

Chapter 19.0, Small Business Programs - An Overview

Guiding Principles

It is the policy of the Department of Energy to provide maximum practicable opportunities in its acquisitions to small business, veteran-owned small business, service-disabled veteran-owned small business, Historically Underutilized Business Zone (HUBZone) small business, small disadvantaged business, and women-owned small business concerns. Small businesses must also have the maximum practicable opportunity to participate as subcontractors in the contracts awarded by any executive agency, consistent with efficient contract performance.

Overview

This section provides guidance and instruction to contracting personnel regarding small business programs in DOE.

References:

FAR 7.107	Additional requirements for acquisitions involving bundling
FAR 19.201	General policy
FAR 19.202-1	Encouraging small business participation in acquisitions
FAR 19.302	Protesting a small business representation
FAR 19.306	Protesting a firm's status as a HUBZone small business concern
FAR 19.307	Protesting a firm's status as a service-disabled veteran-owned small business concern
FAR Subpart 19.5	Set-Asides for Small Business
FAR Subpart 19.7	The Small Business Subcontracting Program
FAR Subpart 19.8	Contracting with the Small Business Administration (The 8(a) Program)
FAR Subpart 19.11	Price Evaluation Adjustment for Small Disadvantaged Business Concerns
FAR Subpart 19.12	Small Disadvantaged Business Participation Program
FAR Subpart 19.13	Historically Underutilized Business Zone (HUBZone) Program
FAR Subpart 19.14	Service-Disabled Veteran-Owned Small Business Procurement Program
FAR 52.219-4	Notice of Price Evaluation Preference for HUBZone Small Business Concerns
FAR 52.219-10	Incentive Subcontracting Program
FAR 52.219-22	Small Disadvantaged Business Status
FAR 52.219-24	Small Disadvantaged Business Participation Program-Targets
FAR 52.219-25	Small Disadvantaged Business Participation Program-Disadvantaged Status and Reporting
DEAR Subpart 919.5	Set-Asides for Small Business
DEAR Subpart 919.7	Subcontracting with Small Business, Small Disadvantaged Business, and Women-Owned Small Business Concerns
DEAR Subpart 919.8	Contracting with the Small Business Administration (The 8(a) Program)
DEAR Subpart 919.70	The Department of Energy Mentor-Protégé Program
DOE Acquisition Guide Chapter 38	Federal Supply Schedule Contracting
13 CFR Chapter 1	Small Business Administration
OFPP Letter 99-1	Small Business Procurement Goals

Purpose of the Acquisition Guide

The purpose of this Guide is to make available guidance on contracting with small business concerns. This Guide is divided into three parts: Part I applies to the award of prime contracts; Part II applies to the award of subcontracts; and Part III includes other considerations.

Background on Small Business

The Small Business Act contains a government-wide goal for participation by small business concerns for prime contract awards for each fiscal year as well as individual goals for women-owned small business concerns, small disadvantaged business concerns, service-disabled veteran-owned small business concerns and HUBZone small business concerns. The Act further provides that agencies negotiate annual goals with the Small Business Administration (SBA). Information on the government-wide goaling guidelines for the small business preference programs can be found at <http://www.sba.gov/GC/goals/ggtotal71503.pdf>. DOE annually negotiates Department-wide goals with SBA. The Department establishes individual element goals using the Office of Small and Disadvantaged Business Utilization (OSDBU) goal documents and forms (found on the OSDBU website). The OSDBU also issues an annual Small Business Strategic Plan that provides steps the Department will take to increase its small business awards.

Definitions

The definitions for the various preference programs (e.g., HUBZone) used in this Acquisition Guide can be found at FAR Subpart 2.1 (hyperlink: [arnet](#)).

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Part I. Prime Contracting

A. SMALL BUSINESS CONTRACTING PROCESSES

Total small business set-asides. Each acquisition of supplies or services that has an anticipated dollar value exceeding the Micro-purchase but not over the Simplified Acquisition Threshold (see definitions at FAR 2.101), is automatically reserved exclusively for small business concerns and shall be set aside for small business unless the Contracting Officer determines there is not a reasonable expectation of obtaining offers from two or more responsible small business concerns that are competitive in terms of market prices, quality, and delivery. This obligation also applies to purchase card transactions. The Contracting Officer shall set aside any acquisition over Simplified Acquisition Threshold 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 and (2) award will be made at fair market prices.

Awards to 8(a) Firms. Policies and procedures regarding the 8(a) program can be found at FAR 19.8. Contracting activities may make awards under the 8(a) program with Department of Energy/National Nuclear Security Administration (DOE/NNSA) Contracting Officers signing on behalf of Small Business Administration (SBA), in accordance with the Partnership Agreement with SBA. This delegated signature authority saves time and effort in completing the award between DOE and SBA and the subcontract between SBA and the selected 8(a) firm.

Alaska Native Corporations (ANCs) were created to settle land claims with Alaska Natives and foster economic development. In 1986, Congress passed legislation allowing ANCs to participate in the Small Business Administration's (SBA) 8(a) program and extended special procurement advantages to 8(a) ANC firms. Where an acquisition exceeds the competitive thresholds stated in FAR 19.805(a), FAR 19.805(b) permits the SBA to accept the requirement for a sole source 8(a) award to an Indian tribe or an Alaska Native Corporation provided there is not a reasonable expectation that at least two eligible and responsible 8(a) firms will submit offers at a fair market price.

