



COMDTINST 4200.32
15 AUG 1989

COMMANDANT INSTRUCTION 4200.32

Subj: Contract Information System (CIS) Reporting of Awards to Emerging Small Businesses

1. PURPOSE. This instruction is issued to ensure accurate Coast Guard compliance with the reporting requirements of contracts awarded in excess of \$500 under Title VII of the "Business Opportunity Development Reform Act of 1988" under Public Law 100-656.
2. BACKGROUND.
 - a This Act established the Small Business Competitiveness Demonstration Program which requires each participating agency to monitor attainment of its small business participation goals and report to the Office of the Secretary on its achievements.
 - b This program is designed to provide for enhanced goals for small businesses in certain industry groups and expand their participation in a broader range of industry categories. The goal of the program is to test the ability of small businesses in certain designated industry groups to retain a fair proportion of procurement awards in unrestricted competition in those industry groups.
 - c The Coast Guard is further tasked to ensure that emerging small businesses receive not less than 15 percent of the Coast Guard's total contract dollars awarded for each of the four designated industry groups. An emerging small business is one whose size is no greater than 50 percent of the numerical size standard applicable to the Standard Industrial Classification (SIC) code assigned to the procurement.
 - d The four designated industry groups covered by this program are construction, refuse systems services, architectural and engineering, and non-nuclear ship repair. The SIC codes for these four groups are

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- e (cont'd) provided in enclosure (1). Enclosure (2) provides further guidance on the definition of nonnuclear ship repair.

3. PROCEDURES.

- a Contracting officials shall ensure that all actions awarded over \$500 in the four designated industry groups be reported into the Contract Information System (CIS) using DOT Form 4200.11 (1/89). Submit original to Transportation Computer Center M-35, DOT, Plaza Level, SE Corner, 400 Seventh Street, S.W., Washington, D.C. 20590.
- b District and MLC contracting officials shall work closely with subordinate units to ensure all applicable actions are reported to the Department of Transportation in accordance with DOT Order 1340.5D.

4. ACTION. Area and district commanders; commanders of maintenance and logistics commands; Commander, Coast Guard Activities Europe and unit commanding officers shall ensure compliance with this instruction.

5. FORMS AVAILABILITY: DOT Form 4220.11 can be procured from DOT Distribution Operations Unit (M-494). The unit of issue is 50 individual forms per pad.

/s/W. C. DONNELL
Deputy Chief of Staff

- Encl: (1) OFPP memo of 22 December 1988
(2) Copy of pages 7029 through 7031 of Federal Register, Volume 54, No. 31

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503
DEC 22 1988

MEMORANDUM FOR: THE SECRETARY OF AGRICULTURE
THE SECRETARY OF DEFENSE
THE SECRETARY OF ENERGY
THE SECRETARY OF HEALTH AND HUMAN SERVICES
THE SECRETARY OF TRANSPORTATION
THE ADMINISTRATOR OF THE ENVIRONMENTAL
PROTECTION AGENCY
THE ADMINISTRATOR OF GENERAL SERVICES
THE ADMINISTRATOR OF THE NATIONAL
AERONAUTICS AND SPACE ADMINISTRATION
THE ADMINISTRATOR OF THE VETERANS
ADMINISTRATION

SUBJECT: The Small Business Competitiveness Demonstration Program

1. Purpose. This memorandum provides policy direction to the participating agencies for implementation of Title VII of the "Business Opportunity Development Reform Act of 1988", Public Law 100-656, that establishes the Small Business Competitiveness Demonstration Program.
2. Authority. This memorandum is issued pursuant to Sec. 715 of P.L. 100-656 which requires that the Office of Federal Procurement Policy (OFPP) and the Small Business Administration (SBA) issue a policy directive to ensure consistent government-wide implementation of Title VII in the Federal Acquisition Regulation (FAR).
3. Background. Section 15(a) of the Small Business Act mandates that small businesses receive a fair proportion of Federal procurements. To achieve this goal Subpart 19.5 of the FAR requires that Federal agencies reserve, or set aside, procurements for exclusive small business participation when a contracting officer determines that two or more small businesses are capable of providing the goods or services at reasonable prices. While restricting procurements for exclusive small business participation has been very effective in assuring a small business share of Federal contracts, one unintended result is a concentration of awards in certain industries often dominated by small businesses. A further result is that agencies expend resources in those industries that are conducive to high levels of small business participation rather than expand the base of small business contracting into areas where small businesses do not.

Business contracting into areas where small businesses do not traditionally obtain a significant share of procurement awards. There is a significant potential to expand the industrial base of the United States by utilizing the full capacity of the many small businesses that have demonstrated in the economy at large their ability to provide a broad range of supplies and services to satisfy Government requirements.

4. Policy. The Small Business Competitiveness Demonstration Program is designed to provide for enhanced goals for small business in certain industry groups and to expand small business participation in a broader range of industry categories. The program is to be conducted under the authority of section 15 of the Office of Federal Procurement Policy Act which provides for the test of unique and innovative procurement procedures and techniques. The goal of the program is to test the ability of small businesses in certain designated industry groups to retain a fair proportion of procurement awards in unrestricted competition in those industry groups. The Act designates the SBA to act as the executive agent for OFPP in conducting the test. The procedures for implementing the test required by the Small Business Competitiveness Demonstration Program are set forth in the attached test plan.
5. Implementation. The participating agencies are required to implement the Small Business Competitiveness Demonstration Program and test set forth in this policy directive and the attached test plan commencing on January 1, 1989. This policy directive shall be implemented in the FAR. Such implementation shall be by a reference to this policy directive and the attached test plan which will be included in FAR Part 19. Pursuant to Sec. 714(a) of P.L. 100-656, provisions of the FAR that are inconsistent with this policy directive and the attached test plan are hereby waived.
6. Expiration Date. The Small Business Competitiveness Demonstration Program and this policy will expire on December 31, 1992.

