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OFFICE OF THE UNDER SECRETARY OF DEFENSE  
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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 dated May 25, 1999  
(b) Defense Procurement and Acquisition Policy memorandum dated August 13, 2001

The Office of Federal Procurement Policy and the Small Business Administration issued a final policy directive and implementation plan for the Small Business Competitiveness Demonstration Program on May 25, 1999. The program is further implemented in the Federal Acquisition Regulation (FAR) Subpart 19.10 and the Department of Defense FAR Supplement Subpart 219.10.

Under the Small Business Competitiveness Demonstration Program, small business set-asides are suspended for certain Designated Industry Groups (DIGs). However, pursuant to reference (a) sections III. D. 2.a. and IV. A.3, participating agencies such as the Department of Defense (DoD) are required to reinstitute the use of small business set-asides whenever contract awards to small business, under any DIG, fall below a 40 percent participation performance rate. Reinstitution of small business set-asides is limited to the organizational unit(s) within the participating agency that failed to meet the small business participation goal(s). Accordingly, this Memorandum supersedes reference (b) to reflect the results of the annual review of DoD's small business participation data for Fiscal Year 2007.

The Federal Procurement Data System – Next Generation indicates that for the 12-month period ending September 30, 2007, DoD's small business participation rate was less than 40 percent in the following DIGs:

1. Construction, Subsector 236, Construction of Buildings
2. Non-Nuclear Ship Repair, Product or Service Code J999 (West Coast only)
3. Architect and Engineering Services, (including Surveying and Mapping)
4. Refuse Systems and Related Services

In addition to the DIGs identified above, reference (a), section IV.A.3 requires that small business set-asides also be reinstated when an individual organizational unit attained less than a 35 percent small business participation rate, even when DoD's overall achievement in the DIG was 40 percent or greater. The 35 percent rule only applies to *Architect and Engineering services* and the Construction Subsectors and **only for the specific NAICS codes (formerly known as Standard Industrial Classification codes) that fell below 35 percent.** As such, for the organizational units identified below, all subsequent contracting opportunities in excess of the amount reserved for emerging small businesses (in accordance with FAR 19.1002, \$30,000 for construction, refuse systems and related services, non-nuclear ship repair, landscaping and pest control services; \$50,000 for architect and engineering services) shall be solicited through competition restricted to eligible small businesses:

1. Department of the Army:
  - a. Construction, Subsector 236, Construction of Buildings  
Construction, Subsector 237, Heavy and Civil Engineering Construction
    - NAICS 237120Construction, Subsector 238, Specialty Trade Contractors
    - NAICS 238110
    - NAICS 238290
    - NAICS 238350
  - b. Architect and Engineering Services (including Surveying and Mapping)
  - c. Refuse Systems and Related Services
2. Department of the Navy:
  - a. Construction, Subsector 236, Construction of Buildings  
Construction, Subsector 237, Heavy and Civil Engineering Construction
    - NAICS 237120
    - NAICS 237990Construction, Subsector 238, Specialty Trade Contractors
    - NAICS 238120
    - NAICS 238190
    - NAICS 238390
  - b. Non-Nuclear Ship Repair, Product or Service Code J999 (West Coast only)
  - c. Architect and Engineering Services, (including Surveying and Mapping)
3. Department of the Air Force:
  - a. Construction, Subsector 236, Construction of Buildings  
Construction, Subsector 237, Heavy and Civil Engineering Construction
    - NAICS 237120
  - b. Architect and Engineering Services, (including Surveying and Mapping)

4. Defense Contract Management Agency
  - a. Construction Subsector 236, Construction of Buildings
  
5. Defense Logistics Agency:
  - a. Construction, Subsector 236, Construction of Buildings  
 Construction, Subsector 238, Specialty Trade Contractors
    - NAICS 238110
    - NAICS 238120
    - NAICS 238220
  
6. Defense Commissary Agency:
  - a. Refuse Systems and Related Services
  
7. Washington Headquarters Services:
  - a. Construction, Subsector 236, Construction of Buildings
  - b. Architect and Engineering Services, (including Surveying and Mapping)
  
8. Defense Information Systems Agency:
  - a. Construction, Subsector 238, Specialty Trade Contractors
    - NAICS 238990
  
9. Defense Threat Reduction Agency:
  - a. Construction, Subsector 237, Heavy and Civil Engineering Construction
    - NAICS 237990
  
10. Defense Education Activity:
  - a. Construction, Subsector 238, Specialty Trade Contractors
    - NAICS 238990
  
11. U.S. Special Operations Command
  - a. Construction, Subsector 237, Heavy and Civil Engineering Construction
    - NAICS 237310
  - b. Construction, Subsector 238, Specialty Trade Contractors
    - NAICS 238170

Consistent with reference (a), section III D.3.b., competitive solicitations in the four DIGs with an estimated award value that is equal to or less than the emerging small business reserve amount shall be restricted to emerging small businesses, provided that the contracting officer determines that there is a reasonable expectation of obtaining offers from two or more responsible emerging small businesses that will be competitive in terms of market price, quality, and delivery. If no such reasonable expectation exists, requirements will be processed in accordance with FAR Subparts 19.5 or 19.8.

This guidance does not preclude the use of set-asides authorized at FAR 19.1007(b)(2) and 10.1007(c)(1). Please notify the acquisition workforce of these changes to the Small Business Competitiveness Demonstration Program to ensure timely implementation. The staff point of contact for Defense Procurement, Acquisition Policy, and Strategic Sourcing is Ms. Susan Pollack, (703) 697-8336, [susan.pollack@osd.mil](mailto:susan.pollack@osd.mil). The staff point of contact for the DoD Office of Small Business Programs is Ms. Lee Renna, (703) 604-0157 ext 180, [marylee.renna@osd.mil](mailto:marylee.renna@osd.mil).



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