



OFFICE OF THE UNDER SECRETARY OF DEFENSE

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ACQUISITION,
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JUN 16 2010

MEMORANDUM FOR: SEE DISTRIBUTION

Subject: Reinstatement of Small Business Set-asides Under the Small Business Competitiveness Demonstration Program

- References:
- (a) Final Policy Directive, Small Business Competitiveness Demonstration Program
 - (b) Federal Acquisition Regulation Subpart 19.10, "Small Business Competitiveness Demonstration Program"
 - (c) Department of Defense FAR Supplement Subpart 219.10, "Small Business Competitiveness Demonstration Program"
 - (d) Defense Procurement and Acquisition Policy memorandum dated June 02, 2008

On May 25, 1999, the Office of Federal Procurement Policy and the Small Business Administration issued reference (a) memorandum to implement the Small Business Competitiveness Demonstration Program Act (CompDemo) of 1988. The program is further implemented by references (b) and (c). The CompDemo policy memorandum identifies ten participating agencies, including the Department of Defense (DoD).

Under CompDemo, the use of small business set-asides was suspended in five Designated Industrial Groups (DIGs): Construction (except dredging), Non-Nuclear Ship Repair, Architectural and Engineering Services (including Surveying and Mapping), Refuse Systems and Related Services, and Landscaping and Pest Control Services. Thereafter, small business set-asides shall only be reinstated when the annual review of the participating agency's procurement data reveals the statutory 40 percent small business goal for a particular DIG was not achieved.

Even then, the reinstatement of small business set-asides is not "across the board". Only those organizational units (i.e., Military Departments or Other Defense Agencies) within the participating agency (DoD) that also did not meet the 40 percent goal are authorized to reinstate small business set-asides.

In addition, there is a third criterion known as the “35 percent rule”. Under the CompDemo 35 percent rule, small business set asides shall be reinstated even when the participating agency’s and/or the organizational unit’s small business achievement was 40 percent or higher. The 35 percent rule may be used only at the organizational unit level and only for Construction DIGs and the Architectural and Engineering Services (including surveying and mapping) DIG. It is further limited to the specific North American Classification System (NAICS) code in which small business performance level fell below 35 percent.

DoD has performed a review of the Federal Procurement Data System (FPDS) statistical data for the twelve-month period beginning October 1, 2008 and ending September 30, 2009. The FPDS data indicates the Department failed to meet the 40 percent small business participation goal in the following DIGs:

- DIG 1 – Construction (Except Dredging)
 - Subsector 236, Construction of Buildings
 - Subsector 237, Heavy and Civil Engineering Construction
- DIG 3 – Architectural and Engineering Services

As such, future contracting opportunities for these requirements shall be awarded through the use of competition restricted to eligible small businesses, as market conditions permit. Note: These future contracting opportunities are for requirements in excess of the dollar amount reserved for emerging small businesses. Any procurement requirement at or below the emerging small business dollar threshold must be reserved exclusively for emerging small business. The amounts currently reserved for emerging small business are:

- \$30,000 for construction, refuse systems and related services, non-nuclear ship repair, landscaping and pest control services; and
- \$50,000 for architectural and engineering services

Also bear in mind that this authority does not preclude contracting officers from making awards under section 8(a), section 31, “Historically Underutilized Business Zone Program”, or section 36, “Procurement Program for Small Business Concerns Owned and Controlled by Service Disabled Veterans” of the Small Business Act.

With respect to the remaining DIGS, the FPDS data show that DoD has met or exceeded the 40 percent goal. Therefore, the use of small business set asides for DIG 2, Non-Nuclear Ship Repair (both East and West Coast), DIG 4, Refuse Systems and Related Services, DIG 5 – Landscaping and Pest Control Services, and Subsector 283, Construction –Specialty Trade Contractors (unless the 35 percent rule applies) is suspended.

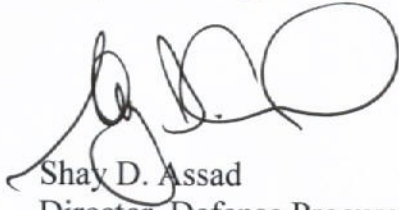
The following list sets forth the organizational units and the DIGS/Subsectors/NAICS in which competition limited to small business shall be authorized:

1. Department of the Army:
 - a. Construction, Subsector 236, Construction of Buildings
 - b. Construction, Subsector 237, Heavy and Civil Engineering Construction
 - c. Construction, Subsector 238, Specialty Trade Contractors, only
 - NAICS 238110
 - NAICS 238120
 - NAICS 238310
 - NAICS 238910
 - d. Architect and Engineering Services (including Surveying and Mapping)
2. Department of the Navy:
 - a. Construction, Subsector 236, Construction of Buildings
 - b. Construction, Subsector 237, Heavy and Civil Engineering Construction, only
 - NAICS 237120
 - NAICS 237990
 - c. Construction, Subsector 238, Specialty Trade Contractors, only
 - NAICS 238190
 - NAICS 238340
 - d. Architect and Engineering Services, (including Surveying and Mapping)
3. Department of the Air Force:
 - a. Construction, Subsector 236, Construction of Buildings, only
 - NAICS 236115
 - NAICS 236118
 - b. Construction, Subsector 238, Specialty Trade Contractors, only
 - NAICS 235950
 - NAICS 235990
 - NAICS 238140
 - NAICS 238190
 - NAICS 238340
 - c. Architect and Engineering Services, (including Surveying and Mapping)
4. DoD Defense Education Activity:
 - a. Construction, Subsector 236, Construction of Buildings
 - b. Construction, Subsector 237, Heavy and Civil Engineering Construction
 - c. Construction, Subsector 238, Specialty Trade Contractors, only
 - NAICS 238160
 - NAICS 238320
 - NAICS 238330
 - NAICS 238350

- NAICS 238990
- 5. Defense Finance and Accounting Service
 - a. Construction Subsector 238, Specialty Trade Contractors, only
 - NAICS 238210
- 6. Defense Information Systems Agency
 - a. Construction, Subsector 236, Construction of Buildings
- 7. Defense Logistics Agency:
 - a. Construction, Subsector 237, Heavy and Civil Engineering Construction, only
 - NAICS 237130
 - NAICS 237990
 - b. Construction, Subsector 238, Specialty Trade Contractors, only
 - NAICS 238390
 - NAICS 238990
- 8. Defense Media Center:
 - a. Construction, Subsector 238, Specialty Trade Contractors, only
 - NAICS 238220
- 9. Defense Microelectronics Activity
 - a. Construction Subsector 237, Heavy and Civil Engineering Construction
- 10. Defense Security Service
 - a. Construction, Subsector 238, Specialty Trade Contractors, only
 - NAICS 238390
- 11. Defense Threat Reduction Agency:
 - a. Construction, Subsector 237, Heavy and Civil Engineering Construction
- 12. Washington Headquarters Services:
 - a. Construction, Subsector 236, Construction of Buildings
 - b. Construction, Subsector 238, Specialty Trade Contractors, only
 - NAICS 238210
 - NAICS 238320
 - c. Architect and Engineering Services, (including Surveying and Mapping)

This memorandum supersedes reference (d) to reflect the results of the review of DoD's small business participation data for Fiscal Year 2009. If you have any questions regarding this memorandum, please contact either Ms. Linda Heartley, the staff point of

contact for Defense Procurement and Acquisition Policy, Contract Policy & International Contracting at 703-693-7062, linda.heartley@osd.mil, or Ms. Lee Renna, the staff point of contact for the DoD Office of Small Business Programs, at 703-604-0157 ext 180, marylee.renna@osd.mil.



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