/s/ Allan V. Burman
Deputy Administrator and
Acting Administrator
Office of Federal
Procurement Policy

/s/ Monika Edwards Harrison
Associate Administrator for
Procurement Assistance
Small Business Administration

SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM TEST PLAN

I. PURPOSE

This document implements Title VII of the "Business Opportunity Development Reform Act of 1988", which establishes the Small Business Competitiveness Demonstration Program (the Program). There are three primary purposes for this Program. First, the Program seeks to demonstrate whether the competitive capabilities of small business firms in certain industry groups will enable them to successfully compete on an unrestricted basis for Federal contracts. Second, the Program attempts to demonstrate whether the use of targeted goaling and management techniques by procuring agencies, in conjunction with the Small Business Administration (SBA), will expand small business participation in Federal contracting opportunities that have been historically low despite adequate numbers of qualified small business contractors in the economy. Finally, the Program seeks to demonstrate whether expanded use of full and open competition adversely affects small business participation in certain industry groups, taking into consideration the numerical dominance of small firms, the size and scope of most contracting opportunities, and the competitive capabilities of small firms.

II. AUTHORITY

The Program is established pursuant to Title VII of the Business Opportunity Development Reform Act of 1988 (P.L. 100-656) and Section 15 of the Office of Federal Procurement Policy Act, 41 U.S.C. 413, which provides for the testing of innovative procurement methods and procedures.

III. PROGRAM REQUIREMENTS

A Applicability

- 1 The Program shall be conducted over a period of four (4) years, from January 1, 1989, through December 31, 1992. The Program will consist of two major components: (1) four Designated Industry Groups, which test unrestricted competition, and (2) ten Targeted Industry Categories, which test enhanced small business participation. Solicitations issued from January 1, 1989 through December 31, 1992 are covered by this Program.

- 2 Contract awards in the following designated industry groups are covered by this Program:
 - a Construction under standard industrial classification (SIC) codes that comprise major groups 15, 16, and 17 (excluding dredging -- Federal Procurement Data System (FPDS) service codes Y216 and Z216);
 - b Refuse systems and related services under SIC code 4212 or 4953, limited to FPDS service code S205;
 - c Architectural and engineering (A&E) services (including surveying and mapping) under SIC codes 7389, 8711, 8712, or 8713 (limited to FPDS service codes C111 through C219, T002, T004, T008, T009, T014, and R404); and
 - d Non-nuclear ship repair. (Currently, non-nuclear ship repair is not individually segmented from the shipbuilding and repair industry. However, SBA will segment the industry to clearly identify nuclear and non-nuclear ship repair, and will publish such segmentation. OFPP will provide an appropriate FPDS service code.)
- 3 Targeted industry categories for enhanced participation will be determined by each participating agency, in conjunction with the SBA.
- 4 Contract awards under the Federal Schedule Program are not covered by the Program.

B Participating Agencies

The following agencies are participants in the Program:

- 1 The Department of Agriculture,
- 2 The Department of Defense, except the Defense Mapping Agency,
- 3 The Department of Energy, 4. The Department of Health and Human Services,

- 4 The Department of Health and Human Services,
- 5 The Department of Transportation,
- 6 The Environmental Protection Agency,
- 7 The General Services Administration,
- 8 The National Aeronautics and Space Administration, and
- 9 The Veterans Administration.

C Agency Goals for the Four Designated Industry Groups

- 1 Each participating agency shall have a small business participation goal that is 40 percent of the agency's total contract dollars awarded for each of the four designated industry groups. In addition, each participating agency must make a good faith effort to assure that emerging small businesses receive not less than 15 percent of the agency's total contract dollars awarded for each of the four designated industry groups.
- 2 The Business Opportunity Development Reform Act of 1988 defines an emerging small business as one whose size is no greater than 50 percent of the numerical size standard applicable to the SIC Code assigned to the procurement. Subject to the requirements of paragraph D.3 below; contract opportunities in the four designated industry groups, which have an estimated award value equal to or less than the reserve amount established for emerging small businesses, are reserved for such businesses.
- 3 Contract awards made to fulfill the 15 percent goal for emerging small businesses also count toward attainment of the 40 percent goal. All prime contract awards to small businesses, including awards under section 8(a) of the Small Business Act, section 1207 of the FY 87 National Defense Authorization Act, and sole source awards, count toward attainment of goals.

D Procurement Procedures for the Four Designated Industry Groups Participating agencies shall use the following

procedures for procurements in the four designated industry groups.

1 Full and Open Competition for Contracts in Excess of the Emerging Small Business Reserve Amount

Subject to the requirements of the Competition in Contracting Act of 1984, participating agencies are required to use full and open competition for all solicitations issued on or after January 1, 1989, in the four designated industry groups, if the anticipated award value exceeds the dollar amount reserved for emerging small businesses (unless the procurement is placed under section (a) of the Small Business Act or set aside under section 1207 of the FY 87 National Defense Authorization Act). Each participating agency shall continue to use full and open competition as long as quarterly reviews show that the agency's 40 percent goals are being attained. The continued use of full and open competition is not affected by an agency's failure to meet its 15 percent award goals for emerging small businesses.

