Small Business Programs – An Overview

Guiding Principles

- It is the policy of the Department of Energy to provide maximum practicable opportunities in its acquisitions to small business (SB), veteran-owned small business (VOSB), service-disabled veteran-owned small business (SDVOSB), Historically Underutilized Business Zone (HUBZone) small business, 8(a) small disadvantaged business, non-8(a) small disadvantaged business (SDB), and women-owned small business (WOSB) concerns.

- Small business must also have the maximum practicable opportunity to participate as subcontractors in the contracts awarded by DOE prime contractor with subcontracting requirements.

Chapter 19.0, Small Business Programs - An Overview

Overview

This section provides guidance and instruction to contracting personnel regarding small business programs in DOE.

References:

FAR 7.107	Additional requirements for acquisitions involving bundling
FAR 19.201	General policy
FAR 19.202-1	Encouraging small business participation in acquisitions
FAR 19.302	Protesting a small business representation or rerepresentation
FAR 19.306	Protesting a firm's status as a HUBZone small business concern
FAR 19.307	Protesting a firm's status as a service-disabled veteran-owned small business concern
FAR Subpart 19.5	Set-Asides for Small Business
FAR Subpart 19.7	The Small Business Subcontracting Program
FAR Subpart 19.8	Contracting with the Small Business Administration (The 8(a) Program)
FAR Subpart 19.11	Price Evaluation Adjustment for Small Disadvantaged Business Concerns
FAR Subpart 19.12	Small Disadvantaged Business Participation Program
FAR Subpart 19.13	Historically Underutilized Business Zone (HUBZone) Program
FAR Subpart 19.14	Service-Disabled Veteran-Owned Small Business Procurement Program
FAR 52.219-4	Notice of price evaluation preference for HUBZone small business Concerns
FAR 52.219-6	Notice of Total Small Business Set-Aside
FAR 52.219-7	Notice of Partial Small Business Set-Aside
FAR 52.219-8	Utilization of Small Business Concerns

FAR 52.219-9	Small Business Subcontracting Plan
FAR 52.219-10	Incentive Subcontracting Program
FAR 52.219-22	Small Disadvantaged Business Status
FAR 52.219-24	Small Disadvantaged Business Participation Program-Targets
FAR 52.219-25	Small Disadvantaged Business Participation Program-Disadvantaged Status and Reporting
DEAR Subpart 919.5	Set-Asides for small business
DEAR Subpart 919.7	The Small Business Subcontracting Program
DEAR Subpart 919.8	Subcontracting with the Small Business Administration (The 8(a) Program)
DEAR Subpart 919.70	The Department of Energy Mentor-Protégé Program
	DOE Acquisition
Guide Chapter 38	Federal Supply Schedule Contracting
13 CFR Chapter I	Small Business Administration
OFPP Letter 80-1	P.L. 95-507, Section 211, Subcontracting: Agency Coordination with the Small Business Administration Resident Procurement Center Representatives
OFPP Letter 99-1	Small Business Procurement Goals

Purpose of the Acquisition Guide

The purpose of this Guide is to make available guidance on contracting with small business concerns. This Guide is divided into three parts: Part I applies to the award of prime contracts; Part II applies to the award of subcontracts; and Part III includes other considerations.

Background on Small Business

The Small Business Act contains a government-wide goal for participation by small business concerns for prime contract awards for each fiscal year as well as individual goals for women-owned small business concerns, small disadvantaged business concerns, service-disabled veteran-owned small business concerns and HUBZone small business concerns. The Act further provides that agencies negotiate annual goals with the Small Business Administration (SBA). Information on the government-wide goaling guidelines for the small business preference programs can be found at:
http://www.sba.gov/aboutsba/sbaprograms/goals/SBGR_2006_IQT.html. DOE annually negotiates Department-wide goals with SBA. The Department establishes individual element goals using the Office of Small and Disadvantaged Business Utilization (OSDBU) goal documents and forms (found on the OSDBU website). The OSDBU also issues an annual Small Business Strategic Plan that details actions that the Department will take to increase its small business awards.

Definitions

The definitions for the various preference programs (e.g., HUBZone) used in this Acquisition Guide can be found at FAR Subpart 2.1 (hyperlink: Acquisition Central).

FAR Dollar Thresholds

Dollar thresholds are subject to change, see FAR 2.101(b)(2), 19.502-2 (a), 19.502-2 (b), 19.508(e), 19.702(a)(1), 19.702(a)(2), 19.704(a)(9), 19.708(b)(1), 19.805-1(a)(2), 19.1202-2(a), 19.1306 (a)(2)(i), and 19.1406 (a)(2)(i), for the current dollar thresholds.

Part I. Prime Contracting

A. SMALL BUSINESS CONTRACTING PROCESSES

Total small business set-asides. (FAR 19.502-2) Each acquisition of supplies or services that has an anticipated dollar value exceeding the Micro-purchase but not over the Simplified Acquisition Threshold (see definitions at FAR 2.101), is automatically reserved exclusively for small business concerns and shall be set aside for small business unless the Contracting Officer determines there is not a reasonable expectation of obtaining offers from two or more responsible small business concerns that are competitive in terms of market prices, quality, and delivery. This obligation also applies to purchase card transactions. The Contracting Officer shall set aside any acquisition over the Simplified Acquisition Threshold for small business participation when there is a reasonable expectation that (1) offers will be obtained from at least two responsible small business concerns offering the products of different small business concerns and (2) award will be made at fair market prices.

Awards to 8(a) Firms. Policies and procedures regarding the 8(a) program can be found at FAR 19.8 and 13 CFR 124. Contracting activities may make awards under the 8(a) program with Department of Energy/National Nuclear Security Administration (DOE/NNSA) Contracting Officers signing on behalf of Small Business Administration (SBA), in accordance with the Partnership Agreement with SBA. This delegated signature authority saves time and effort in completing the award between DOE and SBA and the subcontract between SBA and the selected 8(a) firm.

Also under the 8(a) program, Alaska Native Corporations (ANCs) were created to settle land claims with Alaska Natives and foster economic development. In 1986, Congress passed legislation allowing ANCs to participate in the Small Business Administration's (SBA) 8(a) program and extended special procurement advantages to 8(a) ANC firms. Where an acquisition exceeds the competitive thresholds stated in FAR 19.805-1(a)(2), FAR 19.805-1(b)(2) permits the SBA to accept the requirement for a sole source 8(a) award to an Indian tribe or an Alaska Native Corporation.

