BASIC TRAINING
FOR SERVICE DISABLED
VETERAN SMALL BUSINESS
OWNERS

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May 2012
WHY A SMALL BUSINESS PROGRAM?

• The Small Business Program was developed by Law
  - Ensure “Fair Proportion” of Federal Acquisitions are placed with small business concerns
  - Protection of vital resources that promote and advance our national economy, industrial base, and technologies
    -- Serves the national interest
    -- Strengthens the national defense

• … But It’s Not Just About the Law
  Small Business is good for the economy—”Small Business is Good Business”
It is the policy of the Government to provide maximum practicable opportunities in its acquisitions to small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and woman-owned small business concerns.

Such concerns must also have the maximum practicable opportunity to participate as subcontractors in the contracts awarded by any executive agency, consistent with efficient contract performance.

FAR 19.201(a)
What Exactly Does the Procurement Center Representative (PCR) Do?
• Assigned to a contracting activity to carry out SBA policies and programs
  • Activity must provide access to all reasonably obtainable contract information
  • Safeguards against improper disclosure of contract information
• Review proposed acquisitions over $10K to recommend set-asides, recommend new sources and breakout components for competition
• Review proposed bundled acquisitions to recommend alternate contracting methods to increase SB prime contracting opportunities (15 days)
• Recommend sources to be solicited
• Review subcontracting plans
• Conduct periodic compliance reviews of the activity
• Advise and assist small businesses
• Investigate issues upon the request of a SB, the activity, or SBA office
• Meet with HCA at least annually
• Train contracting activity personnel on aspects of the SB Program
• Participate in conferences and training to increase SB participation
What is a Small Business?
SMALL BUSINESS DEFINED

• Small Business Concern (Business Entity) that is:
  - Independently Owned and Operated
  - Not Dominant in Field of Operation
  - Qualify under Size Standards established by SBA
  - Organized for Profit
  - With a place of performance in the U.S.
  - Contributes to U.S. economy by paying taxes
  - Includes but not limited to individual, partnership, corporation, joint venture, association or cooperative
  - Self-certifies in CCR and Online Representations and Certifications (ORCA)

BE AWARE OF AFFILIATION RULES

Ref: 13 CFR 121.105; FAR Part 19.001
Application of Size Standards

• Established by the Small Business Administration and matched to the North American Industry Classification System (NAICS)
  -- Classifies product/service being procured

• Construction or Services (13 CFR 121.104)
  -- based on average annual receipts over three preceding fiscal years

• Commodity or end product (13 CFR 121.106)
  -- based on the average number of people employed in the firm over the preceding twelve months – includes full-time, part-time, or temporary

REF: 13 CFR 121; FAR 19.102
Who is Small?

• Websites
  - NAICS:
    http://www.census.gov/epcd/www/naics.html
  - Size Standards:
    http://www.sba.gov/category/navigation-structure/contracting/contracting-officials/size-standards
CONTRACTING PROGRAMS FOR SMALL BUSINESS AND ACQUISITION STRATEGIES
SMALL BUSINESS CATEGORIES

- Small Business
  - Small Disadvantaged Business
  - Woman-Owned Small Business
  - HUBZone Small Business
  - Veteran-Owned Small Business
  - Economically Disadvantaged WOSB
  - Service-Disabled Veteran Owned Small Business

- Set-aside authority
- NO Set-aside authority

- Native American Tribal 8(a)
- Native Hawaiian Organization 8(a)
- Native Alaskan Organization 8(a)
- Sole Source/No J&A <$20M
SBA Programs with Set-Aside Provisions

• Small Business

• Section 8(a) Business Development (13 CFR 124)

• Service-Disabled Veteran-Owned (13 CFR 125)

• HUBZone (13 CFR 126)

• Woman-Owned (13 CFR 127)

• Economically Disadvantaged Woman-Owned (13 CFR 127)
WHAT IS A SB SET-ASIDE?

• Set-aside means restricting an acquisition exclusively for participation by small business concerns (competitive acquisitions)
  -- SB, 8(a), HZ, SDVOSB, WOSB, EDWOSB

• A sole source to a small business is not a set-aside

• Set-aside may be total or partial
- Small Business Reservation -
  -- All acquisitions between $3,000 and $150,000 are automatically reserved exclusively for small business concerns
  -- Small business reservation does not preclude award greater than $150,000

- The CO must have a reasonable expectation that offers will be obtained from at least two responsible small business concerns that are competitive in terms of market prices, quality and delivery

- Past acquisition history not the only determining factor.

THE CO SHALL DOCUMENT WHY AN ACQUISITION IS NOT SET-ASIDE FOR SB

REF: FAR 19.502, 13CFR 121
Service-Disabled Veteran-Owned Program

Eligibility.