DOE Contracting Officers are reminded to use care in the award and administration of ANC contracts, such as notifying SBA of contract modifications and monitoring the percentage of work that is subcontracted. Contracting Officers must ensure that such contracts are properly coordinated with DOE's Small Business Program Managers, (SBPMs), the OSDBU, and the SBA, as appropriate.

Small Business Competitiveness Demonstration. 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). The program is implemented by a joint OFPP and SBA Policy Directive and Implementation Plan, dated May 25, 1999. The provisions of the Small Business Competitive Demonstration program require participating federal agencies to suspend small business set-asides in certain designated industry groups (DIGs) once the designated small business participation goals (SBPGs) have been met.

The program consists of two major components: (a) Unrestricted competition in designated industry groups (DIGs); and (b) Enhanced small business participation in 10 agency targeted industry categories (TICs).

The purpose of the Small Business Competitiveness Demonstration Program is to (1) assess the ability of small businesses to compete successfully in certain industry categories without competition being restricted by the use of small business set-asides. (This portion of the program is limited to the DIGs listed in FAR 19.1005), (2) expand small business participation in 10 TICs through continued use of set-aside procedures, increased management attention, and specifically tailored acquisition procedures, as implemented through agency procedures, and (3) measure the extent to which awards are made to a new category of small businesses known as emerging small businesses (ESB's), and to provide for certain acquisitions to be reserved for ESB participation only.

The five major DIGs referenced in FAR 19.1005 are: construction, non-nuclear ship repair, A&E services, refuse systems, and landscaping/pest control. Each participating agency has an SBPG of 40% of the agency's total contract dollars awarded for each of the DIGs. Also, participating agencies must make a good faith effort to assure that ESBs receive not less than 15% of the agency's total contract dollars awarded for each of the 5 major DIG groups mentioned in FAR 19.1005.

The TICs for DOE have the following product service codes (PSCs) : AG11 (Coal-Basic), AG13 (Coal -advance), AG83 (Conservation of Energy-advanced), AG93 (Other Energy -Advanced), AZ11 R&D-other), F108 (Hazardous Substance Removal/Cleanup Disposal), R405 (Operations Research and Quantitative), R415 (Prof Services/Technical Sharing Utilities), R419 (Educational Services), 6625 (Electrical Measuring Instruments), and 7042 (Mini and Micro Computer Control Devices).

Price evaluation preference for HUBZone small business concerns. Price evaluation preferences of 10 % shall be used to facilitate an award to HUBZone small business concerns in acquisitions conducted using full and open competition (see FAR 19.1307). The price evaluation preference shall not be used (1) in acquisitions expected to be less than or equal to the simplified acquisition threshold; (2) if price is not a selection factor so that a price evaluation preference would not be considered, or (3) if all fair and reasonable offers are accepted (*e.g.*, the award of multiple award schedule contracts).

Set-Asides for HUBZone Small Business Concerns. FAR 19.1305(b) requires that Contracting Officers set aside acquisitions exceeding the simplified acquisition threshold for competition restricted to HUBZone small business concerns if there is a reasonable expectation that offers will be received from two or more HUBZone small business concerns and award will be made at a fair market price. Contracting Officers shall consider HUBZone set-asides before considering HUBZone sole source awards (see 19.1306) or small business set-asides (see Subpart 19.5).

Service-disabled veteran-owned small business set-aside procedures. FAR 19.1405 permits Contracting Officers to set-aside acquisitions exceeding the micro-purchase threshold for competition restricted to service-disabled veteran-owned small business concerns if there is a reasonable expectation that 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 (see FAR 19.1405(c)). The contracting officer shall consider service-disabled veteran-owned small business set-asides before considering service-disabled veteran-owned small business sole source awards (see 19.1406(a)).

B. SMALL BUSINESS PROCUREMENT TOOLS

Mentor-Protégé Agreements. A method of increasing the participation of small businesses in government contracting is the use of Mentor-Protégé agreements. DOE and SBA operate such programs. DOE Contracting Officers who seek to increase prime contract awards to small businesses can use the SBA Mentor-Protégé program. DOE prime contractors who seek to increase subcontract awards can use the DOE Mentor-Protégé program.

DOE Mentor-Protégé Program. DOE's Mentor-Protégé Program seeks to foster long-term business relationships between small business entities and prime contractors, and to increase the overall number of subcontract awards to small businesses. Mentors and protégés are encouraged to form teams to submit offers that will advance the protégé's competitiveness in the market.

The DOE Mentor-Protégé Program regulations are found in DEAR 919.70. This program is designed to encourage prime contractors to mentor small business concerns including (1) firms certified by SBA under Section 8(a) of the Small Business Act, (2) other small disadvantaged businesses, (3) women-owned small businesses, (4) Historically Underutilized Business Zone (HUBZone) businesses and (5) small business concerns owned and controlled by service disabled veterans. Historically Black Colleges and Universities (HBCU) and other minority institutions of higher learning may also serve as protégés.

