For personal services contracts;
- For contracts or contract modifications that will be performed entirely outside of any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

For contracts with options, the cumulative value of the basic contract and all options is considered in determining whether a subcontracting plan is necessary.

### **Incentives – FAR 19.708(c)**

The contracting officer may encourage the development of increased subcontracting opportunities in negotiated acquisitions by providing incentives such as payments based on actual subcontracting achievement or award fee contracting (clause 52.219-10 and 19.708).

### **Liquidated Damages – FAR 19.705-7**

Failure to comply with a subcontracting plan is considered a material breach of the contract and could result in the imposition of liquidated damages.

### **Subcontracting Plan Requirements - FAR 19.704**

Each subcontracting plan required under 19.702(a)(1) and (2) must include –

- (1) Separate percentage goals for using small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors;

- (2) A statement of the total dollars planned to be subcontracted and a statement of the total dollars planned to be subcontracted to small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns;
- (3) A description of the principle types of supplies and services to be subcontracted and an identification of types planned for subcontracting to small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns;
- (4) A description of the method used to develop the subcontracting goals;
- (5) A description of the method used to identify potential sources for solicitation purposes;
- (6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns;
- (7) The name of an individual employed by the offeror who will administer the offeror's subcontracting program, and a description of the duties of the individual.
- (8) A description of the efforts the offeror will make to ensure that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned concerns service have an equitable opportunity to compete for subcontracts.
- (9) Assurances that the offeror will include the clause at 52.219-8, Utilization of Small Business Concerns (see 19.708(a)), in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of \$500,000 (\$1,000,000 for construction) to adopt a plan that complies with the requirements of the clause at 52.219-9, Small Business Subcontracting Plan (see 19.708(b));
- (10) Assurances that the offeror will –
  - (i) Cooperate in any studies or surveys as may be required;
  - (ii) Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;
  - (iii) Submit Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and SF 295, Summary Subcontract Report, following the instructions on the forms or as provided in agency regulations; and
  - (iv) Ensure that its subcontractors agree to submit SF 294 and SF 295; and
- (11) A description of the types of records that will be maintained concerning procedures adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small

disadvantaged business, and women-owned small business concerns and to award subcontracts to them.

### **Subcontracting Goals**

“...A small disadvantaged business goal of less than five percent must be approved one level above the contracting officer.” (**DFARS 219.705-4**)

“The goal for use of small disadvantaged business concerns shall include subcontracts with historically black colleges and universities and minority institutions (see Subpart 226.70), in addition to subcontracts with small disadvantaged business concerns...” (**DFARS 219.704(a)(1)**)

### **Types of Subcontracting Plans**

#### **(1) Individual Subcontracting Plan - FAR 19.704(a)**

A separate plan for each contract over \$500,000 or \$1 million for construction.

#### **(2) Master Subcontracting Plan - FAR 19.704(b)**

Incorporated by the contractors' cognizant contract administration office, a master subcontracting plan is established on a plant or division-wide basis. It contains all the elements required except goals. Separate goals for SB, HUBZone, SDB, WOB, VOSB, and SDVOSB are submitted for each contract for which a master subcontracting plan is used. Master plans are effective for a 3-year period after approval by the contracting officer. It is incumbent upon contractors to maintain and update master plans. A master plan, when incorporated in an individual plan, shall apply to that contract throughout the life of the contract.

#### **(3) Comprehensive Subcontracting Plan - DFARS 219.702(a)**

DoD is currently conducting a test program to determine whether a comprehensive subcontracting plan on a corporate, division, or plant-wide basis will increase subcontracting opportunities for small business concerns. The test is being conducted from October 1, 1990, through September 30, 2010.

Eligible contractors are large business concerns at the major (total) corporate level that, during the preceding fiscal year:

- a. Were performing under at least three DoD contracts, and were paid \$5,000,000 or more for such contracts; and
- b. Achieved a small disadvantaged business (SDB) subcontracting participation rate of 5 percent or more during the preceding fiscal year.

Comprehensive subcontracting plans are:

- a. Negotiated on an annual basis by the designated contracting activities;
- b. Incorporated into all of the contractors' active DoD contracts which require a plan;

- c. Used by all DoD contracting officers in contracts, which require a plan, awarded to the selected contractors during the test period; and
- d. Not subject to application of liquidated damages during the period of the test program.

#### **(4) Commercial Subcontracting Plan**

A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The contractor shall—

(1) Submit the commercial plan to either the first contracting officer awarding a contract subject to the plan during the contractor's fiscal year, or, if the contractor has ongoing contracts with commercial plans, to the contracting officer responsible for the contract with the latest completion date. ***The contracting officer negotiates the commercial plan on behalf of the entire Federal Government and is responsible for monitoring its compliance unless delegated.*** The approved commercial plan shall remain in effect during the contractor's fiscal year for all Federal Government contracts in effect during that period; and

(2) Submit a new commercial plan, 30 working days before the end of the fiscal year, to the contracting officer responsible for the uncompleted government contract with the latest completion date. The contractor must provide to each contracting officer responsible for an ongoing contract subject to the plan, the identity of the contracting officer that will be negotiating the new plan. When the new commercial plan is approved, the contractor shall provide a copy of the approved plan to each contracting officer responsible for an ongoing contract that is subject to the plan. (FAR 19.701(d))

**NOTE:** See "Working with the Small Business Administration" for the role of the SBA in the subcontracting program.

#### **Small Business Specialist Involvement In Subcontracting Plan Approval**

(1) DFARS 219.201(e)(vii)....Small Business Specialist will:

*“Provide assistance to contracting officers in determining the need for and acceptability of subcontracting plans and assist administrative contracting officers (see DFARS 219.706(a)(ii)) in evaluating, monitoring, reviewing, and documenting contract performance to determine compliance with subcontracting plans.”*

(2) It is helpful to have a list of large business prime contractors with subcontracting opportunities to provide to contractors you counsel. The list could contain the name and telephone number of the large business prime contractors' Small Business Liaison Officers (SBLO) and areas of subcontracting opportunities.

