



**U.S. Small Business Administration**

Office of Advocacy

Office of Government Contracting and Minority Enterprise Development

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# **Procurement Opportunities: A Small Business Guide to Procurement Reform**

## **About this Publication**

This guide was first published in 1996 to inform, explain and provoke. It is, in many respects, an unconventional government publication shaped by unprecedented acquisition reform and framed by a candid appeal for small firms to play a broader role in molding their own destiny.

The Office of Advocacy collaborated with the U.S. Small Business Administration's (SBA) Office of Government Contracting and Minority Enterprise Development in preparing the first guide. Advocacy also sought and accepted input and comments from other agencies and small business groups. The second edition, an update of the first, was prepared under the direction of Chief Counsel for Advocacy Jere Glover by Assistant Advocate for Procurement Policy Major L. Clark, III; Rosa Sobhraj, summer law intern from the George Washington University School of Law; Advocacy editors Phaedra Brotherton, Sherri Alms, and Kathryn Tobias.

The Office of Advocacy invokes its independent authority within the government and makes a number of frank statements in the publication about change, competition and influence—statements and recommendations that may not be shared by the administration or the SBA.

## Foreword

The federal government spends about \$200 billion a year on the procurement of goods and services; state and local governments spend an additional \$200 billion in acquisitions. Taken together, state and federal government purchases amount to about \$1,600 per American. Public sector procurement is big business that significantly affects many small firms.

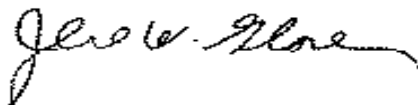
Shrinking public budgets, efforts to streamline the procurement process, and electronic commerce are changing how and to what extent firms, especially small firms, will be able to participate in government acquisitions.

Government procurement was a major issue at the last White House Conference on Small Business, held in 1995. Seven of the top 60 recommendations formulated by more than 1,700 small business delegates from around the country focused on increasing procurement opportunities for small firms.

Major procurement reforms, as evidenced in recent legislation and regulatory amendments, are happening quickly and definitively. Some of these changes reflect the tenets of the White House Conference and offer new opportunities for competitive small firms; others pose new and difficult challenges. New electronic vehicles like the U.S. Business Advisor at <http://www.business.gov> and other electronic formats, including the Office of Advocacy's Web site at <http://www.sba.gov/advo> make it easy and practical for small firms to stay current on pending policy changes and provide input.

However, without managerial systems in place, or accountability measures that provide incentives for agencies to do business with small firms, or services that make it easy for contracting officers to find small businesses, the benefits of new Internet technologies will not redound to small business. Thus, your ability to benefit from these and other reforms will ultimately depend on how well you respond to and influence change. It is important that you get involved.

I hope you find this guide helpful in understanding and responding to the ever-evolving federal acquisition process.



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## Introduction

Will Rogers said, "You can be on the right track, but still get run over, if you just stand there..."

Small firms content to travel the same path they have traveled in the past, however productive, will be overtaken by businesses that respond progressively to change and look for opportunities in new ways.

This publication is about change. It is a guide to recent procurement reforms and is intended to help interpret changes represented in two procurement laws, the Federal Acquisition Reform Act, as included in the National Defense Authorization Act of 1996 and the Federal Acquisition Streamlining Act.

Because change in procurement policy has been so significant in recent years, this guide begins with a discussion on marketing to the government in a changing environment. The federal government is fundamentally altering how it does business; small firms must also alter their marketing approach to the public sector.

In response to the multitude of recent changes in procurement policy, this guide includes a number of recommendations with respect to small firms. These Advocacy suggestions are intended to spark dialog and consideration of additional reforms so that balanced change can more readily be achieved. The guide also includes a summary of significant small business procurement resources.

Consider this guide a primer on procurement reform that is still evolving. It is also an appeal for the small business community to get involved in the regulatory process by working closely with the U.S. Small Business Administration (SBA), the Office of Advocacy, professional organizations, and other associations in reviewing and influencing rules proposed as a result of procurement reform legislation.

Will Rogers was more than an admired statesman with an uncanny sense for practical wisdom—he was right!

## **Marketing to the Government in a Changing Environment**

Two recent laws, the Federal Acquisition Reform Act (FARA), as included in the National Defense Authorization Act of 1996, and the Federal Acquisition Streamlining Act (FASA), have had, and will continue to have, a compelling and unprecedented impact on the federal procurement process. Some of these procurement changes will help small firms; others will not. One thing is certain: it will not be business as usual for the government or the firms wanting to do business with the government.

Many claim that selling to the government can be difficult, but many also attest to its being very profitable. The reality is that even in a changing environment, winning the government as your customer can be challenging, but worth it if you succeed.

### **Significant Market Elements and Influencing Factors**

A multitude of new, challenging and sometimes conflicting factors must be considered when developing a marketing strategy for public markets. As agencies implement reforms and adjust to streamlined processing, prospective and seasoned vendors must also embrace change and make adjustments in how they sell to the government.

Factors likely to have the greatest influence on federal government procurement in the foreseeable future include the following:

*Electronic commerce.* The shift from paper-based to computer-based communications between the government and its suppliers will significantly expedite processing, redefine minimum notice and response times, provide quicker and broader information, including historical perspectives, and increase competition. Electronic markets, because they are more competitive and efficient, will make it easier for government agencies to comparison shop and arrange just-in-time deliveries among a large number of vendors. As agencies exploit this change, they will also struggle with finding ways to fairly evaluate a large number of bids. This could be challenging for many small firms, especially if the competitive range is continuously downsized.

*Empowered contracting officers.* Front-line contracting officers will have greater authority and will be more responsible for producing results than following rules. This is not to suggest that the Federal Acquisition Regulation (FAR) will not be adhered to. However, contracting officers will have more flexibility in interpreting regulations to achieve results that efficiently satisfy the government's needs.

*Best value practices.* The government's buying decisions will focus more on overall best value, performance, and quality, and less on price.

*Budget constraints.* The government has an overwhelming mandate to spend less and improve services. As a result, agencies are adopting emerging commercial practices to achieve the most efficient and cost-effective results. Such practices are demanding greater centralization of contract administration, more commercial (off-the-shelf) buys, best overall value to the government and, in many cases, the consolidation (bundling) of contract requirements.

*Small business goals.* Contracting officers will have more flexibility in satisfying the government's buying needs, but will continue to be required to meet statutory small business utilization goals. Federal contracting employees, consequently, will be looking for creative ways to meet small business goals.

## **Effective Marketing Applications**

Although unique in many respects, selling to the government is similar to marketing to the commercial sector. The rules are different and perhaps more complex, but the basic marketing tenets are the same. Effective marketing demands the application of several fundamental principles:

- Understand the customer.
- Find the right opportunities.
- Know the competition.
- Provide quality products and outstanding customer service.

### *Understand the Customer*

Understanding the requirements, needs, and idiosyncrasies of the government is critical and paramount in developing a successful marketing strategy, especially in today's environment of unprecedented change. Some companies market to customers they don't know or understand. These firms are often so preoccupied with whatever they are doing—introducing new technologies, redesigning products, automating their plants—that they ignore the needs of their end users.

*Do your homework.* Learn about resources that are available to help understand government buying trends, needs, subcontracting opportunities and even federal agency phone numbers. An excellent resource is a directory published by the U.S. Government Printing Office (GPO) that lists numerous helpful publications designed specifically for government contractors. *Resources for U.S. Government Contractors* can be obtained at no cost by writing to: U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954.

*Identify agency needs.* Contact individual agencies to learn of needs and unique agency requirements. Keep in mind that most agencies operate autonomously with respect to procurements and there is no central point to learn of all agency needs and requirements.

*Know your customer.* Most agencies produce a guide about how to do business with them. A starting point might be to contact respective offices of small and disadvantaged business utilization (OSDBUs) to inquire about available information. Each federal department and agency has an OSDBU responsible for ensuring that the agency awards an equitable share of prime contracts and subcontracts to small firms. See <http://www.sba.gov/GC/osdbu> for a list of OSDBUs.

*Learn the rules.* Become familiar with, but not intimidated by, the government's procurement rules. The Federal Acquisition Regulation is the primary set of rules followed by government agencies when purchasing goods and services. The FAR is published as Chapter 1 of Title 48 of the *Code of Federal Regulations* (CFR) and can be consulted at many public libraries and most federal agency resource centers. Also, it is important to note that many agencies produce supplements to the FAR that address specific agency requirements. The rules differ by industry. For instance, certain



procurement requirements for technology-based industries are different from those in the construction industry. Trade associations are often experts in their respective industry-specific regulations and can be excellent resources.