SBA Mentor-Protégé Program. SBA's regulations (see 13 CFR 121.103(h)(3)(B)(2)(iii)) provide for a joint venture that may include a large business and an 8(a) firm that qualify as a Mentor-Protégé arrangement, respectively, under SBA's Mentor-Protégé Program (see 13 CFR 124.520). Such a joint venture will be recognized as small for the size standard corresponding to the NAICS code assigned to the procurement, and for purposes of 8(a) sole source procurements, as long as the participating Protégé 8(a) firm has not reached the dollar limit set as of the date that the requirement is accepted for the 8(a) program without taking into account whether the value of that award will cause the limit to be exceeded.

DOE, through the use of the 8(a) Mentor-Protégé Program, is initiating a pilot project to establish 8(a) Mentor-Protégé arrangements in advance of specific contract opportunities. This effort will result in a pool of firms that can more quickly be approved by SBA as Joint Ventures eligible to bid on a specific project. Based on an agreement between the Department and SBA, when using the SBA's Mentor-Protégé program, the protégé firm must perform at least 25 percent of the cost for contract personnel with its own employees.

Teaming Arrangements. Another method of increasing the participation of small businesses in the award of DOE prime contracts is the use of teaming arrangements among small businesses. Such arrangements supplement the capabilities of small businesses to perform large, complex requirements. Teaming arrangements not only increase business opportunities for small businesses, but also expand the skill mix of the team.

A sample solicitation provision, *Guidance for Prospective Offerors - Impact of Teaming Arrangements on Small Business Status*, is attached to this Guide Chapter. Inclusion of the provision is recommended for solicitations if teaming arrangements are contemplated, to advise prospective offerors on the impact of those arrangements on their small business status. It advises offerors of the Small Business Administration's affiliation rules and suggests they seek legal counsel if proposing a joint venture, subcontracting, or other form of teaming arrangement.

Multiple Award Contracts. Solicitations for multiple award contracts (MACs), as defined in FAR 2.101, should be structured in a manner that will allow small business firms an opportunity

to compete for prime contracts, which then will allow them to compete for individual orders under the contracts. The following techniques should be applied when using MACs to fill program requirements: (1) Contracting Officers should work closely with program officials and their Small Business Program Manager to identify small business opportunities early in the acquisition planning process; (2) Business strategies such as teaming arrangements should be encouraged in an effort to maximize opportunities for small businesses. Teaming arrangements not only increase business opportunities for small businesses, but also expand the skill mix of the team in some cases; (3) MACs should be set-aside exclusively for competition among small businesses when there is a reasonable expectation that offers will be obtained from at least two responsible small business concerns; (4) If a total set-aside is not practicable, consideration should be given to identifying opportunities for a component of the statement of work to be set-aside for competition among small businesses; and (5) If a total or partial set-aside is not feasible, consideration should be given to reserving and specifying in the solicitation, a certain number of awards for small businesses.

Governmentwide Acquisition Contracts. A “Governmentwide Acquisition Contract” (GWAC), as defined in FAR 2.101, is a task-order or delivery-order contract for information technology established by one agency for Governmentwide use. GWACs also are referred to as “multi-agency” or “omnibus” contracts. GWACs often simplify the acquisition process for the authorizing agency as the contracting agency may maintain, and make available to the authorizing agency, their list of pre-screened contractors capable of performing certain types of requirements. The Department of Commerce’s GWAC is entitled “COMMERCE Information Technology Solutions” or “COMMITTS” and can be found online at: <http://www.commits.doc.gov/>.

C. SMALL BUSINESS MARKET RESEARCH

Sources Sought Synopsis. In accordance with FAR 5.2, Synopses of Proposed Contract Actions: Sources Sought Synopsis is a notice published in FedBizOpps at <http://www.fedbizopps.gov/> to improve small business access to acquisition information and enhance competition by identifying contracting and subcontracting opportunities. Although the notice includes "screening criteria", the criteria are not used to "qualify" potential sources or to exclude potential competitors. The purposes of screening respondents are to allow the government to assess the potential competitive base, to determine whether a "Justification for other than full and open competition" is required, or whether various set-asides are appropriate.

Central Contractor Registration Database. The Federal Government maintains a web site to access the Central Contractor Registration (CCR) database at <http://www.ccr.gov/>. It allows firms to register their company profile and allows Contracting Officers to search the database with results stratified by numerous small business qualifiers (e.g., WOSB, SDB, 8(a), HUBZone small business concern). The qualifiers can be combined to narrow the search results to very specific categories of small businesses having very specific qualifications. FAR 4.1103(a) states that unless the acquisition is exempt under FAR 4.1102, the contracting officer shall verify that the prospective contractor is registered in the CCR database before awarding a contract or agreement.

OSDBU Database. DOE has developed a customized small business database for use by its program offices and prime contractors. Small business profiles in this database are downloaded from the CCR and reflect small business concerns that have indicated an interest in working with DOE. Contractors on the OSDBU database are cross-referenced by company, contact name, size status, North American Industry Classification System (NAICS) code, and key words.

Contractors that want to be included in the OSDBU database need to be registered with the CCR and must submit their Dunn and Bradstreet number to OSDBU.

The OSDBU data base has been developed to be accessed through DOE's forecast of Prime and Subcontracting Opportunities. DOE and facility management contractors (FMCs) small business program managers are encouraged to use the forecast found at <https://hqinc.doe.gov/registration>.