2 Restricted Competition for Contracts in Excess of the Emerging Small Business Reserve Amount

- a If any participating agency's quarterly review of its awards to small businesses in the four designated industry groups shows that the agency has failed to attain its 40 percent goals for any of the groups, subsequent contracting opportunities, in excess of the amount reserved for emerging small businesses, shall be solicited through competition restricted to eligible small businesses to the extent necessary for the agency to attain its goals for that industry. Such solicitations (unless placed under section 8(a) of the Small Business Act or set aside under section 1207 of the FY 87 National Defense Authorization Act) shall be in accordance with section 15(a) of the Small Business Act and Subpart 19.5 of the Federal Acquisition Regulation (FAR).
- b Agencies shall be responsible for determining the extent to which restricted competition shall be employed in order to attain their small business participation goals; successive failures to meet small business participation goals warrant more

aggressive measures. (For example, if an agency only misses a goal by five percent, the agency may conclude that it can attain its goal by restricting competition for a portion of its procurements, rather than all of them. Agencies are expected to exercise this discretion judiciously, and make appropriate adjustments if they miss their goal again.) Agencies shall return to the use of full and open competition upon determining that their contract awards to small business concerns meet the required goals.

- c Modifications to agency solicitation practices (instituting restricted competition and reinstating full and open competition) shall be made as soon as practicable, but no later than the beginning of the quarter following completion of the review indicating the need for such change.

3 Reserve Program for Emerging Small Businesses

- a The emerging small business reserve amount is \$25,000, or such higher amount as OFPP sets in the event that emerging small business concerns are not receiving 15 percent of the total dollar value of contract awards in one or more of the four designated industry groups. Any required adjustments to the emerging small business reserve amount will be made semi-annually by industry group.
- b Competition for all contract opportunities in the four designated industry groups with an estimated award value that is equal to or less than the emerging small business reserve amount shall be restricted to emerging small businesses, provided that the contracting officer determines that there is a reasonable expectation of obtaining offers from two or more responsible emerging small businesses that will be competitive in terms of market price, quality, and delivery. If no such reasonable expectation exists, requirements will be processed in accordance with FAR Subpart 13.105 or in accordance with FAR Subpart 19.5 or 19.8. However, if no such reasonable expectation exists where OFPP has raised the small business reserve amount to a level over \$25,000, requirements over \$25,000 will be processed in accordance with paragraphs D.1 and D.2 above.

- c The use of small purchase procedures is not required under the reserve program; any competitive source selection method may be used. The reserve program applies only to new awards within the emerging small business reserve threshold. Modifications within the scope of work of contracts having an initial award value in excess of the emerging small business reserve amount are not subject to the reserve program.

4 Solicitation Provisions for Procurements in the Four Designated Industry Groups

- a The provision set forth in Attachment A entitled "Small Business Concern Representation For The Small Business Competitiveness Demonstration Program (NOV 1988)" shall be inserted in full text in all solicitations issued by the participating agencies under the Small Business Competitiveness Demonstration Program for the four designated industry groups.
- b The clause set forth in Attachment A entitled "Notice of Emerging Small Business Set-Aside" shall be inserted in full text in all solicitations and resulting contracts restricted to emerging small businesses pursuant to paragraph III.D.3.
- c Each Solicitation under the Program that utilizes small purchase procedures shall include the applicable SIC code and size standard for the procurement. The exception for small purchases in FAR subpart 19.303(a) is hereby waived for the Program.
- d The face of each award issued by a participating agency under the Small Business Competitiveness Demonstration Program for the four designated industry groups shall contain a statement that the award is being issued pursuant to such Program.

E Agency Programs For Targeted Industry Categories With Limited Small Business Participation

- 1 Each participating agency is required to select ten industry categories (four-digit SIC Code or some segmented portion(s) of such code(s), as

identified by FPDS product or service code) as targeted categories for expansion of small business participation.

- 2 In order to achieve such expanded participation, agencies shall select categories that represent products and services purchased in substantial quantities by the agency; that historically have had a small business participation rate of less than 10 percent by category; and, in which there is a significant amount of small business productive capacity that has not been utilized by the Government.
- 3 Each participating agency shall consult with the Administrator of SBA in selecting the ten targeted categories, developing the plan for expanded small business participation, and establishing the goals for the Program. Upon completion of their consultation with SBA, participating agencies shall publish in the Federal Register, an announcement soliciting public comment on that agency's program for expansion of small business participation in the targeted categories.
- 4 Each plan shall be submitted to the Administrator of SBA and shall contain a detailed time-phased strategy with incremental goals, including reporting on goal attainment. To the extent practicable, provisions that encourage and promote teaming and joint ventures shall be included. These provisions should permit small business firms to effectively compete for contracts that individual small businesses would be ineligible to compete for because of lack of production capacity or capability. Such joint ventures or teams shall comply with the applicable small business guidelines. (See 13 C.F.R. 121.3(a)(vii)(c) and 121.5(a)).
- 5 Participating agencies shall report on the results of the expansion program regarding the ten targeted categories on the same quarterly schedule as required for the four designated industry groups.
- 6 Goal attainment for the ten targeted industry categories shall be determined on the basis of awards to U.S. business firms.
- 7 The provision set forth in Attachment A entitled "Small Business Size Representation For

Targeted Industry Categories Under The Small Business Competitiveness Demonstration Program (NOV 1988)" shall be inserted in full text in any solicitation issued in each of the ten targeted industry categories under the Small Business Competitiveness Demonstration Program that is expected to result in a contract award in excess of \$25,000.

