

What's New?

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What we'll cover

- Size Standard Increases
- SAM
- SDB Self-Certification
 - Reversal of Rothe
- Individual Plans vs. Commercial Plans
- Subcontracting Plans vs. Participation Plans
- FFATA

Size Standard Increases

Size Standard Increases

SBA continuing with effort to re-evaluate all size standards

- **Currently being considered:**
 - NAICS Sector 48-49: Warehousing & Transportation
 - NAICS Sector 54, Professional, Technical, and Scientific Services
- **Increased (effective November 5, 2010):**
 - NAICS Sector 44-45, Retail Trade
- **Reminder:**
 - Do not use wholesale or retail NAICS codes to classify federal subcontracts.

SAM

SAM

- SAM – System for Award Management
- New government-wide system to replace 8 independent acquisition systems being used:
 - Federal Procurement Data System-New Generation (FPDS-NG)
 - FedBizOpps
 - Central Contractor Registration (CCR)
 - ORCA
 - Past Performance Information Retrieval System (PPIRS)
 - Wage Determination On-Line (WDOL)
 - Excluded Parties List System (EPLS)
 - Electronic Subcontracting Reporting System (eSRS)

SAM – Benefits and Timeline

- Benefits:
 - Vendors won't have to input business identifiers in multiple systems;
 - Vendors describe their business and complete reps&certs once rather than twice (ORCA and CCR);
- Timeline:
 - Phased Approach
 - 1st half of 2012: CCR, ORCA, EPLS
 - 2013: FBO, eSRS, FSRS, Catalog of Federal Domestic Asst.
 - 2013: WDOL
 - 2014: FPDS-NG
 - TBD: PPIRS/CPARS/FAPIIS

SAM – More Information

- More Information :
 - Go to <https://acquisition.gov>
 - <https://www.acquisition.gov/sam/sam%20Overview%20-%20July%202011%20v3.pdf> (good presentation)
 - Write to ASKSam@gsa.gov to be added to general email distribution list

Small Disadvantaged Businesses

Return to Self-Certification

Small Disadvantaged Businesses

Return to Self-Certification

- Interim Rule (Federal Register 75 FR 77737) December 13, 2010.
- Allows all SDBs to self-certify in federal subcontracting.
- Changed the way that FAR 52.219-8 defines “SDB”

Therefore, all the socio-economic categories are now self-certification, with the exception of HUBZone. HUBZone firms must still be certified by SBA.

FAR 52.219-8, SDB definition:

- **Small disadvantaged business concern” means a small business concern that represents, as part of its offer that—**
- (1)(i) It has received certification as a small disadvantaged business concern consistent with 13 CFR part 124, Subpart B;
- (ii) No material change in disadvantaged ownership and control has occurred since its certification;
- (iii) Where the concern is owned by one or more individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and
- (iv) It is identified, on the date of its representation, as a certified small disadvantaged business in the CCR Dynamic Small Business Search database maintained by the Small Business Administration, or
- **(2) It represents in writing that it qualifies as a small disadvantaged business (SDB) for any Federal subcontracting program, and believes in good faith that it is owned and controlled by one or more socially and economically disadvantaged individuals and meets the SDB eligibility criteria of 13 CFR 124.1002.**

Rothe Development vs. DOD/AF

- Federal Register Vol. 76, Number 175, Sept 9, 2011
- Proposed Rule (comments due Nov 8, 2011)
- 1998 Rothe filed suit against DOD/AF. Rothe challenged the constitutionality of the National Defense Authorization Act of 1987 (P.L. 99-661).
- Violated right for equal protection under 5th amendment
- U.S. District Court/Texas rule in favor of DoD
- Rothe appealed and U.S. Court of Appeals decided in Rothe's favor (Nov 4, 2008) finding it unconstitutional. Affects SDBs and HBCU/MIs.

SDB Proposed Rule

- Affects the 10% price evaluation preference for SDBs in federal full & open competition procurements.
- Will eliminate:
 - HBCU/MI reporting on the ISR reports
 - FAR 19.11 & FAR 19.12
 - FAR 52.219-22, Small Disadvantage Business Status
 - FAR 52.219-23, Notice of Price Evaluation Adjustment for SDB Concerns
 - FAR 52.219-24, Small Disadvantaged Business Participation Program – Targets
 - FAR 52.219-25, SDB Participation Program – Disadvantaged Status and Reporting
 - FAR 52.219-26, SDB Participation Program – Incentive Subcontracting

Not affected

This does not affect:

- Monetary incentives to prime contractors to encourage subcontracting opportunities to SDBs; and
- Use of an evaluation factor or subfactor to evaluate the participation of small businesses as subcontractors.