### *Find the Right Opportunities*

Some say the best commercial marketing strategy is to “find a need and fill it.” This strategy also applies in the government. Finding opportunities requires a dedicated level of diligence in exploring public needs. It also demands a company's deliberate, systematic and persistent outreach. True, long-lasting success is earned by seeking market-based opportunities, not government guarantees or artificially induced markets.

*Review the CBD.* The Commerce Business Daily (CBD) is published every Monday through Saturday by the U.S. Department of Commerce. This publication lists proposed government procurement actions that are typically greater than \$100,000 (or \$25,000 if not yet published on the Federal Acquisition Computer Network or FACNET), subcontracting leads and other information. An electronic edition of the CBD is available from several sources (including [www.business.gov](http://www.business.gov)) listed on the first page of the CBD. Paper copies of the government publication can be found at most public libraries and are typically available at government resource centers.

*Use electronic commerce.* Consider using the services of a certified value added network (VAN). VANs are private companies, some of which are certified by the government to receive, share, sort and electronically list all procurement opportunities processed through FACNET. It is envisioned that most government procurements will be processed electronically through FACNET. For this reason, it is imperative to become knowledgeable about electronic commerce and to consider the costs and benefits of engaging a VAN. Stay current, flexible and willing to engage emerging and advanced technologies. A current listing of all government-certified VANs and other technical information can be obtained from one of several electronic commerce resource centers (ECRCs) at 1-800-318-9223 or the Defense Electronic Information Center at 1-800-334-3414.

*Exploit outsourcing.* Take advantage of outsourcing opportunities. Some successful companies will derive their competitive edge by developing several core competencies and outsourcing all other functions. Such firms perform only functions they do exceptionally well and contract everything else to superior outside vendors. By doing this, firms can be more responsive, decentralized, lean, flexible and perhaps more likely to succeed as government prime or subcontractors. Look for opportunities with other firms where you can provide a superior product and/or service and fill a particular need.

*Apply diversity marketing.* The government is committed to encouraging diversity in the workplace and in the business environment. Agencies and prime contractors have an obligation, as well as incentives, to meet specific diversity goals. If you are a minority or woman business owner, take advantage of this opportunity. Don't be shy about telling agencies or prime contractors of your availability.

*Explore agency bidder lists.* Arrange to get on agency mailing lists to automatically receive solicitations for specific types of procurements. This can be achieved by completing Standard Form (SF) 129, Solicitation Mailing List Application, and sending a copy of it to each agency you are interested in. Such arrangements can be a very important and effective marketing tool for small firms. A reproducible copy of SF 129 is included in Appendix I and may be found in pdf format on

the Web at <http://www.gsa.gov/forms/zero.htm>. Note that in some instances, agencies require more information than is required on SF 129. You may want to contact specific agencies to ensure that you meet all of their internal bidder list requirements. Also, be sure to follow up with agencies to make sure your company name does, in fact, appear on bidder mailing lists.

*Check the Web.* Learn about individual agency Internet Web sites and bulletin boards. The big procuring agencies—Department of Defense (DoD), General Services Administration (GSA), Department of Veterans Affairs (VA), National Aeronautics and Space Administration (NASA)—and most smaller procuring agencies have electronic sources and bulletin boards that they frequently use to profile upcoming acquisitions. These multi-purpose, often interactive electronic vehicles are increasingly being used by agencies to inform their customers and solicit input. Contact individual agencies via their OSDBU offices for information about specific electronic addresses and bulletin boards, or visit <http://www.sba.gov/GC/osdbu.html> for a list of agency OSDBUs.

*Exploit government resources.* Many excellent government resources are available to help small businesses find procurement opportunities. Use them. The SBA, DoD, VA, NASA, and GSA, to name only a few, are agencies that offer outstanding resources and programs for small firms. Also, small firm owners should not overlook the value of using the many procurement technical assistance centers (PTACs) located around the country.

*Attend procurement seminars.* Take advantage of procurement seminars, conferences and briefings offered by federal agencies and other organizations. The networking and contacts developed at the events are often as valuable as the topical discussions featured.

*Advance one-on-one relationships.* Send, fax, or e-mail unsolicited company brochures to targeted contracting officers and then follow up with a phone call or personal contact. One-on-one relationships with contracting officers are more important in the new environment. Proper targeting, persistence and a quality presentation can pay big dividends. Note: contracting officers more often prefer line-cards, or one-page descriptions that highlight a firm's capabilities. If necessary, a firm can follow up with a detailed presentation.

*Explore subcontracting opportunities.* Target successful prime contractors and send them information about your company, emphasizing your competitiveness, willingness to form a partnership, mutual interest in growth and profitability, and the benefits of your products and services. Examples of important information to send include company brochures, quality control standards, commercial and/or government references, and, if appropriate, a detailed list of equipment and service resources. Subcontracting opportunities for small businesses are expected to expand, as prime contractors are under greater pressure to offer more services to the federal government and utilize more small firms as subcontractors. Ask specific agencies for lists of their prime contractors. For example, GSA publishes the *GSA Subcontracting Directory* twice a year; the DoD publishes *Subcontracting Opportunities with DoD* annually; and the SBA publishes the *Subcontracting Directory*, which lists numerous prime contractors for multiple agencies. Also, agencies prepare procurement forecasts that may be helpful in identifying future subcontracting opportunities.

*Register with the CCR and Pro-Net.* List your company in the Central Contractor Registry (CCR). This is an electronic data base of government vendor firms maintained by the Department of Defense. Federal agencies and prime contractors use the data base to locate suppliers. Also list your company on SBA's *Pro-Net*, a data base specifically for small firms. For information about the

CCR, contact the DoD Electronic Information Center at 1-800-334-3414 or visit the Web site at <http://www.ccr2000.com/>. For Pro-Net contact the SBA at 1-800-827-5722 or visit the Web site at <http://www.pro-net.sba.gov>.

*Develop entrepreneurial networking.* Consider networking, partnering and/or forming consortia with other firms (large or small) to meet specific, expanded or consolidated government requirements. Such business linkages can offer benefits to both the government and the partnering firms and are becoming more commonplace in government procurements. They are also an excellent way for small firms to compete with big businesses.

*Tap into your industry trade association.* Associations generally follow industry trends, proposed regulations, changes and related congressional initiatives and funding. They can be an excellent resource for the latest information.

### *Know Your Competition*

Understanding your competition is a fundamental and critical aspect of becoming and remaining competitive.

*Apply competitive advantages.* Learn who your competition is and become an expert in recognizing why they are or are not successful. Apply what you have learned in your own company.

### *Provide Quality Products and Outstanding Customer Service*

There is no substitute for providing quality products and superior customer service in winning and keeping customers.

*Be a champion of excellence.* Products and services should be outstanding in their class. The Department of Commerce, National Institute of Standards and Technology (NIST), administers the Malcolm Baldrige National Quality Award Program, which provides information to help companies improve the quality of their products and processes.

*Develop memorable proposals.* Proposals or bid offerings in response to solicitations or letters of interest should be well-written, responsive, easy to understand, informative, timely, and complete. Information and tools to assist in the preparation of proposals can be obtained from your local SBA office.

*Provide incredible customer service.* Small firms should be ready and willing to compete on service. Small businesses rarely have the buying leverage or the advantage of economies of scale to be able to compete on price. However, they are typically more agile, less bureaucratic and more creative, and they are often in a better position to mold their product and service mix to exceed the expectations of the customer. Providing outstanding customer service can be the most important tool a small business has in winning and keeping both government and commercial customers.

Small firms that do not keep pace with the many changes transforming the government and expect business as usual are destined to be left behind. Only firms that aggressively respond to change, and are competitive and resourceful in reaching out to the government will succeed in tomorrow's public markets.

## Balanced Change: A Platform for Small Business Integration

Although small firms offer unequaled advantages to the U.S. economy, generating competition, lowering overall costs, creating innovations, and providing more jobs than any other sector, these benefits are often overshadowed. Most procurements still go to large businesses.

Large firms consistently receive the predominant share of the approximately \$200 billion in annual government contracts. Fiscal year 1999 was no exception, with seven of the government's largest contractors receiving more federal prime contract dollars than the entire small business universe received over the same period.

Small firms annually receive about 20 percent of all federal prime contract dollars and another 14-19 percent of the federal procurement pie in subcontracts. Large firms, representing less than 5 percent of businesses, receive more than 60 percent of all federal procurement dollars.

### A Need for Competition

Competition strengthens the economy by providing profit and other incentives for firms that are responsive to the needs of a dynamic and ever-changing customer base. The clear end result is lower prices and better products and services—all factors contributing to the strength of the U.S. economy. The evolution of firms, especially small businesses, entering and leaving open markets is the essence of competition and a fundamental element of America's prowess in the world economy.

