

Procurement & Property Division Policy Memorandum

Subject: Review and Approval of Requirements That Have Not Been Reserved for Small Business Concerns (Washington Metro Area only)		Number: 19-07
Distribution: AAO's, PAO's, PPD, FD	Date: May 25, 2001	This Replaces: N/A

Background Departmental Regulation (DR) 5090-1, "Clearance Process for Small Business Set-Asides and Use of 8(a) Program," dated November 13, 1997, prescribes policies, procedures, and responsibilities for the Office of Small and Disadvantaged Business Utilization (OSDBU) to review all requirements which have not been set-aside for Small Business (SB) participation. With the exception of certain requirements listed in the DR, *and supplies/services obtained under a Federal Supply Schedule (FSS) contract*, awards not reserved exclusively for participation by SB or 8(a) firms are required to be submitted to OSDBU for a detailed review. OSDBU may recommend that a particular acquisition be solicited as a SB or 8(a) set-aside.

In FY 1998, OSDBU suspended DR 5090-1 to allow sufficient time for USDA agencies to thoroughly review, analyze, and design a process which works better. At that time, the Procurement and Property Division, Policy Branch suspended REE Bulletin 98-205, Review and Approval of Requirements That Have Not Been Reserved for Small Businesses, until those process improvements had been completed and put into place. In the interim, Areas/Offices were authorized to conduct the SB review and approve requirements exceeding \$100,000, including solicitation under full and open competition and sole source acquisitions. Areas/Offices were also reminded that the review process was used to achieving the goals of the Procurement Preference Program through the matching of requirements to 8(a) firms or determinations to set-aside requirements to the HUBZone Program (set-aside or sole source). Careful reviews of the requirement, along with market research, are essential to achieving

Procurement Preference goals so the review needs to include sufficient market research, to the extent necessary, to support a determination to conduct full and open competition.

At this time, the OSDBU has reinstated the review and approval of the SB Set-Aside Clearance. Contract requirements in the following areas will be subject to review and clearance by the Small Business Administration's (SBA's) Procurement Center Representative (PCR) stationed at USDA. Note that the review does not apply to supply or service items available through FSS contracts): requirements over \$100,000 not set-aside for SB, all proposed bundling actions, and subcontracting plans.

**Application of
Policy to REE**

Effective immediately, each requirement over the simplified acquisition threshold that has not been set-aside for SB concerns or is not being acquired through a FSS contract shall be submitted through the PPD's OSDBU Coordinator to the SBA PCR for clearance review and approval. Contracting Officers (CO's) shall not synopsize the requirement on the open market, release the solicitation, or award a contract until the SBA PCR has given the required approval.

Initially, the SBA PCR's review of the SB Set-Aside Clearance process will apply only to those open market acquisitions in the Washington Metropolitan Area which exceed \$100,000. Similar reviews of ARS's requirements may be levied upon the field procurement offices at a later date. Area/Offices which are not within the Washington Metropolitan Area shall continue to document the SB Set-Aside Clearance along with the signature of the OSDBU Coordinator for the Area/Office as the "Small Business Coordinator." The approved clearance shall be maintained in the contract file.

Area/Offices in the Washington Metropolitan Area shall document the SB Set-Aside Clearance and submit it through the PPD OSDBU Coordinator to the SBA PCR Representative for review and approval. The approved Clearance with the signature of SBA's PCR Representative/Departmental OSDBU shall be maintained in the contract file.

Procedure

The procedures in DR 5090-1 shall be followed in documenting the SB Set-Aside Clearance Sheet and processing the review. Each OSDBU Clearance

and Contracting Office Approval form (Appendix A of DR 5090-1) shall be accompanied by the following:

1. A copy of the Specifications, Statement of Work, or complete solicitation;
2. A written statement detailing why this particular action is not being reserved to SB concerns citing any applicable Federal Acquisition Regulation and the basis for the determination. (The comment block on the SB Set-Aside Clearance Sheet should be used or a separate statement or justification should be attached to the clearance form);
3. Any other historical or relevant information which may have had a bearing upon the CO's decision to request a clearance; and
4. Results of the market research, sources sought synopsis, or pre-solicitation notice. Include any other relevant actions taken by the CO to identify prospective SB concerns. It is important that these requirements undergo some form of market research prior to submission and SBA's PRO-Net is readily available for this purpose. In no case, however, should the requirement be synopsized (or the solicitation released) before giving OSDDBU an opportunity to review it.

In the "comments" block of the SB Set-Aside Clearance Sheet in the attachment thereto, the CO shall address his findings in regard to HUBZone concern (set-asides and sole source awards).

Upon completion of the SB Clearance process, Area/Offices in the Washington Metropolitan Area shall document the SB Set-Aside Clearance. The completed clearance containing the approval of Departmental OSDDBU shall be maintained in the contract file.

**Time frames--
Review/Approval**

The SB Clearance request shall be reviewed by SBA PCR/Departmental OSDDBU within 10 work days of receipt in accordance with DR 5090-1. The time frame begins upon receipt by the PCR of a complete review package. If the package is not complete, the PCR will request any additional documentation needed to complete the review. CO's are required to respond promptly (i.e., within 5 days) to the PCR's request for additional information.

Exemptions

DR 5090-1 exemptions to the SB Clearance review includes (f) “Delivery task orders over \$100,000 when placed against a non-mandatory contract held by a small business.” This exemption shall be interpreted to exclude all awards under FSS contracts. Awards under FSS contracts need not be submitted for PCR review.

PPD Point of Contact

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Approved:

/s/
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