

AMS CHANGE REQUEST (CR) COVERSHEET

Change Request Number: 16-49
Date Received: 6/23/16
Title: Small Business Policy Change

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Guidance and Policy must be submitted with separate CR coversheets.

Policy

Or

Procurement Guidance

Real Estate Guidance

Other Guidance

Summary of Change: Clarification of noncompetitive 8(a) SEDB award requirements and increase in threshold from \$20M to \$22M.

Reason for Change: Appropriate clarifications to Policy and increase in threshold consistent with the FAR.

Development, Review, and Concurrence: Contracts, Small Business and Acquisition Policy Division

Target Audience: Contracting personnel and program offices

Briefing Planned: No.

ASAG Responsibilities: None.

Section / Text Location: 3.6.1.3.5

The redline version must be a comparison with the current published FAST version.

I confirm I used the latest published version to create this change / redline

or

This is new content

Links:

<http://fast.faa.gov/docs/acquisitionManagementPolicy/AcquisitionManagementPolicy3.6.pdf>

Attachments: Redline and final documents.

Other Files: N/A

Redline(s):

Section Revised: 3.6.1.3.5 – Noncompetitive Awards to SEDB (8(a)) Vendors

Acquisition Management Policy - (~~4/2016~~ 7/2016)

3.6 Socio-Economic and Other Policies and Programs

3.6.1 Small Business Development Program Revised 7/2005

3.6.1.1 Applicability Revised 10/2012

3.6.1.2 Policy Revised 1/2010

3.6.1.3 Principles for the Small Business Development Program Revised 7/2005

3.6.1.3.1 Program Goals Revised 7/2005

3.6.1.3.2 Prime Contracting with Small Businesses Revised 7/2015

3.6.1.3.3 Set-Asides to Very Small Businesses

3.6.1.3.4 Set-Asides to Small Businesses Owned and Controlled by Socially and Economically Disadvantaged Individuals (8(a) Certified) Revised 7/2015

3.6.1.3.5 Noncompetitive Awards to SEDB (8(a)) Vendors

Revised ~~10/2012~~ 7/2016

3.6.1.3.6 Set-Asides to Service-Disabled Veteran Owned Small Businesses Revised 10/2008

3.6.1.3.7 Subcontracting with Small Businesses and Small Businesses Owned and Controlled by Socially and Economically Disadvantaged Individuals

3.6.2 Labor Laws

3.6.2.1 Applicability Revised 10/2014

3.6.2.2 Policy

3.6.3 Environment, Conservation, Occupational Safety, and Drug-Free Workplace

Revised 4/2009

3.6.3.1 Applicability Revised 4/2009

3.6.3.2 Policy

3.6.3.3 Pollution Revised 7/2013

3.6.3.3.1 Non-Ozone Depleting Substances Added 7/2013

3.6.3.3.2 Chemicals Management Added 7/2013

3.6.3.4 Conservation

3.6.3.4.1 Energy Conservation and Efficiency Revised 7/2013

3.6.3.4.2 Recovered or Recycled Materials Revised 10/2014

3.6.3.4.3 Biobased Materials Added 4/2013

3.6.3.4.4 Water Conservation and Efficiency Added 7/2013

3.6.3.4.5 Delivery of Paper Documents Added 10/2014

3.6.3.5 Drug-Free Workplace Revised 4/2009

[3.6.3.6 Hazardous and Radioactive Materials](#)

3.6.3.6.1 Waste Management Added 7/2013

3.6.3.6.2 Hazardous Material Identification and Material Safety
Data Revised 4/2009

3.6.3.6.3 Notice of Radioactive Material Revised 4/2009

[3.6.4 Foreign Acquisition](#) Revised 4/2014

[3.6.4.1 Buy American Act](#) Added 10/2014

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3.6 Socio-Economic and Other Policies and Programs

3.6.1 Small Business Development Program Revised 7/2005

3.6.1.1 Applicability Revised 10/2012

The policies in this Section apply to FAA procurements for products and services but exclude those procurements using purchase cards, purchase card checks, electric utilities, real property, grants, memoranda of understanding, non-appropriated funds, contracts to be awarded and performed entirely outside of the United States, contracts with foreign governments or international organizations, agreements, and required sources of products/services and use of Government sources including products available from Federal Prison Industries (FPI) (refer to AMS Small Business Program Development Guidance).