DOE Contracting Officers are reminded to use care in the award and administration of 8(a) and ANC 8(a) contracts, such as notifying SBA of contract modifications and ensuring that the prime contractor does not exceed the percentage of work that may be subcontracted as identified in FAR 52.219-14, Limitations on Subcontracting and 13 CFR 125.6, Prime contractor performance requirements. Contracting Officers must ensure that such contracts are properly coordinated with DOE's Small Business Program Managers, (SBPMs), the OSDBU, and the SBA, as appropriate. (FAR 19.812)

Set-Asides for HUBZone Small Business Concerns. FAR 19.1305(a) and (b) state that Contracting Officers may set aside acquisitions exceeding the simplified acquisition threshold for competition restricted to HUBZone small business concerns if there is a reasonable expectation that offers will be received from two or more HUBZone small business concerns and award will be made at a fair market price. Contracting Officers shall consider HUBZone set-asides before considering HUBZone sole source awards (FAR 19.1306) or small business set-asides (FAR 19.5).

Price evaluation preference for HUBZone small business concerns. Price evaluation preferences of 10 % shall be used to facilitate an award to HUBZone small business concerns in acquisitions conducted using full and open competition (FAR 19.1307). Price evaluation requirements apply by adding a factor of 10% to all offers except offers from HUBZone small business concerns that have not waived the evaluation factors or offers from small business concerns. The price evaluation preference shall not be used (1) in acquisitions expected to be less than or equal to the simplified acquisition threshold; (2) if price is not a selection factor so that a price evaluation preference would not be considered, or (3) if all fair and reasonable offers are accepted (*e.g.,* the award of multiple award schedule contracts).

Service-disabled veteran-owned small business set-aside procedures. FAR 19.1405 permits Contracting Officers to set-aside acquisitions exceeding the micro-purchase threshold for competition restricted to service-disabled veteran-owned small business concerns if there is a reasonable expectation that offers will be received from two or more service-disabled veteran-owned small business concerns and award will be made at a fair market price (FAR 19.1405(a) and (b). If the contracting officer receives only one acceptable offer from a service-disabled veteran-owned small business concern in response to a set-aside, the contracting officer should make an award to that concern (FAR 19.1405(c)). The contracting officer shall consider service-disabled veteran-owned small business set-asides before considering service-disabled veteran-owned small business sole source awards (FAR 19.1406(a)).

Set-aside Program Parity. On September 27, 2010, President Obama signed legislation (P.L. 111-240) that re-establishes equality among most of the small business sub-categories (8(a), HUBZone, and SDVOSB) that compete for government contracts. Before the law was passed, the executive and legislative branches of government maintained differing views concerning whether a contracting officer had the flexibility to choose among socio-economic set-aside programs for a given requirement. The Executive Branch as well as the Department of Justice and SBA had directed agency contracting officers to adhere to “program parity” or to allow the contracting officer to make the determination (given the unique circumstances surrounding the procurement) as to which set-aside program to use – The 8(a) Program, HUBZone, or SDVOSB. Conversely, the GAO and the United States Court of Federal Claims ruled on several occasions that the plain meaning of the Small Business Act mandates a priority to the HUBZone program before considering other small business set-aside programs. However, the new law removes all ambiguity and allows contracting officers to equally consider these three socio-economic programs for new requirements. The parity provisions also apply to small business concerns owned and controlled by women, and contracting officers should equally consider this program as regulatory language is promulgated in the FAR.

Consequently, contracting officers should conduct market research to the extent necessary (FAR 10.002(b)(1) and (2)) for new or re-occurring requirements to determine if sources capable of satisfying the need exist across the small business set-aside programs.

Small Business Competitiveness Demonstration. In accordance with Public Law 111-240, Section 1335, the Small Business Competitiveness Demonstration Program has been repealed.

B. SMALL BUSINESS PROCUREMENT TOOLS

Mentor-Protégé Agreements. A method of increasing the participation of small businesses in government contracting is the use of Mentor-Protégé agreements. DOE and SBA operate such programs. DOE prime contractors who seek to increase subcontract awards can use the DOE Mentor-Protégé program. The DOE Mentor-Protégé Program is discussed in the subcontracting section of this guide. DOE Contracting Officers who seek to increase prime contract awards to small businesses can recommend the use of the SBA Mentor-Protégé program.

SBA Mentor-Protégé Program. SBA's regulations (13 CFR 121.103(h)(3)(B)(2)(iii)) provide for a joint venture that may include a large business and an 8(a) firm that qualify as a Mentor-Protégé arrangement, respectively, under SBA's Mentor-Protégé Program (13 CFR 124.520). Such a joint venture will be recognized as small for the size standard corresponding to the NAICS code assigned to the procurement, and for purposes of 8(a) sole source procurements, as long as the participating Protégé 8(a) firm has not reached the dollar limit set as of the date that the requirement is accepted for the 8(a) program without taking into account whether the value of that award will cause the limit to be exceeded.

This program effort results in a pool of firms that can more quickly be approved by SBA as Joint Ventures that are eligible to bid on a specific project. For any 8(a) contract, including those between mentors and proteges authorized by §124.520, the joint venture must perform the applicable percentage of work required by §124.510, and the 8(a) partner(s) to the joint venture must perform a significant portion of the contract. (13 CFR 124.513(d))

Teaming Arrangements. Another method of increasing the participation of small businesses in the award of DOE prime contracts is the use of teaming arrangements. Such arrangements supplement the capabilities of small businesses to perform large, complex requirements. Teaming arrangements not only increase business opportunities for small businesses, but also expand the skill mix of the team.

A sample solicitation provision, *Guidance for Prospective Offerors - Impact of Teaming Arrangements on Small Business Status*, is attached to this Guide Chapter. Inclusion of the provision is recommended for solicitations if teaming arrangements are contemplated, to advise prospective offerors on the impact of those arrangements on their small business status. It advises offerors of the Small Business Administration's affiliation rules and suggests they seek legal counsel if proposing a joint venture, subcontracting, or other form of teaming arrangement.

Multiple Award Contracts. Solicitations for multiple award contracts (MACs), as defined in FAR 16.504(c) should be structured in a manner that will allow small business firms an opportunity to compete for prime contracts, thereby allowing them to compete for individual orders under the contracts. The following techniques should be applied when using MACs to fill program requirements: (1) Contracting Officers should work closely with program officials and their Small Business Program Manager to identify small business opportunities early in the acquisition planning process; (2) Business strategies such as teaming arrangements should be encouraged in an effort to maximize opportunities for small businesses. Teaming arrangements not only increase business opportunities for small businesses, but also expand the skill mix of the team in some cases; (3) MACs should be set-aside exclusively for competition among small businesses when there is a reasonable expectation that offers will be obtained from at least two responsible small business concerns; (4) If a total set-aside is not practicable, consideration should be given to identifying opportunities for a component of the statement of work to be set-aside for competition among small businesses; and (5) If a total or partial set-aside is not feasible, consideration should be given to reserving and specifying in the solicitation, a certain number of awards for small businesses.

