

(i) As to what the intended use of the surplus personal property is to be;

(ii) That it will use the surplus personal property to be acquired in the normal conduct of its business activities or be liable for the fair rental value from the date of its receipt;

(iii) That it will not sell or transfer the surplus personal property to be acquired to any party other than the Federal Government as required by General Services Administration (GSA) and SASP requirements and guidelines;

(iv) That, at its own expense, it will return the surplus personal property to a SASP if directed to do so by SBA, including where the concern has not used the property as intended within one year of receipt;

(v) That, should it breach its agreement not to sell or transfer the surplus personal property, it will be liable to the Federal Government for the established fair market value or the sale price, whichever is greater, of the property sold or transferred; and

(vi) That it will give GSA and the SASP access to inspect the surplus personal property and all records pertaining to it.

(2) A concern receiving surplus personal property pursuant to this section assumes all liability associated with or stemming from the use of the property, and all costs associated with the use and maintenance of the property.

(d) *Costs.* Concerns acquiring surplus personal property from a SASP may be required to pay a service fee to the SASP in accordance with 41 CFR 102–37.280. In no instance will any SASP charge a concern more for any service than their established fees charged to other transferees.

(e) *Title.* Upon execution of the SASP distribution document, the firm receiving the property has only conditional title to the property during the applicable period of restriction. Full title to the property will vest in the recipient concern only after the recipient concern has met all of the requirements of this part and the requirements of GSA and the SASP that it received the property from.

PART 129—CONTRACTS FOR SMALL BUSINESSES LOCATED IN DISASTER AREAS, AND SURPLUS PERSONAL PROPERTY FOR SMALL BUSINESSES LOCATED IN DISASTER AREAS, PUERTO RICO, AND COVERED TERRITORY BUSINESSES

Subpart A—Contracts for Small Businesses Located in Disaster Areas

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AUTHORITY: 15 U.S.C. 636(j)(13)(F)(ii), (iii), 644(f).

SOURCE: 84 FR 65665, Nov. 29, 2019, unless otherwise noted.

Subpart A—Contracts for Small Businesses Located in Disaster Areas

§ 129.100 What definitions are important in this part?

For the purposes of this part:

Concern located in a disaster area is a firm that during the last twelve months—

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(1)(i) Had its main operating office in the area; and

(ii) Generated at least half of the firm's gross revenues and employed at least half of its permanent employees in the area.

(2) If the firm does not meet the criteria in paragraph (1) of this definition, factors to be considered in determining whether a firm resides or primarily does business in the disaster area include—

(i) Physical location(s) of the firm's permanent office(s) and date any office in the disaster area(s) was established;

(ii) Current state licenses;

(iii) Record of past work in the disaster area(s) (*e.g.*, how much and for how long);

(iv) Contractual history the firm has had with subcontractors and/or suppliers in the disaster area;

(v) Percentage of the firm's gross revenues attributable to work performed in the disaster area;

(vi) Number of permanent employees the firm employs in the disaster area;

(vii) Membership in local and state organizations in the disaster area; and

(viii) Other evidence that establishes the firm resides or primarily does business in the disaster area. For example, sole proprietorships may submit utility bills and bank statements.

Disaster area means the area for which the President has declared a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Assistance Act (42 U.S.C. 5170), during the period of the declaration.

Emergency response contract means a contract with private entities that supports assistance activities in a disaster area, such as debris cleanup, distribution of supplies, or reconstruction.

§ 129.101 What contracting preferences are available for small business concerns located in disaster areas?

Contracting officers may set aside solicitations for emergency response contracts to allow only small businesses located in the disaster area to compete.

[84 FR 65665, Nov. 29, 2019. Redesignated at 85 FR 69125, Nov. 2, 2020]

§ 129.102 What small business goaling credit do agencies receive for awarding an emergency response contract to a small business concern under this part?

If an agency awards an emergency response contract to a local small business concern through the use of a local area set-aside that is also set aside under a small business or socioeconomic set-aside (8(a), HUBZone, SDVO, WOSB, EDWOSB), the value of the contract shall be doubled for purposes of determining compliance with the goals for procurement contracts under section 15(g)(1)(A) of the Small Business Act (15 U.S.C. 644(g)(1)(A)). The procuring agency shall enter the actual contract value, not the doubled contract value in the required contract reporting systems, and appropriately code the contract action to receive the credit. SBA will provide the double credit as part of the Scorecard process.

[84 FR 65665, Nov. 29, 2019. Redesignated at 85 FR 69125, Nov. 2, 2020]

§ 129.103 What are the applicable performance requirements?

The performance requirements of § 125.6 of this chapter apply to small and socioeconomic set-asides under this part. A similarly situated entity as that term is used in § 125.6 of this chapter must qualify as a concern located in a disaster area.

