

# ***Headquarters Policy Flash***

**FLASH 2000-31**

**DATE:** December 18, 2000  
**TO:** Procurement Directors  
**FROM:** Office of Procurement and Assistance Policy, MA-51  
Office of Procurement and Assistance Management

**SUBJECT:** **Small Business Developments**

**SUMMARY:** Two memorandums were recently issued to (1) increase emphasis on small business prime and subcontracting goals, including small disadvantaged, 8(a), women-owned, HUBZone, and disabled veteran-owned firms and (2) provide further guidance on the administration and implementation of contract bundling requirements. This flash provides a summary of these important memorandums. Copies are attached for your information.

<http://www.pr.doe.gov/acqguide/acqguide.html>

**FLASH 2000-31**  
**(December 18, 2000)**

**Memorandum signed by the Secretary of Energy on December 5, 2000, "Achieving Departmental Small Business Goals:**

- ☛ In fiscal year 2000, the Small Business Administration assigned the Department of Energy a "challenge" goal of 5 percent of the total prime contracting base, compared to 3 percent achieved in fiscal year 1999. The Secretary of Energy has announced a continued "challenge" to achieve a goal of 6 percent by fiscal year 2003.
- ☛ The Office of Small and Disadvantaged Business Utilization will develop an Annual Small Business Report to the Secretary to provide a strategy and framework for achieving and increasing the Department's small business contracting goals. The report will identify small business contracting opportunities in order to set incremental goals over a 3 year period, and will describe achievements by DOE elements.
- ☛ Lead Program Secretarial Officers and the National Nuclear Security Administration (NNSA), and other Headquarters departmental elements must submit an annual plan which includes individual strategies and performance for their program and field elements.
- ☛ The Chief Operating Officers Council, the Office of Procurement and Assistance Management, and the NNSA Procurement Executive will work with the OSDBU to develop 3 year goals for major program elements.
- ☛ Small business program managers have been assigned at major departmental elements and each Head of Contracting Activity (HCA) to work with OSDBU. Departmental elements and HCAs shall evaluate the level of their small business program manager to ensure they have sufficient authority to execute their functions.
- ☛ Within 30 days of the issuance of the memorandum, OSDBU will provide guidelines on the development of the Small Business Plans, and a copy of a draft DOE Order to provide further direction on small business requirements.

**Memorandum signed by the Deputy Secretary on October 27, 2000, Review of Small Business Participation in Bundled Contract Requirements:**

- ☛ Consistent with the guidelines provided in Acquisition Letter 2000-02, dated April 20, 2000, Departmental elements are to avoid contract consolidation which may have adverse effects on small business participation. A summary of the final rule on "contract bundling" published in the Federal Register on July 26, 2000 is attached to the memorandum.

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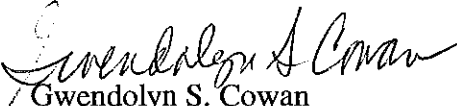
- ☛ Heads of Departmental Elements must coordinate with OSDBU to develop options to maximize small business participation in the acquisition strategy of consolidated requirements.
- ☛ OSDBU will review bundled acquisitions which require the approval of the Deputy Secretary as defined in FAR 7.107(c). This direction applies to all requirements regardless of the method of acquisition, e.g. requests for proposals, task orders, Federal supply schedule delivery orders, Government-wide acquisition contracts, and requirements obtained by another agency through interagency agreements.

In addition to the memorandums above, the Office of Procurement and Assistance Management will continue to place increased management emphasis on providing assistance to field activities to promote small business participation. On October 17, 2000, the Office of Management Systems requested information to determine which contracting actions would require Headquarters approval and benefit from the Headquarters Clearance Review Process. For fiscal year 2000, two new reporting categories of procurement actions were included in the advance planning document:

- procurement actions in excess of \$3 million dollars that have not been set aside, in whole or in part, for small business, small disadvantaged business, women-owned business, or HUBzone business. The actions include requirements identified in Acquisition Letter 2000-02; awards made pursuant to a Government-wide Agency Contract (GWAC); and supplies and services acquired under an Interagency Agreement where performance will be provided through the award of a contract the servicing agency.
- procurement actions that are the result of a consolidation (i.e. "bundling") of requirements, as defined in Section 2.101 of the Federal Acquisition Regulation, regardless of the method of acquisition (request for proposal, task order, federal supply schedule, GWAC, interagency agreement, etc.)