Section 1331 of Public Law 111-240, the Small Business Jobs Act of 2010, requires that the FAR be amended to establish guidance under which agencies "may, at their discretion" (i) set aside part or parts of a multiple award contract for small business; (ii) notwithstanding the fair opportunity requirements, set aside orders placed against multiple award contracts for small businesses; and (iii) reserve one or more contract award(s) for small businesses under full and open competition multiple award procurements. DOE will update this portion of the Acquisition Guide once the FAR has been amended.

Governmentwide Acquisition Contracts. A "Governmentwide Acquisition Contract" (GWAC), as defined in FAR 2.101, is a task-order or delivery-order contract for information technology established by one agency for Governmentwide use. GWACs also are referred to as "multi-agency" or "omnibus" contracts. GWACs often simplify the acquisition process for the authorizing agency as the contracting agency may maintain, and make available to the authorizing agency, their list of pre-screened contractors capable of performing certain types of requirements. The Department of Commerce's GWAC is entitled "COMMerce Information Technology Solutions" or "COMMITS" and can be found online at: http://www.commits.doc.gov/. Another frequently used procurement vehicle is the 8(a) Streamlined Technology Acquisition Resources for Services (STARS) GWAC that is a small business set-aside contract for technology solutions. It is designed to promote small business utilization when purchasing technology solutions for the federal government and can be found at http://www.gsa.gov/portal/content/104853.

C. SMALL BUSINESS MARKET RESEARCH

Sources Sought Synopsis. In accordance with FAR 5.201(c), Synopses of Proposed Contract Actions: Sources Sought Synopsis, is a notice published in FedBizOpps at http://www.fedbizopps.gov/ to improve small business access to acquisition information and enhance competition by identifying contracting and subcontracting opportunities. Although the notice includes "screening criteria", the criteria are not used to "qualify" potential sources or to exclude potential competitors. The purposes of screening respondents are to allow the government to assess the potential competitive base, to determine whether a "Justification for other than full and open competition" is required, or whether various set-asides are appropriate.

Central Contractor Registration Database. The Federal Government maintains a web site to access the Central Contractor Registration (CCR) database at http://www.ccr.gov/. It allows firms to register their company profile and allows Contracting Officers to search the database with results stratified by numerous small business qualifiers (e.g., WOSB, SDB, 8(a), HUBZone small business concern). The qualifiers can be combined to narrow the search results to very specific categories of small businesses having very specific qualifications. FAR 4.1103(a) states that unless the acquisition is exempt under FAR 4.1102, the contracting officer shall verify that the prospective contractor is registered in the CCR database before awarding a contract or agreement.

Other Market Research Efforts. FAR 10.002(b)(2) includes additional ways agencies can determine industry's capabilities such as: (1) Contacting knowledgeable individuals in Government and industry regarding market capabilities to meet requirements; (2) Reviewing results of recent market research for similar or identical requirements; (3) Publishing formal requests for information in appropriate technical or scientific journals or business publications;

(4) Querying the Governmentwide database of contracts and other procurement instruments intended for use by multiple agencies available at www.contractdirectory.gov and other Government and commercial databases; (5) Participating in interactive, on-line communication among industry, acquisition personnel, and customers; (6) Obtaining source lists of similar items from other contracting activities or agencies, trade associations or other sources; (7) Reviewing catalogs and other generally available product literature published by manufacturers, distributors, and dealers or available on-line; and (8) Conducting interchange meetings or holding presolicitation conferences to involve potential offerors early in the acquisition process.

D. SMALL BUSINESS ACQUISITION PLANNING

The Small Business Program Manager (SBPM) has a unique role to advocate on behalf of small businesses throughout the entire acquisition process. It is vital that the SBPM become a member of the acquisition team early on in the process in order to participate with various functional experts, program management, and other interested parties to influence acquisition strategy development – with the objective of providing maximum practicable opportunities for small business and mission accomplishment. To be an effective member of the acquisition team, the SBPM should be knowledgeable of overall procurement processes as well as having an in-depth understanding of small business policies, statutes, regulations, and procedures.

During the early stages of the acquisition process, the SBPM should advocate and educate the acquisition team concerning small business program statutory and regulatory requirements. In addition, the SBPM should provide an overview to the team about the small business set-aside programs and their usage; the benefits of teaming arrangements; required internal and external agency interfaces; the use of GSA schedules, GWACS, etc.; subcontracting program processes; and other requirement-specific small business issues.

Later on in the acquisition process, the SBPM may also wish to take a lead role during the market analysis and research phase of the acquisition planning process. In this role, SBPMs can demonstrate their value by providing strategic market analysis concerning the requirement that extends beyond traditional small business research. A thorough market analysis will provide the acquisition team with valuable information to assist them in determining the most advantageous sourcing and acquisition strategies. A strategic market analysis will help the acquisition team understand vendor capabilities, identify key market trends and drivers, determine competitive market dynamics, and uncover the vendors’ economic environment. Some examples of these activities can include:

- Vendor Capabilities – This includes the technical depth and breadth of understanding and experience of vendors within a given market segment. Do most vendors have a broad range of experiences in a market or is the field made up of nitch companies with very little technical overlap? Do vendors have government experience? The SBPM can query FPDS-NG and past performance data systems to determine that extent.
- Key Market Trends & Drivers – This analysis considers the who, what, when, where, and how questions within a market segment. Factors can include the size of the market, rate of growth, and major market trends (in terms of competition – local, national, globally; technology – fast changing or mature; pricing – stable or variable; etc.).
- Competitive Market Dynamics – Though you may know how competitive a market is generally, this analysis focuses on the basis of the competition. This review includes identifying how vendors compete in their market in one or possibly more areas, (e.g., service, price, quality, etc.) and the how much competition there is within their segment.

- Vendor Economics – What are the major cost elements (e.g., labor, materials, manufacturing, transportation, etc.) for a given product or service and what drives those costs? How volatile are they? Are there business cycles that affect vendor profitability?

With a thorough understanding of the marketplace (including small business's role in the market) for a given requirement, the SBPM can provide strategic information to the team – especially for the program representatives and the contracting officer. By conveying mastery of the market's environment, the SBPM will gain the confidence of acquisition team members and build necessary credibility when the discussion moves to determining the maximum practicable extent of small businesses utilization for the requirement. In addition, this information will used to assist the contracting officer in developing improved requests for information, identifying the most appropriate vendors, determining the best contract type and incentives, providing justification for certain acquisition decisions, and, more importantly, getting the best overall value for the government while ensuring that taxpayer funds are well spent.