3.6.1.2 Policy Revised 1/2010

The FAA must comply with Presidential directives, constitutional standards, public laws, and DOT Secretary Policy Statements to promote, expand, aggressively provide procurement opportunities as prime contractors and as subcontractors for small businesses, small businesses owned by socially and economically disadvantaged individuals, women-owned small businesses and service-disabled veteran owned small businesses. The FAA's Small Business Development staff currently has and will continue to have responsibility for:

- FAA's policy and program on the utilization of small business and small businesses owned and controlled by socially and economically disadvantaged individuals;
- Establishing mechanisms for monitoring and evaluating the effectiveness of the small business program; and
- Ensuring FAA-wide implementation and accomplishment of the small business program objectives.

Key features of the small business program will include:

- Competitive/noncompetitive set-asides;
- Establishment of eligibility criteria and measurable prime contracting and subcontracting goals;
- Vigorous outreach efforts;
- Mentor-Protégé Program; and
- Small business forums.

3.6.1.3 Principles for the Small Business Development Program Revised 7/2005

3.6.1.3.1 Program Goals Revised 7/2005

Prior to the end of each fiscal year, measurable annual FAA wide major procurement program goals (including subcontracting goals) will be established to provide attainable and reasonable opportunities for small businesses and small businesses owned and controlled by socially and economically disadvantaged individuals to participate in contracts awarded by the FAA for the next fiscal year.

To ensure attainment of the program goals, senior management shall be held responsible and goal achievement shall be monitored at all levels in the agency. Additionally, the Small Business Development Staff will conduct vigorous outreach efforts that may include participating in Small Business Conferences, Small Business forums, etc.

3.6.1.3.2 Prime Contracting with Small Businesses Revised 7/2015

When appropriate, individual procurements may be set aside for competitive award among small businesses. Individual procurements may also be set-aside for small businesses in up to three categories (combined set-asides).

3.6.1.3.3 Set-Asides to Very Small Businesses

When appropriate, individual procurements may be set aside for competitive award among very small businesses. Special attention will be given to service contracts for very small businesses.

3.6.1.3.4 Set-Asides to Small Businesses Owned and Controlled by Socially and Economically Disadvantaged Individuals (8(a) Certified) Revised 7/2015

Except for those acquisitions set aside for very small business concerns, or those acquisitions being purchased using the agency purchase card, or those acquisitions subject to AMS 3.8.4.2, each acquisition of supplies or services having an anticipated dollar value exceeding \$10,000, but not over \$150,000, is automatically reserved exclusively for SEDB (8(a)) vendors unless the Contracting Officer, with review of the cognizant Small and Small Disadvantaged Utilization Specialist, determines there is not a reasonable expectation of obtaining offers from responsible SEDB (8(a)) concerns that are competitive in terms of market prices, quality and delivery. This requirement applies to Screening Information Requests (SIRs) issued on or after June 1, 2015. The Contracting Officer must submit the Small Business Set-Aside Determination and Coordination Form for all such acquisitions (see also AMS Small Business Development Program Guidance for use of this form). **These procurements may be either competitive or noncompetitive.**

In addition, other individual procurements outside the above specified range may be set-aside for competitive award among Socially and Economically Disadvantaged Businesses (SEDBs) that are 8(a) certified, when appropriate.

3.6.1.3.5 Noncompetitive Awards to SEDB (8(a)) Vendors Revised ~~10/2012~~ 7/2016

Individual procurements may be noncompetitively awarded to SEDB (8(a)) vendors when the anticipated total value of the procurement (including all options) is \$6.5 million or below for procurements assigned manufacturing North American Industry Classification System codes and \$4 million or below for all other procurements. Where a procurement exceeds the noncompetitive threshold, the procurement may be awarded on a noncompetitive basis to SEDB (8(a)) vendors if: (1) there is not a reasonable expectation that at least two or more SEDB (8(a)) sources will submit offers that are in the Government's best interest in terms of quality, price and/or delivery; or (2) the award will be made to a concern owned by an Indian tribe or an Alaska Native Corporation. Noncompetitive awards above \$~~2022~~ million to SEDB 8(a) vendors ~~or a concern owned by an Indian Tribe or an Alaska Native Corporation~~ must be justified and documented as indicated in AMS Small Business Development Procurement Guidance.