## **Limitation on Subcontracting**

**"...And, if we go small business set-aside or 8(a), can't the prime still subcontract to large business?"**

*If a prime contract for over \$25,000 was awarded under a small business set-aside or awarded under the Section 8(a) Program:* The prime contractor must comply with the "Limitations on Subcontracting" clause. This clause restricts the percentage of the contract that can be subcontracted. For example, in a small business set-aside supply contract the concern must perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials, or be a small business providing supplies of such a company.

**FAR Clause 52.219-14** which is used in all small business set-aside and Section 8(a) solicitations states:

(b) "By submission of an offer and execution of a contract, the Offeror/Contractor agrees that in performance of the contract in the case of a contract for:

- (1) *Services (except construction)*. At least 50 percent of the cost of contract performance incurred for personnel shall be expended for employees of the concern.
- (2) *Supplies (other than procurement from a non-manufacturer of such supplies)*. The concern shall perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials.
- (3) *General construction*. The concern will perform at least 15 percent of the cost of the contract, not including the cost of materials, with its own employees.
- (4) *Construction by special trade contractors*. The concern will perform at least 25 percent of the cost of the contract, not including the cost of materials, with its own employees."

## **WHO'S RESPONSIBLE?** **(for the Small Business Program)**

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### **Who is Responsible Within DoD? - DoD Directive 4205.1**

- (1) The Deputy Under Secretary of Defense for International and Commerce Programs appoints a *Director of the Office of Small and Disadvantaged Business Utilization (OSADBU)*.
- (2) The Heads of DoD Components appoint *Component Directors of OSADBU* who plan, develop and manage the program within their DoD Component.
- (3) Commanders of major contracting activities and major contract administration activities:
  - a. Ensure compliance with FAR 19.201 and ensure personnel appointed as associate directors and small business specialists possess the business acumen, knowledge of acquisition policies and procedures, training, and background to accomplish the small business program policy, and are not subject to the control or direction of contracting, contract administration or technical personnel.
  - b. Appoint a full-time Associate Director of Small Business, with authority, staff, and resources required to manage effectively the program within the activity, who *shall report directly to the commander or the deputy commander (second in command)* and who shall perform the small business specialist functions at that activity.
- (4) Commanders of Defense Contract Management Area Operations shall appoint a full-time Assistant Director of Small Business, and small business specialist, as necessary, with authority and resources required to manage effectively the program within the activity, who shall report directly to the Commander, and who shall perform the small business specialist functions at that activity.
- (5) Commanders of contracting offices and contract administration offices not included in subsection D. above, shall:
  - Ensure compliance with 19-201 of the FAR.
  - Appoint, at minimum a part-time small business specialist, in accordance with DoD Component regulations, with authority and resources required to manage effectively the program within the activity, *who shall report directly to the commander*, and who shall perform the small business specialist function at that activity. *The part-time small business specialists' program duties shall take precedence over any other assigned duties.*

## SMALL BUSINESS SPECIALIST'S DUTIES

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Develop and manage the units SB program, including a plan and assessment.

Provide advice, counsel, and a brief to the commander on all small business matters **at least once quarterly**.

**Aid, counsel, and assist** small business firms and acquisition personnel

Maintain an **outreach program** including participation in Government-industry conferences.

Ensure that **financial assistance**, available under existing regulations, is offered. (DFARS 219-201(e))

Provide assistance on acceptability of **subcontracting plans** and compliance.

Review acquisitions and recommend set-asides

**Develop and implement education and training programs.**

**Monitor performance** related to goal accomplishment.

Act as small business program ombudsman.

Support Small Business and HBCU/MI Programs.

# **SMALL BUSINESS SPECIALIST'S DUTIES**

## ***Aid, Counsel, and Assist Small Business***

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### **Small Business Counseling and Assistance**

One of the most important functions of the Small Business Specialist is counseling small businesses on how to do business with DoD. The range and depth of counseling will depend not only on how much experience the firm has had in dealing with the government, but also whether the experience has been satisfactory. This range of experience may not necessarily be with your organization, but with others within the federal, state, or local government.