HUBZone De-Certifications

HUBZone Decertifications

- Effective October 1, 2011, about 3200 HubZone firms who are currently Certified by SBA will be losing their HZ certification due to a data collected, or learned, from the 2010 Census. The affected HZ firms have been placed on notice by the SBA.
- About 47.5 percent of qualified nonmetropolitan counties and 27 percent of "qualified census tracts" that define low-income areas will lose their HUBZone status when census data is released on Oct. 1.

HUBZone Subcontractors

- What is expiring are all the "redesignated" HUBZones that have gone beyond the original three year grand-fathering period.
- In 2004, Congress extended these re-designated further until the "date on which the Census Bureau publicly releases the first results from the 2010 Census Bureau publicly." (13 CFR126.103)

When to Determine Size

- 13 CFR 121.404(e): For subcontracting purposes, a concern must qualify as small as of the date that it certifies that it is small for the subcontract.
- 13 CFR 121.411(a) Prime contractors may rely on the information contained in the Central Contractor Registration (CCR), or equivalent data base maintained or sanctioned by SBA, as an accurate representation of a concern's size and ownership characteristics for purposes of maintaining a small business source list. Even though a concern is on a small business source list, it must still qualify and self-certify as a small business at the time it submits its offer as a section 8(d) subcontractor.

SUBNet

SUBNet

- A posting website on SBA's webpage
- Post specific subcontracting opportunity for a certain period of time.
- Can direct it to a specific small business group
- Good documentation for making a “good faith effort”

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Search Soli

| Company Name | Closing Date | Description |
|---|-------------------|---|
| Suulutaag, Inc. | 9/20/2011 5:00 PM | Seeking DBE not limited to s=opportunit |
| Monterey Mechanical CO. | 9/21/2011 1:00 PM | Construction Paving/Gradi Barrier Rail, I |
| Monterey Mechanical CO. | 9/21/2011 1:00 PM | Ready-Mix C Accessories; Valves; Met |
| BLUERIDGE GENERAL, INC. | 9/21/2011 2:00 PM | We are soliciting bus for 9/21/11 2:00 PM-Ingleside Elem. New Gymnasium contractors are encouraged to bid. We are an EEO employer. VA contractor 024157a |
| Dellinger, Inc | 9/21/2011 2:00 PM | Erwin Wastewater Improvements Location: Harnett County, NC Engineer: M P.A. Bid Date: September 21, 2011 |
| State Utility Contractors, Inc. | 9/21/2011 2:00 PM | Request quotes for: erosion control, demolition & hauling, fencing, earthwo rebar tying, concrete forming, painting, electrical, seeding & mulching |
| W.M. Schlosser Company, Inc | 9/21/2011 2:00 PM | Requesting bids from certified minority, disadvantaged, and women-owned participate as subcontractors/suppliers on the following project: MARC We Union Station Bid date: 9/21/11 @ 2PM Will be listed on Bid |
| S.J. Louis Construction, Inc. | 9/21/2011 3:00 PM | We are bidding on the Western Interceptor Relief Sewer/Ft Riley Blvd. in M prices for trucking/hauling, erosion control/landscaping, clear/grubb, traffic aggregates, fencing, seeding, supplier, & sheeting/shoring. |

Individual Plans vs Commercial Plans

Individual Subcontracting Plans

- One subcontracting plan for a specific contract
- Contains the mandatory elements of a subcontracting plan at FAR 52.219-9 and FAR 19.7
- Identify what you will be subcontracting, and to what size classification, for that particular contract.
- Option year goals are broken out.
- Requires ISR and SSR reporting in www.esrs.gov
- Liquidated Damages may apply.

Commercial Subcontracting Plan

- For prime contractors that offer a “commercial item” to the government
- “Commercial Item” Definition, FAR 2.1:
 - (1) Any item, other than real property, that is of a type customarily used by the general public or by non-governmental entities for purposes other than governmental purposes, and—
 - (i) Has been sold, leased, or licensed to the general public; or
 - (ii) Has been offered for sale, lease, or license to the general public;
 - (2) Any item that evolved from an item described in paragraph (1) of this definition through advances in technology or performance and that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under a Government solicitation;
 - ...
 - (5) Installation services, maintenance services, repair services, training services, and other services if—
 - (i) Such services are procured for support of an item referred to in paragraph (1), (2), (3), or (4) of this definition, regardless of whether such services are provided by the same source or at the same time as the item; and
 - (ii) The source of such services provides similar services contemporaneously to the general public under terms and conditions similar to those offered to the Federal Government;
 - (6) Services of a type offered and sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices for specific tasks performed or specific outcomes to be achieved and under standard commercial terms and conditions. For purposes of these services—
 - ...

Commercial Subcontracting Plans

- Commercial Plan are submitted annually, and cover a one year period (contractor's fiscal year).
- Goals include what you will be subcontracting during that year to all size classifications, for all the products/services that you provide, for both commercial and federal customers
- Submit the SSR in www.esrs.gov once a year.
- Does not relax any of the required elements of subcontracting plan.
- It is possible to have both individual subcontracting plan(s) and a commercial plan but eSRS reporting gets complicated.