The need for open competition in federal procurement markets remains strong. The Office of Advocacy contends that some recent acquisition reforms will have the immediate effect of reducing procurement opportunities for many small firms. In the long term, these changes may alter the number of firms available, willing, and able to participate in federal procurement markets. These changes are being made in the name of government efficiency and cost savings without enough emphasis on maintaining a strong competitive marketplace.

Small business inclusion requirements and certain allowances in the procurement process are often viewed as obstacles to government efficiency. Certainly, some government-unique standards have grown obsolete and should be purged. Advocacy, however, believes the federal government has an obligation stemming from the tenets of good public policy to direct public monies in such a way that competition is vigorously encouraged. Open competition must be preserved and all sectors of the economy, including women and minority business owners, must have an equal opportunity to participate in federal markets.

Free markets thrive on competition. Ensuring the free and continuous access of small and new firms to federal procurement opportunities is a *sine qua non* of a dynamic and competitive federal marketplace. It would be myopic for the government to sacrifice competition to create false efficiencies and short-term savings. Only market-based competition can prevent monopoly practices and the concentration of federal dollars in the hands of a few large industry giants. It is easy and arguably more efficient in the short term for the government to contract with a cadre of mostly large firms. In the process, however, the fate of many small firms, the entrepreneurial base of the economy and the future of competition are jeopardized. The real policy question is: should federal tax dollars (procurement dollars) be used to promote competition or to advance industrial concentration?

## **Influencing Change**

Within free market boundaries, large businesses attentively seek ways to maintain market share and influence change. Big business is organized, industry represented, flush with resources, active and very close to the procurement process.

Small firms, on the other hand, are less organized, more fragmented, have fewer resources and are further removed from the procurement process. They have no in-house government relations staff, no government lobbyist on retainer, and their nameplate is typically not stamped on the end product the government buys. Yet they are the essential competitive force in the procurement process.

With the stakes high and growing higher, and the procurement arena rapidly changing, it is more and more difficult for the voices of small business to be heard. It is imperative that small firms invest in understanding policymaking and become part of the process.

While the task of writing new procurement laws falls to Congress, it is the responsibility of the Office of Federal Procurement Policy, the Department of Defense, the General Services Administration, and other agency representatives, through the FAR Council, to write the implementing rules that are articulated in the *Federal Acquisition Regulation*.

Big business is frequently at the table when regulatory and other changes are being formulated. The concerns of small firms, on the other hand, have historically been overlooked or viewed as an inconvenience in the process. Small businesses must also be at the table when regulatory and other changes are being formulated.

## **Advocacy Recommendations**

The concerns of small firms demand a broader, more serious focus, and must continue to be better integrated into the change process, so that balanced change can be achieved. The Office of Advocacy and the small business community believe that balanced change is good public policy. It is important that the small business community get involved in regulation and other change processes by working closely with the SBA, the Office of Advocacy, professional organizations, and other associations. The Office of Advocacy recommends that the following additional modifications to the procurement process be considered:

- Require agencies to include in prime contract solicitations of more than \$500,000 an evaluation factor that would measure a prospective bidder's past and planned utilization of small, minority, and women-owned firms as subcontractors.
- Strictly monitor compliance with subcontracting plans and restrict firms that are not in compliance from future government contracts.
- Expand the FAR Council to include the U.S. Small Business Administration. This is an important change because small business concerns have historically not been sufficiently considered in the development of procurement regulations.
- Increase the utilization of Pro-Net and other Internet sources as easy and inexpensive electronic tools for small business and the contracting community.
- Increase overall small business utilization goals. Agencies should be encouraged to work with small firms and be creative in how they meet small business goals. Let the goal, not the process,

be the driving force. Incentives (recognition, flexibility, policy relief, etc.) should be provided for federal agencies to exceed their small business procurement goals.

- Develop progressive small business training models. Such additional training/materials would focus on:
  - How to take advantage of electronic markets.
  - How to link, partner or form a consortium with other firms to meet expanded or consolidated procurement requirements.
  - How to find and use federal procurement resources.
  - How to find subcontracting opportunities.
  - How to market to the government in a changing environment.
  - How to write winning procurement proposals.
  - How to use service excellence in leveraging procurement opportunities.
- Restrict government competition with the private sector.

All of these recommendations are fair, doable and market-based to stimulate real competition. They represent a balanced approach and do not artificially influence government markets with new or augmented small business preferences. Rather, they are designed to complement progressive change and enhance access to procurement opportunities so that small businesses can compete.

## **New Approaches to Affirmative Action in the Procurement Process**

In searching for ways to achieve equal opportunity for all, the federal government—over a period of years—developed a number of specific affirmative action initiatives. All of these initiatives are currently under review by the Justice Department.

### **Background**

Traditionally, the purpose of affirmative action has been to address the exclusion of individuals on the basis of their gender or race. Affirmative action has been an effort to open the doors of education, employment, and business development opportunities to qualified individuals who happen to be members of groups that have experienced longstanding and persistent discrimination—for the most part, women and minorities.

Methods for achieving better representation of women and minorities have included the institution of goals and timetables, targeted outreach, training and recruiting, the use of special selection procedures emphasizing racial and gender diversity, and the use of management tools including preference standards and reporting requirements.

Some who have studied affirmative action agree that it has helped close gaps in economic opportunity in American society, thereby strengthening the entire economy.

The tenets of the government's affirmative action efforts have been tested on numerous occasions. The 1995 Supreme Court case, *Adarand Construction, Inc. v. Peña*, in particular has had an impact on targeted preferential programs. The *Adarand* decision came six years after the 1989 ruling in *Croson v. the City of Richmond*, which imposed strict scrutiny standards on state and local procurement set-aside programs.

### **The *Adarand* Case**

The central focus of the *Adarand* debate was the provision in the Small Business Act requiring federal agencies to set contracting goals for small disadvantaged businesses (SDBs). The law requires that the Department of Defense establish SDB goals that represent at least 5 percent of the total value of its prime contract awards.

The Federal Highway Administration, within the Department of Transportation, sought to achieve its SDB goals in part by providing financial incentives to prime contractors who utilized small disadvantaged firms as subcontractors. On September 15, 1989, the Federal Highway Administration awarded a \$1 million prime contract to the Mountain Gravel Construction Co. for a highway project in Colorado. The prime contractor awarded a subcontract for a guardrail system to the Gonzales Construction Co., a qualified SDB. In so doing, the prime contractor rejected a lower bid from the *Adarand* Construction firm. The Mountain Gravel Construction Co., by awarding the subcontract to an SDB, earned a bonus of approximately \$10,000.

Because the *Adarand* bid was rejected by the prime contractor in favor of the higher SDB bid, the *Adarand* Construction Co. filed suit. Both the District Court in Colorado and the Tenth Circuit Court ruled against *Adarand*. However, the case was elevated to the Supreme Court, which ruled in *Adarand*'s favor.

### *Supreme Court Decision*

The *Adarand* decision did not dismantle affirmative action or set-asides. In fact, while setting stricter standards mandating reform, it actually reaffirmed the continued existence of systematic discrimination in the United States and the need for affirmative action.

What the Supreme Court did was to order the federal government to meet the same, more rigorous standard for affirmative action programs that state and local governments were ordered to meet under the earlier *Crosby* decision. Many of the best-tailored state and local government programs are still in place after having been challenged under that standard.

More specifically, the Supreme Court held that many affirmative action programs, under the equal protection clause of the Fifth Amendment's due process clause, must be reviewed by the courts using strict scrutiny. To meet this standard, a program must be shown to meet a compelling governmental interest and must be narrowly tailored to meet that interest. That is a more demanding test than had been previously applied to federal affirmative action programs.

### *Likely Impact of the Adarand Decision on Procurement*

No one knows for certain how the Supreme Court decision will affect procurement opportunities for small disadvantaged, women-owned, and other firms over the long term. However, based on interpretations of the *Adarand* decision, it is likely that procurement will be affected in the following ways:

- Procurement set-aside and other preferential programs for minority-owned firms are more likely to be focused on particular regions and business sectors where the problems of discrimination or exclusion are provable and can be quantified.
- The requirements for procurement preference programs will be tightened such that once a firm has had a fair opportunity to compete, the preference will be terminated. Long-standing, permanent set-asides will likely not be supported.
- Procurement preference programs sponsored by the federal government will echo the more rigorous affirmative action standards state and local governments were ordered to meet several years ago.
- Preference programs will focus on assisting disadvantaged people and distressed communities, whatever their race or gender.

The Justice Department continues to review all federal affirmative action initiatives to make certain they are in compliance with the *Adarand* decision.