Other Market Research Efforts. FAR 10.002(b)(2) includes additional ways agencies can determine industry's capabilities such as: (1) Contacting knowledgeable individuals in Government and industry regarding market capabilities to meet requirements; (2) Reviewing results of recent market research for similar or identical requirements; (3) Publishing formal requests for information in appropriate technical or scientific journals or business publications; (4) Querying the Governmentwide database of contracts and other procurement instruments intended for use by multiple agencies available at www.contractdirectory.gov and other Government and commercial databases; (5) Participating in interactive, on-line communication among industry, acquisition personnel, and customers; (6) Obtaining source lists of similar items from other contracting activities or agencies, trade associations or other sources; (7) Reviewing catalogs and other generally available product literature published by manufacturers, distributors, and dealers or available on-line; and (8) Conducting interchange meetings or holding presolicitation conferences to involve potential offerors early in the acquisition process.

D. SMALL BUSINESS ACQUISITION PLANNING

Advanced Planning Acquisition Team. The OSDBU has established an "Advanced Planning Acquisition Team" (APAT), comprised of top management from the OSDBU, the Office of Procurement and Assistance Management (OPAM), the National Nuclear Security Administration's (NNSA) Office of Acquisition and Supply Management, Program Element Project Managers, and the SBA Procurement Center Representative (PCR).

The purpose of the APAT is to review proposed acquisition strategies of major new and recompleted acquisitions in the developmental stage for the purpose of identifying the practicable extent to which small business prime and subcontracting participation is feasible. APAT meetings include discussions of:

- The feasibility of reserving an acquisition in its entirety (or in part) for small business participation,
- Pulling out or reserving support functions from a large statement of work for prime or subcontract small business opportunities, respectively.
- Proposed legislation, regulations, prime and subcontract goaling processes, reporting and communication barriers, market survey improvements, and improving the interface between program elements and the OSDBU.

The procurements subject to APAT review are the recompletions or option exercises of facility management contracts or other complex high value procurements.

In order to prevent unnecessary lead time, the agreements resulting from APAT acquisition reviews are verified thus eliminating the need for a duplicative review by the OSDBU (ref. DOE F 4220.2, Small Business Review Form).

Currently, the small business program manager of a program element or the cognizant contracting officer forwards the acquisition plan to the APAT for initial review.

Review of Proposed Acquisitions Over \$3 Million not Set-aside for Small Business Concerns.

The OSDBU reviews all proposed acquisitions that are over \$3 million and not set aside for small business. This review includes new requirements, exercise of options or other extension requests of existing acquisitions and covers all procurement requests, including M&O contracts, orders against GSA schedules and orders against GWACS.

The proposed acquisition review is submitted by the Contracting Officer to the OSDBU and includes the DOE F 4220.2 (May 16, 2006), procurement request, draft RFP, acquisition plan, and explanation narratives from the Contracting Officer, Small Business Program Manager or Small Business Specialist, the SBA-PCR or District SBA Small Business Specialist, and the Procurement Director. The OSDBU review will be completed within ten (10) business days upon receipt of a complete acquisition package and will include an analysis and response to the proposed action not to set aside the procurement for small business participation. If predisposing circumstances due to unforeseen circumstances preclude a timely review of a procurement package, the OSDBU will renegotiate a new and realistic review date with the Contracting Officer. Moreover, to the maximum extent practicable, the OSDBU review will include recommendations for small business participation as subcontractors, incorporation of the requirement for a Mentor-Protégé agreement for the term of the contract, and language that provides DOE the right to pull out work for small business prime contracting opportunities in the future.

The preferred method of transmission of procurement packages is by e-mail to this e-mail address: small.business@hq.doe.gov . A copy of the Small Business Review Form is included as Attachment 2 to this Acquisition Guide.

Contracting for Support Services. All support services contracts should be considered for award to small business concerns, unless findings from the SBA PCR and OSDBU support a Head of Contracting Activity (HCA) determination that (1) there are no responsible small business firms capable of performing the services, (2) mission critical reasons preclude the reservation of a requirement exclusively for small business concerns; or (3) a justification for other than full and open competition is approved in accordance with FAR 6.303. [Note: NNSA organizational elements shall follow Business Operating Policy (BOP) 003.0701, Small Business Waiver Process.]

Contract Bundling. The consolidation of smaller contracts that have been performed, or could have been performed, by small business concerns into a single contract awarded to a large business may have detrimental effects on some small businesses. As a consequence, Congress enacted legislation to regulate the consolidation of contracts. If contract consolidation is otherwise meritorious, such consolidated procurement should present maximum practicable opportunities to small business in accordance with the policy stated in FAR 19.202(a). By definition, consolidated contracts awarded to small businesses are not bundled contracts. Likewise, M&O contracts are not bundled contracts. If a consolidated procurement is not set aside for small business, the Contracting Officer should rethink the acquisition strategy.

Program offices proposing to bundle a contract must quantify identified benefits and explain how their impact would be measurably substantial. 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 value (including options) of the bundled requirements if the value is \$75 million or less; or 5 percent of the estimated contract value (including options), if the value exceeds \$75 million.

