

and economically disadvantaged individuals.

(b) *Reliance on 8(a) criteria.* In determining whether a firm qualifies as an SDB, the criteria of social and economic disadvantage and other eligibility requirements established in subpart A of this part apply, including the requirements of ownership and control and disadvantaged status, unless otherwise provided in this subpart. All current Participants in the 8(a) BD program qualify as SDBs.

[85 FR 27292, May 8, 2020]

PART 125—GOVERNMENT CONTRACTING PROGRAMS

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AUTHORITY: 15 U.S.C. 632(p), (q), 634(b)(6), 637, 644, 657b, and 657r.

SOURCE: 61 FR 3312, Jan. 31, 1996, unless otherwise noted.

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

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)).

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).

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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.

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)).

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.

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

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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.

Covered territory business means a small business concern that has its principal office located in one of the following:

- (1) The United States Virgin Islands;
- (2) American Samoa;
- (3) Guam; or
- (4) The Commonwealth of the Northern Mariana Islands.

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.

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.

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).

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.

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.

“*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.

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)).

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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.

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.

Similarly situated entity means a subcontractor that has the same small business program status as the prime contractor. This means that: For a HUBZone contract, a subcontractor that is a certified HUBZone small business concern; for a small business set-aside, partial set-aside, or reserve, a subcontractor that is a small business concern; for a SDVOSB contract, a subcontractor that is a certified SDVOSB; for a VOSB contract, a subcontractor that is a certified VOSB; for an 8(a) contract, a subcontractor that is a certified 8(a) BD Program Participant; for a WOSB or EDWOSB contract, a subcontractor that is a certified WOSB or EDWOSB. In addition to sharing the same small business program status as the prime contractor, a similarly situated entity must also be small for the NAICS code that the prime contractor assigned to the subcontract the subcontractor will perform.

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 award-ee(s).

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 subcon-

tracting 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.

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.

[78 FR 61134, Oct. 2, 2013, as amended at 81 FR 34261, May 31, 2016; 84 FR 65239, Nov. 26, 2019; 87 FR 50927, Aug. 19, 2022; 87 FR 73412, Nov. 29, 2022]

§125.2 What are SBA's and the procuring agency's responsibilities when providing contracting assistance to small businesses?

(a)(1) *General.* The objective of the SBA's contracting programs is to assist small business concerns, including 8(a) BD Participants, HUBZone small business concerns, Service-Disabled Veteran-Owned Small Business Concerns, Women-Owned Small Businesses and Economically Disadvantaged Women-Owned Small Businesses, in obtaining a fair share of Federal Government prime contracts, subcontracts, orders, and property sales. Therefore, these regulations apply to all types of Federal Government contracts, including Multiple Award Contracts, and contracts for architectural and engineering services, research, development, test and evaluation. Small business concerns must receive any award (including orders, and orders placed against Multiple Award Contracts) or