## Legislative Procurement Reforms

The Federal Acquisition Streamlining Act of 1994 (FASA) and the Federal Acquisition Reform Act (FARA), as included in the National Defense Authorization Act of 1996, have had, and will continue to have, a compelling and unprecedented impact on the federal procurement process.

### The Federal Acquisition Streamlining Act of 1994

The Federal Acquisition Streamlining Act of 1994 repealed or substantially modified more than 225 provisions of law to reduce paperwork burdens, facilitate the acquisition of commercial products, enhance the use of simplified procedures for small purchases, transform the acquisition process to electronic commerce, and improve the efficiency of the laws governing the procurement of goods and services. FASA was signed into law by President Clinton on October 13, 1994.

The most significant provisions of FASA included:

- Emphasizing the acquisition of commercial items
- Streamlining acquisition procedures under an elevated small purchase threshold
- Implementing a government-wide electronic commerce system
- Establishing uniformity in the procurement system

#### *Emphasizing the Acquisition of Commercial Items*

The law strongly encouraged the acquisition by federal agencies of commercial end-items and components, including the acquisition of commercial products modified to meet government needs.

*Definition of commercial items.* The law enhanced the government's access to items from the commercial sector by expanding the scope of products and services that qualify for treatment as commercial items.

*Preference for commercial items.* The law established a statutory preference for commercial items and required that, to the maximum extent practicable, contract requirements and market research facilitate the use of commercial items.

#### *Streamlining Acquisition Procedures under an Elevated Threshold*

The law increased the small purchase threshold from \$25,000 to a new simplified acquisition threshold of \$100,000. This higher threshold expanded streamlined processes, making it easier for contractors to do business with the government, while making it simpler and more efficient for agencies to solicit and process procurements.

*Special rules for using simplified acquisition procedures.* To take full advantage of the simplified acquisition procedures, an agency must become certified by the Office of Federal Procurement Policy (OFPP) that it has implemented an interim FACNET capability. This means that an agency can perform certain functions electronically, using FACNET.

*General provisions of the simplified procedures.* The simplified procedures exempt purchases at or below the \$100,000 simplified acquisition threshold from paperwork and recordkeeping requirements included in more than 15 statutes. Note that FARA subsequently expanded the simplified procedure provision to allow its use with purchases of commercial items, property, and services valued at up to \$5 million. Some of the key provisions exempted in the simplified procedures include:

- Contingent fee certification
- Contract audit requirements
- Procedural requirements of the Anti-Kickback Act
- The Miller Act
- Contract Work Hours and Safety Standards Act
- Drug-Free Workplace Act of 1988
- Prohibition limiting subcontractor direct sales to the U.S. government
- Inventory accounting requirements
- Identification of suppliers and sources

The law permits agencies to adopt streamlined procedures for providing notice of contracting opportunities.

*Micro-purchases.* Government purchases up to \$2,500 are now classified as micro-purchases, allowing for significantly simplified procedures. Purchases of \$2,500 or less:

- Are no longer reserved for small firms;
- Can be made without obtaining competitive quotations; and
- Are not subject to the requirements of the Buy American Act.

### *A Government-Wide Electronic Commerce System*

The fully implemented electronic commerce system will significantly simplify and streamline the purchasing process, promote greater customer service, and increase cost effectiveness. The electronic exchange of acquisition information between the private sector and the federal government is also increasing competition by providing improved access to procurement opportunities for thousands of vendors currently doing business with the government. While this system may be of particular benefit to small businesses, it can also help many other vendors who found access to bidding opportunities difficult under the pre-electronic system.

*Federal Acquisition Computer Network.* The law established the Federal Acquisition Computer Network. FACNET is helping ensure that the government's paperwork-driven acquisition process evolves to an expedited system based on electronic data interchange. The electronic system is intended to provide a single face to industry and interoperability within the federal sector. The law established parameters for a FACNET system built along functional lines, with parameters set forth for government and private users. These functions were to be implemented by agencies within five years of FASA's enactment. The government-wide FACNET system is designed to:

- Inform the public about federal contracting opportunities;
- Outline the details of government solicitations;
- Permit electronic submission of bids and proposals; and
- Facilitate responses to questions about solicitations.

It was envisioned that many firms would use the services of a value-added network (VAN) to access the FACNET system. VANs are private companies certified by the government to receive, share, sort, and electronically list all procurement opportunities routed through FACNET. Vendors can select from a variety of certified VANs to access procurement opportunities and exchange information.

### *Establishing Uniformity in the Procurement System*

FASA amended several procurement laws to promote the uniform treatment of Department of Defense and civilian agency procurements. To accomplish this, the law did the following:

- Amended the Federal Property Act to establish contract cost principles for civilian agencies. Contract cost principles provide that certain types of costs, such as entertainment costs, lobbying expenses, advertising, and so-called golden parachute payments, are not allowable in federal contracts.
- Established cost certification procedures and penalties identical to those that have long been applicable in DoD procurements.

### *New Opportunities for Women-Owned Businesses*

In addition to these key provisions, FASA established a 5-percent government-wide procurement goal for women-owned businesses. Under this provision, women-owned firms were specifically incorporated into the procurement goaling process established by statute for all government agencies.

Each federal agency is required to establish a goal for participation of small business concerns owned and controlled by women at not less than 5 percent of the total value of all prime contracts and subcontract awards for each fiscal year. On May 23, 2000, President Clinton signed Executive Order 13157, which requires all federal agencies to take immediate steps to meet or exceed the 5 percent government contracting goal.

### **The Federal Acquisition Reform Act of 1996**

The Federal Acquisition Reform Act was signed into law by President Clinton on February 10, 1996, less than 16 months after President Clinton signed the Federal Acquisition Streamlining Act on October 13, 1994. FARA is a major reform law, but was not expected to bring the same level or magnitude of sweeping change to the procurement process as FASA did. The small business community can and should continue to participate in the implementation of the law through the regulatory process. Key provisions in FARA include:

- Modifying competition requirements

- Expanding the use of simplified procedures for commercial items, services and property
- Revising procurement integrity
- Promoting international procurement
- Revamping federal information technology acquisitions

### *Modifying Competition Requirements*

The law retained the Competition in Contracting Act (CICA) requirement for full and open competition. However, the legislation directed that the Federal Acquisition Regulation be revised to ensure that the CICA requirement was implemented in a manner consistent with the need to efficiently fulfill the government's procurement requirements.

The statute carried minor revisions to the previous competition standard. However, the new focus on government efficiency gave greater latitude to contracting officers to limit competition and, in some circumstances, to use simplified procedures not requiring full and open competition.

*Greater efficiency, tighter competition.* Contracting officers were given greater authority to control the number of proposals considered. The revised statute provided that, if a contracting officer determines that the number of offerors exceeds the number at which an efficient competition can be conducted, the contracting officer may limit the number of proposals in the competitive range, in accordance with the criteria specified in the solicitation, to the greatest number that will permit an efficient competition among the offerors rated most highly. The competitive range determination is made after the initial evaluation of proposals. Offerors excluded from the competitive range are entitled to a pre-award briefing.

*Design-build selection procedures.* The law provided an alternative two-phase selection process for the award of a single design and construction contract for public buildings. The two-phase process differs from the traditional design-build approach, established under the Brooks Architect-Engineers Act, by using two distinct procurement review phases to screen and limit the number of proposals for final review. This change was intended to minimize the costs that firms incur in developing proposals.

### *Expanding the Use of Simplified Procedures for Commercial Items, Property, and Services*

FASA significantly changed the way the government buys commercial items. The 1994 law provided the foundation for establishing commercial-like procedures within the federal procurement system, called simplified procedures. FARA expanded what FASA began by further establishing simplified procedures for the purchase of commercial items, property, and services, and exempting commercial item purchases from certain government-unique requirements. These reforms were intended to bring public procurement into alignment with private sector procurement practices and reduce the cost of doing business with the government.

*Simplified notice procedures.* These provisions allow the use of simplified procedures for purchases of commercial items, property and services up to \$5 million.

*Exemptions from certain laws.* This provision requires that the FAR be revised to include a list of provisions that are inapplicable to contracts for commercially available off-the-shelf items. The list would include provisions of law that, in the opinion of the head of the Office of Federal Procurement Policy (OFPP), impose government-unique policies, procedures or restrictions on contracting officers. Commercial item contracts and subcontracts are exempted from Truth in Negotiations Act (TINA) requirements of submitting certified cost or pricing data to the government. Cost Accounting Standards (CAS) would also no longer apply.

*Revised definition of commercial services.* This section broadens the definition of commercial services with respect to prices, such that market prices would mean current prices established in the course of ordinary trade between buyers and sellers and that could be substantiated from sources independent of the offeror.