The Small Business Specialist is often the first individual contacted by a firm desiring to do business with the government. Some of the points you may want to discuss during your counseling sessions with contractors are:

- 1) **The mission of your organization**. It is a good idea to prepare a handout specifically about your activity including your mission and the names and telephone numbers of the Small Business Liaison offices of your large business prime contractors. It is also very helpful to include a list of your recurring service contracts including expiration dates of current contracts.
- 2) **The** basic rules of selling to the Air Force and the functions of the purchasing activity, to include commodity councils, Manufacturing Technical Assistance Production Program (MTAPP), GSA federal supply schedules, GPC, and Wide Area Workflow.
- 3) **Definitions of small business types**. Discuss application of SB size standards on an industry-by-industry basis (FAR 19.102 and 13 CFR 121).
- 4) Policies and procedures regarding the **SB program** and current set-aside programs.
- 5) **How to register** for doing business with your organization. Ensure contractors know about the Central Contractor Registration (CCR), <http://www.ccr.gov>, and the dynamic small business search. CCR is the primary government repository for contractor information required for the conduct of business with the government (FAR 2.101 and the clause at 52.204-7). Emphasize to contractors that they cannot receive a contract unless they are registered in CCR.
- 6) Discuss the Federal Business Opportunities webpage, <http://www.fedbizopps.gov>, and the availability of the Long Range Acquisition Estimates or other similar forecast documents (available on-line, free of charge at <http://www.selltoairforce.org> and at the Army and Navy small business homepage). It is the intent of the government that FedBizOpps will be the single point where agencies will post information on their procurement opportunities. Provide information on outreach/procurement

### **Small Business Specialists:**

#### **DFARS 219.201(e)(iv)**

“Aid, counsel, and assist small businesses, small disadvantaged business and HBCU/Mis by providing –

- *Advice concerning acquisition procedures;*
- *Information regarding proposed acquisitions;*
- *Instruction on preparation of proposals in the interpretation of standard clauses, representations, and certifications.”*

conferences. Provide buyer's name(s), if appropriate, so the contractors can provide line cards, price lists, catalogs, and perhaps face-to-face contact.

**7 Subcontracting with government prime contractors.** Discuss how subcontracting is a good way to get started in government contracting, how to contact primes, and the opportunities available in the Mentor-Protégé program.

**8 Small Business Administration (SBA) functions and programs to assist small business.** It is very important for you to know as much as you can about SBA, <http://www.sba.gov>. You will want to refer contractors to SBA for assistance and counseling regarding bonding, loans, the 8(a) program, etc. The SBA also publishes a wide range of informative publications to assist small businesses. Small Business Development Centers (SBDC) are available for technical assistance for industry.

**9 Procurement Technical Assistance Centers (PTACs).** PTACs help small businesses interested in obtaining contracts with the Department of Defense, other federal agencies, and state/local government agencies and participating prime contractors. They provide basic and special training programs of government contracting, marketing services, bid/proposal preparation, on-site assistance in the preparation for a pre-award survey, assist in the areas of contract administration, have available a technical library with fed and mil standards and specifications routinely referenced in federal solicitations, and provide guidance in preparation or upgrading of a quality assurance program.

## **11 Suggest recommended websites.**

# **SMALL BUSINESS SPECIALIST'S DUTIES**

## ***Develop and Implement Education and Training Programs***

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Program education and involvement must be a primary objective of every small business specialist. The scope of program education and training should include the following:

- Ongoing education of acquisition personnel with particular emphasis on educating newly assigned personnel.
- Ongoing education of technical personnel and activities that are supported by the contracting activity. Be sure to include information on the Government purchase card program (credit card).
- Ongoing education of contractors to promote understanding of the program spirit and intent. Particular emphasis should be given to educating contractors on the requirements for responsibility and responsiveness and on contract provisions and bidding procedures.
- Numerous approaches can be used to accomplish program education and involvement, such as the use of products posted on the Small Business Learning Center at <http://www.selltoairforce.org> , training films/videotapes, pamphlets, emphasis letters, SB courses, briefings, etc.
- AFOPO Education and Training Team is available for assistance.

### **Small Business Specialists:**

#### **DoD Directive 4205.1**

“Develop and implement education and training programs for personnel whose duties and functions affect the activity’s small business program.”

# **SMALL BUSINESS SPECIALIST'S DUTIES**

## **Recommend and Monitor Activity's SB Goals**

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### **Data Collection and Reporting - FAR 19.202-5**

*"Agencies must measure the extent of small business participation in their acquisition programs by taking the following actions:*

- (a) Require each prospective contractor to represent whether it is a small business, veteran-owned small business, service disabled veteran-owned small business, HUBZone, small disadvantaged business, or women-owned business (see the provision at 52.219-1, Small Business Program Representations).*
  
- (b) Accurately measure the extent of participation by small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in Government acquisitions in terms of the total value of contracts placed during each fiscal year, and report data to the SBA at the end of each fiscal year (see Subpart 4.6)."*

### **Small Business Specialist Shall:**

#### **DFARS 219.201(e)(viii)**

"Recommend to the appointing authority the activity's small and disadvantaged business program goals, including goal assignments to subordinate contracting offices; monitor the activity's performance against these goals; and recommend action to correct reporting errors/ deficiencies."

#### **DoD Directive 4205.1 (under revision)**

"Monitor performance related to the successful goal accomplishments at the activity and advise the head of the activity on corrective action required for improved program performance."

### **DoD Strategic Management System (SMS)**

- DoD SMS is used to administer the DoD Small Business program, to drive continuous improvement and to promote consistent reporting to OSD SADBUs.
  
- DoD components develop and submit targets to OSD SADBUs as part of Mid-Year Report along with assessment of mid-year performance and strategic plan for next fiscal year. OSD reviews targets and may unilaterally change targets if deemed inappropriate.
  
- DoD components submit Year-End Report. Report used in DoD Annual Report to Congress and to establish DoD-wide goals for future years. Report includes performance for prior fiscal year and progress in implementing initiatives identified in Mid-Year Report.