If the proposed acquisition strategy involves substantial bundling (i.e., any bundling that results in a contract with an average annual value of \$5 million or more), the Contracting Officer must include the following in acquisition strategy documentation: (1) the specific measurably substantial benefits or the criticality of bundling to the Department's mission; and (2) plans to preserve and promote small business participation as prime contractors and efforts to include small businesses as subcontractors (see FAR 7.107(e)). Contracting Activities are required to coordinate with the SBA-PCR on acquisition strategies or plans contemplating bundled awards at or above \$5 million

The OSDBU has been designated as the Department's focal point for the review of bundled acquisitions. DOE program offices intending to proceed with a bundled procurement must submit the acquisition to the OSDBU for review to ensure conformance with the statutory requirements regarding bundling, and to identify ways to maximize the participation of small businesses in the procurement. Should the OSDBU determine that the proposed bundling of a contract is not necessary and there is no agreement between the program office and the OSDBU about the need to bundle, the matter will be referred to the Deputy Secretary through the HCA and Senior Procurement Executive. The Deputy Secretary, without power of delegation, may determine that bundling is necessary and justified if: (1) the expected benefits do not meet the thresholds identified in this section, but are critical to mission success; and (2) the acquisition strategy provides for maximum practicable participation by small business concerns.

[Note: NNSA organizations shall follow bundling determination procedures as set forth in BOP-003.0305R (VII)(A).]

Evaluation Factor for Past Performance in Subcontracting. Plans to preserve and promote small business participation in a bundled contract might include teaming by small business for the prime contract and may include the following: a factor to evaluate past performance under previous subcontracting plans; and inclusion of the clause at 52.219-10, Incentive Subcontracting Program in the resulting contract.

Pre-bid and Pre-proposal Conferences. Contracting Officers are encouraged to hold pre-bid and pre-proposal conferences (see FAR 15.201) for major procurements if the procurement will be set-aside for small businesses.

Small Business Program Managers (SBPM). SBPMs, designated by the HCA, should perform the following functions: (1) Participate in the planning of, and make recommendations as to set aside, for acquisitions over \$100,000. The review process should address small business categories areas which are goaled (HUBZone small business, small disadvantaged business, small business, service-disabled veteran-owned small business, and women-owned small business concerns); (2) Conduct the review before the issuance of the solicitation and document the results; (3) Maintain copies of the results for requirements exceeding \$1 million; (4) Maintain liaison with the small business community; and (5) Review all subcontracting plans prior to acceptance by the Contracting Officer.

Part II. Subcontract Awards to Small Business

HCA's must ensure that purchasing systems of contractors for the management and operation of major sites and facilities include small business outreach programs.

A. SUBCONTRACTING PLANS

Contracting Officers shall ensure: (1) that all M&O contractors, except small businesses, with contracts over the thresholds at FAR 19.702(a)(2) have a small business subcontracting plan in place that has aggressive small business goals and (2) that subcontract reporting is completed in a timely and accurate fashion reporting the actual small business achievements in eSRS.

Every subcontracting plan should, at a minimum, support achievement of the agency-wide goals negotiated with the SBA by the OSDBU. Subcontracting plans reflecting less than the agency-wide goals must be submitted through the OSDBU to the HCA for approval/disapproval. OSDBU will monitor compliance with subcontracting plans. [NOTE: NNSA organizations shall follow BOP-003.0305R(VII)(B).]

Contracting Officers, in consultation with Small Business Program Managers, shall meet periodically with directors of contractor purchasing to review the status of the contractor's performance against its small business subcontracting plan.

B. SUBCONTRACTING PROCEDURES:

8(a) Pilot Program. Contractors responsible for the management or operation of sites and facilities are authorized to award subcontracts with a value less than the thresholds at FAR 19.805-1(a)(2) for acquisitions on a noncompetitive basis to firms certified as participants by the SBA under its 8(a) program. Contractors may also reserve for competition among 8(a) firms requirements in excess of those thresholds. The contractor shall assure that awards are made at fair market prices and are identified as awards to 8(a) firms and Small Disadvantaged Businesses (SDBs) under the reporting provisions of the Small Business Subcontracting Plan clause. A special effort may be made to identify and make awards to 8(a) firms in HUBZones. If such a program is instituted, the contractor shall assure that awards are made at fair market prices.

HUBZone Set-Aside. *Awards to HUBZone 8(a) Firms.* For procurements under the thresholds at FAR 19.306(a)(2), if an 8(a) certified firm can be identified and award can be made at a fair market price, an award may be made noncompetitively to a HUBZone 8(a). If the procurement is valued in excess of the thresholds and two more HUBZone 8(a) firms can be identified, the procurement may be set aside for competition among HUBZone 8(a) firms.

Contractors responsible for the management and operation of DOE sites and facilities are authorized to use HUBZone set-aside and HUBZone sole source procurement techniques in the award of subcontracts under conditions similar to those applicable to the award of Federal prime contracts.

Service Disabled Veteran-Owned Small Business (SDVOSB) Set-Aside. Contractors responsible for the management or operation of sites and facilities may restrict competition to SDVOSB concerns if there is a reasonable expectation that two or more SDVOSB concerns will submit offers and that the award can be made at a fair market price.

Discretionary Set-Asides. Contractors responsible for the management and operation of sites and facilities are authorized to set aside purchases at any dollar value for award to small businesses and to make purchases valued up to the simplified acquisition threshold on a sole source basis to small businesses. If such programs are instituted, the contractor shall assure that awards are made at fair market prices.

