

U.S. DEPARTMENT OF AGRICULTURE
WASHINGTON, D.C. 20250

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| DEPARTMENTAL REGULATION | | NUMBER: 5090-2 |
| SUBJECT: ANNUAL PREFERENCE PROGRAM GOALS | DATE: July 1, 1998 | |
| | OPI: Office of Small and Disadvantaged Business Utilization | |

1 PURPOSE

This regulation prescribes policies and procedures for establishing procurement reference program goals and monitoring achievements.

2 BACKGROUND AND REFERENCES

a "15 U.S.C. 644(g) (2) requires the head of each Federal Agency, after consultation with the Small Business Administration, to establish realistic goals for the award of contracts to small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women. The Government-wide goal for participation by small business concerns is not less than 23 percent of the total value of all prime contract awards for each fiscal year. 15 U.S.C. 644(g) (1). The Government-wide goal for participation for small business concerns owned and controlled by socially and economically disadvantaged individuals is not less than 5 percent of the total value of all prime contracts and subcontract awards for each fiscal year. 15 U.S.C. 644(g) (1). The Government-wide goal for the participation of small business concerns owned and controlled by women is not less than 5 percent of the total value of all prime contract and subcontract awards for each fiscal year. 15 U.S.C. 644(g) (1)."

b The Department hereby establishes a goal of not less than 5 percent of the total value of prime contracts for each fiscal year to be awarded to

participants in the Section 8(a) program of the Small Business Administration."

The SBA will not accept individual agency goals until the mandatory government-wide goals stated above are established.

3 POLICY

It is the policy of the U.S. Department of Agriculture to provide a fair portion of its contracting and subcontracting opportunities to small, small disadvantaged, and women-owned small businesses. To accomplish this, agencies shall establish goals that meet or exceed the Government-wide or Department-wide minimums. A decline in an agency's fiscal year goals from an average of the previous two years shall not be less than 5 percent.

4 DEFINITIONS

a Cognizant Head of Contracting Activity (HCA)

(1) HCA means the official who has overall responsibility for managing the contracting activity (i.e., Chief FS, Administrator, Agricultural Research Service, etc.), or the individual designated by such an official to carry out the functions of the HCA.

(2) The HCA is responsible for establishing and reporting on small business preference goals for the agency.

b Agency Head

The head of an agency or a staff office director that does not have procurement authority but whose office generates procurements and who receives procurement services from a Cognizant HCA.

c Preference Program Area Categories

The Small Business Administration has classified the following categories as preference program areas: 1) Small Businesses; 2) 8(a); 3) Small

Disadvantaged Businesses; 4) Women-owned Small Businesses; 5) Subcontracts Awarded to Small Businesses; 6) Subcontracts Awarded to Small Disadvantaged Businesses; and 7) Subcontracts Awarded to Women-owned Small Businesses.

d Small Business Coordinator

The HCA or a representative of the HCA shall designate in writing a small business coordinator in each contracting office. Supervisors of small business coordinators are encouraged to provide sufficient time for coordinators to carry out their small business program duties. Coordinators' duties are outlined in the AGAR 419.201-71.

5 EXEMPTIONS

None

6 RESPONSIBILITIES

a Cognizant HCA

(1) Prepare goals for each of the procurement programs and establish time frames for agency head(s) to submit procurement goals.

(2) Assemble procurement goals, to include the goals of the agency head(s) who receive procurement services, and submit to OSDBU by **August 15th** of the reporting year.

(Note: Small Business Preference Goals for the procurement of food commodities shall be developed and submitted to OSDBU by the Cognizant HCAs of the Farm Service Agency and Agricultural Marketing Service.)

(3) Provide quarterly assessments to serviced agencies for the purpose of providing an update as to where the agency is in the accomplishment of

their procurement preference goals. This assessment should also identify any potential problems towards meeting their goals.