# **ROLE OF THE SMALL BUSINESS ADMINISTRATION**

## **Cooperation with the SBA - FAR 19.4**

*“(a) The Small Business Act is the authority under which the SBA and agencies consult and cooperate with each other in formulating policies to ensure that small business interests will be recognized and protected.*

*“(b) The Director of Small and Disadvantaged Business Utilization serves as the agency focal point for interfacing with SBA.”*

## **Small Business Specialist**

### **DFARS 219.401(b)**

“The contracting activity small business specialist is the primary activity focal point for interface with the SBA.”

## **SBA Procurement Center Representative (PCR) - FAR 19.402**

PCRs are SBA procurement analysts (sometimes engineers). The SBA may assign one or more procurement center representatives to any federal contracting activity or contract administration office, There are two types of PCRs:

**Traditional PCRs** - located at federal contracting activities throughout the nation to increase the share of government contracts awarded to small business. They:

1. Review proposed acquisitions to recommend (i) the setting aside of selected acquisitions not unilaterally set aside by the contracting officer; (ii) new qualified small, veteran-owned, service-disabled veteran-owned, HUBZone, small disadvantaged, and women-owned small business sources; and (iii) breakout of components or competitive acquisitions
2. Review proposed acquisition packages in accordance with 19.202-1(e) ... possible "bundling" or consolidation which makes it unlikely that small businesses can compete for the prime contract.
3. Recommend small business concerns for inclusion on a list of concerns to be solicited in a specific acquisition.
4. Appeal to the contracting office when a decision has been made not to include a small business concern recommended by the SBA when not doing so results in no small business being solicited.
5. Conduct periodic reviews of the contracting activity to insure it is complying with small business policies.
6. Sponsor and participate in conferences and training to counsel small businesses in obtaining government contracts and doing business with the government.

**Breakout PCRs (BPCRs)** - are engineers assigned to certain federal contracting centers, who advocate competition to achieve cost savings to the government. BPCRs review requirement packages for restrictions to competition and recommend breakout or other competitive strategies. With the cutbacks in the SBA, there are very few BPCRs. The traditional PCR is handling this workload.

### **Traditional PCR (TPCR) Reviews:**

If the TPCR resides at your contracting activity, they may perform complete reviews of purchase requisitions, procurement forecasts, subcontracting plans and systems as determined necessary. FAR states the PCR will review all acquisitions over \$10,000.

When the TPCR's office is located at another facility, the responsibilities may be accomplished by mail, electronic means, or facsimile (often referred to as a "Virtual PCR" by SBA). Occasionally the TPCR must make site visits, and should advise you ahead of time the items they will need during their visit.

### **How Does the PCR Recommend SB Set-Aside?**

If not set-aside unilaterally (by the contracting activity), the PCR can make recommendations for set-aside to the contracting office. If the contracting office rejects the PCR recommendation, the PCR can formally recommend a small business set-aside through the issuance of a SBA Form 70 "Recommendation for Small Business Set-Aside" to the organization, precisely stating their rationale for the set-aside recommendation.

If the contracting officer denies the SBSA recommendation, the PCR can appeal to the Head of the Contracting Agency (FAR 19.505).

### **How Does the PCR Review "Bundled" Requirements?**

**SBA Definition:** *"Bundling is the consolidation of two or more requirements which individually were or could be performed by small business, for supplies, services or construction that is of a quantity, estimated dollar value or magnitude which makes it unlikely that small business can compete for the prime contract. "*

The contracting activity must provide the proposed procurement to the PCR 30 days prior to issuance of the solicitation (FAR 19.202(1)(e)). Early involvement of the PCR in acquisition strategy development is highly recommended. SBA must respond within 30 days after receipt. The Contracting Officer has five (5) working days after receipt of the PCR's comments to reject, in writing (FAR 19.505).

When the PCR determines the proposed bundled acquisition precludes or restricts small business participation, he/she must issue an SBA Form 70. He or she must also complete an SBA Form 1970, "Bundling Alert Form," and forward to the respective Area Director.

On the Government Contracting Home Page, at the SBA World Wide Web site, there is a bundling alert where small businesses may enter information on suspected bundled requirements. The internet address is: <http://www.sba.gov/GC>.

### **PCR Review of Solicitations Requiring Subcontracting Plan**

FAR 19.705-3 requires that the contracting officer shall submit to the PCR solicitations requiring subcontracting plans for submission of advisory findings prior to issuance of the solicitation.

## **PCR Review of Subcontracting Plans**

PCRs must review all subcontracting plans. The review should be received within five working days after receipt of the plan.

# **SMALL BUSINESS SPECIALIST'S DUTIES**

## ***Locating Small Business Sources/Outreach***

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### **Encouraging small business participation in acquisitions** **- FAR 19.202-1**

States that all small business concerns shall be afforded equitable opportunity to compete for all contracts that they can perform, and lists steps the contracting officer can take. For example: Dividing acquisitions into reasonably small lots; planning acquisitions so more than one small business concern could perform the work; ensuring delivery schedules are realistic; encouraging prime contractors to subcontract; and provide the solicitation to the SBA procurement center representative.

### **Small Business Specialists:**

#### **DFARS 219.201(e)(v)**

“Maintain an **outreach program** (including participation in Government and/or industry conferences...) designed to locate and develop information on the technical competence of small business, small disadvantaged business concerns, and HBCU/MI's.”