DOE Mentor-Protégé Program. Contracting Officers should encourage prime contractors to enter into Mentor-Protégé agreements with small businesses. DOE regulations that provide for a Mentor-Protégé Program can be found at DEAR 919.70. DOE's Mentor-Protégé Program seeks to foster long-term business relationships between small business entities and prime contractors, and to increase the overall number of small business entities that receive contract and subcontract awards. Mentors recognized under the DOE Mentor-Protégé Program are authorized, subject to the best commercial practices and procedures required by DEAR 970.4402-2(d), to award noncompetitive subcontracts, of any dollar value, to their Protégés. Further, other site and facilities management contractors may award noncompetitive subcontracts to a Protégé of another DOE Mentor contractor if those awards are made at fair market prices. OSDDBU maintains a current listing of active Mentor-Protégé agreements.

Part III. Other Considerations

A. SECURITY CLEARANCES

Much of the DOE's work is classified and performance of that work requires cleared facilities and staff. For many small businesses, obtaining appropriate clearances may require background checks that often take three months to complete; whereas, large businesses are more likely to have personnel and facilities that already have the necessary security clearances. Contracting Officers should consider the following when processing procurements that involve classified work:

- * Security personnel should be consulted when preparing draft statements of work that may involve security requirements to assure that the security requirements are not overstated.
- * Solicitations should be issued and the award made sufficiently in advance to allow for the processing of required security clearances. The absence of existing personnel security clearances should not be the sole basis for denying an award, unless the solicitation made security clearances a requirement. Offerors should be allowed a reasonable time for the workforce of the successful offeror to be cleared.
- * Further information is contained in a pamphlet, *DOE's Security Requirements for Small Business Contractors*. It can be found at the bottom of the following web site:
http://www.pnl.gov/isrc/pdf/sm_busi_contractors.pdf

B. SMALL BUSINESS STATISTICS

Collecting and Reporting Small Business Contracting Information. The systems for collecting and reporting small business award information are the Federal Procurement Data System—Next Generation (FPDS-NG - *Prime contract award data*), and the Electronic Subcontract Reporting System (eSRS - *Prime contractor subcontracting award data*).

The accuracy of the statistics reported in these systems is vital to the credibility of the DOE's performance in this area, which is continually monitored by Congress, the SBA, trade organizations, small business advocacy groups, and other entities.

Improving the Accuracy of Small Business Information. HCAs should assure that proper quality control systems are in place for accurate reporting of small business data.

HCAs should include the accuracy of Federal contract data as a compliance standard for the contracting activities' Federal assessment program.

The Contracting Officer is responsible for taking all reasonable steps to validate an offeror's Small Business representation prior to any Federal prime contract award. [Note: NNSA Contracting Officers shall adhere to the FAR standard of self-certification.]

The Contracting Officer should refer to the SBA and the Office of the Inspector General any certification of small business status that is inaccurate and refer instances of misrepresentation of small business status to the DOE or NNSA Senior Procurement Executive for consideration of suspension/debarment.

The Contracting Officer is responsible for ensuring that M&O contractors (1) establish reasonable controls for accurate reporting of small business subcontracting data, including data submissions to electronic data collection systems; (2) maintain current and accurate listings of small business suppliers to the extent such listings are used; (3) obtain certification of size status; (4) conform to the list of exclusions from subcontract reporting in the SBA document, *Goaling Guidelines for the Small Business Preference Programs for Prime and Subcontract Federal Procurement Goals & Achievements*; and (5) refer to the Contracting Officer instances of small business status misrepresentation.

Additional guidance on establishing subcontracting goals can be found in Acquisition Letter 2005-06, Small Business Procurement Goals, dated March 11, 2005.

Electronic Subcontracting Reporting System (eSRS).

The eSRS is an electronic, web-based system for subcontract reporting that replaced the SF-294 & SF-295 paper forms and is the only automated system authorized for subcontract reporting. Contractors are responsible for entering accurate and complete reports into eSRS. In addition, prime contractors are responsible in passing down subcontracting reporting requirements to their subcontractors and lower tier subcontractors, as appropriate.

Contracting Officers are responsible for reviewing the Individual Subcontracting Report (ISR) that relates to the contract they administer. It is their responsibility to ensure that contractors are aware of their subcontracting reporting requirements and that they properly and timely enter their reports into eSRS. COs must inform contractors who will be reviewing their ISRs and the Summary Subcontracting Report (SSR) of the email address for that reviewer. The contractor must enter that address on the report in order that eSRS will properly notify the report's reviewer.

Small Business Program Managers, designated by the HCA, should review all SSRs. The SBPM will be the eSRS Point of Contact (POC) and approve all registrations for their HCA and the affiliated contracting offices. SBPMs will report to OSDDBU any issues concerning the SSRs.

The Office of Small and Disadvantaged Business Utilization has the overall responsibility for the SSRs. OSDBU shall ensure that the SBPMs review the SSRs for completeness and accuracy prior to the SBA extracting the government-wide subcontracting goal report.

The Head of Contracting Activity should ensure that proper quality control systems are in place to ensure reporting and accuracy of subcontracting reports. This will require accurate data in FPDS-NG, since eSRS relies on this data for its reports.

C. SECRETARY'S SMALL BUSINESS AWARDS

DOE recognizes the outstanding small business achievements of its departmental elements, prime contractors and other organizations through the "Secretary's Small Business Awards." The awards program recognizes (1) increased small business participation at the prime and subcontract levels through outreach and community involvement; (2) commitment to placing small business concerns into non-traditional work environments; and (3) nurturing the development of socio-economic concerns through the Mentor-Protégé Program.