3.6.1.3.6 Set-Asides to Service-Disabled Veteran Owned Small Businesses Revised 10/2008

When appropriate, individual procurements may be awarded noncompetitively or set-aside competitively for award among service-disabled veteran owned small businesses.

3.6.1.3.7 Subcontracting with Small Businesses and Small Businesses Owned and Controlled by Socially and Economically Disadvantaged Individuals

When appropriate, subcontracting opportunities will be encouraged.

3.6.2 Labor Laws

3.6.2.1 Applicability Revised 10/2014

The Davis-Bacon Act (40 U.S.C. § 276a), Convict Labor (18 U.S.C. § 4082-(c)(2)), Copeland Act (18 U.S.C. § 874 and 40 U.S.C. § 276c), Walsh-Healey Public Contracts Act (41 U.S.C. §§ 6501-6511), Equal Employment Opportunity (Executive Order 11,141, 29 FR 2477), Service Contract Act (41 U.S.C. §§ 6701-6707), and other labor laws and regulations will apply to acquisitions for products, services, and construction.

3.6.2.2 Policy

The FAA will comply with labor laws when acquiring products, services, and construction.

3.6.3 Environment, Conservation, Occupational Safety, and Drug-Free Workplace

Revised 4/2009

3.6.3.1 Applicability Revised 4/2009

This section applies to all FAA SIRs and contracts performed in the United States.

3.6.3.2 Policy

It is the policy of the FAA to contract with entities that are in compliance with applicable environmental, energy, safety, and drug-free workplace laws, orders, and regulations.

3.6.3.3 Pollution Revised 7/2013

3.6.3.3.1 Non-Ozone Depleting Substances Added 7/2013

Pursuant to the Clean Air Act and Executive Orders 13423 and 13514, FAA must procure non- ozone depleting alternatives to the maximum extent practicable. FAA must maximize the use of safe alternatives to ozone depleting substances, as approved by Environmental Protection Agency's (EPA) Significant New Alternatives Policy (SNAP) Program. These considerations must be identified in the procurement planning and Screening Information Request (SIR)/contract documents.

3.6.3.3.2 Chemicals Management Added 7/2013

Pursuant to Executive Orders 13423 and 13514, procurements must to the maximum extent practicable 1) reduce the overall quantity of chemicals and toxic materials acquired, used, and disposed of; and 2) use less or non-toxic alternatives where their application would be meaningful and consistent with meeting FAA requirements. Contractors must use integrated pest management (IPM) and adhere to environmentally preferable landscaping management practices when providing services to FAA. These considerations must be identified in the procurement planning and SIR/contract documents.

3.6.3.4 Conservation

3.6.3.4.1 Energy Conservation and Efficiency Revised 7/2013

Pursuant to Executive Orders 13423 and 13514, the Energy Policy Act of 2005 (EPAct 2005), the Energy Independence and Security Act of 2007 (EISA 2007), and FAA Order 1053.1B, FAA must procure the most energy efficient products available, where life-cycle cost-effective and consistent with the mission need. In doing so, FAA must procure Electronic Product Environmental Assessment Tool (EPEAT) registered, Energy Star® labeled, and Federal Energy Management Program (FEMP) designated products. FAA policy promotes energy conservation and efficiency factors in acquisitions when their use would be meaningful, practical, and consistent with meeting FAA requirements. These considerations must be identified in the procurement planning and SIR/contract documents when procuring products or services affecting FAA energy consumption.

3.6.3.4.2 Recovered or Recycled Materials Revised 10/2014

Pursuant to Executive Orders 13423 and 13514, FAA must procure products composed of recycled content, where such products meet FAA performance requirements. Procurement of products designated in EPA's Comprehensive Procurement Guidelines (CPG) must be for the highest percentage of recovered materials practicable. Uncoated printing and writing paper purchased (including office paper products or support services that include the supply of written documents) must contain at least 30 percent postconsumer fiber. FAA should purchase uncoated paper containing at least 50 percent fiber content whenever practicable. If uncoated paper containing at least 30 percent postconsumer fiber is not reasonably available, does not meet reasonable performance requirements, or is only available at an unreasonable price, then uncoated paper containing at least 20 percent postconsumer fiber may be used as an alternative. These considerations must be identified in procurement planning and SIR/contract documents

3.6.3.4.3 Biobased Materials Added 4/2013

Pursuant to the U.S. Farm Bill and Executive Orders 13423 and 13514, FAA will purchase and use products composed of the highest percentage of biobased material practicable. Biobased requirements must be identified in procurement planning, SIR and contract documents.