Throughout all of these efforts, the SBPM's emphasis is on identifying small businesses that meet the "rule of two" requirement for the contracting officer – that there is a reasonable expectation that offers will be received from two or more responsible small business concerns, and award will be made at a fair market price.

However, what happens when the data supports a contracting officer's determination that small businesses are not capable of fulfilling the requirement? Is the SBPMs job over? Not at all. If the SBPM agrees with the contracting officer that a total small business set-aside is not appropriate (FAR 19.502-2(a)), then a partial small business set-aside should be considered. A partial small business set-aside should be considered when: the requirement is severable (can work be effectively accomplished using two or more federal contracts), the SBPM has identified one or more small businesses with the technical competence and capacity to satisfy the partial set-aside requirement at a fair market price, and the acquisition is not subject to simplified acquisition procedures. (FAR 19.502-3)

If the contracting officer determines that a partial small business set-aside is not possible and the requirement will be competed on a full and open basis, the SBPMs focus changes again. The SBPM will now work closely with the contracting officer to develop a subcontracting strategy to maximize small business subcontracting opportunities. Subcontracting is a different environment from government prime contracting since the government does not have a legal relationship with the subcontractor. However, SBPM advocacy can have a dramatic positive impact on the small business community through the requirements' proposal preparation instructions and the small business subcontracting plan.

An example of an innovative approach to maximizing small business use is to require the vendors to provide a *small business participation plan* as part of the offer. A participation plan is different from a subcontracting plan since it is not a material part of the contract and can be requested from both large and small businesses. A small business participation plan can be designed in various formats so that the contracting officer can reasonably assess the extent small businesses shall be used for subcontracting purposes. A participation plan can be used to identify the extent small businesses can be used by socio-economic category, dollars, percentages, by functional area, by projects, or other areas of work scope. The real strength related to a participation plan is that the contracting officer and small business specialist are in a better negotiating position to seek maximum practicable utilization of small businesses earlier on in the solicitation process. The contracting officer can also use the apparent successful offeror's participation plan as the basis for finalizing negotiations concerning small business utilization prior to awarding the contract.

To further enhance this approach, the contracting officer can include a small business source selection factor using the small business participation plan, in whole or in part, for evaluation purposes. In addition to the participation plan, the contracting officer may also wish to include an evaluation of the offerors' small business past performance on previous contracts.

Consequently, through these and other similar approaches for increasing small business utilization, the contracting officer with the assistance of the small business specialist will be well positioned to negotiate a small business subcontracting plan that will ensure superior mission performance while maximizing opportunities for small business.

Advanced Planning Acquisition Team. The OSDBU has established an "Advanced Planning Acquisition Team" (APAT), comprised of top management from the OSDBU, the Office of Procurement and Assistance Management (OPAM), the National Nuclear Security Administration's (NNSA) Office of Acquisition and Supply Management, Program Element Project Managers, and the SBA Procurement Center Representative (PCR).

The purpose of the APAT is to review proposed acquisition strategies of major new and recompeted acquisitions in the developmental stage for the purpose of identifying the practicable extent to which small business prime and subcontracting participation is feasible. APAT meetings include discussions of:

- The feasibility of reserving an acquisition in its entirety (or in part) for small business participation,

- Pulling out or reserving support functions from a large statement of work for prime or subcontract small business opportunities, respectively.

- Proposed legislation, regulations, prime and subcontract goaling processes, reporting and communication barriers, market survey improvements, and improving the interface between program elements and the OSDBU.

Procurements subject to an APAT are:
- New solicitations that are valued at or above $100 million, or
- Option exercises of facility management contracts

Notwithstanding the above-mentioned criteria, OSDBU reserves the right, as part of the APAT process; to review or waive the review of an acquisition regardless of dollar value if it has been determined is that it is in the best interests of the Department.

In order to prevent unnecessary lead time, the agreements resulting from APAT acquisition reviews are verified thus eliminating the need for a duplicative review by the OSDBU (ref. DOE F 4220.2, Small Business Review Form).

Currently, the small business program manager of a program element or the cognizant contracting officer forwards the acquisition plan to the APAT for initial review.

<u>Review of Proposed Acquisitions Over $3 Million not Set-aside for Small Business Concerns.</u>

The OSDBU reviews all proposed acquisitions that are over $3 million and not set aside for small business. This review includes new requirements and contract modifications adding additional scope, orders against GSA schedules and orders against GWACS. This review should occur during deliberation of the acquisition strategy and before the acquisition plan has been signed.

The proposed acquisition review is submitted by the Contracting Officer to the OSDBU and includes the DOE F 4220.2 (May 16, 2006), procurement request, draft RFP, acquisition plan, and explanation narratives from the Contracting Officer, Small Business Program Manager or Small Business Specialist, the SBA PCR or District SBA Small Business Specialist, and the Procurement Director. The OSDBU review will be completed within ten (10) business days upon receipt of a complete acquisition package and will include an analysis and response to the proposed action not to set aside the procurement for small business participation. If predisposing circumstances due to unforeseen circumstances preclude a timely review of a procurement package, the OSDBU will renegotiate a new and realistic review date with the Contracting Officer. Moreover, to the maximum extent practicable, the OSDBU review will include recommendations for small business participation as subcontractors, incorporation of the requirement for a Mentor-Protégé agreement for the term of the contract, and language that provides DOE the right to pull out work for small business prime contracting opportunities in the future.

The preferred transmission method of procurement packages is by e-mail to Dr. Brenda DeGraffenreid (Brenda.Degraffenreid@hq.doe.gov) . A copy of the Small Business Review Form is included as Attachment 2 to this Acquisition Guide. Also, under STRIPES, establish a route to the OSDBU for review and approval.

<u>Contracting for Support Services</u>. All support services contracts should be considered for award to small business concerns, unless findings from the SBA PCR and OSDBU support a Head of Contracting Activity (HCA) determination that (1) there are no responsible small business firms capable of performing the services, (2) mission critical reasons preclude the reservation of a requirement exclusively for small business concerns; or (3) a justification for other than full and open competition is approved in accordance with FAR 6.303. [Note: NNSA organizational elements shall follow Business Operating Policy (BOP) 003.0701A, Small Business Waiver Process.]

