




DEPARTMENT OF THE TREASURY
WASHINGTON, DC 22202

Acquisition Procedures
Update (APU)
No. 2012-02
June 4, 2012

MEMORANDUM FOR BUREAU CHIEF PROCUREMENT OFFICERS

FROM: Thomas A. Sharpe, Jr. 
Senior Procurement Executive
Office of the Procurement Executive

SUBJECT: **Small Business Set-Asides and Meeting the Department's FY12 Socio Economic Goals**

- 1. Purpose:** This Acquisition Procedures Update (APU) establishes policy to reinforce the Department's compliance with small business set-aside requirements and implements temporary management measures to actively promote the Department meeting all of its socio-economic goals in FY 2012.
- 2. Effective Date:** This DTAP change is effective June 4.
- 3. Expiration Date:** When cancelled or superseded.
- 4. Background:** The Small Business Act requires the Government to ensure that a fair proportion of contracts for products and services be placed with small business enterprises to maintain and strengthen the overall economy of our nation. Under Section 15(j) of the Small Business Act, agencies are required to automatically set-aside work for small businesses that is equal to or less than the value of the simplified acquisition threshold (SAT) (generally \$150,000) unless the "rule of two" is not met.

To further assist in the maximization of small business utilization, Section 1331 of the Jobs Act directed the Administrator for Federal Procurement Policy and the Administrator for the Small Business Administration (SBA), in consultation with the Administrator of the General Services Administration (GSA), to establish regulations under which Federal agencies may, in their discretion: (1) set aside part or parts of a multiple award for small businesses, (2) reserve one or more awards on multiple award contracts that are established through full and open competition, and (3) set aside orders under multiple award contracts awarded pursuant to full and open competition that have not been set aside, partially set aside, or include a reserve for small business.

On November 2, 2011, an interim FAR rule was published to provide agencies with initial guidance with respect to set-asides (See FAC 2005-54, "Federal Acquisition Regulation: Set-Asides for Small Business"). The interim rule made clear that set-asides may be used in connection with the placement of orders and blanket purchase agreements under Multiple Award Schedule (MAS) contracts, and used in connection with the placement of orders under multiple award contracts, notwithstanding the otherwise applicable requirement to provide fair

opportunity. GSA has posted a set of “frequently asked questions,” available at <http://www.gsa.gov/portal/content/113371>, to explain how set-asides can be applied when placing orders under the MAS Program.

Acquisition Procedure Update (APU) No. 2011-10 clarified policy for set-asides for Historically Underutilized Business Zone (HUBZone) and Service Disabled Veteran Owned Small Businesses (SDVOSB) and implemented temporary reinforcement and analytical measures to promote the Department meeting all of its socio-economic goals in FY 2011.

This APU establishes documentation and review requirements for small business set-asides to ensure Treasury utilizes small businesses to the maximum extent practicable and takes all reasonable steps to meet agency small business goals in FY 2012.

5. DTAP Updates:

DTAP 1019.502 is revised as follows:

“(e)(1) Between June 8, 2012 and September 4, 2012, prior to issuing any solicitation, request for quotation or request for proposal which is (1) is greater than \$500,000 (IRS \$1,000,000); (2) will not be set aside for a small business, HUBZone or SDVOSB business; (3) will not be limited to a small business, HUBZone or SDVOSB on a Federal Supply Schedule buy or Governmentwide Acquisition Contract (GWAC) and, (4) has been identified as one of the following North American Industry Classification System (NAICS) categories:

- 23 (CONSTRUCTION)
- 33 (MANUFACTURING (METALS, MACHINERY, COMPUTER, ELECTRONICS
ELECTRICAL TRANSPORTATION EQUIPMENT, FURNITURE, MISCELLANEOUS))
- 42 (WHOLESALE TRADE)
- 45 (RETAIL TRADE (SPORTING GOODS GENERAL MERCHANDISE,
MISCELLANEOUS))
- 48 (TRANSPORTATION)
- 49 (POSTAL SERVICE, COURIER/MESSANGER, WAREHOUSING)
- 51 (INFORMATION)
- 52 (FINANCE AND INSURANCE)
- 54 (PROFESSIONAL, SCIENTIFIC, AND TECHNICAL SERVICES)
- 56 (ADMINISTRATIVE AND SUPPORT AND WASTE MANAGEMENT AND
REMEDATION SERVICES)
- 61 (EDUCATIONAL SERVICES)
- 72 (ACCOMODATION AND FOOD SERVICES)
- 81 (OTHER SERVICES (EXCEPT PUBLIC ADMINISTRATION))
- 92 (PUBLIC ADMINISTRATION)

the contracting officer shall submit the acquisition plan to the Director of the Office of Minority and Women Inclusion (OMWI) and Senior Procurement Executive (SPE), in a single attached file to: CrushTheGoals@treasuryecm.gov. The acquisition plan shall be in accordance with FAR 7.105 and include the following:

- (1) Requisition number(s);
- (2) Contract, order, modification number where applicable;
- (3) NAICS code;
- (4) A description of market research conducted and considered by the contracting officer;
- (5) A list of small business, HUBZone, and SDVOSB businesses identified within the applicable NAICS code;
- (6) A list of businesses to be solicited; and
- (7) Rationale for not setting aside the requirement for small business, HUBZone or SDVOSB businesses, or for not limiting the solicitation to small business, HUBZone or SDVOSB under a FSS.

For purposes of this section, "solicitation" shall include Requests for Quote (RFQ) and Requests for Proposal (RFP) for (1) competitive acquisitions to include: contracts, purchase orders, BPAs, task order/delivery orders, and (2) modifications to add work.

(e)(2) Between June 8, 2012 and September 4, 2012, prior to issuing a written notice or contract modification for any exercise of an option which is greater than \$500,000 (IRS \$1,000,000), the contracting officer shall submit a copy of the written determination to the Director of OMWI and SPE to CrushTheGoals@treasuryecm.gov. The contracting officer shall consider the effect on small business when determining if the exercise of the option is the most advantageous method of fulfilling the Government's need."

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DTAP 1019.502-2 is replaced with the following:

"(a) Acquisitions greater than \$3,000 but less than or equal to the Simplified Acquisition Threshold (SAT) shall be reserved exclusively for small business concerns unless there is not a reasonable expectation of obtaining offers from two or more responsible small business concerns. If the contracting officer determines to proceed on an unrestricted basis, the contracting officer shall include in the contract file documentation a description of the market research conducted and considered by the contracting officer.

(b) COs must make available for review by the SBS and the PCR all proposed acquisitions in excess of \$150,000 which have not been unilaterally set-aside for HUBZone, Service Disabled Veteran-Owned Small Businesses, small businesses, or the 8(a) program. At the request of the PCR, COs must also make available for review all acquisitions between the micro-purchase threshold and \$150,000 that have not been set-aside. If the purchase is not set-aside, file documentation must be completed and signed by the CO (if the order is between \$3,000 and

\$25,000) and by the bureau SBS (if the order is between \$25,000 and \$150,000) prior to awarding the unrestricted purchase.”

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Procurement questions regarding this APU may be directed to Michele Sharpe at Michele.Sharpe@treasury.gov .