(4) Ensure that sufficient contract requirements are set-aside for exclusive participation by small business concerns in the preference program categories to meet the goals established by the Cognizant/HCA agency head(s).

b Agency Head

(1) Upon request from the Cognizant HCA, prepare and submit goals for each of the procurement preference program areas by the designated time frames established by the Cognizant HCA.

(2) Ensure that the procurement preference goals are reflective of the proposed projects listed in the annual forecast.

c Small Business Coordinator

(1) Coordinate, for the Cognizant HCA, the annual procurement preference program goals and provide feedback for the quarterly assessment reports to the Agency head(s).

(2) Ensure that the procurement preference program area goals are submitted in the format prescribed by the Director, Office of Small and Disadvantaged Business Utilization (OSDBU). Goals shall be submitted to the Director, OSDBU in both written and electronic forms.

(3) Ensure that the procurement preference goals are reflective of the proposed projects listed in the annual forecast.

d Director of OSDBU

(1) Ensure the Department's procurement preference goals are assembled and submitted to the Small Business Administration (SBA) in accordance with their regulations.

(2) Ensure that the procurement preference program goals reflect the maximum opportunity for small, small disadvantaged business utilization and women-owned small businesses.

(3) Provide quarterly assessments to Cognizant HCAs, Under and Assistant Secretaries. Quarterly assessments will be given on January 30th, April 30th, July 30th, and October 30th. The assessment will provide an overview of where each agency is in the accomplishment of their goals and identify potential problems.

(4) Reviews and approves all procurement preference program goals by September 30th.

7 PROCEDURE

In accordance with procedures set forth in Appendices A and B to this regulation, HCA's and Agency Heads shall submit to the Director, OSDBU, the following data no later than **August 15th** each fiscal year:

a an estimate of the total dollar amount of all prime contracts regardless of dollar value to be awarded during the fiscal year, including awards to non-profit organizations, educational institutions, all transportation services and real property leases, but excluding foreign military sales, non appropriated funds contracts, contracts to be awarded and performed entirely outside the United States and the mandatory sources of supplies and services as listed in the Federal Acquisition Regulations, Part 8, e.g., Federal Prison Industries, Inc., Committee for

Purchase From People Who Are Blind or Severely Disabled, and Wholesale Supply Sources, such as stock programs of the Defense Logistics Agency, the Department of Veterans Affairs, and military inventory control points. See Special Instruction (2) for Federal Supply Service (FSS) Schedule awards. Purchases made With credit cards are exempt (see Special Instruction (6) Appendix A);

b a goal for prime contract awards to be made to small business concerns during the fiscal year, expressed in numbers, dollars, and as a percentage of 7a above (Note: This dollar goal includes the dollar goals in 7c, 7d, and 7e below.):

c a goal for prime contract awards to the Small Business Administration under the authority of Section 8(a) of the Small Business Act, as amended, expressed in numbers, dollars, and as a percentage of 7a above (see Special Instruction (4) Appendix A):

d a goal for prime contract awards to be made to small business concerns owned and controlled by socially and economically disadvantaged individuals, other than 8(a), expressed in numbers, dollars, and as a percentage of 7a above (see Special Instruction (9) Appendix A):

e a goal for prime contract awards to be made to small business concerns owned and controlled by women, expressed in numbers, dollars and as a percentage of 7a above;

f an estimate of the total dollar amount of subcontracts to be awarded by **all** of an agency's "reporting prime contractors" (as identified in Standard Form 295) during the fiscal year;

g a goal for subcontracts to be awarded by prime contractors to small business concerns, expressed in numbers, dollars and as a percentage of 7f above; (Note: This dollar amount includes dollar goals in 7h and 7i below.);

h a goal for subcontracts to be awarded by prime contractors to small business concerns owned and controlled by socially and economically disadvantaged individuals, expressed in numbers, dollars and as a percentage of 7f above;

i a goal for subcontracts to be awarded by prime contractors to small business concerns owned and controlled by women, expressed in numbers, dollars, and as a percentage of 7f above;

j a detailed written presentation of the method used to establish the estimates and goals submitted pursuant to paragraphs 7a through 7i , along with copies of the historical data upon which the estimates and goals are based. Information about the numbers of contracts involved in the estimates submitted pursuant to paragraphs 7b through 7i is required. This information is needed to evaluate the estimates and the goals related thereto. In establishing contracting goals, identification and justification should be provided for each class of contracts and the projected total value thereof determined by an agency to have little or no subcontract possibilities.