- The Service Disabled Veteran (SDV) must have a service-connected disability that has been determined by the Department of Veterans Affairs or Department of Defense.
- The SDVOSBC must be small under the North American Industry Classification System (NAICS) code assigned to the procurement.
- The SDV must unconditionally own 51% of the SDVOSBC.
- The SDVO must control the management and daily operations of the SDVOSBC.
- The SDV must hold the highest officer position in the SDVOSBC.

FAR 13CFR 125; FAR 19.14; FAR 52.219-27
SDVO Business Control.

• The management and daily business operations of the concern must be controlled by one or more service-disabled veterans.
• Control means both long-term decision making and day-to-day management and administration of the business operations must be conducted by one or more service-disabled veterans.
• Management and daily business operations controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse of permanent caregiver of such veteran.
• Service-disabled veteran means a veteran with a disability that is service-connected.
• Ownership must be direct. Ownership by one or more service disabled veterans must be direct ownership—a concern owned principally by another business entity that is in turn owned and controlled by one or more service-disabled veterans does not meet this requirement.

FAR 13CFR 125; FAR 19.14; FAR 52.219-27
Veteran’s First Program

- Procurement provisions contained in Section 8127 of Title 38, U.S.Code, as amended by P.L. 109-461, provide VOSBs and SDVOSBs an option when registering their businesses in VIP:
  - be verified for ownership and control or
  - self-represent
- Businesses wishing to benefit from VA’s unique Veterans First Contracting Program under Section 8127 must be verified.

FAR 13CFR 125; FAR 19.14; FAR 52.219-27
Additional Contract Requirements

- Limitation of Subcontracting Rules Apply:
  - Services Contracts (Except Construction):
    - 50% of the contract performance incurred for SDVO SBC personnel
  - Supply Contract:
    - 50% of the cost of manufacturing the supplies
  - General Construction:
    - 15% of the contract performance incurred for SDVO SBC personnel
  - Construction by Special Trade:
    - 25% of the contract performance incurred for SDVO SBC personnel
- Non-Manufacturer Rules Apply
SDVOSB Contracting Preferences

- **Set-Aside Competition**
  -- Reasonable expectation at least two SDV firms will submit offers and award can be made at fair market price

- **Sole Source**
  -- CO does not have a reasonable expectation that he/she will receive offers from two or more SDVOSBs
  -- Anticipated award will not exceed certain dollar thresholds ($6M for manufacturing NAICS and $3.5M for all other NAICS)
  -- Requirement not being performed by 8(a) participant
  -- Firm is responsible and award can be made at fair price
  -- J&A is required

REF: 13CFR 125; FAR 19.14
Section 8(a) Business Development Program

Eligibility Requirements:

- Must be a small business
- 51% owned operated, and managed on a daily basis by one or more must socially and economically disadvantaged individuals
- Social Disadvantage as identified in CFR 124.103(b) and as determined by SBA (must be demonstrated)

- Economic Disadvantage:
  - Entry Level: Personal income threshold of $250K
  - Continued eligibility: Personal income threshold of $750K (average over three years)

- Must be in business for two years to apply
- Exceptions include substantial business management experience, adequate capital to sustain operations and successful performance on contracts from government and non-government

13CFR124; FAR PART19.8
Section 8(a) Program (cont’d)

• Nine-year business development program to assist small and disadvantaged business firms to enter the federal contracting arena
• Firms are certified by SBA to do certain types of work for the Federal Government
• Requirements organizations should be involved in the review of Section 8(a) capabilities and expertise
  – For sole source 8(a) -allows technical presentations by firms and the user can then choose the one that best meets the need (not protestable)
  – Must compete if over $6.5M for manufacturing or $4M for all other requirements (based on NAICS code)
• **Exception:** Sole source above these thresholds can be awarded to Alaskan Native Corporations, Tribally-Owned companies, Native Hawaiian Organizations

13CFR124, FAR 19.8
Section 8(a) Program (cont’d)

• PROCESS:
  -- If >$150K or if not using simplified acquisition procedures (SAP), must obtain prior permission (letter of acceptance) from SBA to use this program
  
  – If <$150K and using SAP, provide a copy of Purchase Order to SBA at the same time as you provide to the contractor

• No Sole Source justification required under $20M

• Synopsis required for competitive 8(a) only

13CFR124, Small Business Act, FAR 19.8
HZ Program

Historically Underutilized Business Zones (HZ) Program
- Provides federal contracting assistance for SB concerns located in HZ
  -- Must be a qualified small business
  -- at least 51% owned by one US citizen
  -- principal office located in a HZ (defined by Internal Revenue Code, determined by census)
  -- at least 35% of employees reside in a HZ
- Must be certified by the SBA

