



**Department of Energy
Acquisition Regulation**

**No. 2005-06
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ACQUISITION LETTER

This Acquisition Letter is issued under the authority of the DOE and NNSA Procurement Executives.

Subject: Small Business Procurement Goals

References:

FAR Subpart 19.7 The Small Business Subcontracting Program
13 CFR Chapter 1 Small Business Administration
OFPP Letter 99-1 Small Business Procurement Goals
Small Business Administration (SBA)
 Goaling guidelines for the Small Business Preference Programs for Prime

When is this Acquisition Letter (AL) Effective?

This AL is effective immediately upon issuance.

When does this AL Expire?

This AL remains in effect until superseded or canceled.

Who is the Point of Contact?

Contact Stephen Zvolensky of the Department of Energy (DOE) Office of Procurement and Assistance Policy at (202) 287-1307, or at stephen.zvolensky@hq.doe.gov, or Gary Lyttek, National Nuclear Security Administration (NNSA) Office of Acquisition and Supply Management at (202) 586-8304, or at gary.lyttek@nnsa.doe.gov, or Nickolas Demer, Office of Small and Disadvantaged Business Utilization (OSDBU) at (202) 586-1614, or at Nickolas.Demer@hq.doe.gov.

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What is the Purpose of this AL?

The purpose of this AL is to provide guidance on establishing and reporting against contract goals for small business concerns at the prime and subcontract levels.

What is the Background?

The Office of Federal Procurement Policy (OFPP) Policy Letter 99-1 (<http://www.acqnet.gov/Library/OFPP/PolicyLetters/Letters/PL99-1.html>) contains guidance on implementing Government-wide goals for contracts awarded to small businesses and supports SBA's policies of establishing its own guidance on these goals. The Small Business Act (<http://www.sba.gov/regulations/sbaact/sbaact.html>) contains a government-wide goal for participation by small business concerns of not less than 23 percent of the total value of all prime contract awards for each fiscal year as well as individual goals for women-owned small business concerns (5%), small disadvantaged business concerns (5%), service-disabled veteran-owned small business concerns (3%) and HUBZone small business concerns (3%). The Act further provides that agencies negotiate annual goals with the SBA. The statutory goals are government-wide, meaning that the percentages are based on the aggregate of all Federal procurement. Each Federal department and agency has different program missions and procurement requirements. The Small Business Act states "Notwithstanding the government-wide goal, each agency shall have an annual goal that presents, for that agency, the maximum practicable opportunity for small business concerns..." (see 15 U.S.C. 644 § (g)(1)). The SBA works with each agency to establish goals that provide small businesses both the maximum opportunity to be awarded contracts, given that agency's procurement requirements, and meet government-wide small business procurement goals. It is the SBA's policy to begin the negotiation by assigning either the statutory level or the average achievement for the past 3 years – whichever is higher – and agencies must make a compelling case to have goals set lower. The SBA cannot accept proposed goals from an agency until it is convinced the cumulative goals for all agencies combined will at least reach the statutory government-wide levels. The Office of Small and Disadvantaged Business Utilization (OSDBU) is responsible for negotiating the Department's small business goals in compliance with the SBA's "Goaling Guidelines for Small Business Preference Programs for Prime and Subcontractor Federal Procurement Goals & Achievements " (<http://www.sba.gov/GC/goals/ggtotal71503.pdf>).

Establishing Accurate Goaling Bases for Prime and Subcontracts

The Department of Energy is committed to increasing awards to small and small disadvantaged businesses in both prime contracting and subcontracting. To ensure that the percentages of both prime and subcontracting awards to small business are accurately reported, it is necessary to correctly identify the bases against which prime contracting and subcontracting goals are measured.

Prime Contracting:

The OSDBU is responsible for working with the departmental elements in developing the prime contracting goals for each element. A description of that process is available on the OSDBU website and includes an annual request for goals from each element. The request has standard forms that identify the government-wide statutory goals, contains the department-wide goals negotiated with SBA, and requires each element to develop and submit their individual goals in support of the department-wide goals. The goaling form is provided in PDF on the professionals home page. A sample of the form is attached to this Acquisition Letter.