The information provided by field activities was provided to the OSDBU to assist in their advance planning for the required reviews established by the Deputy Secretary's 10/17/00 memorandum and Acquisition Letter 2000-02, dated 4/20/00.

Questions concerning this flash should be directed to Bob Webb at [robert.webb@pr.doe.gov](mailto:robert.webb@pr.doe.gov) or (202) 586-8624.

  
Gwendolyn S. Cowan  
Director

cc: PPAG Members

2 Attachments




## The Deputy Secretary of Energy

Washington, DC 20585

October 27, 2000

### MEMORANDUM FOR HEADS OF DEPARTMENTAL ELEMENTS

FROM: T. J. GLAUTHIER 

SUBJECT: Review of Small Business Participation In Bundled Contract Requirements

In order to balance between the Federal Government's priorities of cost savings, and preserving competition and small business prime contracting, the Small Business Administration published the final rule on "contract bundling" in the Federal Register on July 26, 2000. I am issuing further guidance on the administration and implementation of these requirements.

The final rule requires agencies to avoid unnecessary bundling of contract requirements that precludes small business participation as prime contractors as well as structure contract requirements to facilitate competition by and among small business concerns (attachment). In summary, the new regulations call for a procuring agency intending to bundle requirements to:

- demonstrate measurable substantial benefits or criticality to the agency's mission,
- prepare an acquisition strategy to preserve and promote small business participation as prime contractors and efforts to include small business firms as subcontractors, and
- document certain actions in accordance with the procedures stated in Subpart 7.107 of the Federal Acquisition Regulation (FAR).

Consistent with the guidelines provided to you by the Senior Procurement Executive in Acquisition Letter 2000-02, dated April 20, 2000, I expect you to avoid contract consolidation which may have adverse effects on small business participation. Indeed, I expect you to proactively consider how a consolidation can be effected that advances the participation of small and small disadvantaged business. Therefore, I am directing that the Heads of Departmental Elements coordinate with the Office of Small and Disadvantaged Business Utilization (OSDBU) to develop options to maximize small business participation in the acquisition strategy of consolidated requirements. The Office of Procurement and Assistance Management shall assist the OSDBU in this effort.



I am also requiring OSDBU review of those bundled acquisitions requiring my approval, as defined in FAR 7.107(c). This direction applies to all departmental acquisition requirements regardless of the method of acquisition, e.g., requests for proposals, task orders, Federal supply schedule delivery orders, Government-wide acquisition contracts, and requirements obtained by another agency through interagency agreements.

Please refer any questions regarding the subject matter to the attention of Ms. Esther Aguilera, OSDBU Executive Director, telephone number (202) 586-7377, or [esther.aguilera@hq.doe.gov](mailto:esther.aguilera@hq.doe.gov).

Attachment

**Bundling Requirements Final Rule Effective July 26, 2000**

- The agency head or designee must ensure that acquisition planners, to the maximum extent practicable, avoid unnecessary and unjustified bundling that precludes small business participation as contractors.
- Bundled contract means a contract that is entered into to meet requirements that are consolidated by bundling, excluding a contract awarded and performed entirely outside the United States. "Bundling" means consolidating two or more requirements for supplies or services, previously provided or performed under separate small contracts, into a solicitation for a single contract that is likely to be unsuitable for award to a small business concern. "Separate small contract" means a contract that has been performed by one or more small business concerns or that was suitable for an award to one or more small business concerns.
- It authorizes the SBA to appeal to the head of a procuring agency certain decisions made by the agency that SBA believes *adversely* affect SBs, including proposed procurements that include goods or services currently performed by a small business and which are in a quantity or estimated dollar amount, the magnitude of which renders SB *prime* contract participation unlikely.
- It requires a procuring activity, intending to bundle, to document the following:
  - measurably substantial benefits or critical to the agency's mission, and
  - plans to preserve and promote SB participation as prime contractors and efforts to include SBs as subcontractors.
- Contracts which result in an average annual value of \$10 million or more are considered to be substantially bundled. The acquisition strategy must:
  - identify the specific benefits anticipated to be derived from bundling;
  - include an assessment of the specific impediments to participation by SB concerns as contractors that result from bundling;
  - specify actions designed to maximize SB participation as contractors, including provisions that encourage SB teaming;
  - specify actions designed to maximize SB participation as subcontractors (including suppliers) at any tier under the contract or contracts that may be awarded to meet the requirements; and
  - include a specific determination that the anticipated benefits of the proposed bundled contract justify its use.
- Agencies should consult SBA PCRs when performing market research.
- Notify any affected incumbent SB concern at least 30 days before release of the solicitation of the Government's intention to bundle the requirement; and how the concerns may contact the appropriate SB representatives.
- For solicitations involving bundling that offer a significant opportunity for subcontracting, the CO must include a factor to evaluate past performance indicating the extent to which the offeror attained applicable goals for SB participation under contracts that required subcontracting plans.
- For solicitations involving bundling that offer a significant opportunity for subcontracting, the CO must also include proposed SB subcontracting participation in the subcontracting plan as an evaluation factor.



