

Small Business Administration

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§ 125.1 What definitions are important to SBA's Government Contracting Programs?

(a) *Chief Acquisition Officer* means the employee of a Federal agency designated as such pursuant to section 16(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(a)).

(b) *Commercial off-the-shelf item* has the same definition as set forth in 41 U.S.C. 101 (as renumbered) and Federal Acquisition Regulation (FAR) 2.101 (48 U.S.C. 2.101).

(c) *Consolidation of contract requirements, consolidated contract, or consolidated requirement* means a solicitation for a single contract or a Multiple Award Contract to: (1) Satisfy two or more requirements of the Federal

agency for goods or services that have been provided to or performed for the Federal agency under two or more separate contracts each of which was lower in cost than the total cost of the contract for which the offers are solicited, the total cost of which exceeds \$2 million (including options); or (2) Satisfy requirements of the Federal agency for construction projects to be performed at two or more discrete sites.

(d) *Contract*, unless otherwise noted, has the same definition as set forth in FAR 2.101 (48 U.S.C. 2.101) and includes orders issued against Multiple Award Contracts and orders competed under agreements where the execution of the order is the contract (*e.g.*, a Blanket Purchase Agreement (BPA), a Basic Agreement (BA), or a Basic Ordering Agreement (BOA)).

(e) *Contract bundling, bundled requirement, bundled contract, or bundling* means the consolidation of two or more procurement requirements for goods or services previously provided or performed under separate smaller contracts into a solicitation of offers for a single contract or a Multiple Award Contract that is likely to be unsuitable for award to a small business concern (but may be suitable for award to a small business with a Small Business Teaming Arrangement) due to:

(1) The diversity, size, or specialized nature of the elements of the performance specified;

(2) The aggregate dollar value of the anticipated award;

(3) The geographical dispersion of the contract performance sites; or

(4) Any combination of the factors described in paragraphs (e)(1), (2), and (3) of this section.

(f) *Cost of the contract* means all allowable direct and indirect costs allocable to the contract, excluding profit or fees.

(g) *Cost of contract performance incurred for personnel* means direct labor costs and any overhead which has only direct labor as its base, plus the concern's General and Administrative rate multiplied by the labor cost.

(h) *Cost of manufacturing* means costs incurred by the business concern in the production of the end item being acquired, including the costs associated with crop production. These are costs

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associated with producing the item being acquired, including the direct costs of fabrication, assembly, or other production activities, and indirect costs which are allocable and allowable. The cost of materials, as well as the profit or fee from the contract, are excluded.

(i) *Cost of materials* means costs of the items purchased, handling and associated shipping costs for the purchased items (which includes raw materials), commercial off-the-shelf items (and similar common supply items or commercial items that require additional manufacturing, modification or integration to become end items), special tooling, special testing equipment, and construction equipment purchased for and required to perform on the contract. In the case of a supply contract, cost of materials includes the acquisition of services or products from outside sources following normal commercial practices within the industry.

(j) *General Services Administration (GSA) Schedule Contract* means a Multiple Award Contract issued by GSA and includes the Federal Supply Schedules and other Multiple Award Schedules.

(k) *Multiple Award Contract* means a contract that is:

(1) A Multiple Award Schedule contract issued by GSA (*e.g.*, GSA Schedule Contract) or agencies granted Multiple Award Schedule contract authority by GSA (*e.g.*, Department of Veterans Affairs) as described in FAR part 38 and subpart 8.4;

(2) A multiple award task-order or delivery-order contract issued in accordance with FAR subpart 16.5, including Governmentwide acquisition contracts; or

(3) Any other indefinite-delivery, indefinite-quantity contract entered into with two or more sources pursuant to the same solicitation.

(l) *Office of Small and Disadvantaged Business Utilization (OSDBU) or the Office of Small Business Programs (OSBP)* means the office in each Federal agency having procurement powers that is responsible for ensuring that small businesses receive a fair proportion of Federal contracts in that agency. The office is managed by a Director, who is responsible and reports directly to the

head of the agency or deputy to the agency (except that for DoD, the Director reports to the Secretary or the Secretary's designee).

(m) *Personnel* means individuals who are "employees" under §121.106 of this chapter, except for purposes of the HUBZone program, where the definition of "employee" is found in §126.103 of this chapter.