<u>Contract Consolidation/Bundling</u>. The consolidation of smaller contracts that have been performed, or could have been performed, by small business concerns into a single contract awarded to a large business may have detrimental effects on some small businesses. As a consequence, Congress enacted legislation to regulate the consolidation or bundling of contracts in Section 1313 of the Small Business Jobs Act of 2010. The term "consolidation of contract requirements", with respect to contract requirements of a Federal agency, means a use of a solicitation to obtain offers for a single contract or multiple award contract to satisfy two or more requirements of the Federal agency for goods or services that have been provided to or performed for the Federal agency under two or more separate contracts lower in cost than the total cost of the contract for which the offers are solicited (P.L. 111-240, Sec. 44(a)(2)). A defining characteristic is that contact consolidation does not exclude small business participation. If contract consolidation is otherwise meritorious, such consolidated procurement should present maximum practicable opportunities to small business in accordance with the policy stated in FAR 19.202-1. By definition, consolidated contracts awarded to small businesses are not bundled contracts (see bundling definition in the next paragraph). Likewise, M&O contracts are not bundled contracts and are considered a special form of contracting as discussed in FAR 17.6. If a consolidated procurement is not set aside for small business, the Contracting Officer should reassess the acquisition strategy in order to identify and remove obstacles from implementing a small business set-aside procurement.

The term "bundling of contract requirements" means consolidating two or more procurement requirements for goods or services previously provided or performed under separate smaller contracts into a solicitation of offers for a single contract that is likely to be unsuitable for award to a small-business concern due to—

(A) the diversity, size, or specialized nature of the elements of the performance specified;
(B) the aggregate dollar value of the anticipated award;
(C) the geographical dispersion of the contract performance sites; or
(D) any combination of the factors described in subparagraphs (A), (B), and (C).
(15 U.S.C. 632 (o)(2)) and (FAR 2.101)

Program offices proposing to bundle a contract must quantify identified benefits and explain how their impact would be measurably substantial. Reduction of administrative or personnel costs alone is not sufficient justification for bundling unless the cost savings are expected to be at least 10 percent of the estimated contract value (including options) of the bundled requirements if the value is $94 million or less; or 5 percent of the estimated contract value (including options) or $9.4 million, whichever is greater, if the value exceeds $94 million (FAR 7.107(b).

If the proposed acquisition strategy involves substantial bundling (FAR 7.107(e))(i.e., any bundling that results in a contract with an average annual value of $6 million or more (FAR 7.104(d)(2)(i)(B)), the Contracting Officer must include the following in the acquisition strategy documentation: (1) the specific measurably substantial benefits (FAR 7.107(b)) or the criticality of bundling to the Department's mission; and (2) plans to preserve and promote small business participation as prime contractors and efforts to include small businesses as subcontractors. A listing of additional requirements for acquisitions regarding bundling can be found at FAR 7.107(e). Contracting Activities are required to coordinate with the SBA-PCR on acquisition strategies or plans contemplating bundled awards at or above $6 million (FAR 19.202-1(e)(1), 19.202-1(e)(1)(iii)). Furthermore, the Contracting Officer must also include, in the solicitation, a provision soliciting bids from any responsible source, including responsible small business concerns and teams or joint ventures of small business concerns (FAR 7.107(c)).

The OSDBU has been designated as the Department's focal point for the review of bundled acquisitions (FAR 19.202). DOE program offices intending to proceed with a bundled procurement must submit the acquisition to the OSDBU for review to ensure conformance with the statutory requirements regarding bundling, and to identify ways to maximize the participation of small businesses in the procurement. Should the OSDBU determine that the proposed bundling of a contract is not necessary and there is no agreement between the program office and the OSDBU about the need to bundle, the matter will be referred to the Deputy Secretary through the HCA and Senior Procurement Executive (FAR 7.107(c)). The Deputy Secretary, without power of delegation, may determine that bundling is necessary and justified if: (1) the expected benefits do not meet the thresholds identified in this section, but are critical to mission success; and (2) the acquisition strategy provides for maximum practicable participation by small business concerns.

Should it be determined that a proposed acquisition is for a bundled requirement (ref. FAR 10.001(c)(2)(i) for mandatory 30-day notice requirement to incumbent small business concerns), the contracting officer shall provide all information relative to the justification of contract bundling, including acquisition plan or strategy, and if the acquisition involves substantial bundling, the information identified in FAR 7.107(e). When the acquisition involves substantial bundling, the contracting officer shall also provide the same information to the agency OSDBU. When bundling is necessary and justified, the 30-day notification process shall occur concurrently with other processing steps required prior to the issuance of the solicitation.

Contracting Officers must not bundle two or more requirements for goods or services that have previously been provided or performed under two or more separate contracts if (i) the cost of the separate contracts is lower than the cost of the bundled contract; and (ii) the total value of the bundled contract exceeds $2M. DOE or NNSA may waive this prohibition if the Senior Procurement Executive or the Chief Acquisition Officer: conducts market research; identifies alternative acquisition strategies that would involve a lesser degree of bundling; makes a written determination that the bundling is necessary and justified; identifies any negative impact of the bundling on small businesses; and certifies to the agency head that steps will be taken to include small business in the acquisition strategy.

[Note: NNSA organizations shall follow bundling determination procedures as set forth in BOP-003.0305R (VII)(A).]

Evaluation Factor for Past Performance in Subcontracting. Plans to preserve and promote small business participation in a bundled contract might include teaming by small business for the prime contract and may include the following: a factor to evaluate past performance under previous subcontracting plans; and inclusion of the clause at 52.219-10, Incentive Subcontracting Program in the resulting contract.

Pre-bid and Pre-proposal Conferences. Contracting Officers are encouraged to hold pre-bid and pre-proposal conferences (see FAR 15.201) for major procurements if the procurement will be set-aside for small businesses.

Small Business Program Managers (SBPM). SBPMs, should perform the following functions: (1) Participate in the planning of, and make recommendations as to set aside, for acquisitions over $100,000. The review process should address small business categories areas which are goaled (HUBZone small business, small disadvantaged business, small business, service-disabled veteran-owned small business, and women-owned small business concerns); (2) Conduct the review before the issuance of the solicitation and document the results; (3) Maintain copies in the contracts folder of the results for requirements exceeding $3 million; (4) Maintain liaison with the small business community; and (5) Review all subcontracting plans prior to acceptance by the Contracting Officer.

Part II. Subcontracting with Small Business

HCAs must ensure that purchasing systems of contractors for the management and operation of major sites and facilities include small business outreach programs.