[84 FR 65665, Nov. 29, 2019. Redesignated at 85 FR 69125, Nov. 2, 2020]

§ 129.104 What are the penalties of misrepresentation of size or status?

The penalties relevant to the particular size or socioeconomic status representation under 13 CFR 121.108, 125.32, 126.900, and 127.700 are applicable to set-asides under this part.

[84 FR 65665, Nov. 29, 2019. Redesignated at 85 FR 69125, Nov. 2, 2020]

Subpart B—Surplus Personal Property for Small Businesses Located in Disaster Areas

SOURCE: 85 FR 69125, Nov. 2, 2020, unless otherwise noted.

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§ 129.200 What definitions are important in this subpart?

Covered period means the 2-year period beginning on the date on which the President declared the applicable major disaster. 15 U.S.C. 636(j)(f)(13)(F)(ii)(I)(aa).

§ 129.201 How does a small business concern located in a disaster area obtain Federal surplus personal property?

(a) *General.* Pursuant to 15 U.S.C. 636(j)(13)(F)(ii) eligible small business concerns located in disaster areas may receive surplus Federal Government property from State Agencies for Surplus Property (SASPs). The procedures set forth in 41 CFR part 102–37 and this section will be used to transfer surplus personal property to eligible small business concerns.

(1) The property which may be transferred to SASPs for further transfer to eligible small business concerns includes all personal property which has become available for donation pursuant to 41 CFR 102–37.30.

(b) *Eligibility to receive Federal surplus personal property.* To be eligible to receive Federal surplus personal property, on the date of transfer a concern must:

- (1) Be located in a disaster area;
- (2) Qualify as small under the size standard corresponding to its primary NAICS code and certify its size in SAM.gov, or a successor system, prior to seeking access to surplus property. SASPs and GSA may rely on a concern's certification as small for purposes of this program;
- (3) Not be debarred, suspended, or declared ineligible under Title 2 or Title 48 of the Code of Federal Regulations;
- (4) Be engaged or expect to be engaged in business activities making the item useful to it; and
- (5) Not have received a transfer of property under §124.405 of this chapter during the covered period. The 2-year period of the presidentially declared disaster does not affect eligibility for additional technology transfers or surplus personal property to a small business concern located in a disaster area for a subsequent presidentially declared disaster occurring within the

original 2-year period of a prior presidentially declared disaster.

(c) *Use of acquired surplus personal property.* (1) Eligible concerns may acquire surplus Federal personal property from the SASP in the State(s) where the concern is located and operates, provided the concern represents and agrees in writing:

(i) As to what the intended use of the surplus personal property is to be;

(ii) That it will use the property to be acquired in the normal conduct of its business activities or be liable for the fair rental value from the date of its receipt;

(iii) That it will not sell or transfer the property to be acquired to any party other than the Federal Government as required by GSA and SASP requirements and guidelines;

(iv) That, at its own expense, it will return the property to a SASP if directed to do so by SBA, including where the concern has not used the property as intended within one year of receipt;

(v) That, should it breach its agreement not to sell or transfer the property, it will be liable to the Federal Government for the established fair market value or the sale price, whichever is greater, of the property sold or transferred; and

(vi) That it will give GSA and the SASP access to inspect the property and all records pertaining to it.

(2) A concern receiving surplus personal property pursuant to this section assumes all liability associated with or stemming from the use of the property.

(d) *Costs.* Concerns acquiring surplus personal property from a SASP must pay a service fee to the SASP in accordance with 41 CFR 102–37.280. In no instance will any SASP charge a concern more for any service than their established fees charged to other transferees.

(e) *Title.* Upon execution of the SASP distribution document, the firm receiving the surplus personal property has only conditional title only to the surplus personal property during the applicable period of restriction. Full title to the property will vest in the donee only after the donee has met all of the

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requirements of this part and the requirements of GSA and the SASP that it received the property from.

Subpart C—Surplus Personal Property for Small Businesses Located in Puerto Rico and for Covered Territory Businesses

SOURCE: 85 FR 69125, Nov. 2, 2020, unless otherwise noted.

§ 129.300 What definitions are important in this subpart?

Covered period means:

(1) In the case of a Puerto Rico business, the period beginning on August 13, 2018 and ending on the date which the Oversight Board established under section 101 of the Puerto Rico Oversight, Management, and Economic Stability Act (48 U.S.C. 2121) terminates. 15 U.S.C. 636(j)(13)(F)(iii); or

(2) In the case of a Covered territory business, the period beginning on January 1, 2021, the period ending on January 1, 2025. 15 U.S.C. 636(j)(13)(f)(iii).

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.

Located in Puerto Rico means a concern with a physical location in Puerto Rico and organized under the laws of Puerto Rico.

[85 FR 69125, Nov. 2, 2020, as amended at 87 FR 50927, Aug. 19, 2022]

§ 129.301 How does a covered territory business or small business concern located in Puerto Rico obtain Federal surplus personal property?