Subcontracting Plan vs Participation Plan

Subcontracting Plans vs Participation Plans

SB Participation Plans (DOD)

DFAR 215-304

Applies to both large and small businesses

Small Business Subcontracting Plans

- In addition to the SB Participation Plan, any LB will also have to submit a Small Business Subcontracting Plan when contract meets dollar threshold.
- Required to contain all the mandatory elements in FAR 52.219-9.
- Requires reporting ISR and SSR in www.esrs.gov.

DFAR 215-304

- (c)(i) **In acquisitions that require use of the clause at FAR 52.219-9, Small Business Subcontracting Plan**, other than those based on the lowest price technically acceptable source selection process (see FAR 15.101-2), **the extent of participation of small businesses** and historically black colleges or universities and minority institutions in performance of the contract **shall be addressed in source selection**. The contracting officer shall evaluate **the extent to which offerors identify and commit to small business** and historically black college or university and minority institution performance **of the contract, whether as a joint venture, teaming arrangement, or subcontractor**.
- (B) Proposals addressing the extent of small business and historically black college or university and minority institution performance may be **separate from subcontracting plans** submitted pursuant to the clause at FAR 52.219-9 and should be structured to allow for consideration of offers from small businesses.
- (C) When an evaluation assesses the extent that small businesses and historically black colleges or universities and minority institutions are specifically identified in proposals, the small businesses and historically black colleges or universities and minority institutions considered in the evaluation shall be listed in any subcontracting plan submitted pursuant to FAR 52.219-9 to facilitate compliance with [252.219-7003\(g\)](#).

Example of SB Participation Evaluation Factor Criteria

- (a) The extent to which SB concerns are specifically **identified**;
- (b) The extent of commitment to use SB concerns (for example, **enforceable commitments** are to be weighted more heavily than non-enforceable ones);
- (c) The **complexity and variety** of the work SB concerns are to perform;
- (d) **Past performance** of offerors in complying with subcontracting plan goals for SB concerns and monetary targets for SDB participation; &
- (e) The extent of participation of SB concerns **in terms of the value of the total acquisition.**

FFATA

Federal Funding Accountability And Transparency
Act of 2006

Federal Funding Accountability And Transparency Act Of 2006 (FFATA)

- Public database
- www.fsrs.gov
- **REPORTING TIMELINE FOR PRIME CONTRACTORS**
- Prime Contractors awarded a Federal contract or order that is subject to Federal Acquisition Regulation clause 52.204-10 (Reporting Executive Compensation and First-Tier Subcontract Awards) are required to file a FFATA subaward report by the end of the month following the month in which the prime contractor awards any subcontract greater than \$25,000. This reporting requirement will be phased-in (see below):
 - **Phase 1:** Reporting subcontracts under federally-awarded contracts and orders valued greater than or equal to \$20,000,000, reporting started immediately.
 - **Phase 2:** Reporting subcontracts under federally-awarded contracts and orders valued greater than or equal to \$550,000, reporting started October 1, 2010.
 - **Phase 3:** Reporting subcontracts under federally-awarded contracts and orders valued greater than or equal to \$25,000, reporting starts March 1, 2011.
- Contracting Officers do not accept/reject data (*review only*)



Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS)



Log-In or Register Now:



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Please use Internet Explorer 6.0+, Mozilla Firefox 2.0+, or Apple Safari 3.0+ to access FSRS.

[About FSRS](#)

[FAQs](#)

Question of the month:

Is my company required to file a FFATA Subaward Report in FSRS?

The FFATA Subaward Reporting System (FSRS) will collect data from Federal prime contractors on subcontracts they award. Prime Contractors awarded a federal contract or order that is subject to Federal Acquisition Regulation clause 52.204-10 (Reporting Executive Compensation and First-Tier Subcontract Awards) are required to file a FFATA subaward report by the end of the month following the month in which the prime contractor awards any subcontract greater than \$25,000. This reporting requirement will be phased-in (see below):

- **Phase 1:** Reporting subcontracts under federally-awarded contracts and orders valued greater than or equal to \$20,000,000, reporting

Documents

User Guides

» [FSRS Contractor Guide](#)

Training Materials

» [FSRS Contractor Demonstration](#)

News

Question of the Month:

Is my company required to file a FFATA Subaward Report in FSRS?

[View the answer](#)

Viewer Software:

Some documents linked from this page are in PDF, Flash, or PowerPoint format. To view these files, you may need to download:

» [Adobe Acrobat Reader](#)

» [Adobe Flash Player](#)

» [Microsoft PowerPoint Viewer 2007](#)

For questions about FSRS, contact:

FATA Help Desk

- Federal Service Desk
- www.fsd.gov
 - Technical Questions
 - Policy Questions
- Will need username and password.



Jobs Bill

No proposed regulations to cover at this time.