FAR 19.1303, 13CFR 126
HZ Program (cont’d)

• HZ Contracting Preferences
  - HZ Set-Aside Competition
    -- Acquisition > $150,000
    -- Reasonable expectation at least two HZ firms will submit offers and award can be made at fair market price
  - HZ Sole Source
    -- CO does not have a reasonable expectation that he/she would receive offers from two or more HZ small businesses
    -- Requirement not currently being performed by 8(a) participant
    -- Anticipated award will not exceed certain dollar thresholds ($6.5M for manufacturing and $4.0M for all other)
    -- Firm is responsible and award can be made at fair price
    -- J&A is required

REF: FAR 19.1305, 19.1306, and 19.1307
Woman-Owned Small Business Program (WOSB)

• Program Overview

-- Program will increase Federal contracting opportunities for WOSBs
-- Assist agencies in achieving their women-owned small business goals
-- Authorizes contracting officers to set-aside certain federal contracts for eligible:
  --- Women-owned small businesses (WOSBs) or
  --- Economically disadvantaged women-owned small businesses (EDWOSBs)

REF: 13 CFR 127
• Eligibility Requirements

-- Meet **small business size standard** for primary NAICS code and contract
-- At least **51% unconditionally and directly owned by women** who are **U.S. citizens** *
-- The woman must manage the **day-to-day operations**
-- The woman must make the **long-term decisions** for the business
-- A woman must **hold highest officer position**
-- The woman must work at the business **full-time during normal working hours**
-- **No minimum amount of time** the business has been operational

*Community property laws are not considered when looking at ownership.

REF: 13 CFR 127
Contracting officers may set aside contracts for WOSBs and EDWOSBs if they meet the following requirements:

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<th>WOSB Set Aside</th>
<th>EDWOSB Set Aside</th>
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<td>Industries</td>
<td>• NAICS code assigned to solicitation, IFB or quote is in an industry in which WOSBs are <strong>substantially underrepresented</strong> (38 4-digit NAICS designated)</td>
<td>• NAICS code assigned to solicitation, IFB or quote is in an industry in which WOSBs are <strong>underrepresented</strong> (45 4-digit NAICS designated)</td>
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| Rule of two    | • Contracting officer has reasonable expectation that **2 or more WOSBs will submit an offer**  
* Note: All EDWOSBs are WOSBs | • Contracting officer has reasonable expectation that **2 or more EDWOSBs will submit an offer**  
* Note: Not all WOSBs are EDWOSBs |
| Award price    | • Anticipated award price **including options** does not exceed the statutory thresholds of **$5M for manufacturing or $3M for other contracts**  
• Contract can be awarded at **fair market price** |                                                                                  |
Other Contracting Programs for Small Businesses

• Small Business Innovative Research Program (SBIR)
  -- a three-phase program designed to involve high-tech small business firms in Government research programs

• Small Business Technology Transfer Program (STTR)
  -- modeled on the SBIR program
  -- awards made for cooperative R&D, conducted jointly by a SB and a government research institution
  -- set-up to transfer technology to high-tech SB firms
  -- move ideas from the laboratory to the market place

Small Business Innovation Development Act
Other Contracting Programs for Small Business

• **Mentor-Protégé Program**
  -- Allows major prime contractors to be reimbursed for assistance provided to SDB, HZ, SDVOSB, and WOSB firms in enhancing technical and business capabilities
  -- Mentor can award subcontracts to protégés on a non-competitive basis
  -- Mentors must be prime contractors on a DoD contract with an approved subcontracting plan

Public Law 101-510
Small Business Subcontracting Plan

• When Required
  - Plan is required in contracts or contract modifications awarded to large businesses that are expected to exceed $650K ($1.5M for Construction) and
  - There must be subcontracting opportunities
    -- Purchased materials are considered an opportunity
  - Not required from small businesses, for personal services contracts, contracts performed outside the U.S.