### *Revising Procurement Integrity*

Procurement integrity statutes, under FARA, were revised to specifically prohibit agency employees and others not authorized to do so from obtaining or disclosing contractor bid information or agency source selection information. The law also eliminated all remaining agency-specific post-employment restrictions and provided standard, government-wide one-year post-employment restrictions for designated officials involved in procurements over \$10 million. FARA increased the penalties for violating these laws.

### *Promoting International Procurement*

The reform law provided authority to the president to waive a provision of law requiring that a tax or recoupment fee be paid to the U.S. government on foreign sales of products and technologies originally developed under contracts with the federal government. This fee can be waived when the competitiveness of U.S. firms is threatened.

### *Revamping Federal Information Technology Acquisitions*

FARA eliminated the procurement authority of the General Services Administration (GSA) for information technology (IT) investments and vested the authority in each executive agency. It established a chief information officer in each agency, required agencies to change the way they did business before making IT investments, and encouraged agencies to break information technology acquisitions into smaller, more manageable pieces. In addition, FARA repealed the authority for the General Services Board of Contract Appeals to decide bid protests for IT acquisitions. The General Accounting Office (GAO) was assigned to handle all bid protests.

## **The HUBZone Act of 1997**

The HUBZone Empowerment Contracting Program was created by the HUBZone Act of 1997, which is contained in Title VI of Public Law 105-135, enacted on December 2, 1997 (111 Stat. 2592). This program is different from other procurement programs because it focuses on job creation in high employment and poverty-level communities. The HUBZone Act set the government contracting goal for the HUBZone program initially at 1 percent of all federal prime

contracts with a gradual increase to 3 percent by the year 2003. The U.S. Small Business Administration was given authority to manage this program.

### **The Veterans Entrepreneurship and Small Business Development Act Of 1999**

This act expands existing assistance programs and establishes new programs for veterans who own or operate small businesses. The act creates a 3 percent government-wide goal for participation by small business concerns owned and controlled by service-disabled veterans.

## Significant Small Business Procurement Resources

Knowledge is power! It is an asset that can help overcome uncertainty and open new avenues for opportunity. It is also a powerful tool that can help small firms create value and make money in government, commercial and other markets. Because information and resulting knowledge are so critical, this guide lists numerous and varied small business resources.

### The U.S. Small Business Administration

409 Third Street, S.W., Washington, DC 20416, (800) 827-5722, <http://www.sba.gov>

#### *Office of Government Contracting (202) 205-6460.*

The SBA provides a wide range of services to help small firms obtain and fulfill government contracts. The agency seeks to increase the number of contracts awarded to small businesses through set-asides for small businesses, subcontracting opportunities with larger companies and many other programs.

SBA has procurement center representatives (PCR) stationed at many federal installations, both military and civilian, that have major buying programs. In addition, the agency's commercial marketing representatives (CMR) monitor large business prime contractors to ensure that subcontracting opportunities are available for small and small disadvantaged businesses.

CMRs also can refer small businesses to prime contractors. For the names and locations of PCRs and CMRs in your area, contact SBA's government contracting area office nearest to you.

*Area I* includes the states of Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont, and the Commonwealth of Puerto Rico. Contact Janette Fasano, Boston, MA, (617) 565-5622; or Tom Dey, New York, NY, (212) 264-1452.

*Area II* includes the states of Delaware, Maryland, Pennsylvania, Virginia, and West Virginia, and the District of Columbia. Contact Joseph May, King of Prussia, PA (215) 580-2766.

*Area III* includes the states of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee. Contact L. A. Symasek, Atlanta, GA (404) 331-7587.

*Area IV* includes the states of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota and Wisconsin. Contact Robert Murphy, Chicago, IL (312) 353-7381; or Malin Francksen, Kansas City, MO (816) 374-6815, ext.290.

*Area V* includes the states of Arkansas, Colorado, Louisiana, Oklahoma, New Mexico and Texas. Contact John Bateman, (817) 684-5301; Jose Martinez, Denver, CO (303) 844-0513.

*Area VI* includes the states of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming and Guam. Bob Paccione, San Francisco, CA (415) 744-6828; or call WA, (206) 553-8546.

### *Office of Minority Enterprise Development, (202) 205-6410*

The primary responsibility of this division within the SBA is to promote business ownership by individuals who are socially and economically disadvantaged and to promote the competitive viability of such firms. This office oversees the 8(a) business development program.

### *Office of Advocacy (Procurement Policy), (202) 205-6532*

The Office of Advocacy is an independent office within the SBA. It seeks to ensure that government policy decisions, whether legislative or regulatory, enhance the economic viability of small businesses. See Appendix II for more information.

### **The U.S. Business Advisor, <http://www.business.gov>**

On June 14, 1995, at the White House Conference on Small Business, President Clinton and Vice President Gore announced a new way for businesses to work with government the U.S. Business Advisor, an on-line service on the Internet. The U.S. Business Advisor offers businesses one-stop access to government forms, business development software and business-specific information from the SBA and other agencies. Among the types of information included are the following:

- The *Commerce Business Daily* and other procurement information;
- SBA's LowDoc, Export Working Capital and pre-qualification loan applications;
- The Service Corps of Retired Executives (SCORE) counseling request forms;
- Business development software to help prepare a business plan, do a marketing strategy, or create a financial statement; and
- Business-specific information on women-owned businesses, minority enterprise development, international trade, government contracting, financial services and disaster support.

The U.S. Business Advisor allows access to a full range of plain-language regulatory guidance and compliance assistance to help businesses understand regulatory requirements, environmental, safety and health statutes, international trade, taxes and customs regulations. The Internet address for the U.S. Business Advisor is: <http://www.business.gov>

### **Government Electronic Commerce**

#### *Procurement Web Sites*

The following web sites are good sources for procurement policy and other procurement information:

Acquisition Reform Network, <http://www-far.npr.gov>

U.S. Business Advisor, <http://www.business.gov>

GSA Advantage <http://www.gsa.gov>



Federal Acquisition Regulation, <http://www.farsite.hill.af.mil/>

Department of Defense Central Contractor Registry, <http://www.ccr2000.com>

U.S. Small Business Administration, <http://www.sba.gov>

Pro-Net, <http://www.sba.gov/pro-net/>

Procurement, <http://www.fedmarket.com/sales>

U.S. Army, <http://www.army-acquisition.net>

### *Electronic Commerce Resource Centers*

The following centers provide information and assistance to small firms interested in understanding and participating in the government's electronic commerce system. See the Web site at <http://www.ecrc.ctc.com/> for more details.

National ECRC - Technical Hub, (800) 318-9223

Fairfax, VA, (703) 691-1507

Palestine, TX, (800) 209-2772

Atlanta, GA, (404) 894-7772

Dayton, OH, (513) 449-6060

Oakland, CA, (800) 231-2772

Orange, TX, (409) 882-3950

Bremerton, WA, (206) 478-0333

Cleveland, OH, (800) 991-3272

San Antonio, TX, (210) 732-1141

Scranton, PA, (800) 867-2772

### *DoD Electronic Commerce Information Center*

(800) 334-3414

### **Procurement Technical Assistance Centers (PTACs)**

There are about 100 Procurement Technical Assistance Centers (PTACs) around the country. The procurement centers are supported by the DoD-Defense Logistics Agency, state and local governments, and private entities. Some PTACs operate within SBA Small Business Development Centers. Their mission is to assist local businesses in marketing and selling products and services to federal, state and local governments. PTACs specialize in providing technical assistance and electronic bid-match services and other electronic services that link firms with procurement opportunities. Center locations and contacts can be obtained by calling (409) 886-0125 or (703) 767-1650.

## **Offices of Small and Disadvantaged Business Utilization**

Each federal department and agency has an Office of Small and Disadvantaged Business Utilization (OSDBU) responsible for ensuring that the agency awards an equitable share of prime contracts and subcontracts to small firms. See also <http://www.sba.gov/GC/osdbu.html> for an electronic listing.