The Department of Energy's annual proposed small business goals reflect the compilation of the individual small goals proposed by program elements. The estimated procurement base to be used in goaling is developed annually for each element by the DOE Financial Data Warehouse (FDW) database group. Obligated dollars are tracked by budget and reporting (B&R) codes, specific to each program element. In preparing the procurement base for each element, the FDW subtracts all DOE salaries and operational costs and also applies the exclusions identified on page 3 of the SBA's "Goaling Guidelines for the Small Business Preference Programs," as follows:

- Non-appropriated Funds. Procurements with funds generated from operations such as user fees, gifts, etc. rather than appropriated funds. Examples include the U.S. Postal Service and Comptroller of the Currency. This category includes "work for others," in which funds are transferred to DOE from other federal agencies.
- Internal Transactions. Some transactions are internal to an agency and are not actually contracts, such as when a military base orders supplies from the Defense Department's Supply Depot. The acquisitions of the supply depot are also not included in the goaling program because they are funded with proceeds from resales within the Department.
- Mandatory Sources. By law, agencies must award certain contracts to "mandatory sources." Examples include commodities produced by the Federal Prison Industries (known as UNICOR) or the JWOD Participating Nonprofit Agency (formerly Sheltered Workshop).
- Contracts for Foreign Governments or International Organizations. Examples include Foreign Military Sales that are Government to Government transactions often funded by foreign country funds.
- Contracts Not Under FAR. As a matter of policy, goals only extend to procurements subject to the Federal Acquisition Regulations (FAR). Therefore, agencies with special exemptions from the FAR, such as the Federal Aviation Administration (FAA) or the Transportation Security Administration (TSA), are not covered by the goaling program.

Also see page 7 through 9 of the SBA guidelines for additional examples and reasons for the exclusions.

Subcontracting:

Departmental subcontracting goals are negotiated annually by the OSDDBU with the SBA. Those goals are provided to the Contracting Officers and Small Business Program Managers (SBPMs) at all facilities by the OSDDBU on an annual basis prior to the start of a fiscal year. The NNSA Head of Contracting Activity is responsible for providing subcontracting goals to the Contracting Officers and SBPMs at all of its facilities. The procedures to be used by prime contractors for establishing subcontracting goals and specific requirements for subcontracting plans are established in FAR 19.704, Subcontracting plan requirements (<http://www.arnet.gov/far/loadmainre.html>). The only two exclusions from the subcontracting goaling base are currently listed on the Standard Form (SF) 294, Subcontracting Report for

Individual Contracts, and SF 295, Summary Subcontract Report. These exclusions are (1) subcontracts involving performance outside the U.S. or its outlying areas and (2) purchases from a corporation, company, or subdivision that is an affiliate of the prime/subcontractor. Contracting Officers shall ensure that prime contractors are aware of these procedures and do not apply additional exclusions when developing their subcontracting base.

Collecting and Reporting Small Business Contracting Information

The systems for collecting and reporting small business award information are the Federal Procurement Data System-Next Generation (FPDS-NG) which is hosted by GSA, and the new Electronic Subcontracting Reporting System (eSRS) which will be hosted by SBA for subcontracting reporting.

Historically, government contractors have submitted the SF-295 to the procuring agency and to their OSDDBU. The SF-294 for specific contracts was submitted to the contracting office. The eSRS, which is part of the integrated acquisition environment, will provide a paperless system allowing contractors to enter both of these reports into a web site (<http://www.esrs.gov>). All contractors required to file both types of subcontracting reports will do so using the eSRS. The eSRS contract was awarded in January of 2005 and will be operational later in the year. The eSRS will replace the paper Standard Form 294 (SF 294), Subcontracting Report for Individual Contracts, and Standard Form 295 (SF 295), Summary Subcontract Report. Until eSRS is online, DOE will collect the SF 294s for FY2004 and the first half of FY2005 in the DOE Subcontracting Reporting System. At the request of the SBA, the SF 295 reports for FY2004 will be submitted into the new eSRS when it comes online.

The accuracy of the statistics reported in these systems is vital to the credibility of the Department's performance in this area, which is continually monitored by Congress, the SBA, trade organizations, small business advocacy groups, and other entities.

What Guidance is Provided in this AL?

Contracting offices shall ensure that the percentages of prime contracting awards to small business are accurately reported. In establishing the bases for small business goals for awards to prime contractors, DOE shall comply with the SBA's "Goaling Guidelines for Small Business Preference Programs for Prime and Subcontractor Federal Procurement Goals & Achievements" (<http://www.sba.gov/GC/goals/ggtotal71503.pdf>).

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