

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220



Acquisition Bulletin
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MEMORANDUM FOR BUREAU CHIEF PROCUREMENT OFFICERS

From: Eileen McGlinn *Eileen McGlinn*
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Office of the Procurement Executive

Through: Virginia Bellamy-Graham *Virginia B. Graham*
Director
Office of Small Business Development

SUBJECT: SMALL BUSINESS ADMINISTRATION (SBA), EXPIRING
PROGRAM AUTHORITY

Purpose: The purpose of this memorandum is to provide revisions to Chapters 3 and 10 of the Small Business Program Handbook. For your convenience, this handbook is available on the Treasury Intranet at: <http://www.treas.gov/offices/management/dcfo/procurement/policy>.

The following revisions have been made:

- 1) Chapter 3, Appendix 3-2, "Requisition Review", all references to the Very Small Business (VSB) Program are deleted.
- 2) Chapter 10, "Small Disadvantaged Business (SDB) Assistance Program", Part B entitled "Price Evaluation Adjustment for Small Disadvantaged Business Concerns, is deleted.

Effective Date: This Acquisition Bulletin (AB) is effective immediately.

Expiration Date: This AB remains in effect until cancelled or superseded.

Background: The attached SBA memorandum dated July 30, 2004, advises of the expiration of statutory authorities which affect the Small Business Program. Specifically, authorities for the Very Small Business (VSB) Program, as well as the Small Disadvantaged Business (SDB), price evaluation adjustment have expired. If Congress reauthorizes the authorities in the future, you will be notified immediately.

Questions about this AB may be directed to Virginia Bellamy-Graham at VA.Bellamy-Graham@do.treas.gov, telephone (202) 622-2826.

Attachment



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

JUL 30 2004

OFFICE OF THE ADMINISTRATOR

MEMORANDUM FOR AGENCY SENIOR PROCUREMENT EXECUTIVES

From: Melanie Sabelhaus *MS*
Deputy Administrator
U.S. Small Business Administration

Subject: Small Business Administration (SBA), Expiring Program Authority

The purpose of this Memorandum is to advise you of the expiration of the statutory authority for the Small Disadvantaged Business (SDB) prime contracting mechanisms for civilian agencies and the Very Small Business (VSB) Program.

Specifically, the SDB price evaluation adjustment, originally authorized under Public Law 103-355, Section 7102, (15 U.S.C. § 644 note), expired starting on June 5, 2004. That statutory provision, as implemented in the Federal Acquisition Regulation Subpart 19.11, authorized civilian agencies to apply the price evaluation adjustment to benefit certified SDBs at the prime contracting level. Until Congress reauthorizes this provision, it remains in effect only for the Department of Defense (DoD), National Aeronautics and Space Administration (NASA), and the Coast Guard, since their SDB procurement preference authority is not covered under this expired statutory provision. (Please note: The 5% governmentwide procurement contract goal established under Public Law 95-507 (15 U.S.C. §644(g)), for small business concerns owned and controlled by socially and economically disadvantaged individuals remains in effect for both defense and civilian agencies.)

In addition, the VSB Program, originally authorized under Section 304 of SBA's Reauthorization and Amendments Act of 1994, Public Law 103-403, expired beginning on June 5, 2004, for all Federal agencies. The VSB Program was created as a governmentwide pilot program to increase contracting opportunities for VSB concerns.

SBA is actively engaged in promoting Small Business and continues its efforts to encourage Congress to reauthorize the Program.

CHAPTER 10

SMALL DISADVANTAGED BUSINESS ASSISTANCE PROGRAM

A. Background

The Small Disadvantaged Business (SDB) Assistance Program is best understood as a full and open competition assistance tool for SDBs. In order to obtain the benefits of the program, an SDB must be certified as such by the Small Business Administration (SBA) or a Private Certifier. The Federal Acquisition Regulation (FAR), Part 19.304 requires that small disadvantaged business concerns must be certified by the Small Business Administration (SBA) to be eligible to receive a benefit as a prime or subcontractor based on its disadvantaged status. The certification period for all small disadvantaged business concerns is three years. All small disadvantaged businesses that wanted to claim their status when the program first began, had to be certified by October 1, 1999. 8(a) concerns automatically qualify as SDBs based on the fact that they have already undergone an extensive review by the SBA concerning social and economic disadvantage.

The contracting officer may accept an Offeror's representation that it is an SDB concern for general statistical purposes. However, certification is mandatory for SDBs to receive the benefits of this program. The provisions at FAR 52.219-1, Small Business Program Representations, or FAR 52.212-3(c)(2), Offeror Representations and Certifications - Commercial Items, is used to collect SDB data for general statistical purposes.

B. *RESERVED*

C. Small Disadvantaged Business Participation Program (Evaluation Factor)

Two mechanisms are addressed in Federal Acquisition Regulation (FAR) Part 19.12, Small Disadvantaged Business Participation Program, which are best described as subcontracting assistance tools for SDBs. These two mechanisms are: (a) an evaluation factor or sub-factor for the participation of SDB concerns in performance of the contract; and (b) an incentive subcontracting program for SDB concerns.

1. Evaluation factor or sub-factor.

The extent of participation of SDB concerns in performance of the contract, in the NAICS Major Groups (the first two digits of the NAICS Code) as determined by the Department of Commerce shall be evaluated. The listing of the industries eligible for the evaluation factor or sub-factor can be found on the Internet at http://www.arnet.gov/References/sdbadjust_link.html.