L. ## GUIDANCE FOR PROSPECTIVE OFFERORS - IMPACT OF TEAMING ARRANGEMENTS ON SMALL BUSINESS STATUS

(a) This procurement has been set aside for small business. In order to ensure that award is made to an eligible small business, prospective Offerors, in consultation with legal counsel, are encouraged to review the Small Business Administration's (SBA's) size eligibility standards found at Title 13 of the Code of Federal Regulations, Section 121 (13 C.F.R. § 121). In particular, Offerors proposing a joint venture, subcontracting, or another form of teaming arrangement should review 13 C.F.R. § 121.103, "How does SBA determine affiliation?," prior to submitting a proposal.

(b) The SBA is the sole authority for making determinations of small business status for small business programs. Such determinations are binding on the Offeror and the Contracting Officer. Accordingly, a finding by the SBA of affiliation between an Offeror and its proposed team member(s) or subcontractor(s) may result in the Offeror being found to be other than a small business and therefore ineligible for contract award.

(c) Business concerns are considered to be affiliates of each other if either one directly or indirectly controls or has the power to control the other, or if another concern controls both. In determining whether affiliation exists, factors such as common ownership (stock ownership or options, convertible securities and agreements to merge), common management, and contractual relationships are considered. An Offeror will also be found to be affiliated with its subcontractor(s) if the Offeror is unusually reliant upon its subcontractors or if the subcontractor(s) will perform primary and vital requirements of a contract.

(d) The SBA has issued several decisions concerning its evaluation of affiliation of an Offeror and its proposed subcontractor(s). The following examples set forth characteristics that the SBA has reviewed in considering the question of affiliation and may assist prospective Offerors in developing any teaming arrangements and their proposals.

(1) The SBA considers whether proposed subcontracting, partnership, joint venture, or other teaming arrangements contain discrete descriptions of the tasks or work to be performed by each party. The SBA considers whether the Offeror or, if the Offeror is a joint venture or partnership, the joint venture participants or partners, perform the primary or vital portions of the Statement of Work. The SBA considers whether teaming arrangements clearly set forth the relationship between the parties, as well as the individual roles and responsibilities assigned.

(2) The SBA considers whether there is a clear separation of facilities, employees, and management (decision-making authority) between the Offeror and any entities with which it has teaming arrangements.

(3) The SBA considers the extent to which the Offeror directly employs Key Personnel (Program Manager, Project Manager, etc.).

(4) If the Offeror is an eligible small business prime contractor, the SBA considers whether the majority of the technical expertise resides with the Offeror. If the Offeror is an eligible joint venture the SBA considers whether the majority of the technical expertise resides among the joint venture members.

(5) The SBA considers the Offeror's profit sharing arrangements with its proposed subcontractor or other entities.

(6) In reviewing affiliation between the Offeror and its proposed subcontractors or entities with which the Offeror has a teaming arrangement, SBA considers the previous contractual or business relationships between the Offeror and that entity.

Attachment 2 to Acquisition Guide Chapter 19

<i>DOE F 4220.2 (May 16, 2006) supersedes all former editions.</i> <p align="center">SMALL BUSINESS REVIEW</p>		1. PR No.
2. Procurement Title/Brief Description 		3. Business Information NAICS Code _____ Size Standard _____ Estimated Contract Value \$ _____
4. Program Element Code And Title 	5. Procuring Activity Code And Title 	7 a. PR Initiator (Name, Code, & Phone)
6 a. Acquisition History (Business Type) <input type="checkbox"/> Large Business <input type="checkbox"/> Non-8(a) SDB <input type="checkbox"/> Small Business <input type="checkbox"/> WOSB <input type="checkbox"/> 8(a) <input type="checkbox"/> HUBZone <input type="checkbox"/> SDVOSB	6 b. Acquisition History (Solicitation Type) <input type="checkbox"/> Full And Open Competition <input type="checkbox"/> Set-Aside <input type="checkbox"/> Federal Supply Schedules (FSS) <input type="checkbox"/> Sole Source <input type="checkbox"/> Other	7 b. Contract Specialist (Name, Code, & Phone)
8. Small Business Participation Was Considered In The Preparation Of This Procurement, And The Following Is Recommended: <input type="checkbox"/> Small Business Set-Aside _____ %; \$ _____ <input type="checkbox"/> 8(a) Program Set-Aside _____ %; \$ _____ <input type="checkbox"/> HUBZone Set-Aside _____ %; \$ _____ <input type="checkbox"/> SDVOSB Set-Aside _____ %; \$ _____		9. If Sole Source, Designate Preference Activity (Attach J.O.F.O.C. Per Instructions). <input type="checkbox"/> Large Business <input type="checkbox"/> Small Business <input type="checkbox"/> Other
10. If Set-Aside Is Not Feasible Place An "X" In The Appropriate Box (es), And Attach Supporting Narrative. (a) <input type="checkbox"/> No Reasonable Expectation of Receiving Offers From Two Or More: <input type="checkbox"/> Small Businesses <input type="checkbox"/> 8(a) Concerns <input type="checkbox"/> HUBZones <input type="checkbox"/> SDVOSBs (b) <input type="checkbox"/> Facility Management Contract (e.g. M&O) (c) <input type="checkbox"/> Directed By Statute (Provide Citation No. And Attach Supporting Narrative) <u>Citation No.:</u> _____ (d) <input type="checkbox"/> FSS Acquisition (e) <input type="checkbox"/> Other		
11. Contracting Officer's Recommendation (Attach Supporting Narrative Per Instructions) _____ Name _____ Signature _____ Date _____ Phone _____ e-mail _____		
12. Small Business Program Manager's Review <input type="checkbox"/> Concurrence <input type="checkbox"/> Nonconcurrence (Attach Recommendation And Supporting Narrative) Name _____ Signature _____ Date _____ Phone _____ e-mail _____		
13. SBA-PCR or SBA District SB Specialist Review (Procurements Valued Greater Than The Simplified Acquisition Threshold) <input type="checkbox"/> Concurrence <input type="checkbox"/> Nonconcurrence (Attach Recommendation And Supporting Narrative) <input type="checkbox"/> Provided Recommended Sources Name _____ Signature _____ Date _____ Phone _____ e-mail _____		
14. OSDBU Review (Procurements Valued Greater Than \$3.0 Million) <input type="checkbox"/> Concurrence <input type="checkbox"/> Nonconcurrence (Attach Recommendation And Supporting Narrative) <input type="checkbox"/> Provided Recommended Sources Name _____ Signature _____ Date _____ Phone _____ e-mail _____		