• Buyer/PCO Responsibilities
  - Negotiate the plan and coordinate with SBO & SBA
  - Ensure goals are based on market research, are challenging but achievable
  - Monitor plan goals as reported on Electronic Subcontracting Reporting System (eSRS) on a semi-annual basis

REF: FAR 19.702-704
• Types of Subcontracting Plans
  -- **Individual** – Valid for the life of a contract (includes options)
  
  – **Master** – Valid for 3 years; includes all elements of an individual plan, except goals, and may be incorporated into individual contract plans provided the ACO has approved the master plan
  
  – **Commercial** – covers offerors fiscal year and applies to the entire production of commercial items sold by the entire company or a portion (division, plant or product line)

REF: FAR Subpart 19.7
SMALL BUSINESS GOALS
• Government-wide Statutory Prime Contracting Goals

-- Small Business 23%
-- Small Disadvantaged Business 5%
-- Women-Owned Small Business 5%
-- HUBZone Small Business 3%
-- Service-Disabled Veteran-Owned Small Business 3%

http://www.acq.osd.mil/osbp/
WHAT YOU “NEED TO KNOW”
• Joint Ventures (JV)
  - JV entities may not be awarded more than 3 contracts over a 2-year period, starting from the date of award of the first contract, without the partners of the joint venture being deemed affiliated for all purposes. (13CFR 121.103(h))

• Non-Manufacturer Rule
  -- SB firm submitting an offer for a contract under a small business set-aside with an assigned NAICS for supplies, furnishes a product it did not manufacture or produce is categorized as a non-manufacturer and deemed small if:
    --- 500 employees or less
    --- Takes ownership or possession of the item(s) with its personnel, equipment or facilities in a manner consistent with industry practice, and
    --- Supplies end item of a SB manufacturer made in the US or obtains a waiver (13CFR 121.406(b))
Recent Program Changes

• **Wholesale/ Retail NAICS Codes Reminder**
  - Acquisitions for supplies must be classified under the appropriate manufacturing or supply NAICS code, not under a wholesale trade or retail trade NAICS code. (13CFR 121.402(b))

• **Size and Subcontracting**
  - If during contract performance a subcontractor performs primary vital requirements of a contract, the contractor and its ostensible subcontractor will be treated as a joint venture (13CFR 121.103(h)(4))
  - If two firms exceed the applicable size standard in the aggregate, the contractor cannot continue to certify as small for that contract or for any task order under that contract. (13CFR 121.101(g)(4))
Recent Program Changes

• Joint Venture Performance of Work
  - The 8(a) participant to a joint venture (includes mentor protégé) for an 8(a) contract must perform at least 40% of the work done by the joint venture. Work must be more than administrative or ministerial functions so that they gain substantive experience. (13CFR 124.513)
Recent Program Changes

• Tribally-Owned Firms (Tribes, ANCs, NHOs)
  - May not receive an 8(a) contract that is a follow-on contract to an 8(a) contract performed by another Participant owned by the tribe or ANC for a period of two years from the date of admission to the program (13 CFR 124.506(b)(4)) (Perception is one that tribal firms graduating from program hand off contracts to a new subsidiary owned by the same firm)

  - On JVs above the competitive threshold amounts, a non-8(a) joint venture partner is prohibited from acting as a subcontractor to the joint venture awardee on any 8(a) contract, unless the AA/BD determines other potential subcontractors are not available. (13 CFR 124.506(b)(4))
• **Socioeconomic Parity**  
  - Permits the CO to use discretion when determining which small business program (HUBZone, 8(a), SDVOSB or WOSB/EDWOSB). The only exception is that if a program is currently in the 8(a) program, it must remain in that program unless released by the SBA. Contracting Officers shall consider the use of one of these programs before considering a small business set aside when the acquisition is greater than the SAT. CO’s are not precluded from using one of them when acquisition is less than the SAT.

• **J&A’s for Sole Source 8(a) contracts greater than $20M.**  
  - FAR Councils determined that contracts in excess of $20 million issued to companies in the 8(a) small business development program now must include written justification and approval by a senior agency leader. The approval would then be made public.
Sources of Market Research

- Procurement History
- Recent Market Research Reports
- FPDS-NG
- DSBS/CCR
- FBO
- Your Local Small Business Advocate
- Industry/Trade Organizations
- Thomas Register
- Online/Internet Resources
- SBA including PTAC and SBDCs
- Area Chambers of Commerce
- Trade Shows/Outreach Events/Conferences
- Industry Days
- Etc.
Conclusion

• Small businesses provide a good base of firms with outstanding capabilities—they are vital to our Nation’s Defense
• Small Business Programs provide opportunities and diversity—reflects our nation and its people
• Small Business Programs can complement your acquisition strategy with innovative solutions
• Encouraging small firms is the best way to increase innovation, productivity, and jobs.
• Market Research is the Key
• Small Business Administration
  – www.sba.gov
• SBA Dynamic Small Business Search
  - http://dsbs.sba.gov/pro-net/dsp_dsbs.cfm
• Federal Business Opportunities
  – http://www.fbo.gov
• Federal Procurement Data System:
  – http://www.fpds.gov
• NAICS:
• Size Standards:
It's QUESTION TIME!!