### **Locating Small Business Sources - FAR 19.202-2**

Encourages maximum participation of small business by insuring their inclusion on mailing lists; making every reasonable effort to find additional small business sources before issuing solicitations; and publicizing solicitations and contract awards through the Government-wide point of entry (<http://www.fedbizopps.gov/>)

### **Conducting Market Research**

The Small Business Specialist often conducts market research" to locate small business sources. This research could consist of reviewing acquisition history; searching various data bases, both local and on-line; contact with the SBA and other military installation Small Business Offices; lists developed by various organizations such as the National Minority Supplier Development Council; phone books; Thomas Register; and sources developed through outreach events such as procurement conferences and open houses.

### **Outreach Conferences and Open Houses**

Outreach conferences, open houses, and briefings to industry provide small business the opportunity to meet with personnel who are involved in the acquisition process. They serve to acquaint these organizations with the needs of the DoD and to provide information to make the task of doing business with the government less complex.

Initial planning for a conference or open house should be coordinated with the appropriate commander or senior manager. Their participation and presence in the conference or open house communicates the importance placed on the SB program. In the early planning stages, it should be determined if other government buying activities in the local area will be invited to participate. An area of key consideration is the type of conference or open house desired. This could range from a completely local, informal affair to amore formal activity including participation by representatives from other federal agencies or Congress.

The agenda could include appropriate presentations on your organization, mission, type of supplies or services bought; and how to do business with you. Some other ideas:

- Provide SBs the opportunity to set up a display of their products or services.
- Invite selected prime contractors to participate and explain their procedures for SBs, and to advise of subcontracting opportunities that exist with their firms.
- Set up a display of the items/services that are generally bought by the purchasing activity.
- Ensure that members from each branch of the contracting activity are available to discuss items/services that they purchase.
- Invite other DoD services and agencies to attend and to provide counseling on their programs.
- If contractors will be displaying their products or services, it is extremely important that prospective government users of those supplies or services be encouraged by the commander or senior manager to attend the trade fair portion of the conference.
- Possibly have a pay-as-you-go breakfast or luncheon with keynote speakers.
- Suggest using panel discussions to pursue individual problem areas and to answer questions.

Good publicity and formal invitations are the keys to the success of the effort. It should be announced in the FedBizOpps at least 30-90 days before the date of the session. In addition, a press release should be issued to major newspapers within the geographical area. Individual invitations could be signed by the appropriate commander or senior manager and sent to contractors, local government and civic organizations, Chambers of Commerce, trade associations, minority purchasing councils, etc.

Invitations and advertisements should include all pertinent information about the conference or open house. Information should be provided about lodging accommodations and a point of contact should be provided to answer questions and make reservations.

A handout should be prepared for each attendee that contains information on doing business with the particular purchasing activity. It would be helpful to include a listing of repetitively purchased goods and services for your installation.

In conducting the conference or open house, every effort should be made to create an atmosphere which promotes a frank exchange of questions and answers among all participants. Graphic aids such as videotapes, slides, and view graphs can be useful tools, but their use should be counterbalanced with panel discussions and counseling to ensure two-way communications are maintained.

# **SMALL BUSINESS SPECIALIST'S DUTIES**

## **Make Recommendations for Set-Aside, Section 8(a), and HUBZone**

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### **DFARS 219.201(d)(10)**

"Contracting activity small business specialists perform this function by:

- ***Reviewing and making recommendations for all acquisitions over \$10,000;***
- ***Making the review before issue of the solicitation or contract modification and documenting it on DD Form 2579, Small Business Coordination Record;***
- ***Referring recommendations which have been rejected by the contracting officer to the SBA procurement center representative. If an SBA representative is not assigned or available the specialist refers the matter to the appointing authority.***

### **Small Business Specialists:**

#### **FAR 19.201(d)(10)**

"Make recommendations in accordance with agency regulations as to whether a particular acquisition should be awarded under Subpart 19.5 as a set-aside, or under Subpart 19 as a Section 8(a) award, or under Subpart 19.13 as a HUBZone set-aside."

### **DD Form 2579**

The Small Business Coordination Record, DD Form 2579, is used for all acquisitions over \$10,000. It should be completed prior to the issuance of the solicitation or contract modification for each applicable acquisition, and a copy should be included in the official contract file.

The DD Form 2579 will be completed by the buyer/contracting officer and the Small Business Specialist prior to forwarding to the SBA PCR, if assigned.

### **DD Form 2579 Completion Instructions**

The following criteria should be followed in the completion of the Form. These instructions may vary from service to service.

#### **Block 2. Purchase Request No./Requisition No.**

Appropriate number should be entered.

#### **Block 3. Total Estimated Dollar Value.**

The total value of the requirement including all options should be entered.

#### **Block 4. Solicitation No./Contract Modification Number.**

The appropriate number should be entered if available.

#### **Block 5. Buyer Information.**

All elements of buyer information should be completed. Locally assigned buyer identification codes may also be included with the office symbol, Block 5b.

**Block 6. Item Description.**

A brief description of the required items or services should be entered in this block.

**Block 6a. Federal Supply Class/Service Codes.**

Enter the appropriate codes.

**Block 7. Type of Coordination.**

The appropriate type of coordination should be checked.