General Instructions: Completion of DOE F 4220.2 (May 16, 2006) is required for procurements with estimated values exceeding the simplified acquisition threshold (see FAR 2.101).

- Block No. 1 Provide the Procurement Request (PR) Authorization number.
- Block No. 2 Describe items/services to be acquired.
- Block No. 3 Enter the North American Industry Classification System (NAICS) code; the small business size standard in terms of annual receipts, employee number, etc.; and the estimated contract value including options. Refer to 13 CFR 121.402 and <http://www.sba.gov/size/sizetable2002.html> and <http://www.bls.gov/bls/naics.htm>.
- Block No. 4 Enter the lead program element responsible for the requirement.
- Block No. 5 Enter the name of the contracting office that will award the contract/order.
- Block No. 6 If requirement was previously procured, enter in Block No. 6a, the type of business that was awarded the contract/order and enter in Block No. 6b, how the business was solicited.
- Block No. 7 Enter the name, organizational code, and phone number of the PR Originator in Block No. 7a. Enter the name, organizational code, and phone number of the Contract Specialist in Block No. 7b.
- Block No. 8 If Small Business participation was considered, enter the percent of the work and corresponding estimated dollar value including options. Refer to FAR 6.203(a), 19.808-1, 19.501(a) through (d), 19.502-2, 19.502-3, 19.1305, and 19.1405. Note: The 8(a) Program also includes awards to Alaskan Native Corporations (ANCs) and Native American tribally-owned SB concerns (ref. FAR 26.101, and 13 CFR 124.506) and the Small Business Administration (SBA)'s Mentor-Protégé Program (ref. 13 CFR 124.520, and 13 CFR 124.513). SBA Joint Ventures with SB concerns are sanctioned pursuant to limitations of 13 CFR 121.103 and should be applied to proper preference activity.
- Block No. 9 If the solicitation method was recommended as sole source, attach the *Justification For Other Than Full And Open Competition* signed by the Program Manager and Contracting Officer (reference FAR 6.303-1, FAR 19.1306, and 19.1406).
- Block No.10 Pursuant to FAR 19.202-1, Small Businesses shall be afforded equitable opportunities to compete for all contracts they can perform consistent with the Government's interest. If Small Business set-aside is not feasible, place an "X" in the appropriate box(es) and attach a narrative supporting your selection(s). Refer to FAR 8.4 and 8.405-5(b) for placing task orders under Federal Supply Schedules (FSS).
- Block No. 11 If the Contracting Officer does not recommend that the procurement be reserved for small business concerns, then the Contracting Officer must "document why a small business set-aside is inappropriate..." (See FAR 19.501(e)).
- Block No. 12 The DOE Small Business Program Manager (SBPM) shall complete this block to ensure that the information in Block No. 3 is correct and to indicate concurrence or nonconcurrence with the Contracting Officer's recommendation. A narrative is required if SBPM does not concur.
- Block No. 13 The SBA's Procurement Center Representative (PCR) or SBA's District Office Small Business Specialist shall complete this block for all procurements valued greater than the simplified acquisition threshold. Pursuant to FAR 19.402, the SBA may assign PCRs to contracting activities to carry out SBA's policies and programs. If an SBA PCR or SBA District Small Business Specialist is not available in your area, contact the Office of Small and Disadvantaged Business Utilization (OSDBU) which will refer the matter to SBA (ref. FAR 19.401 (b)).
- Block No. 14 Completion of this block is required for procurements valued greater than \$3.0 million and have not been reserved exclusively for Small Business participation. Procurement packages for OSDBU review must include supporting procurement documentation consisting of the PR, DOE F 4220.2 (May 16, 2006) executed through Block No. 13, draft RFP, acquisition plan, and narratives from the Contracting Officer, Small Business Program Manager, Procurement Director, and the SBA PCR or SBA District Small Business Specialist.

Special Instructions:

- (1) One copy of a fully executed DOE F 4220.2 (May 16, 2006) must be included with the contract file.
- (2) Submit one copy of a fully executed DOE F 4220.2 (May 16, 2006) (of procurements reviewed by the OSDBU) to the OSDBU.