- 8 The face of each award issued in any of ten targeted industry categories under the Small Business Competitiveness Demonstration Program shall contain a statement that the award is being issued pursuant to such Program.

IV. MONITORING AND REPORTING FOR FOUR DESIGNATED INDUSTRY GROUPS

A Monitoring of Goals for the Four Designated Industry Groups

- 1 Each participating agency shall monitor its attainment of its small business participation goals on a quarterly basis. Written reports must be made to OFPP and SBA as to whether goals have been attained for each industry group, as specified in paragraph IV.A.3 below. The Department of Defense shall submit a report that separately identifies performance by the Army, Air Force, Navy and the Defense Agencies. The report submitted by the General Services Administration shall separately identify performance by the Public Building Service. Reports shall be submitted within 60 days after the end of each quarter.
- 2 Agencies shall monitor their goal attainment for the first three quarters based on aggregate data for the following time periods:
 - a First quarterly review: 1/1/89 - 3/31/89
 - b Second quarterly review: 1/1/89 - 6/30/89
 - c Third quarterly review: 1/1/89 - 9/30/89

Thereafter, monitoring is to be based on aggregate data for the four preceding quarters.

- 3 Attainment of goals for the four designated industry groups will be monitored by each participating agency based on awards in the individual codes comprising the industry, as

goals (instituting restricted competition or reinstating full and open competition) will be accomplished by adjusting each of the industry groups as follows:

- a Construction (excluding dredging)
 - i. Major Group 15
 - ii. Major Group 16
 - iii. Major Group 17
 - b Refuse Systems and related services.
 - c Architectural and engineering services (including surveying and mapping).
 - d Non-nuclear ship repair.
- 4 Agencies shall monitor goal attainment in the four designated industry groups by reviewing total prime contract award dollars to (a) all U.S. business firms (b) small U.S. business concerns and (c) emerging small U.S. business concerns.
 - 5 OFPP and SBA will closely monitor the Program using data from the FPDS to ensure that each participating agency makes a consistent effort to achieve goals evenly across all individual codes that comprise a designated industry group. Data shall be retrieved in the format set forth at Attachment B. In the event that goal achievement for any individual code falls below 35 percent, the agency will be required to reinstitute set-asides for that individual code, even if overall goal achievement in the industry group is 40 percent or more.
 - 6 All prime contract awards to small businesses, including awards under section 8(a) of the Small Business Act, Section 1207 of the FY 87 National Defense Authorization Act, and sole source awards, count toward attainment of goals.
- B Codes for Monitoring and Reporting Goal Attainment For The Four Designated Industry Groups
- 1 Refuse and Related Systems The Business Opportunity Development Reform Act of 1988 outlines the SICs that are included in the designated industry groups. However, in the area of refuse systems and related services, SICs 4212

1 Refuse and Related Systems

The Business Opportunity Development Reform Act of 1988 outlines the SICs that are included in the designated industry groups. However, in the area of refuse systems and related services, SICs 4212 and 4953 include services that should not be included in the Program. The Program is designed to test small firms' competitiveness generally in procurements for the collection, transportation, and disposal of residential and nonhazardous commercial garbage, refuse and waste materials. For example, contracts for the regular collection and disposal at publicly or privately operated landfills of residential and nonhazardous commercial solid waste, garbage, debris, or other refuse from military installations, federal office buildings, and other federal facilities, and garbage processing and recycling activities, should be included. Contracts for the operation of those facilities, collection and disposal of acid, radioactive, or other hazardous waste should not be included. Therefore, participating agencies shall use FPDS service code S205 (trash/garbage collection services) to monitor goal attainment for refuse systems and related services.

2 Architectural and Engineering Services

- a The statute designates SICs 8711, 8712, 8713, and 7389 (if identified as mapping), as the codes for tracking architectural and engineering services, which includes surveying and mapping. Since SIC 7389 includes many more services than mapping, participating agencies shall use the following FPDS service codes to monitor goal attainment for mapping services:

- C217 Mapping Incidental to A&E services
- T002 Cartography services
- T004 Charting services
- T008 Photogrammetry services
- T009 Aerial photographic services
- T014 Topography services

- b Participating agencies shall use the following FPDS services codes to monitor A&E services under SICs 8711 and 8712:

- C111 Administrative and Service Buildings
- C112 Airfield, Communication and Missile Facilities

C113 Educational Buildings
C114 Hospital Buildings
C115 Industrial Buildings
C116 Residential Buildings
C117 Warehouse Buildings
C118 Research and Development Facilities
C119 Other Buildings
C121 Conservation and Development
C122 Highways, Roads, Streets and Bridges
C123 Electric Power Generation (EPG)
C124 Utilities
C129 Other Non-Building Structures
C130 Restoration
C211 Architect - Engineer Services (non- construction)
C212 Engineering Drafting Services
C213 A&E Inspection Services (non- construction)
C214 A&E Management Engineering Services
C215 A&E Production Engineering Services
C216 Marine Architect - Engineering Services
C219 Other Architect and Engineering Services

c Since SIC 8713 includes all surveying, participating agencies shall identify surveying by using FPDS code C218 (surveying incidental to A&E services) or R404 (land surveys, cadastral services -- non construction).

3 Non-nuclear Ship Repair Goal attainment for non-nuclear ship repair shall be monitored using an appropriate FPDS service code to be provided by OFPP.

4 Construction Goal attainment for construction shall be monitored through the use of the SIC codes identified in Attachment B.