(n) *Partial set-aside (or partially set-aside)* means, for a Multiple Award Contract, a contracting vehicle that can be used when: market research indicates that a total set-aside is not appropriate; the procurement can be broken up into smaller discrete portions or discrete categories such as by Contract Line Items, Special Item Numbers, Sectors or Functional Areas or other equivalent; and two or more small business concerns, 8(a) BD Participants, HUBZone SBCs, SDVO SBCs, WOSBs or EDWOSBs are expected to submit an offer on the set-aside part or parts of the requirement at a fair market price.

(o) *Reserve* means, for a Multiple Award Contract,

(1) An acquisition conducted using full and open competition where the contracting officer makes—

(i) Two or more contract awards to any one type of small business concern (*e.g.*, small business, 8(a), HUBZone, SDVO SBC, WOSB or EDWOSB) and competes any orders solely amongst the specified types of small business concerns if the "rule of two" or any alternative set-aside requirements provided in the small business program have been met;

(ii) Several awards to several different types of small businesses (*e.g.*, one to 8(a), one to HUBZone, one to SDVO SBC, one to WOSB or EDWOSB) and competes any orders solely amongst all of the small business concerns if the "rule of two" has been met; or

(iii) One contract award to any one type of small business concern (*e.g.*, small business, 8(a), HUBZone, SDVO SBC, WOSB or EDWOSB) and subsequently issues orders directly to that concern.

(2) An award on a bundled contract to one or more small businesses with a Small Business Teaming Arrangement.

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(p) “*Rule of Two*” refers to the requirements set forth in §§124.506, 125.2(f), 125.19(c), 126.607(c) and 127.503 of this chapter that there is a reasonable expectation that the contracting officer will obtain offers from at least two small businesses and award will be made at fair market price.

(q) *Senior Procurement Executive (SPE)* means the employee of a Federal agency designated as such pursuant to section 16(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(c)).

(r) *Separate contract* means a contract or order (including those placed against a GSA Schedule Contract or an indefinite delivery, indefinite quantity contract) that has previously been performed by any business, including an other-than-small business or small business concern.

(s) *Separate smaller contract* means a contract that has previously been performed by one or more small business concerns or was suitable for award to one or more small business concerns.

(t) *Single contract* means any contract or order (including those placed against a GSA Schedule Contract or an indefinite delivery, indefinite quantity contract) resulting in one or more awardee(s).

(u) *Small Business Teaming Arrangement* means an arrangement where:

(1) Two or more small business concerns have formed a joint venture to act as a potential prime contractor (for the definition of and exceptions to affiliation for joint ventures, *see* §121.103); or

(2) A potential small business prime contractor agrees with one or more other small business concerns to have them act as its subcontractors under a specified Government contract. A Small Business Teaming Arrangement between a prime and its small business subcontractor(s) must exist through a written agreement between the parties that is specifically referred to as a “Small Business Teaming Arrangement” or “Small Business Teaming Agreement” and which sets forth the different responsibilities, roles, and percentages (or other allocations) of work as it relates to the acquisition.

(i) A Small Business Teaming Arrangement can include two business concerns in a mentor-protégé relation-

ship so long as both the mentor and the protégé are small or the protégé is small and the concerns have received an exception to affiliation pursuant to §121.103(h)(3)(ii) or 121.103(h)(3)(iii) of this chapter.

(ii) The agreement must be provided to the contracting officer as part of the proposal.

(v) *Subcontract or subcontracting* means, except for purposes of §125.3, that portion of the contract performed by a business concern, other than the business concern awarded the contract, under a second contract, purchase order, or agreement for any parts, supplies, components, or subassemblies which are not available commercial off-the-shelf items, and which are manufactured in accordance with drawings, specifications, or designs furnished by the contractor, or by the government as a portion of the solicitation. Raw castings, forgings, and moldings are considered as materials, not as subcontracting costs. Where the prime contractor has been directed by the Government as part of the contract to use any specific source for parts, supplies, or components subassemblies, the costs associated with those purchases will be considered as part of the cost of materials, not subcontracting costs.

(w) *Substantial bundling* means any bundling that meets or exceeds the following dollar amounts (if the acquisition strategy contemplates Multiple Award Contracts or multiple award orders issued against a GSA Schedule Contract or a task or delivery order contract awarded by another agency, these thresholds apply to the cumulative estimated value of the Multiple Award Contracts or orders, including options):

(1) \$8.0 million or more for the Department of Defense;

(2) \$6.0 million or more for the National Aeronautics and Space Administration, the General Services Administration, and the Department of Energy; and

(3) \$2.5 million or more for all other agencies.

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