A. GOOD FAITH SUBCONTRACT SUPPORT PROVISION

In accordance with, 15 U.S.C. 637(d)(6)(G) (Section 1322 of P.L. 111-240), prime contractors must make good faith efforts to utilize their proposed small business contractors as presented in its bid or proposal. To ensure compliance with the Act, Federal Contracting Officers shall--

i. In Section I of solicitations, insert the following provision:

Prime contractors shall make good faith efforts to utilize their proposed small business contractors during performance (in acquiring equipment, supplies, services, materials, construction work) to the same degree the prime contractor relied on the small business in preparing and submitting its bid or proposal. To the extent a prime contractor is unable to make a good faith effort to utilize its small business subcontractors as described above, the prime contractor must explain, in writing, to the Contracting Officer the reasons why it is unable to do so. Failure to make a good faith effort, for this provision, means willful or intentional failure.

ii. Monitor progress reports/invoices to evaluate compliance with subcontracting plans and proposed small business use as documented in proposals.

B. SUBCONTRACTING PLANS

Contracting Officers shall ensure: (1) that all large business contracts over the thresholds at FAR 19.702(a)(1) and (2) have a small business subcontracting plan in place that has aggressive small business goals and (2) that subcontract reporting is completed in a timely and accurate fashion reporting the actual small business achievements in the Electronic Subcontractor Reporting System (eSRS).

Subcontracting plans of facility management contracts (FMC) should support achievement of the agency-wide goals negotiated with the SBA or the average of the past 3-fiscal years small business achievement, whichever is higher. The DOE/SBA negotiated subcontracting goals can be found at: http://smallbusiness.doe.gov/ . **Subcontracting plans of FMCs reflecting less than the agency-wide goals must be submitted through the OSDBU to the HCA for approval/disapproval.** [NOTE: NNSA organizations shall follow BOP-003.0305R(VII)(B.).]

Subcontracting plans of non-FMCs should be guided by the Government-wide statutory *prime* contractor small and socio-economic goals, which can be found at: **http://www.sba.gov/aboutsba/sbaprograms/goals/SBGR_2006_IQT.html**

Contracting Officers, in consultation with Small Business Program Managers, shall meet periodically with directors of contractor purchasing to review the status of the contractor's performance against its small business subcontracting plan.

C. SUBCONTRACTING MISREPRESENTATIONS AND COMPLIANCE

By September 27, 2011, the FAR will be amended to establish a policy on subcontracting compliance relating to small businesses, including assignment of compliance responsibilities between contracting offices, small business offices, and program offices and periodic oversight and review activities. Additionally, by this date, the FAR will be amended to establish a policy on (i) the circumstances and processes by which contracting officers are to record the identities of prime contractors who have a history of unjustified, untimely payments to subcontractors and (ii) requiring the inclusion of this information into the Federal Awardee Performance and Integrity Information System in such a way that the information is publicly available. DOE will update this portion of the acquisition guide once the FAR has been updated.

D. SUBCONTRACTING PROCEDURES:

8(a) Pilot Program. Contractors responsible for the management or operation of sites and facilities are authorized to award subcontracts with a value less than the thresholds at FAR 19.805-1(a)(2) for acquisitions on a noncompetitive basis to firms certified as participants by the SBA under its 8(a) program. Contractors may also reserve for competition among 8(a) firms requirements in excess of those thresholds. The contractor shall assure that awards are made at fair market prices and are identified as awards to 8(a) firms and Small Disadvantaged Businesses (SDBs) under the reporting provisions of the Small Business Subcontracting Plan clause. A special effort may be made to identify and make awards to 8(a) firms in HUBZones. If such a program is instituted, the contractor shall assure that awards are made at fair market prices.

HUBZone Set-Aside. Contractors responsible for the management and operation of DOE sites and facilities are authorized to use HUBZone set-aside and HUBZone sole source procurement techniques in the award of subcontracts under conditions similar to those applicable to the award of Federal prime contracts. (See FAR 19.13)

Service-Disabled Veteran-Owned Small Business (SDVOSB) Set-Aside. Contractors responsible for the management and operation of DOE sites and facilities are authorized to use SDVOSB set-aside and SDVOSB sole source procurement techniques in the award of subcontracts under conditions similar to those applicable to the award of Federal prime contracts. (See FAR 19.14)

Discretionary Set-Asides. Contractors responsible for the management and operation of sites and facilities are authorized to set aside purchases at any dollar value for award to small businesses and to make purchases valued up to the simplified acquisition threshold on a sole source basis to small businesses. If such programs are instituted, the contractor shall assure that awards are made at fair market prices.

DOE Mentor-Protégé Program. DOE's Mentor-Protégé Program seeks to foster long-term business relationships between small business entities and prime contractors, and to increase the overall number of subcontract awards to small businesses. Mentors and protégés are encouraged to form teams to submit offers that will advance the protégé's competitiveness in the market.

The DOE Mentor-Protégé Program regulations are found in DEAR 919.70. This program is designed to encourage prime contractors to mentor small business concerns including (1) firms certified by SBA under Section 8(a) of the Small Business Act, (2) other small disadvantaged businesses, (3) women-owned small businesses, HUBZone businesses and (5) small business concerns owned and controlled by service disabled veterans. Historically Black Colleges and Universities (HBCU) and other minority institutions of higher learning may also serve as protégés.

Mentors recognized under the DOE Mentor-Protégé Program are authorized, subject to the best commercial practices and procedures required by DEAR 970.4402-2(d), to award noncompetitive subcontracts, of any dollar value, to their Protégés. Further, other site and facilities management contractors may award noncompetitive subcontracts to a Protégé of another DOE Mentor. OSDBU maintains a current listing of active Mentor-Protégé agreements.

Mentors are limited to awarding subcontracts to protégés on a sole source basis within the same dollar thresholds as identified for the 8(a) Program. (FAR 19.805-1(a)(2))

<u>Part III. Other Considerations</u>

A. SECURITY CLEARANCES

Much of the DOE's work is classified and performance of that work requires cleared facilities and staff. For many small businesses, obtaining appropriate clearances may require background checks that often take three months to complete; whereas, large businesses are more likely to have personnel and facilities that already have the necessary security clearances. Contracting Officers should consider the following when processing procurements that involve classified work:

* Security personnel should be consulted when preparing draft statements of work that may involve security requirements to assure that the security requirements are not overstated.

* Solicitations should be issued and the award made sufficiently in advance to allow for the processing of required security clearances. The absence of existing personnel security clearances should not be the sole basis for denying an award, unless the solicitation made security clearances a requirement. Offerors should be allowed a reasonable time for the workforce of the successful offeror to be cleared.

* Further information is contained in a pamphlet, *DOE's Security Requirements for Small Business Contractors*. It can be found at the bottom of the following web site: http://www.pnl.gov/isrc/pdf/sm_busi_contractors.pdf

B. SMALL BUSINESS STATISTICS

<u>Collecting and Reporting Small Business Contracting Information</u>. The systems for collecting and reporting small business award information are the Federal Procurement Data System—Next Generation (FPDS-NG - P*rime contract award data*), and the Electronic Subcontract Reporting System (eSRS - *Prime contractor subcontracting award data*).