**Block 8. SB Size Standard.**

SB size standards are established by the SBA on an industry-by-industry basis. Industries are classified by the North American Industry Classification System (NAICS). The applicable NAICS Code and size standard from the NAICS Manual and 13 CFR 121, should be entered in Block 8a, b, or c.

**Block 9. Recommendations.**

This block is used to recommend whether the acquisition should be pursued under one of the several different preference programs for SB/SDB business. These recommendations must consider the DoD set-aside program order of precedence. Block 9a, competitive and sole source, pertains only to Section 8(a) acquisitions.

**Block 10. Acquisition History.** This block is to be completed to the extent that the information on previous acquisitions is readily available.

**Block 11. SB Progress Payments.**

Normally progress payments must be requested and justified/supported by firms responding to solicitation. However, remember that small business firms can get progress payments above the simplified acquisition threshold.

**Block 12. Subcontracting Plan Required.**

Subcontracting plans are not required for small businesses. If the requirement is set-aside for small business, 8(a), HUBZone, etc, this block will be checked "no". If the requirement is full and open competition or sole source to a large business and is above \$500,000 (\$1 million for construction), this should be checked "yes." The FAR and DFARS subcontracting plan clause appropriately advises industry if they are required to submit a subcontracting plan.

**Block 13. Synopsis Required.**

This block will document whether the acquisition should be publicized in the single Government-wide entry point (<http://www.fedbizopps.gov/>). If the acquisition is not to be synopsisized, then the appropriate FAR exception (FAR 5.202) must be entered.

**Block 14. Remarks.**

This block will be used to document why the acquisition is not recommended for set-aside under the SB Program. It should also be used to recommend additional sources to be solicited.

**Block 15. Reviewed by SBA Representative.**

This block is required to be completed on acquisitions over \$10,000, that are not set aside under the SB Program, at activities where an SBA procurement center representative is assigned. This acquisition package and the DD Form 2579 will not be forwarded to the SBA for their review, until after the DoD Small Business Office review is completed and signed in Block 18.

**Block 16. Local Use.**

This block can also be used to identify additional sources or applications as determined by the contracting office and Small Business Specialist.

**Block 17. Contracting Officer.**

Normally the, buyer or CO prepares the form before submittal to the SB Office/Specialist for review. The buyer must sign the form in the block. The use of blocks 17a and 17b is not mandatory and will normally only be used in those instances where an SBA procurement center representative is not assigned and the buyer/CO disagrees with In these cases, the disagreements are to be appealed to the chief of the contracting office.

**Block 18. Small Business Specialist.**

The Small Business Specialist who reviews the acquisition is responsible for completing/signing the form in this block.

# **SMALL BUSINESS SPECIALIST'S DUTIES**

## ***Participation in Regional Small Business Councils***

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### **Department of Defense Regional Councils for Small Business Education and Advocacy**



In accordance with the Small Business Act, it is the policy of the federal government to aid, assist, and counsel small businesses to assure they receive a fair share of federal contracts and subcontracts. The extent of our effectiveness in executing this policy depends largely on how well versed our small business advocates are in the latest policies and procedures impacting upon the small business program. To that end, DoD sponsors regional councils as one significant way to educate its members who are charged with the responsibility of executing small business policy.

Regional councils provide exposure to small business initiatives, opportunities for training and networking, a forum for keeping abreast of small business legislation, and an environment for exchanging ideas to strengthen all aspects of the small business program. While each council is governed by their own bylaws, in general members are federal employees who are involved in the small business programs of all federal civilian and military agencies, large business prime contractor small business liaison officers, procurement technical assistance centers representatives, and women business centers representatives.

#### **COUNCIL OBJECTIVES**

1. Promote the national Small Business program.
2. Develop closer relationship and improve communication among federal government entities, large business prime contractors, procurement technical assistance personnel with responsibility to assist the Small Business community.
3. Promote the exchange of ideas, methods, experiences, and general information among individuals involved and responsible for the effective implementation of the Small Business Programs.
4. Develop ideas, methods and procedures pursuant to congressional mandates, current policies, regulations and directives to assure that Small Business concerns share equitably in federal contracts and subcontracts.

A list of the eight councils and their current Chairpersons can be obtained from:

<http://www.acq.osd.mil/sadbu/programs/regional/index.html>

#### **Other Councils**

There are various other local/regional councils/committees organized to coordinate the efforts of federal, state, county, and municipal purchasing activities and business organizations involved in federally-funded acquisition programs. Council members usually are Federal, State, County, and Municipal small business personnel and prime contractors involved in subcontracting programs. DoD SB personnel are encouraged to participate in these Councils to foster government-industry communications,

and to use them as tools in providing industry a better understanding of government socio-economic programs.

### **Official Participation in Non-Federal Entities - DoD 5500-7-R**

*"Section 2. 3-202. Management.*

*DoD employees may not participate in their official DoD capacities in the management of non-Federal entities without authorization from the Head of the DoD Component. However, authorized DoD employees may officially represent DoD in discussions of matters of mutual interest with non-Federal entities, may participate in the determinations and conclusions of non-Federal entities, and may cast a vote on issues within the scope of the DoD employees' official responsibilities."*

## Current DoD Position on Bundling/Consolidation Issues

Consolidation and bundling are issues the Small Business Specialists will likely encounter in today's acquisition environment.