Department of Agriculture, (202) 720-7117

Department of Commerce, (202) 482-3387

Department of Defense, (703) 614-1151

Department of the Air Force, (703) 697-1950

Department of the Army, (703) 695-9800

Department of the Navy, (703) 602-2700

Army Corps of Engineers, (202) 761-0725

Ballistic Missile Defense Organization, (703) 693-1553

Space and Naval Warfare Systems Command, (703) 602-6091

U.S. Marine Corps, (703) 696-1022

Department of Education, (202) 708-9820

Department of Energy, (202) 586-7377

Department Health and Human Services, (202) 690-7300

Department of Housing and Urban Development, (202) 708-1428

Department of the Interior, (202) 208-3493

Department of Justice, (202) 616-0521

Department of Labor, (202) 219-9148

Department of State, (703) 875-6824

Department of Transportation, (202) 366-1930

Department of the Treasury, (202) 622-0530

Department of Veterans Affairs, (202) 565-8124

Agency for International Development, (703) 875-1551

Environmental Protection Agency, (703) 305-7777

Export-Import Bank of the United States, (202) 566-8111

Federal Trade Commission, (202) 326-2258

National Aeronautics and Space Administration, (202) 358-2088

General Services Administration, (202) 501-1021

Office of Personnel Management, (202) 606-2240

Small Business Administration, (202) 205-6410

Tennessee Valley Authority, (615) 751-6269

U.S. Information Agency, (202) 501-7708

U.S. Postal Service, (202) 268-4633

### **General Services Administration (GSA)**

One of GSA's primary responsibilities is the procurement of many goods and services needed by federal agencies. Many government procurement opportunities are available through GSA.

#### *GSA Business Service Centers (BSC), (202) 708-5804*

BSCs promote the participation of businesses, especially small firms, in government contracting. The centers provide information and counseling on how to obtain government contracts.

Atlanta, (404) 331-5103

Boston, (617) 565-8100

Chicago, (312) 353-5383

Denver, (303) 236-7408

Fort Worth, (817) 334-3284

Kansas City, (816) 926-7203

Los Angeles, (213) 894-3210

New York, (212) 264-1234

Philadelphia, (215) 656-5525

San Francisco, (415) 744-5050

Seattle, (206) 931-7956

Washington, DC, (202) 708-5961

#### *GSA Federal Supply Schedules, (202) 708-5804*

These schedules list goods and services government agencies purchase on a regular basis as well as possible vendor sources. Small businesses may also apply to be listed on GSA schedules.

### **U.S. Department of Veterans Affairs**

*National Acquisition Center (703) 786-5157*

## **U.S. Department of Commerce**

*Minority Business Development Agency (MBDA)(202) 482-1015*

The MBDA seeks to assist minority business owners in obtaining federal contracts. There is a network of MBDA centers around the country.

## **State Government Procurement Assistance Programs**

Most state and many local governments provide procurement assistance programs to help local businesses receive federal, state and/or local government contracts. The programs are generally operated through economic development offices. For information about state procurement assistance programs, contact your local economic development office.

## **Selected Publications**

*Commerce Business Daily (CBD)*. This publication, published by the Department of Commerce, is the most common vehicle used for finding federal procurement opportunities valued at more than \$100,000. The publication is available at many libraries and on several on-line services. Contact the U.S. Government Printing Office at (202) 512-1800.

*Procurement Assistance*. Published by the SBA, this booklet provides guidance to small firms interested in seeking federal contracts. Contact SBA's Government Contracting Office at (202) 205-6460 for more information.

*Selling to the Military*. This publication is designed to walk you through the procurement requirements of the military branches. Contact the Department of Defense at (703) 614- 1151 for information on how to obtain a copy.

*U.S. Government Purchasing and Sales Directory*. Prepared by the SBA and available through the U.S. Government Printing Office (GPO), this excellent directory lists nearly 4,000 products and services bought by defense and civilian agencies. It also explains how to do business with the government and profiles SBA's contracting programs. Contact SBA's Government Contracting Office at (202) 205-6460 for more information.

*Doing Business with GSA*. Available from GSA's Business Service Centers (BSCs)), this publication describes the types of goods and services purchased by the government and explains the process of selling to the federal government. Contact the BSC closest to you or call (703) 708-5804 to obtain a copy.

*Resources for U.S. Government Contractors*. This excellent publication is available free from the U.S. Government Printing Office. It lists numerous procurement-related publications that are for sale by the government. The GPO directory can be obtained by writing to the U.S. Government Printing Office, Mail Stop SM, Room 3132, Washington, DC 20402 and referencing Government Books - Resources for U.S. Government Contractors. Copies of the publication are also available at some GSA Business Service Centers.

Success often depends on what we know and how well we apply what we have learned. Use this information to find opportunities, be competitive and profit from government procurement markets.

# SOLICITATION MAILING LIST APPLICATION

1. TYPE OF APPLICATION

INITIAL  REVISION

2. DATE

OMB No.: 9000-0002  
Expires: 10/31/97

**NOTE: Please complete all items on this form. Insert N/A in items not applicable. See reverse for instruction.**

Public reporting burden for this collection of information is estimated to average .58 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405.

3. SUBMIT TO	a. FEDERAL AGENCY'S NAME			4. APPLICANT	a. NAME		
	b. STREET ADDRESS				b. STREET ADDRESS		c. COUNTY
	c. CITY	d. STATE	e. ZIP CODE		d. CITY		e. STATE e. ZIP CODE
5. TYPE OF ORGANIZATION (Check one)				6. ADDRESS TO WHICH SOLICITATIONS ARE TO BE MAILED (If different than Item 4)			
<input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> NON-PROFIT ORGANIZATION <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> CORPORATION, INCORPORATED UNDER THE LAWS OF THE STATE OF:				a. STREET ADDRESS		b. COUNTY	
				c. CITY		d. STATE e. ZIP CODE	

## 7. NAMES OF OFFICERS, OWNERS, OR PARTNERS

a. PRESIDENT	b. VICE PRESIDENT	c. SECRETARY
d. TREASURER	e. OWNERS OR PARTNERS	

## 8. AFFILIATES OF APPLICANT

NAME	LOCATION	NATURE OF AFFILIATION

## 9. PERSONS AUTHORIZED TO SIGN OFFERS AND CONTRACTS IN YOUR NAME (Indicate if agent)

NAME	OFFICIAL CAPACITY	TELEPHONE NUMBER	
		AREA CODE	NUMBER

10. IDENTIFY EQUIPMENT, SUPPLIES, AND/OR SERVICES ON WHICH YOU DESIRE TO MAKE AN OFFER (See attached Federal Agency's supplemental listing and instruction, if any)

11a. SIZE OF BUSINESS (See definitions on reverse)	11b. AVERAGE NUMBER OF EMPLOYEES (Including affiliates) FOR FOUR PRECEDING CALENDAR QUARTERS	11c. AVERAGE ANNUAL SALES OR RECEIPTS FOR PRECEDING THREE FISCAL YEARS
<input type="checkbox"/> SMALL BUSINESS (If checked, complete Items 11B and 11C) <input type="checkbox"/> OTHER THAN SMALL BUSINESS		\$

12. TYPE OF OWNERSHIP (See definitions on reverse) (Not applicable for other than small businesses)	13. TYPE OF BUSINESS (See definitions on reverse)	
<input type="checkbox"/> DISADVANTAGED BUSINESS <input type="checkbox"/> WOMAN-OWNED BUSINESS	<input type="checkbox"/> MANUFACTURER OR PRODUCER <input type="checkbox"/> SERVICE ESTABLISHMENT	<input type="checkbox"/> CONSTRUCTION CONCERN <input type="checkbox"/> RESEARCH AND DEVELOPMENT <input type="checkbox"/> SURPLUS DEALER

14. DUNS NO. (If available)	15. HOW LONG IN PRESENT BUSINESS?
16. FLOOR SPACE (Square Feet/MP)	
a. MANUFACTURING	b. WAREHOUSE
17. NET WORTH	
a. DATE	b. AMOUNT
\$	

## 18. SECURITY CLEARANCE (If applicable, check highest clearance authorized)

FOR	TOP SECRET	SECRET	CONFIDENTIAL	c. NAMES OF AGENCIES GRANTING SECURITY CLEARANCES	d. DATES GRANTED
a. KEY PERSONNEL					
b. PLANT ONLY					

The information supplied herein (including all pages attached) is correct and neither the applicant nor any person (or concern) in any connection with the applicant as a principal or officer, so far as is known, is now debarred or otherwise declared ineligible by any agency of the Federal Government from making offers for furnishing materials, supplies, or services to the Government or any agency thereof.

19a. NAME OF PERSON AUTHORIZED TO SIGN (Type or print)	20. SIGNATURE	21. DATE SIGNED
19b. TITLE OF PERSON AUTHORIZED TO SIGN (Type or print)		

## INSTRUCTIONS

Persons or concerns wishing to be added to a particular agency's bidder's mailing list for supplies or services shall file this properly completed Solicitation Mailing List Application, together with such other lists as may be attached to this application form, with each procurement office of the Federal agency with which they desire to do business. If a Federal agency has attached a Supplemental Commodity list with instructions, complete the application as instructed. Otherwise, identify in Item 10 the equipment, supplies, and/or services on which you desire to bid. (Provide Federal Supply Class or Standard Industrial Classification codes, if available.) The application shall be submitted and signed by the principal as distinguished from an agent, however constituted.