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

<u>Improving the Accuracy of Small Business Information</u>. HCAs should assure that proper quality control systems are in place for accurate reporting of small business data.

HCAs should include the accuracy of Federal contract data as a compliance standard for the contracting activities' Federal assessment program.

The Contracting Officer should refer to the SBA and the Office of the Inspector General any certification of small business status that is inaccurate and refer instances of misrepresentation of small business status to the DOE or NNSA Senior Procurement Executive for consideration of suspension/debarment.

The Contracting Officer is responsible for ensuring that M&O contractors (1) establish reasonable controls for accurate reporting of small business subcontracting data, including data submissions to electronic data collection systems; (2) maintain current and accurate listings of small business suppliers to the extent such listings are used; (3) obtain certification of size status; (4) conform to the list of exclusions from subcontract reporting in the SBA document, *Goaling Guidelines for the Small Business Preference Programs for Prime and Subcontract Federal Procurement Goals & Achievements*; and (5) refer to the Contracting Officer instances of small business status misrepresentation.

Electronic Subcontracting Reporting System (eSRS).

The eSRS is an electronic, web-based system for subcontract reporting that replaced the SF-294 & SF-295 paper forms and is the only automated system authorized for subcontract reporting. Contractors are responsible for entering accurate and complete reports into eSRS. In addition, prime contractors are responsible in passing down subcontracting reporting requirements to their subcontractors and lower tier subcontractors, as appropriate (FAR 19.708(b), 52.219-9 (d)(10)(ii) through (vi)).

Contracting Officers are responsible for reviewing the Individual Subcontracting Report (ISR) that relates to the contract they administer. It is their responsibility to ensure that contractors are aware of their subcontracting reporting requirements and that they properly and timely enter their reports into eSRS. COs must inform contractors who will be reviewing their ISRs and the Summary Subcontracting Report (SSR) of the email address for that reviewer. The contractor must enter that address on the report in order that eSRS will properly notify the report's reviewer.

Small Business Program Managers, designated by the HCA, should review all SSRs. The SBPM will be the eSRS Point of Contact (POC) and approve all registrations for their HCA and the affiliated contracting offices. SBPMs will report to OSDBU any issues concerning the SSRs.

The Office of Small and Disadvantaged Business Utilization has the overall responsibility for the SSRs. OSDBU shall ensure that the SBPMs review the SSRs for completeness and accuracy prior to the SBA extracting the government-wide subcontracting goal report.

The Head of Contracting Activity should ensure that proper quality control systems are in place to ensure reporting and accuracy of subcontracting reports. This will require accurate data in FPDS-NG, since eSRS relies on this data for its reports.

C. SECRETARY'S SMALL BUSINESS AWARDS

DOE recognizes the outstanding small business achievements of its departmental elements, prime contractors and other organizations through the "Secretary's Small Business Awards." The awards program recognizes (1) increased small business participation at the prime and subcontract levels through outreach and community involvement; (2) commitment to placing small business concerns into non-traditional work environments; and (3) nurturing the development of socio-economic concerns through the Mentor-Protégé Program.

L. ## GUIDANCE FOR PROSPECTIVE OFFERORS - IMPACT OF TEAMING ARRANGEMENTS ON SMALL BUSINESS STATUS

(a) This procurement has been set aside for small business. In order to ensure that award is made to an eligible small business, prospective Offerors, in consultation with legal counsel, are encouraged to review the Small Business Administration's (SBA's) size eligibility standards found at Title 13 of the Code of Federal Regulations, Section 121 (13 C.F.R. § 121). In particular, Offerors proposing a joint venture, subcontracting, or another form of teaming arrangement should review 13 C.F.R. § 121.103, "How does SBA determine affiliation?," prior to submitting a proposal.

(b) The SBA is the sole authority for making determinations of small business status for small business programs. Such determinations are binding on the Offeror and the Contracting Officer. Accordingly, a finding by the SBA of affiliation between an Offeror and its proposed team member(s) or subcontractor(s) may result in the Offeror being found to be other than a small business and therefore ineligible for contract award.

(c) Business concerns are considered to be affiliates of each other if either one directly or indirectly controls or has the power to control the other, or if another concern controls both. In determining whether affiliation exists, factors such as common ownership (stock ownership or options, convertible securities and agreements to merge), common management, and contractual relationships are considered. An Offeror will also be found to be affiliated with its subcontractor(s) if the Offeror is unusually reliant upon its subcontractors or if the subcontractor(s) will perform primary and vital requirements of a contract.

(d) The SBA has issued several decisions concerning its evaluation of affiliation of an Offeror and its proposed subcontractor(s). The following examples set forth characteristics that the SBA has reviewed in considering the question of affiliation and may assist prospective Offerors in developing any teaming arrangements and their proposals.

(1) The SBA considers whether proposed subcontracting, partnership, joint venture, or other teaming arrangements contain discrete descriptions of the tasks or work to be performed by each party. The SBA considers whether the Offeror or, if the Offeror is a joint venture or partnership, the joint venture participants or partners, perform the primary or vital portions of the Statement of Work. The SBA considers whether teaming arrangements clearly set forth the relationship between the parties, as well as the individual roles and responsibilities assigned.

(2) The SBA considers whether there is a clear separation of facilities, employees, and management (decision-making authority) between the Offeror and any entities with which it has teaming arrangements.

(3) The SBA considers the extent to which the Offeror directly employs Key Personnel (Program Manager, Project Manager, etc.).

(4) If the Offeror is an eligible small business prime contractor, the SBA considers whether the majority of the technical expertise resides with the Offeror. If the Offeror is an eligible joint venture the SBA considers whether the majority of the technical expertise resides among the joint venture members.

(5) The SBA considers the Offeror's profit sharing arrangements with its proposed subcontractor or other entities.

(6) In reviewing affiliation between the Offeror and its proposed subcontractors or entities with which the Offeror has a teaming arrangement, SBA considers the previous contractual or business relationships between the Offeror and that entity.

DOE F 4220.2 (May 16, 2006) supersedes all former editions.