**CONSOLIDATION -- unique to DoD. It involves the use of a single contract to satisfy two or more requirements that have been previously performed under two or more separate contracts lower in cost than the total cost of the proposed contract.**

If the value of the proposed contract exceeds \$5M, the acquisition strategy must include the results of market research, alternative contracting approaches that would involve a lesser degree of consolidation and a determination by the Senior Procurement Executive (SPE) that consolidation is necessary and justified if the benefits of the acquisition strategy (including quality, acquisition cycle, terms and conditions, etc) exceed each of the possible alternatives. (DFARS 207.170-2)

(Note: The Air Force\_SPE has delegated the authority to make the consolidation determination for actions exceeding \$5 million, and less than \$100 million to the Head of the Contracting Activity, and for actions exceeding \$100 million to the Deputy Assistant Secretary (Contracting) and the Associate Deputy Assistant Secretary (Contracting). (AFFARS: 5307.170-3))

**BUNDLING --- subset of consolidation and applies to procurements Government-wide. It involves one or more requirements previously performed by a small business or that could have been performed by a small business and is likely to be unsuitable for award to a small business.**

It does not apply to contracts that will be awarded and performed outside the US. (FAR 2.101). As in consolidation, market research must be done (FAR 10.001) to determine whether bundling is necessary and justified. The Government must derive substantial benefits that are measurable. This includes cost savings or price reductions, quality improvements that will save time or improve or enhance performance or efficiency, reduction in acquisition cycle times, or better terms and conditions. These benefits must equal ten percent of the estimated contract or order value (including options) if the value is \$75 million or less; or five percent of the estimated contract or order value (including options) or \$7.5 million, whichever is greater, if the value exceeds \$75 million.

Reduction of administrative or personnel costs alone is not sufficient justification for bundling unless the cost savings are expected to be at least 10 percent of the estimated contract or order value (including options) of the bundled requirements.

Substantial bundling occurs when the dollar amount exceeds \$75M. In this case, the contracting officer must justify bundling in the acquisition strategy documents to:

### Small Business Specialists:

**Consolidation: *Combining two or more existing requirements into a single solicitation.***

**Bundling: *Combining two or more requirements into a single solicitation when one of the requirements was or could have been performed by a small business; the solicitation will be unsuitable for small business; and the work will be performed in U.S.***

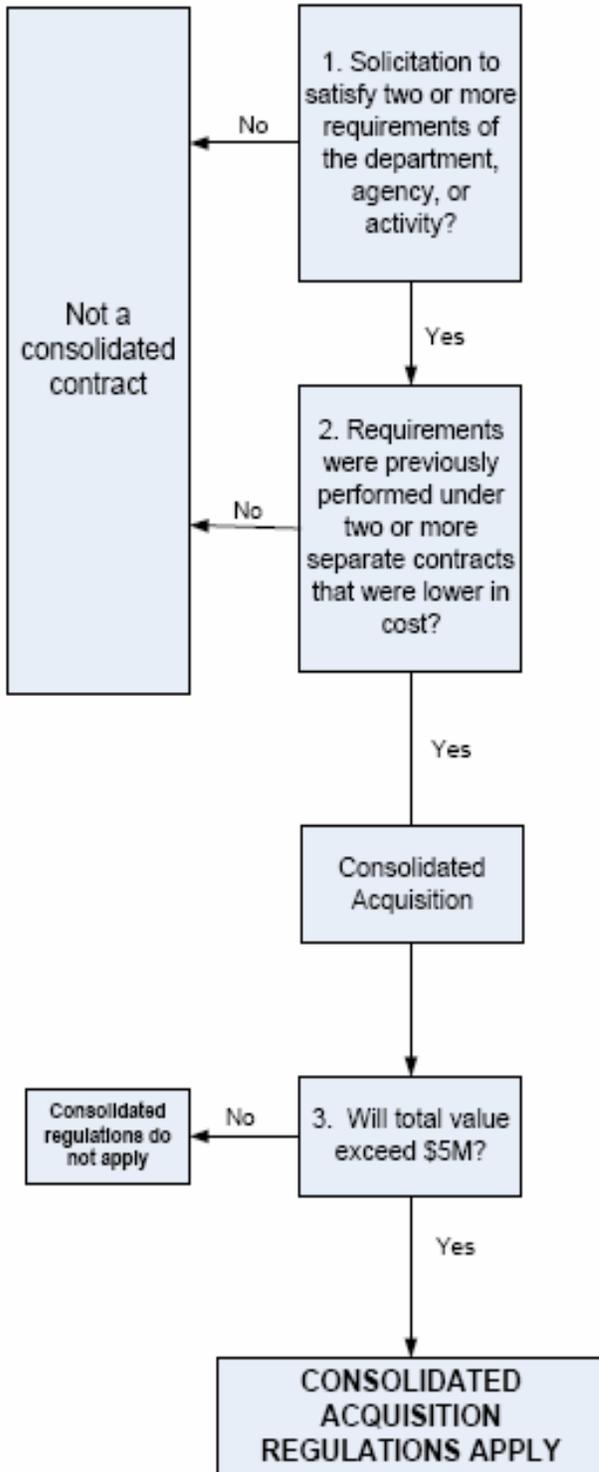
- (1) Identify the specific benefits anticipated to be derived from bundling;
- (2) Include an assessment of the specific impediments to participation by small business concerns as contractors that result from bundling;
- (3) Specify actions designed to maximize small business participation as contractors, including provisions that encourage small business teaming;
- (4) Specify actions designed to maximize small business participation as subcontractors (including suppliers) at any tier under the contract, or order, that may be awarded to meet the requirements;
- (5) Include a specific determination that the anticipated benefits of the proposed bundled contract or order justify its use; and
- (6) Identify alternative strategies that would reduce or minimize the scope of the bundling, and the rationale for not choosing those alternatives.