After placement on the bidder's mailing list of an agency, your failure to respond (submission of bid, or notice in writing, that you are unable to bid on that particular transaction but wish to remain on the active bidder's mailing list for that particular item) to solicitations will be understood by the agency to indicate lack of interest and concurrence in the removal of your name from the purchasing activity's solicitation mailing for items concerned.

### SIZE OF BUSINESS DEFINITIONS (See Item 11A.)

a. Small business concern - A small business concern for the purpose of Government procurement is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is competing for Government contracts, and can further qualify under the criteria concerning number of employees, average annual receipts, or the other criteria, as prescribed by the Small Business Administration. (See Code of Federal Regulations, Title 13, Part 121, as amended, which contains detailed industry definitions and related procedures.)

b. Affiliates - Business concerns are affiliates of each other when either directly or indirectly (i) one concern controls or has the power to control the other, or (ii) a third party controls or has the power to control both. In determining whether concerns are independently owned and operated and whether or not affiliation exists, consideration is given to all appropriate factors including common ownership, common management, and contractual relationship. (See Items 8 and 11A.)

c. Number of employees - (Item 11B) In connection with the determination of small business status, "number of employees" means the average employment of any concern, including the employees of its domestic and foreign affiliates, based on the number of persons employed on a full-time, part-time, temporary or other basis during each of the pay periods of the preceding 12 months. If a concern has not been in existence for 12 months, "number of employees" means the average employment of such concern and its affiliates during the period that such concern has been in existence based on the number of persons employed during each of the pay periods of the period that such concern has been in business.

### TYPE OF OWNERSHIP DEFINITIONS (See Item 12.)

a. "Disadvantaged business concern" - means any business concern (1) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (2) whose management and daily business operations are controlled by one or more of such individuals.

b. "Women-owned business" - means a business that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business.

### TYPE OF BUSINESS DEFINITIONS (See Item 13.)

a. "Manufacturer or producer" - means a person (or concern) owning, operating, or maintaining a store, warehouse, or other establishment that produces, on the premises, the materials, supplies, articles or equipment of the general character of those listed in Item 10, or in the Federal Agency's Supplemental Commodity List, if attached.

b. "Service establishment" - means a concern (or person) which owns, operates, or maintains any type of business which is principally engaged in the furnishing of nonpersonal services, such as (but not limited to) repairing, cleaning, redecorating, or rental of personal property, including the furnishing of necessary repair parts or other supplies as a part of the services performed.

- **COMMERCE BUSINESS DAILY** - The Commerce Business Daily, published by the Department of Commerce, contains information concerning proposed procurements, sales, and contract awards. For further information concerning this publication, contact your local Commerce Field Office.

## **Appendix II**

### **The Office of Advocacy**

The Office of the Chief Counsel for Advocacy within the U.S. Small Business Administration works to reduce the burdens that federal policies impose on small firms and to maximize the benefits small businesses receive from the government. Advocacy's mission, simply stated, is to encourage policies that support the development and growth of American small businesses.

Advocacy is a voice for a software firm in Burlington, a manufacturer in Phoenix, a trucker in Memphis, a printer in Seattle—a voice for the small business community. The office is directed by the chief counsel for advocacy, who is appointed by the president and confirmed by the Senate. As a representative for the nation's small businesses, the chief counsel advances the views, concerns, and interests of small business before the Congress, the White House, and federal and state regulatory agencies. Under the chief counsel's direction, the offices of Interagency Affairs and Economic Research perform specific duties to achieve Advocacy's goals.

### **Office of Interagency Affairs**

The Office of Interagency Affairs pursues legislative and regulatory initiatives, recommending specific measures for creating an environment in which small businesses can compete effectively and expand to their full potential. The office prepares comment letters and testimony on federal initiatives that may affect small firms. The Interagency Affairs unit also monitors government compliance with the Regulatory Flexibility Act, which requires federal agencies to analyze the impact on small firms of proposed rules and regulations.

### **Office of Economic Research**

Critical to Advocacy's efforts to create a healthy environment for small business is the work of the Office of Economic Research. The office collects data on the nation's small businesses and compiles it into a small business data base. The office produces the President's annual report on the state of small business, a comprehensive presentation of small business performance in the economy. It also publishes a compendium of current economic indicators and state economic profiles. In addition, the office does research that informs policy discussions. The office also produces and publishes other information that specifically addresses the concerns of the nation's small businesses.

### **Regional Advocates**

Communication between the small business community and the chief counsel for advocacy is enhanced by regional advocates. Covering the 10 federal regions of the nation, regional advocates help identify new issues and problems of small business by monitoring the impact of federal and state regulations and policies on the local business communities within their regions.

## **How to Contact the Office of Advocacy**

*Chief Counsel for Advocacy: Jere W. Glover (202) 205-6533*

*Office of Interagency Affairs, (202) 205-6532*

*Office of Economic Research, (202) 205-6530*

### *Regional Advocates*

Region I, Boston, (617) 565-8415

Region II, New York, (212) 264-7750

Region III, Philadelphia, (215) 580-2805

Region IV, Atlanta, (404) 347-3081

Region V, Chicago, (312) 353-6070

Region VI, Dallas, (817) 684-5579

Region VII, Kansas City, (816) 374-6380

Region VIII, Denver, (303) 844-0503

Region IX, San Diego, (619) 557-7250 X 1118

Region X, Seattle, (206) 553-5231



## Appendix III

### Government Contracting and Minority Enterprise Development: Programs and Initiatives

The SBA's Office of Government Contracting and Minority Enterprise Development (OGC/MED) administers a number of programs designed to increase the share of government prime contracts and subcontracts awarded to small businesses. The primary programs include prime contracts, 8(a) minority small business set-asides, subcontracting assistance, certificates of competency, small business innovation research, the procurement automated source system and natural resources sales assistance. This discussion includes a brief overview of basic government contract types as well as a description of OGC/MED small business programs.

#### Types of Government Contracts

The government employs three basic procurement methods in buying goods and services: simplified acquisition purchases, sealed bid purchases and negotiated procurements.

##### *Simplified Acquisition Purchases*

Government acquisitions under \$100,000 are generally considered small purchases and simplified acquisition procedures are applied. Small purchases are typically reserved for small businesses and follow special simplified procedures, which include limited competition, streamlined processing and limited notice requirements for the government. Many small purchases are made through purchase orders, government-wide credit cards and blanket purchase orders.

*Purchases under \$2,500.* For a product or service valued at less than \$2,500 (a micro purchase), a contracting officer does not have to obtain competitive quotations. Note that these micro purchases are no longer reserved for small firms.

*Purchases between \$2,500 and \$100,000.* Purchases valued between \$2,500 and \$100,000 are generally, but not always, handled in one or two ways:

- *Oral quotations.* The contracting officer may solicit oral quotations from potential suppliers. Generally, at least three suppliers are consulted.
- *Written or electronic quotations.* The contracting officer solicits written or electronic quotations from potential suppliers through a Request for Quotation (RFQ). This procedure is used if unusual specifications or a large number of different items are involved.

##### *Sealed Bid Purchases*

The government uses fixed-price sealed bid contracts to buy standard, easily defined products or services generally worth more than \$100,000. A sealed bid purchase involves competitive bids and public opening of bids. This type of purchase is used when:

- The award will be made on the basis of lowest price;
- There is no need to clarify or discuss the requirements of the procurement with bidders; and

- The government expects to receive more than one bid.

### *Negotiated Procurements*

The most flexible, but sometimes most complicated, method for procuring goods and services is negotiation. This approach is used when contracting officers can't define all of the requirements of a procurement or when factors other than price are important enough to require evaluation. Negotiated procurements take many forms. They may call for competitive proposals, may involve restricted competition, or be sole source.

### **Small Business Procurement Programs and Initiatives**

The government is committed to the fullest possible participation of small, small disadvantaged, and women-owned businesses in its procurement programs.

### *Public Law 95-507*

Many laws applying to federal procurement have some special provisions about small firms. However, no law has had more profound effect than Public Law 95-507. This 1978 law made sweeping revisions to the Small Business Act. It requires, in part,:

- A strong and specific commitment to subcontracting with small and small disadvantaged firms by large prime contractors;
- Detailed subcontracting plans for large government contracts over \$500,000 (\$1 million for construction contracts) and monitoring of the plans by the SBA;
- Establishment of an Office of Small and Disadvantaged Business Utilization to assist small firms in each federal agency; and,
- Annual goals for contracting with small firms, set by federal agencies.