December 5, 2000

MEMORANDUM FOR HEADS OF HEADQUARTERS ELEMENTS

FROM: BILL RICHARDSON *BR*

SUBJECT: Achieving Departmental Small Business Goals

In the memorandum issued on February 11, 2000, entitled "Maximizing Small Business Utilization," I introduced several initiatives for increasing small business participation in Department of Energy (DOE) technical, environmental and scientific work and strengthening the Department's small business functions. The Department and its prime contractors have made progress in implementing these initiatives. Yet, additional monitoring and reporting tools are needed to maintain an emphasis on small business prime and subcontracting goals, including small disadvantaged, 8(a), women-owned, HUBZone, and disabled veteran-owned firms.

The Small Business Administration (SBA) assigned DOE a small business "challenge" goal of 5 percent of the total prime contracting base in fiscal year 2000, compared to 3 percent achieved in fiscal year 1999. While it is difficult to increase small business contracting from 3 to 5% in the span of one year, with adequate planning, the Department can meet and surpass this goal. I am challenging departmental elements to continue to increase small business prime contracting to achieve a goal of 6 percent by fiscal year 2003. At the same time, continued growth in small business subcontracting is important to build on the Department's total small business commitment.

In order to accomplish these objectives, the Office of Small and Disadvantaged Business Utilization (OSDBU) will develop an Annual Small Business Report to the Secretary of Energy (Report) which will provide a strategy and framework for achieving and increasing the Department's small business contracting goals. The purpose of the Report is to identify small business contracting opportunities in order to set incremental goals over a three-year period. The Report also describes achievements by DOE elements to engage small business in technical, scientific, environmental, and other energy-related fields.

The development of the Report will require that Lead Programmatic Secretarial Officers (LPSOs), the National Nuclear Security Administration (NNSA), and other Headquarters departmental elements submit an Annual Small Business Plan (Plan) to OSDBU. The Plans submitted by LPSOs and NNSA will include individual strategies and performance for their reporting program and field



elements. The head of each organization will be the signing official for their Small Business Plan which is due January 15 for fiscal year 2001 and November 15 thereafter. The Plans are designed to encourage all DOE elements to incorporate small business participation early in the acquisition and program planning process. The Plans will be used as a tool for submitting proposed goals and identifying prospective contracts of \$3 million and above for review by OSDBU. Your Small Business Plan shall include the following: 1) measure small business prime and subcontracting performance against prior year achievements for each small business category; 2) establish target participation goals over a three-year cycle by identifying expiring contracts and other projected contract opportunities; 3) provide a summary of ongoing and projected major acquisitions and programs, describing the level of small business participation at the prime and subcontracting levels, particularly for technical, scientific, environmental, research & development, and financial assistance opportunities; and 4) highlight success stories and outreach efforts to educate the small business community about your business lines, program direction, and operations.

The Chief Operating Officers Council, the Office of Procurement and Assistance Management (MA-5), and the NNSA Procurement Executive will work with OSDBU to develop three year goals for major program elements in order to work towards meeting a 6 percent goal in fiscal year 2003. In addition, the Department has a network of small business program managers to help with these endeavors. In accordance with the Small Business Act, the Department has assigned a small business program manager at major departmental elements and each Head of Contracting Activity (HCA) to work with OSDBU in performing the functions and duties related to sections 8, 15, and 31 of the Act. Each departmental element and HCA shall evaluate the level of their small business program manager to ensure that they have sufficient authority to execute these functions and routinely coordinate small business activities with executive level management.

Within 30 days of the issuance of this memorandum, OSDBU will provide guidelines on the development of the Small Business Plans, as well as draft a DOE Order to provide further direction for carrying out the relevant requirements of the Small Business Act and implementing Federal Acquisition Regulation, Part 19. LPSOs and the NNSA Administrator will provide direction to reporting program and field organizations for completing each of these requirements.