In assessing whether cost savings would be achieved through bundling, the contracting officer **must** consider the cost that has been charged or, where data is available, could be charged by small business concerns for the same or similar work.

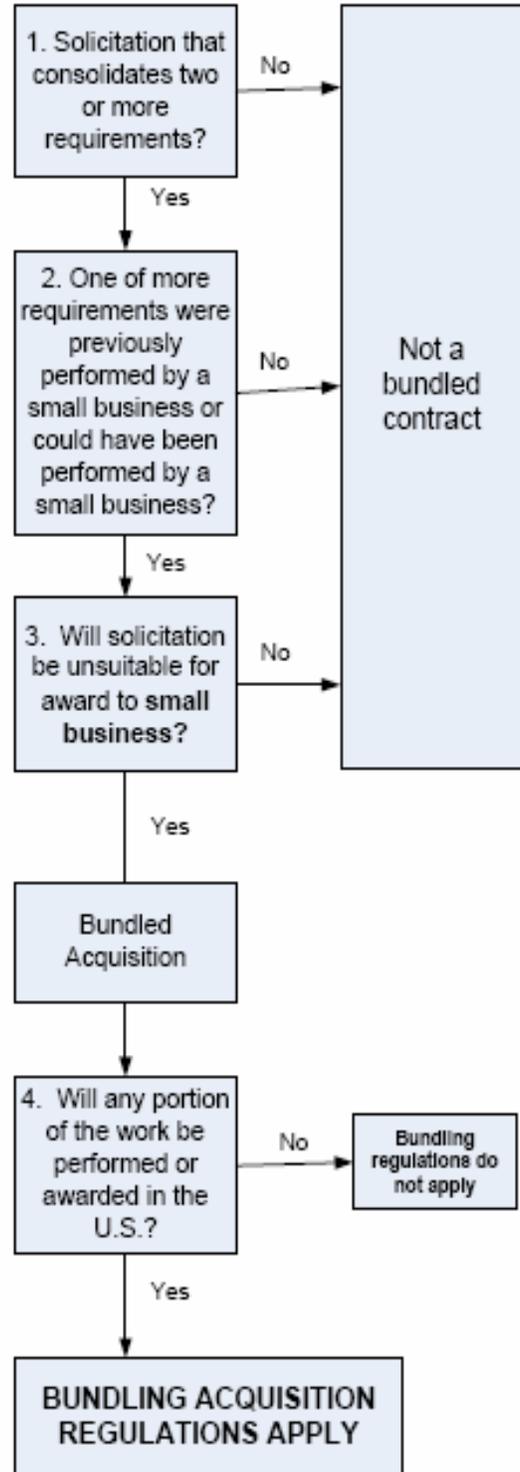
(FAR 7.107)

# Consolidated or Bundled? A side-by-side view

Decision Flow Chart: Consolidation



Decision Flow Chart: Bundling



**CHANGES:**

*The FAR and DFARS are regularly updated.*

*It is highly recommended that the SB specialist subscribe to this website to receive notices of changes to both the FAR and the DFARS in order to learn about recent changes.*

*<http://www.arnet.gov/far/mailframe.html> (FAR website)*

*<http://www.acq.osd.mil/mailman/listinfo/dar/> (DFAR website)*

*Change notices to the DFARS can also be found at:*

*<http://www.acq.osd.mil/dpap/dars/dfars/changenotice/index.htm>*

# **Appendix A**

## **Reporting Tools**

### **SDVOSB & HUBZone Report Tool:**

To increase awards to the SDVOSB program, the President signed the Service Disabled Veterans Executive Order (EO 13360) on October 2004 mandating more effective implementation of the Service Disabled Veterans goals and set-asides authorized in the Small Business Act (15 U.S.C. 644g and 15 U.S.C. 657f). Subsequently, the Office of Federal Procurement Policy and the Administrator of the Small Business Administration signed a joint memo on 12 January 2005, requesting each agency develop a strategy to meet the mandates of the Executive Order.

To emphasize both the SDVOSB and HUBZone programs, the Secretary of the Air Force and the Air Force Chief of Staff endorsed two initiatives shown in part III of the FY05-09 Air Force Small Business Program Plan. Effective utilization of the current set-aside and sole-source authority for SDVOSB and HUBZone authorized in FAR Subparts 19.13 and 19.14 are available to increase awards to these programs.

To facilitate collection of this data, a report tool was developed to be used in conjunction with the DD Form 2579 data for new acquisitions on the SAF/SB Intracomm website: <http://www.selltoairforce.org/intracomm/index.asp>. Each activity is to complete the information required for their acquisition as an addendum to the DD Form 2579. Each Command, Direct Reporting Unit (DRU), and Forward Operating Agency (FOA) small business office will also use this data to support their Semi-Annual and Annual Fiscal Year Small Business Assessment Reports. These reports will assist in identifying specific areas to guide further improvement.

#### Threshold:

- 1. Acquisitions greater than \$100K for Operational Contracting Activities (including AFMC operational contracting flights).
- 2. Acquisitions greater than \$1M for AFMC, SMC, and Specialized Contracting Flights.