### *Agency Small Business Goals*

All federal agencies are required to establish goals for awarding contracts to small firms. These goals are negotiated with the Small Business Administration annually. Targeted annual goals include:

- 23 percent of an agency's prime contracts should be awarded to small firms;
- 5 percent of an agency's total prime and subcontracts should be awarded to small disadvantaged businesses; and,
- 5 percent of an agency's prime and subcontracts should be awarded to women-owned firms.

To meet these goals, agencies apply a variety of small business preference programs.

### *Small Business Set-Asides*

Under this initiative, government acquisitions are set aside (reserved) for small firms when there is a reasonable expectation that:

- Offers will be obtained from at least two responsible small businesses; and,
- Awards will be made at fair market prices.

Only small businesses are allowed to compete for reserved contracts. If the requirements have an anticipated contract value of \$100,000 or less (most such contracts are always set aside), simplified acquisition procedures are used. If the anticipated requirements have a value that exceeds \$100,000, the contract is negotiated under standard contracting procedures, but reserved for small business, if it is anticipated that offers can be obtained from at least two responsible small firms.

### *The SBA 8(a) Program*

Section 8(a) of the Small Business Act empowers the Small Business Administration to enter into prime contracts with other federal agencies for goods and services. The SBA then subcontracts the actual performance of the work to socially and economically disadvantaged small businesses that are certified by SBA to receive such programs. The selection of an 8(a) contractor by the SBA can be either on a sole source or a competitive basis. To participate in the 8(a) program, a small business must be at least 51 percent unconditionally owned, controlled, and managed by either:

- An individual(s) who is a socially and economically disadvantaged citizen of the United States; or
- An economically disadvantaged Indian tribe, including an Alaskan native corporation or an economically disadvantaged native Hawaiian organization.

SBA offers managerial, technical and financial support to qualified 8(a) contractors. Note: All minority preference programs are being reviewed by the Justice Department for compliance with the June 1995 *Adarand v. Peña* decision.

### *Subcontracting Assistance Program*

Firms with large federal contracts are required by law to establish goals for awarding subcontracts to qualified small firms. Each prime contract of \$500,000 or more (\$1 million for construction contracts) must include subcontracting goals and a plan for meeting those goals. SBA operates a number of initiatives to monitor subcontracting plans and to help small firms secure subcontracts.

### *Certificate of Competency Program*

The SBA certificate of competency (CoC) program provides an appeal procedure for small businesses that face the loss of government contracts because purchasing officers question their capability of meeting contract requirements.

### *Small Business Innovation Research Program*

The Small Business Innovation Research (SBIR) program is designed to stimulate small business technological innovation, use small firms to meet federal R&D needs and increase private sector commercialization derived from federal R&D. The program is conducted in three phases. Phase I solicits proposals from small firms on specific agency R&D needs. Phase II is funded to further develop the proposed ideas that are selected. Phase III is conducted to commercialize the ideas developed in Phases I and II.

### *Procurement Marketing and Access Network (Pro-Net)*

Pro-Net is an Internet-based data base of small businesses nationwide that are interested in federal procurement opportunities. Information on each company includes a summary of capabilities, ownership and qualifications. Contracting officers can use Pro-Net to search and target sectors of small businesses and electronically send solicitations, information and/or other requests to selected businesses. Small firms can also respond electronically.

### *Natural Resources Sales Assistance Program*

The timber set-aside program assists small businesses in the forest products industry by providing them with preferential bidding opportunities for purchasing timber offered by the federal government. The program is jointly operated by the SBA and federal timber-selling agencies throughout the United States.

## Appendix IV

### 1995 White House Conference on Small Business Procurement Recommendations

#144 Support fair competition: Congress should enact legislation that would prohibit government agencies, tax- and antitrust-exempt organizations from engaging in commercial activities in direct competition with small businesses.

#153 Congress should enact legislation to designate a national certification organization. This organization will be initially funded by Congress to establish a data base of certified small business, small disadvantaged business and small business owned by women. It will serve as a one-stop clearinghouse that will assist all federal agencies by disseminating information in conjunction with their outreach efforts. To assure the credibility of federal procurement procedures:

- a. Congress will endorse one set of criteria for all local, city, state and national agencies, adopted by a task force utilizing purchasing agents and small business owners, for uniform certification of small business, small disadvantaged business and small business owned by women where contracts involve federal funds.
- b. All federal agencies must establish standardized monitoring and compliance procedures.
- c. Independent decentralized, advisory boards should be established.
- d. State and local governments should be encouraged to recognize this certification on a reciprocal basis.
- e. All federal agencies should sponsor training to increase contracting/procurement awareness and use of reciprocal certification and data base.

#161 The President and Congress should continue to support the Minority Small Business Capital Ownership and Development Program, SBA 8(a), and should enact legislation to make improvements with particular emphasis on:

- a. Increase length of time.
- b. All federal minority procurement policies and procedures must be incorporated and applied to any recipient of federal funds and become mandatory.
- c. Increase utilization of 8(a) contractors by enforcing accountability of federal agencies in achieving their 8(a) goals
- d. The establishment of procedures for immediate relief in the event of catastrophic circumstances including but not limited to:
  - total dissolving of government agencies;
  - natural disasters

- base closures

e. Relief to be in the form of extended participation in the 8(a) program for a reasonable time to recover from catastrophic circumstances.

All of the above will follow the intent of the SBA 8(a) program to raise 8(a) businesses to a threshold allowing them to graduation to the open competitive market.

#164 The Davis-Bacon Act of 1931 and the Service Contract Act of 1965 should be completely repealed.

#167 Prompt Payment Act: The Office of Management and Budget must penalize federal agencies and/or their grantees for incurring interest debt generated through delayed bill payment. Congress should modify this Act to include subcontractors. In cases of dispute between the government and a prime contractor, the subcontractor's payment must be promptly released as long as the subcontractor is not part of the dispute.

#360 Increase Procurement Opportunities: Increase the opportunities for all small businesses to equitably participate in federal procurement. Require that:

a. Not less than 35 percent of all government procurement monies (35 percent of prime and 35 percent of subcontracts) be awarded to small firms, such that at least:

- 10 percent of prime and 10 percent of subcontract monies be awarded to minority groups;
- 5 percent of prime and 5 percent of subcontract monies be awarded to women-owned businesses; and,
- 10 percent of the government's total R&D budget be awarded to small businesses;

b. Small businesses be provided free and easy access to the government's electronic commerce system, FACNET, which profiles federal procurement opportunities;

c. Competition not be stifled by permitting federal agencies to bundle contract requirements beyond the reach and capability of many small firms; and,

d. Government agencies and tax-exempt entities not be allowed to unfairly compete with private firms by strengthening and expanding OMB Circular A-76 to apply to all federal monies used directly or indirectly in the provision of goods and services and by increasing the scope and improving the enforcement of the unrelated business income tax (UBIT).

e. On sole source purchases above \$100,000, a query of PASS must be done by federal agencies and prime contractors.

f. Require strict enforcement of the Rule of Two, which requires federal agencies to restrict competition when two or more small businesses are capable and available to compete in price, quality and product/service for contracts of \$100,000 or more.

g. Require the Department of Defense and the Small Business Administration to sponsor EDI training through the already established small business assistance centers located nationwide.

h. Require the SBA to review and revise the size criteria downward to reflect the true small business.

#437 In rendering a decision on *Adarand v. Peña*, the U.S. Supreme Court has potentially dealt the minority and women business community a severe and in some cases potentially fatal blow. While we recognize the separation of functions between the three branches of government, we are compelled out of an immediate and overwhelming sense of concern to recommend the following:

The President and Congress should proactively and aggressively respond to support the minority and women business community, and not use this decision in any way to influence any legislative action that would reduce support for our country's long-standing commitment to promote fair and equitable opportunity for all of its citizens regardless of race, color or gender.

## Appendix V

### **To Our Customers: A Final Note and Invitation for Comment**

The Office of Advocacy and its partners within the SBA hope this publication was informative, interesting and helpful in explaining the reforms that are significantly changing how the government does business. We also hope the guide has provided a fresh perspective on marketing, and has given the reader a useful set of market-based tools and resources that can be used to tap into changing public markets.

Advocacy acknowledges invoking its independent status within the government in making a number of candid statements about procurement reform. However, these statements, and especially the recommendations, are included as an integral part of this discussion to highlight important, yet often overlooked, perspectives and provide alternative solutions to achieving efficiencies without stifling small business competition.

For those who disagree with Advocacy's opinions, we hope you respect their intent and look for opportunities where compromise and balance can be achieved. For those who agree, we hope you acknowledge the magnitude of change at hand and actively engage your rights to influence regulatory and other acquisition reforms.

The Office of Advocacy values its customers and welcomes your opinions, suggestions and comments on procurement issues as well as other initiatives that would benefit small businesses. You can communicate with us via the following address:

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