SMALL BUSINESS REVIEW

1. PR No.

2. Procurement Title/Brief Description

3. Business Information

NAICS Code ______________________

Size Standard ______________________

Estimated Contract Value

$______________________________

4. Program Element Code And Title

5. Procuring Activity Code And Title

7 a. PR Initiator (Name, Code, & Phone)

6 a. Acquisition History (Business Type)

☐ Large Business ☐ Non-8(a) SDB
☐ Small Business ☐ WOSB
☐ 8(a) ☐ HUBZone ☐ SDVOSB

6 b. Acquisition History (Solicitation Type)

☐ Full And Open Competition
☐ Set-Aside ☐ Federal Supply Schedules (FSS)
☐ Sole Source ☐ Other

7 b. Contract Specialist (Name, Code, & Phone)

8. Small Business Participation Was Considered In The Preparation Of This Procurement, And The Following Is Recommended:

☐ Small Business Set-Aside ____________%; $ ___________________
☐ 8(a) Program Set-Aside ____________%; $___________________
☐ HUBZone Set-Aside ____________%; $ ___________________
☐ SDVOSB Set-Aside ____________%; $ ___________________

9. If Sole Source, Designate Preference Activity (Attach J.O.F.O.C. Per Instructions).

☐ Large Business
☐ Small Business
☐ Other

10. If Set-Aside Is Not Feasible Place An "X" In The Appropriate Box (es), And Attach Supporting Narrative.

(a) ☐ No Reasonable Expectation of Receiving Offers From Two Or More: ☐ Small Businesses ☐ 8(a) Concerns ☐ HUBZones ☐ SDVOSBs
(b) ☐ Facility Management Contract (e.g. M&O)
(c) ☐ Directed By Statute (Provide Citation No. And Attach Supporting Narrative) Citation No.: ________________________________
(d) ☐ FSS Acquisition
(e) ☐ Other

11. Contracting Officer's Recommendation
(Attach Supporting Narrative Per Instructions) ____

Name _____________________________ Signature _____________________________ Date ________________

Phone _____________________________ e-mail ____

12. Small Business Program Manager's Review
☐ Concurrence
☐ Nonconcurrence (Attach Recommendation And Supporting Narrative)

Name _____________________________ Signature _____________________________ Date ________________

Phone _____________________________ e-mail ____

13. SBA-PCR or SBA District SB Specialist Review (Procurements Valued Greater Than The Simplified Acquisition Threshold)
☐ Concurrence
☐ Nonconcurrence (Attach Recommendation And Supporting Narrative) ☐ Provided Recommended Sources

Name _____________________________ Signature _____________________________ Date ________________

Phone _____________________________ e-mail ____

14. OSDBU Review (Procurements Valued Greater Than $3.0 Million)
☐ Concurrence
☐ Nonconcurrence (Attach Recommendation And Supporting Narrative) ☐ Provided Recommended Sources

Name _____________________________ Signature _____________________________ Date ________________

Phone _____________________________ e-mail ____

General Instructions: Completion of DOE F 4220.2 (May 16, 2006) is required for procurements with estimated values exceeding the simplified acquisition threshold (see FAR 2.101).

Block No. 1 Provide the Procurement Request (PR) Authorization number.
Block No. 2 Describe items/services to be acquired.
Block No. 3 Enter the North American Industry Classification System (NAICS) code; the small business size standard in terms of annual receipts, employee number, etc.; and the estimated contract value including options. Refer to 13 CFR 121.402 and http://www.sba.gov/size/sizetable2002.html and http://www.bls.gov/bls/naics.htm .
Block No. 4 Enter the lead program element responsible for the requirement.
Block No. 5 Enter the name of the contracting office that will award the contract/order.
Block No. 6 If requirement was previously procured, enter in Block No. 6a, the type of business that was awarded the contract/order and enter in Block No. 6b, how the business was solicited.
Block No. 7 Enter the name, organizational code, and phone number of the PR Originator in Block No. 7a. Enter the name, organizational code, and phone number of the Contract Specialist in Block No. 7b.
Block No. 8 If Small Business participation was considered, enter the percent of the work and corresponding estimated dollar value including options. Refer to FAR 6.203(a), 19.808-1,19.501(a) through (d), 19.502-2, 19.502-3, 19.1305, and 19.1405. Note: The 8(a) Program also includes awards to Alaskan Native Corporations (ANCs) and Native American tribally-owned SB concerns (ref. FAR 26.101, and 13 CFR 124.506) and the Small Business Administration (SBA)'s Mentor-Protégé Program (ref. 13 CFR 124.520, and 13 CFR 124.513). SBA Joint Ventures with SB concerns are sanctioned pursuant to limitations of 13 CFR 121.103 and should be applied to proper preference activity.
Block No. 9 If the solicitation method was recommended as sole source, attach the J*ustification For Other Than Full And Open Competition* signed by the Program Manager and Contracting Officer (reference FAR 6.303-1, FAR 19.1306, and 19.1406).
Block No.10 Pursuant to FAR 19.202-1, Small Businesses shall be afforded equitable opportunities to compete for all contracts they can perform consistent with the Government's interest. If Small Business set-aside is not feasible, place an "X" in the appropriate box(es) and attach a narrative supporting your selection(s). Refer to FAR 8.4 and 8.405-5(b) for placing task orders under Federal Supply Schedules (FSS).
Block No. 11 If the Contracting Officer does not recommend that the procurement be reserved for small business concerns, then the Contracting Officer must "document why a small business set-aside is inappropriate…" (See FAR 19.501(e)).
Block No. 12 The DOE Small Business Program Manager (SBPM) shall complete this block to ensure that the information in Block No. 3 is correct and to indicate concurrence or nonconcurrence with the Contracting Officer's recommendation. A narrative is required if SBPM does not concur.
Block No. 13 The SBA's Procurement Center Representative (PCR) or SBA's District Office Small Business Specialist shall complete this block for all procurements valued greater than the simplified acquisition threshold. Pursuant to FAR 19.402, the SBA may assign PCRs to contracting activities to carry out SBA's policies and programs. If an SBA PCR or SBA District Small Business Specialist is not available in your area, contact the Office of Small and Disadvantaged Business Utilization (OSDBU) which will refer the matter to SBA (ref. FAR 19.401 (b)).
Block No. 14 Completion of this block is required for procurements valued greater than $3.0 million and have not been reserved exclusively for Small Business participation. Procurement packages for OSDBU review must include supporting procurement documentation consisting of the PR, DOE F 4220.2 (May 16, 2006) executed through Block No. 13, draft RFP, acquisition plan, and narratives from the Contracting Officer, Small Business Program Manager, Procurement Director, and the SBA PCR or SBA District Small Business Specialist.

Special Instructions:
(1) One copy of a fully executed DOE F 4220.2 (May 16, 2006) must be included with the contract file.
(2) Submit one copy of a fully executed DOE F 4220.2 (May 16, 2006) (of procurements reviewed by the OSDBU) to the OSDBU.