3.6.3.4.4 Water Conservation and Efficiency Added 7/2013

Pursuant to Executive Orders 13423 and 13514 and FAA Order 1053.1B, FAA must procure the most water efficient products available, where life cycle cost-effective and consistent with the mission need. In doing so, FAA must procure WaterSense® labeled or other water conserving products. These considerations must be identified in the procurement planning and SIR/contract documents when procuring products or services affecting FAA water consumption.

3.6.3.4.5 Delivery of Electronic and Paper Documents Added 10/2014

Contractors must submit acquisition-related documents electronically, to the maximum extent practicable. When paper documents are submitted to the FAA, they must be printed or copied double-sided. Refer to the Recovered or Recycled Materials Policy above for additional requirements for delivery of paper documents.

3.6.3.5 Drug-Free Workplace Revised 4/2009

The FAA must deem any offer unqualified and ineligible for award unless the offeror has certified that it is a drug free workplace. After contract award, if there is adequate evidence to suspect that the contractor submitted a false certification or failed to comply with the certification, the FAA

may suspend payments, terminate the contract for default, debar or suspend the contractor, or take other appropriate action to obtain quality performance by a lawfully operating contractor.

3.6.3.6 Hazardous and Radioactive Materials

3.6.3.6.1 Waste Management Added 7/2013

Contractors must comply with the waste reduction and reporting requirements set forth in Executive Orders 13423 and 13514 with regard to increasing the diversion of non-hazardous solid waste, Construction and Demolition (C&D) debris, and organic and compostable materials from the waste stream. Waste management will further be accomplished through employing source reduction strategies (such as purchasing items that require less packaging materials during shipping) and reducing printing paper use. Waste management factors must be considered, to the maximum extent practicable, in acquisitions where their application would be meaningful and consistent with meeting FAA requirements. These factors must be identified in the procurement planning and Screening Information Request (SIR) contract documents.

3.6.3.6.2 Hazardous Material Identification and Material Safety Data Revised 4/2009

It is the FAA policy to comply with Occupational Safety and Health Administration (OSHA) regulations on hazardous materials, conditions and precautions. To comply with these regulations, the FAA must obtain information from contractors when hazardous materials are provided to the FAA. Contractors are required to identify any hazardous materials delivered under a contract, as defined in Federal Standard 313; and must provide Material Safety Data Sheets for all identified hazardous materials.

3.6.3.6.3 Notice of Radioactive Material Revised 4/2009

The contractor is required to notify the FAA, prior to delivery, of radioactive material that requires specific licensing under the Atomic Energy Act of 1954; or material with a specific activity that is greater than .002 microcuries per gram, or a specific activity per item exceeds .01 microcuries.

3.6.4 Foreign Acquisition Revised 4/2014

3.6.4.1 Buy American Act Added 10/2014

The FAA will comply with the tenets of the Buy-American Act (41 U.S.C. §§ 8301-8305) as part of the agency's best value determination during the contractor selection process.

3.6.4.2 Export Control Added 4/2014

The FAA will comply with all U. S Export Control laws and regulations, including the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130 and the Export Administration Regulations (EAR), 15 CFR Parts 730 through 774.

3.6.5 Indian Incentive Program

The FAA is subject to the requirements of paragraph 1544 of 25 U.S.C. that establishes an incentive payment for contractors of Federal agencies that subcontract with or use suppliers who are Indian organizations or Indian-owned economic enterprises in performing the contract. This incentive payment may be equal to 5% of the amount paid, or to be paid, to a qualifying subcontractor or supplier that is an Indian organization or Indian-Owned economic enterprise.

3.6.6 Fastener Quality Act

The FAA shall comply with Pub. L. 101-592, as amended by Pub. L. 104-113 in equipment and construction applications which require the use of high-strength fasteners.