V. Data Collection Requirements

VI. Participating agencies shall maintain and report procurement data to the FPDS in order to determine the level of small business participation in the four designated industry groups and the ten targeted industry categories for the small business expansion program.

A. Awards in Excess of \$25,000

For contract awards in excess of \$25,000, the FPDS (1) has information on the SIC code of the procurement and (2) can distinguish awards to small business concerns. However, the FPDS reporting requirements are being revised to:

- 1 Distinguish awards resulting from solicitations issued under the Program from awards resulting from solicitations issued prior to January 1, 1989, in the four designated industry groups. A distinction must be made between contract actions awarded from solicitations issued under the Program and contract actions awarded from solicitations issued prior to January 1, 1989.
- 2 Distinguish emerging small business firms from other small businesses. Participating agencies must make a good faith effort to award not less than 15 percent of the dollar value of awards in the four designated industry groups to emerging small businesses.
- 3 Distinguish awards to emerging small business firms in the small business reserve program. Participating agencies must reserve for exclusive competition among emerging small business concerns all contracts of \$25,000 or less in the four designated industry groups or a greater amount set by OFPP if the 15 percent goal is not attained. Emerging small businesses can also receive awards above the small business reserve threshold.
- 4 Provide the size of the small business concern in terms of number of employees or dollar volume of sales for awards in the four designated industry groups and the ten targeted industry categories. Section 714(c) of the Business Opportunity Development Reform Act of 1988 requires each participating agency to collect data pertaining to the size of the small business concern receiving any award for services in the four designated industry groups and products or services in the ten targeted industry categories.
- 5 The number of employees will be based on the average of the pay periods for the last twelve months. The volume of sales will be based on the average annual gross revenue for the last three fiscal years (See FAR 19.101).

Specific details outlining the FPDS changes will be included in an amendment to the October 1988 FPDS Reporting Manual.

B Awards of \$25,000 of Less

During the term of the Program, each award of \$25,000 or less made by a participating agency for the procurement of a service in the four designated industry groups shall be reported to the Federal Procurement Data Center in the same manner as if the award was in excess of \$25,000. This means that all applicable data collected in the FPDS via the Individual Contract Action Report (SF 279), or agencies' equivalent computer-generated format, shall be reported for these purchases. It should be noted that awards of \$500 or less are not reportable to the FPDS.

C Subcontracting Activity

- 1 The OFPP Administrator must devise and implement, during the Program, a simplified system to test the collection, reporting, and monitoring of data on subcontract awards to small business concerns and small disadvantaged business concerns for services in the four designated industry groups and products or services in the ten targeted industry categories. The Test Subcontracting Reporting System must, even if limited to only a small number of buying activities or products or services, effectively capture the full range of small business participation at all tiers.
- 2 The simplified system should be implemented the beginning of FY 1990 (October 1989). OFPP will be working with officials from participating agencies' Small and Disadvantaged Business Utilization Office to develop the requirements for the simplified subcontracting system.

Insert the following provision (clause no. 1) in full text in all solicitations issued by the participating agencies under the Small Business Competitiveness Demonstration Program for the four designated industry groups. Insert this clause as Alternate I in addition to the clause at FAR 52.219-1.

SMALL BUSINESS CONCERN REPRESENTATION FOR THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM (DEC 1988)

(a) Definition.

"Emerging small business", as used in this solicitation, means a small business concern whose size is no greater than 50 percent of the numerical size standard applicable to the standard industrial classification code assigned to a contracting opportunity.

(b) (Complete only if Offeror has certified itself under the clause at FAR 52.219-1 as a small business concern under the size standards of this solicitation.)

The Offeror represents and certifies as part of its offer that it ____ is, ____ is not an emerging small business.

(c) (Complete only if the Offeror is a small business or an emerging small business, indicating its size range.)

Offeror's number of employees for the past twelve months or Offeror's average annual gross revenue for the last three fiscal years. (Check one of the following.)

No. of employees	Ave. annual gross revenues
<input type="checkbox"/> 50 or fewer	<input type="checkbox"/> \$1 million or less
<input type="checkbox"/> 51 – 100	<input type="checkbox"/> \$1,000,001 - \$2 million
<input type="checkbox"/> 101 – 250	<input type="checkbox"/> \$2,000,001 - \$3.5 million
<input type="checkbox"/> 251 – 500	<input type="checkbox"/> \$3,500,001 - \$5 million
<input type="checkbox"/> 501 – 750	<input type="checkbox"/> \$5,000,001 - \$10 million
<input type="checkbox"/> 751 - 1,000	<input type="checkbox"/> \$10,000,001 - \$17 million
<input type="checkbox"/> Over 1,000	<input type="checkbox"/> Over \$17 million

(End of clause)

A. Insert the following provision (clause no. 2) in full text in all solicitations and resulting contracts restricted to emerging small businesses pursuant to paragraph III. D. 3.

NOTICE OF EMERGING SMALL BUSINESS SET-ASIDE (DEC 1988)

Offers or quotations under this acquisition are solicited from emerging small business concerns only. Offers that are not from an emerging small business shall not be considered and shall be rejected.

(End of provision)

B. When using other than small purchase procedures, insert the clause at 52.219-14 in all solicitations and resulting contracts restricted to emerging small businesses.

Insert the following provision (clause no. 3.) in full text in all solicitations issued in each of the ten targeted industry categories under the Small Business Competitiveness Demonstration Program that is expected to result in a contract award in excess of \$25,000. Insert this clause as Alternate II in addition to the clause at FAR 52.219-1.