-END-

APPENDIX A

SPECIAL INSTRUCTIONS

1. Fiscal Year goals are expected to reflect measurable improvement.

2. Agencies **may, at their option,** include for items 7a through 7e above, Federal Supply Service (FSS) Schedule contracting dollars. In line with the policy established in FY 1981, GSA will submit separate goals for the types of businesses with schedule awards in effect during the fiscal year (i.e., small, small disadvantaged, 8(a), and women-owned).
3. All goals are expressed in terms of numbers, dollars, and percentages. However, if there is any variance, up or down, from the projected base amounts upon which goals are established, the percentage goal is the controlling factor and will be used to measure actual attainment.
4. In an effort to broaden the distribution of 8(a) contracts with a special emphasis on firms that have never received a contract, agencies are reminded to express the **numbers** of 8(a) contracts as well as the dollars and percentages.
5. In the event of extraordinary circumstances such as unexpected budget cuts, requests for revised goals will be considered by SBA if received by December 31st of the goaling year.
6. Purchases paid with credit cards do not require the reporting of socio-economic status of the supplier or vendor. Credit card purchases are exempt; however, if agencies do have a system for tracking these transactions they may be included.
7. The close of fiscal year 1996 marked the first year the government-wide goal for business concerns owned by women has been in place. With the extraordinary growth in women-owned firms in the last few years, we believe that this goal has become even more important and achievable and we ask that you redouble your commitment to achieving this goal.
8. Reporting agencies are encouraged to coordinate goals required by Section 22 1 (g) with the Minority Business Development Plans mandated by Executive Order 12432 dated July 14, 1983.
9. Consistent with the Department of Justice affirmative action proposal published in the Federal Register small disadvantaged business (SDB) (prime and subcontracting) goals may be adjusted in the latter part of the fiscal year, if appropriate, to reflect estimated industry benchmarks.

APPENDIX B

Referrals to OFPP

The Administrator of the Small Business Administration shall, within 30 days of receipt of the agency goals, respond to each agency expressing agreement or indicating reasons for disagreement. If interagency consultation fails to resolve differences, such cases of disagreement shall be submitted by the Administrator of the Small Business Administration to the Administrator of the Office of Federal Procurement Policy for final determination.

Reports on Agency Achievements Against Established Goals

1 . The head of each Federal agency having procurement powers shall report to the Administrator of the Small Business Administration on the extent of achievements against the goals established in paragraphs 7b through 7i. With the exception of subcontract goals, agency reports of goal achievements shall be based upon official SF-279/SF281 data as recorded at the Federal Procurement Data Center. Agency reports of goal achievements in subcontracting shall be based upon official SF-295 data. **These reports shall be submitted to the Small Business Administration no later than April 30th of the year after the goaling year.** The reports shall contain appropriate justification for failure to meet the goals established in the preceding paragraphs.

Section 503 of Public Law 100-656 also requires that the report to the President noted in paragraph 2 below include the number and dollar value of contracts awarded to small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals through noncompetitive negotiation, competition restricted to small business concerns owned and controlled by socially and economically disadvantaged individuals, competition restricted to small business concerns, and unrestricted competition. The numbers for each of these categories should be as follows: the number and dollar value of contracts awarded over \$25,000, and the number and dollar value of contracts awarded under \$25,000. Please be prepared to provide this information at the end of the current fiscal year. Include this information in two separate tables--one for small business concerns, and one for small disadvantaged business concerns. Each table must include information in all four categories listed above.

2. The Administrator of the SBA will analyze the reports submitted by the individual agencies and submit a consolidated report to the President, as required by Section 503 of Public Law 100-656.