(a) *General.* Pursuant to 15 U.S.C. 636(j)(13)(F)(iii), eligible covered territory businesses may receive surplus Federal Government property from their territory State Agency for Surplus Property (SASP), and eligible small business concerns located in Puerto Rico may receive such property from the Puerto Rico SASP. The procedures set forth in 41 CFR part 102-37 and this section will be used to transfer

surplus personal property to eligible small business concerns. The property which may be transferred to the territory SASP or the Puerto Rico SASP for further transfer to eligible small business concerns includes all personal property which has become available for donation pursuant to 41 CFR 102-37.30.

(b) *Eligibility to receive Federal surplus personal property.* To be eligible to receive Federal surplus personal property, on the date of transfer a concern must:

(1) Be a covered territory business or be located in Puerto Rico;

(2) Qualify as small under the size standard corresponding to its primary NAICS code and certify its size in SAM.gov, or a successor system, prior to seeking access to surplus property. SASPs and GSA may rely on concern's certification as small for purposes of this program;

(3) Not be debarred, suspended, or declared ineligible under Title 2 or Title 48 of the Code of Federal Regulations; and

(4) Be engaged or expect to be engaged in business activities making the item useful to it.

(c) *Use of acquired surplus personal property.* (1) Eligible concerns may acquire surplus Federal personal property from their territory SASP or, for a Puerto Rico concern, the Puerto Rico SASP, provided the concern represents and agrees in writing:

(i) As to what the intended use of the surplus personal property is to be;

(ii) That it will use the property to be acquired in the normal conduct of its business activities or be liable for the fair rental value from the date of its receipt;

(iii) That it will not sell or transfer the property to be acquired to any party other than the Federal Government as required by GSA and SASP requirements and guidelines;

(iv) That, at its own expense, it will return the property to the SASP if directed to do so by SBA, including where the concern has not used the property as intended within one year of receipt;

(v) That, should it breach its agreement not to sell or transfer the property, it will be liable to the Federal

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Government for the established fair market value or the sale price, whichever is greater, of the property sold or transferred; and

(vi) That it will give GSA and SASPs access to inspect the property and all records pertaining to it.

(2) A concern receiving surplus personal property pursuant to this section assumes all liability associated with or stemming from the use of the property.

(d) *Costs.* Concerns acquiring surplus personal property from a SASP must pay a service fee to the SASP in accordance with 41 CFR 102–37.280. In no instance will any SASP charge a concern more for any service than their established fees charged to other transferees.

(e) *Title.* Upon execution of the SASP distribution document, the firm receiving the surplus personal property has only conditional title to the surplus personal property during the applicable period of restriction. Full title to the surplus personal property will vest in the donee only after the donee has met all of the requirements of this part.

[85 FR 69125, Nov. 2, 2020, as amended at 87 FR 50927, Aug. 19, 2022]

**PART 130—SMALL BUSINESS
DEVELOPMENT CENTERS**

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- 130.110 Definitions.
- 130.200 Eligible entities.
- 130.300 Small Business Development Centers (SBDCs). [Reserved]
- 130.310 Area of service.
- 130.320 Location of lead centers and SBDC service providers.
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- 130.800 Oversight of the SBDC program.
- 130.810 SBA review authority.
- 130.820 Reports and recordkeeping.
- 130.830 Audits and investigations.

AUTHORITY: Sections 5(b)(6) and 21 of the Small Business Act, as amended, 15 U.S.C. 634(b)(6) and 648; Pub. L. 101–515, 101 Stat. 2101; Pub. L. 101–574, 104 Stat. 2814; Pub. L. 102–366, 106 Stat. 986; and Pub. L. 102–395, 106 Stat. 1828.

SOURCE: 60 FR 31056, June 13, 1995, unless otherwise noted.

§ 130.100 Introduction.

(a) *Objective.* The SBDC Program creates a broad-based system of assistance for the small business community by linking the resources of Federal, State and local governments with the resources of the educational community and the private sector. Although SBA is responsible for the general management and oversight of the SBDC Program, a partnership exists between SBA and the recipient organization for the delivery of assistance to the small business community.

(b) *Incorporation of amended references.* All references in these regulations to OMB Circulars, other SBA regulations, Standard Operating Procedures, and other sources of SBA policy guidance incorporate all ensuing changes or amendments to such sources.

§ 130.110 Definitions.

Applicant organization. An entity, described in §130.200(a), which applies to establish and operate an SBDC network.

Application. The written submission by a new applicant organization or an existing recipient organization explaining its projected SBDC activities for the upcoming budget period and requesting SBA funding for use in its operations.

Area of Service. The State or territory, or portion of a State or territory (when there is more than one SBDC in a State or territory), or the District of Columbia, in which an applicant organization proposes to provide services or in which a recipient organization provides services.