Participation in performance of the contract includes joint ventures, teaming arrangements, and subcontracts. Credit under the evaluation factor or sub-factor is not available to SDB concerns that receive a price evaluation adjustment under FAR Subpart 19.11. If an SDB concern waives the price evaluation adjustment at FAR Subpart 19.11, participation in performance of that contract includes the work expected to be performed by the SDB concern at the prime contract level.

The extent of participation of SDB concerns in performance of the contract in the authorized NAICS Major Groups shall be evaluated in competitive, negotiated acquisitions expected to exceed \$500,000 (\$1,000,000 for construction). The extent of participation of SDB concerns in performance of the contract in the authorized NAICS Major Groups shall not be evaluated in (1) Small business set-asides and HUBZone set-asides; (2) 8(a) acquisitions, (3) Negotiated acquisitions where the lowest price technically acceptable source selection process is used; or (4) Contract actions 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.

In developing an SDB participation evaluation factor or sub-factor, agencies may consider a) The extent to which SDB concerns are specifically identified; b) The extent of commitment to use SDB concerns (for example, enforceable commitments are to be weighted more heavily than non-enforceable ones); c) The complexity and variety of the work SDB concerns are to perform; d) The realism of the proposal; e) Past performance of offerors in complying with subcontracting plan goals for SDB concerns and monetary targets for SDB participation; and f) The extent of participation of SDB concerns in terms of the value of the total acquisition. The factor or sub-factor must be included in Section M and must be point scored. The amount of points given and language of the factor or sub-factor shall be individually tailored to fit the acquisition and should be developed in conjunction with the bureau Small Business Specialist.

The solicitation shall describe the SDB participation evaluation factor or sub-factor. The solicitation shall require an SDB offeror that waives the SDB price evaluation adjustment in the clause at FAR 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns, to provide with its offer a target for the work that it intends to perform as the prime contractor. The solicitation shall state that any targets will be incorporated into and become part of any resulting contract. Contractors with SDB participation targets shall be required to report SDB participation. A sample form used to capture the target data is attached at Appendix 10-1.

When an evaluation includes an SDB participation evaluation factor or sub-factor that considers the extent to which SDB concerns the extent to which SDB concerns are specifically identified, the SDB concerns considered in the evaluation shall be listed in the contract, and the contractor shall be required to notify the contracting officer of any substitutions of firms that are not SDB concerns.

2. Incentive subcontracting with small disadvantaged business concerns

The contracting officer may encourage increased subcontracting opportunities in the NAICS Major Groups as determined by the Department of Commerce for SDB concerns in negotiated acquisitions by providing monetary incentives. 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.

Appendix 10-1

Summary Sheet for Cumulative Target NAICS SDB Data by Category

(Note: All Summary Data shown on this sheet must reflect data for Base Year Performance and all option years.)

SUMMARY DATA:

Category I - Prime Contractor Target NAICS SDB Costs:	
Total Estimated Dollar Value of Category I Costs in Target NAICS Codes	\$ _____
% of Total Estimated Contract Costs	_____ %
Category II - Joint Venture/Partnerships/Team Members Target NAICS SDB Costs:	
Total Dollar Value of Category II Costs In Target NAICS Codes	\$ _____
% of Total Estimated Contract Costs	_____ %
Category III - Subcontractor(s) Target NAICS(s) SDB Costs:	
Total Dollar Value of Category III Costs In Target NAICS Codes	\$ _____
% of Total Estimated Contract Costs	_____ %
Total Estimated Dollar Value of Category I, Category II, and Category III costs shown above	\$ _____
The total of Category I, Category II, and Category III costs shown above represent _____ % of total Estimated Contract Costs	_____ %

Dollar Amount	Category	Small Business Involvement
\$2,501 - \$25,000	Simplified Acquisition Procedures	<p>Typically not formally publicly advertised, reserved exclusively for small business participation of some kind:</p> <p>(1) 8(a) Program <u>or</u></p> <p>(1) HUBZone Small Business Set-Aside Program (competitive) - reserved for HUBZone small businesses if HUBZone small business "rule of 2" is met (optional for procurements under \$100,000)</p> <p>(2) Small Business Set-Aside Program reserved for small businesses if small business "rule of 2" is met</p>
\$25,001 - \$50,000	Simplified Acquisition Procedures	<p>Typically publicly advertised (FedBizOpps except 8(a) sole source); reserved exclusively for small business participation of some kind:</p> <p>(1) 8(a) Program <u>or</u></p> <p>(1) HUBZone Small Business Set-Aside Program (competitive) - reserved for HUBZone small businesses if HUBZone "rule of 2" is met (optional for procurements under \$100,000)</p> <p>(2) Small Business Set-Aside Program – reserved for small businesses if small business "rule of 2" is met</p> <p>(3) Waiver Note: Services Only, a FedBizOpps waiver is permitted when acquiring services by soliciting 5 small businesses for procurements over \$25,000 up to \$100,000; if available, this may include one small business, one small disadvantaged business, one women-owned small business, one HUBZone small business, and one service disabled veteran-owned small business).</p>

(Small Business Handbook, Chapter 3, Appendix 3-2, Revised September, 2004)