SMALL BUSINESS SIZE REPRESENTATION FOR TARGETED INDUSTRY CATEGORIES UNDER THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM (DEC 1988)

(Complete only if the Offeror has certified itself under the clause at FAR 52.219-1 to be a small business concern under the size standards of this solicitation.)

Offeror represents and certifies as follows:

Offeror's number of employees for the past twelve months or Offeror's average annual gross revenue for the last three fiscal years. (Check one of the following.)

No. of employees	Ave. annual gross revenues
<input type="checkbox"/> 50 or fewer	<input type="checkbox"/> \$1 million or less
<input type="checkbox"/> 51 - 100	<input type="checkbox"/> \$1,000,001 - \$2 million
<input type="checkbox"/> 101 - 250	<input type="checkbox"/> \$2,000,001 - \$3.5 million
<input type="checkbox"/> 251 - 500	<input type="checkbox"/> \$3,500,001 - \$5 million
<input type="checkbox"/> 501 - 750	<input type="checkbox"/> \$5,000,001 - \$10 million
<input type="checkbox"/> 751 - 1,000	<input type="checkbox"/> \$10,000,001 - \$17 million
<input type="checkbox"/> Over - 1,000	<input type="checkbox"/> Over \$17 million

(End of clause)

Rules and Regulations

Federal Register

Vol. 54, No. 31

Thursday, February 18, 1989

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

FARM CREDIT ADMINISTRATION

12 CFR Part 615

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Correction

AGENCY: Farm Credit Administration.

ACTION: Final rule correction.

SUMMARY: The Farm Credit Administration (FCA) is correcting errors that appeared in the final rule which amended the regulation relating to the capitalization of Farm Credit System banks and associations. The final rule appeared in the Federal Register on October 12, 1988 (53 FR 40033).

EFFECTIVE DATE: February 9, 1989.

FOR FURTHER INFORMATION CONTACT:

William G. Dunn, Chief, Financial Analysis and Standards Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, (703) 883-4402, or

Dorothy J. Acosta, Senior Attorney, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, (703) 883-4020, TDD 883-4444.

SUPPLEMENTARY INFORMATION: In preparing the final rule for publication in the Federal Register, the amendatory language instructions were incorrectly stated in Subpart I and Subpart J.

PART 615—FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS AND FUNDING OPERATIONS

1. On page 40046, first column, amendatory instruction number 3 is correctly revised to read as follows:

Subpart I—Issuance of Equities

3. Section 615.5250 in Subpart J is removed and Subpart I is revised to read as follows:

2. On page 40047, third column, the amendatory instruction is correctly revised to read as follows:

Subpart J—Retirement of Equities

3. Subpart J is amended by removing §§ 615.5255, 615.5320 and 615.5325 and by revising §§ 615.5280, 615.5270 and 615.5280.

Date: February 13, 1989.

Michael A. Bronson,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 89-3715 Filed 2-15-89; 8:45 am]

SELLING CODE 0768-01-0

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Segmentation of the Industry Category of Shipbuilding and Ship Repair

AGENCY: Small Business Administration.

ACTION: Emergency final rule.

SUMMARY: The Business Opportunity Development Reform Act of 1988, Pub. L. 100-656, requires the Small Business Administration (SBA) to segment the industry category of shipbuilding and ship repair (Standard Industrial Classification code 3731) as follows:

- (1) Nuclear shipbuilding and ship repair;
- (2) Nonnuclear shipbuilding, and
- (3) Nonnuclear ship repair, which shall be further segmented by, at least, east coast and west coast facilities.

This rule implements this requirement by defining each segment of the shipbuilding and ship repair industry and by identifying each segment with its own distinct size standard of 1,000 employees.

DATES: Effective February 18, 1989. Comments April 17, 1989.

ADDRESSES: Send Comments to: Gary M. Jackson, Director Size Standards Staff, U.S. Small Business Administration, 1441 L Street, NW, Rm. 801, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Robert Ray, (202) 653-8373.

SUPPLEMENTARY INFORMATION: Title VII of the "Business Opportunity Development Reform Act of 1988" (Pub. L. 100-656) establishes a Small Business Competitiveness Demonstration Program to provide for the testing of various procurement methods and procedures. Four designated industry groups were selected for the purpose of participation in this test program. These four groups include:

- (1) Construction (excluding dredging)
- (2) Refuse Systems and Related Services
- (3) Architectural and Engineering Services (including Surveying and Mapping Services), and
- (4) Nonnuclear Ship Repair.

Nine Federal agencies were selected to participate in this test program. For the nine Federal agencies participating in the program, additional recordkeeping requirements are imposed for monitoring contracting in these four designated industry groups. Moreover, the decisions of the nine agencies relating to small business set-aside procurement in these four industry groups are to be regulated by the program. The test program begins January 1, 1989 and continues through December 31, 1992.

With regard to the shipbuilding and ship repair industry (Standard Industrial Classification (SIC) code 3731), the legislation requires that nonnuclear ship repair participate in the program, while other categories of shipbuilding and ship repair in SIC code 3731 are not included in the program. However, pursuant to section 741 of the Act, SBA is also directed to segment the entire industry of SIC code 3731 into component industry groups as follows:

- (1) Nuclear shipbuilding and ship repair;
- (2) Nonnuclear Shipbuilding, and
- (3) Nonnuclear ship repair, which shall be further segmented by, at least, east coast and west coast facilities.

The requirement that SBA segment the industry according to various criteria raises two sets of issues which are addressed in this rule. First, SBA must define certain terms such as nuclear ship, nonnuclear ship, and what activities are included within ship repair. SBA must also determine geographical segmentation of ship repair facilities. Second, SBA must determine whether or not the present size standard of 1,000 employees for all of shipbuilding and ship repair should be continued for each segmented industry group.

Definitions

The SBA interprets the terms "nuclear and nonnuclear" to refer to the mode of propulsion of the ship in question. Within shipbuilding and ship repair, more specialized capital equipment and labor skills are utilized in building a nuclear powered ship than are found throughout the industry for nonnuclear powered ships. In addition, shipyards building nuclear powered ships or repairing the nuclear propulsion components of a ship must be certified to perform this work. This supports segmenting work on nuclear and nonnuclear ships by the mode of propulsion. Thus, any repair work on a ship which is either nonpropelled (barges, drilling platforms, etc.) or propelled by fossil fuels would be included in the category of nonnuclear ship repair. Any repair work on a ship propelled by nuclear power would be classified in the category of nuclear ship repair.

The segmentation of shipbuilding and ship repair adopts the definitions established by the Standard Industrial Classification. This classification is used by the U.S. Bureau of Census to collect and publish data on shipbuilding and ship repair. Ship repair includes repair of existing ships as well as conversions and reconversions. This also includes work commonly referred to as overhauls, alterations and the like. Shipbuilding involves the construction of new ships.

In regard to the geographical subdivision of work for nonnuclear ship repair which is a feature of the test program, SBA is adopting an east and west coast division with the demarcation determined by the 108° meridian. This segmentation is selected because virtually all river and lake systems in the United States lie either entirely east or west of the meridian and thus ship repair facilities located along inland waterways will be classified easily into either the east or west coast for purposes of complying with data collection requirements of the Act.

This geographical segmentation for nonnuclear ship repair satisfies the statutory requirement of section 741 of Pub. L. 100-658.

Further geographical segmentation may be developed for nonnuclear ship repair at a later date if supported by the prerequisites for geographical segmentation specified in section 15(a)(3) of the Small Business Act. SBA had previously considered and rejected a more detailed geographical segmentation of nonnuclear ship repair, as not satisfying the required

prerequisites (see 52 FR 8261 and 52 FR 47637). Consequently, geographical segmentation of nonnuclear ship repair is limited to the statutorily required segmentation by east and west coast ship repair facilities.

The Size Standard Issue

At present all shipbuilding and ship repair activity is included in SIC code 3731 with a 1,000-employee size standard. Section 732 of the Business Opportunity Development Act states that any numerical size standard that pertains to any of the designated industry groups that is in effect on September 30, 1988 shall remain in effect for the duration of the program. Since nonnuclear ship repair is one of the designated industry groups, its size standard of 1,000 employees will not be changed by the SBA while the program exists. However, the SBA could revise the 1,000 employee size standard as it applies to the balance of the shipbuilding and ship repair industry, while the program is in effect. Therefore, SBA invites comments as to the appropriateness of the 1,000-employee size standard as it applies to these industries.

SBA's procedures for segmentation of an industry require a separate identification of each segmented industry group as well as a distinct size standard. It does not, however, require a different size standard for each segmented industry group. In the case of the various components of the shipbuilding and ship repair industry, data are not readily available which would be unique to each of the various components of the industry. Furthermore, no geographical data are readily available for the nonnuclear ship repair component of the industry for the east coast and west coast. The unavailability of current data would make any distinctions in size standards among the various component industries unworkable, and thus SBA is choosing to retain a size standard of 1,000 employees for each segment of the shipbuilding and ship repair industry at this time.

Compliance With Regulatory Flexibility Act, Executive Orders 12291 and 12612 and the Paperwork Reduction Act

SBA certifies that this emergency final rule is not a major rule within the meaning of Executive Order 12291. These segmented size standards are established to facilitate the implementation of criteria relating to the shipbuilding and ship repair industry as stated in the Business Opportunity Reform Act of 1988 (Pub. L. 100-658). As

directed by Congress, this rule has segmented the shipbuilding and ship repair industry into the components of: (1) Nuclear shipbuilding and ship repair, (2) nonnuclear shipbuilding (3) nonnuclear ship repair, east coast, and (4) nonnuclear ship repair, west coast.

The size standard of 1,000 employees which formerly applied to the entire industry now applies without exception to each of the components. Consequently, this rule will not have an annual economic effect exceeding \$100 million since the small business status of every firm in the industry remains unchanged. For the same reason, this regulation is not likely to result in a major increase in costs or prices or have a significant adverse effect on the United States economy.

The SBA has also clarified certain concepts first stated in the Business Opportunity Development Reform Act of 1988. These concepts, which include a definition of nuclear and nonnuclear ships and an explicit geographic separation of the nonnuclear ship repair category based on the 108° meridian clarifies language incorporated in the Act, but does not change the size status of any firm.

This rule is published as an emergency final rule since a segmentation of the shipbuilding and ship repair industry is required for purposes for the test program beginning on January 1, 1988. Several agencies participating in the test program contract for nonnuclear ship repair services and need a definition of this activity. The Act establishing the test program was signed by the President on November 15, 1988. Since the statutorily required implementation date was only 6 weeks after the Act was signed, a notice of proposed rulemaking for purposes of obtaining public comment was not practicable. However, SBA will consider any comments submitted concerning this rule and, if these comments show reason to change these standards, will promulgate regulations at a later date.

SBA also certifies that this final rule will not have a significant economic impact on a substantial number of small entities. This rule, as described above, segments the shipbuilding and ship repair industry into several components for the purposes of collecting data on Federal procurements. The small business status of firms in the industry does not change since the small business size standard remains at 1,000 employees. Accordingly, a Regulatory Flexibility Analysis is not required for this rule.

SBA also certifies that this final rule would not have Federalism implications warranting the preparation of a Federalism assessment in accordance with Executive Order 12612. Also, this rule imposes no new reporting or recordkeeping requirements on businesses under the Paperwork Reduction Act 44, U.S.C. Chapter 35.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Loan programs—business, Reporting and recordkeeping requirements, Small business.

Accordingly, Part 121 of 13 CFR is amended as follows:

PART 121—[AMENDED]

1. The authority citation for Part 121 of 13 CFR is revised to read as follows:

Authority: 5 U.S.C. 552(a) and 5(b) (6) of the Small Business Act, as amended, 15 U.S.C. 832(a) and 834(b) (8), and Public Laws 90-501, 90-601, and 100-456.

§ 121.2 [Amended]

2. In § 121.2(d) (2), Table 2, "Major Group 37—Transportation" SIC code 3731 is revised to read as follows.

SIC	Description	Size standards in number of employees or millions of dollars
(= New SIC code in 1987, not used in 1972)	(N.E.C. = Not elsewhere classified)	
3731	Shipbuilding and Repair of Nuclear Propelled Ships	1,000
	Shipbuilding of Nonnuclear Propelled Ships and Nonpropelled Ships	1,000
	Ship Repair (including Overhauls and Conversions) Performed on Nonnuclear Propelled and Nonpropelled Ships East of the 106 Meridian	1,000
	Ship Repair (including Overhauls and Conversions) Performed on Nonnuclear Propelled and Nonpropelled Ships West of the 106 Meridian	1,000

James Abdnor,
Administrator U.S. Small Business Administration.

Date: January 30, 1989.

[FR Doc. 89-3430 Filed 2-15-89; 8:45 am]

BILLING CODE 8225-01-0

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 366

(DoD Directive 5141.1)

Assistant Secretary of Defense (Program Analysis and Evaluation); Authority Delegation

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This document revises 32 CFR Part 366 in order to reflect elevation of the Director, Program Analysis and Evaluation (DPA&E) to Assistant Secretary of Defense level; emphasize the ASD(PA&E)'s responsibility for the analysis of allied contributions in the review of DoD plans, programs, and budget submissions; clarify §§ 366.3 (e) and (f) to indicate that the referenced responsibilities also include classified programs; add responsibility for the review of Cost and Operational Effectiveness Analyses submitted in support of Defense Acquisition Board milestone decisions; and reflect the ASD(PA&E)'s role in the new program review and execution review phase of the Planning, Programming, and Budgeting System.

EFFECTIVE DATE: February 1, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. H. Becker, Office of the Director for Administration and Management, Washington, DC 20301-1155, telephone 202-697-0709.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 366

Organization and management.

Accordingly, 32 CFR Part 366 is revised to read as follows:

PART 366—ASSISTANT SECRETARY OF DEFENSE (PROGRAM ANALYSIS AND EVALUATION)

- Sec.
- 366.1 Purpose.
- 366.2 Definition.
- 366.3 Responsibilities.
- 366.4 Functions.
- 366.5 Relationships.
- 366.6 Authorities.

Authority: 10 U.S.C. 196.

§ 366.1 Purpose.

This part is revised pursuant to the authority vested in the Secretary of Defense under 10 U.S.C.:

(a) Designates one of the positions of Assistant Secretary of Defense as the Assistant Secretary of Defense (Program Analysis and Evaluation) (ASD(PA&E)).

(b) Assigns responsibilities, functions, relationships, and authorities, as prescribed herein, to the ASD(PA&E).

§ 366.2 Definition.

DoD Components. The Office of the Secretary of Defense (OSD), the Military Departments, the Joint Chiefs of Staff (JCS), the Joint Staff, the Unified and Specified Commands, the Defense Agencies, and the DoD Field Activities.

§ 366.3 Responsibilities.

The Assistant Secretary of Defense (Program Analysis and Evaluation) (ASD(PA&E)), as the principal staff assistant to the Secretary of Defense for DoD program analysis and evaluation, shall:

(a) Provide advice, make recommendations, and participate in the development of policies and the preparation of planning, fiscal, and materiel support guidance upon which DoD program projections are based.

(b) Perform analyses and evaluations of plans, programs, and budget submissions in relation to projected threats, allied contributions, estimated costs, resource constraints, and U.S. defense objectives and priorities.

(c) Identify issues and evaluate alternative programs.

(d) Initiate programs, actions, and tasks to ensure adherence to DoD policies and national security objectives, and ensure that programs are designed to accommodate operational requirements and promote the readiness and efficiency of the U.S. Armed Forces.

(e) Review, analyze, and evaluate programs, including classified programs, for carrying out approved policies and standards.

(f) Ensure that the costs of DoD programs, including classified programs, are presented accurately and completely.

(g) Assess the effects of DoD spending on the U.S. economy, and evaluate alternative policies to ensure that the DoD program can be implemented efficiently.

(h) Provide leadership in developing and promoting improved analytic tools and methods for analyzing national security planning and the allocation of resources.

(i) Serve on boards, committees, and other groups pertaining to the ASD(PA&E)'s functional areas, and represent the Secretary of Defense on PA&E matters outside the Department of Defense.

(j) Perform such other duties as the Secretary of Defense may assign.