

## **Contract Bundling Action Plan**

### **Introduction**

The number and size of bundled contracts within the executive branch have reached record levels. Although contract bundling can serve a useful purpose, the effects of this increase in contract bundling over the past ten years cannot be underestimated. Not only are substantially fewer small businesses receiving federal contracts, but also the federal government is suffering from a reduced supplier base.

American small firms offer creativity, flexibility, competition, and lower costs to the federal acquisition community. These small firms contribute significantly to our Nation's economy through the creation of jobs, competition and innovation.

The Federal government awards over \$200 billion in contracts every year. On average, small businesses receive nearly 23 percent of the total dollars spent on federal procurements each year as prime contractors. In FY 2001, there were 11.4 million contract actions valued at \$234.9 billion, and large businesses subcontracted about \$35.5 billion to small firms.

### **Objective**

Improve contracting and subcontracting opportunities for small businesses.

### **Definition**

The Small Business Reauthorization Act of 1997 defines contract bundling as “consolidating 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 that is unlikely to be suitable for award to a small business concern.” The Act lists the following factors that might cause unsuitability for award to a small business:

- The diversity, size, or specialized nature of the elements of the performance specified;
- The aggregate dollar value of the anticipated award;
- The geographical dispersion of contract performance sites; or
- Any combination of these criteria.

The Act requires each federal department and agency, to the maximum extent practicable, to: (1) structure contracting requirements to facilitate competition by and among small businesses, taking all reasonable steps to eliminate obstacles to their participation; and (2) avoid unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors.

Prior to bundling any contracts, departments and agencies are required to conduct market research to determine whether contract bundling is necessary and justified. To justify contract bundling, they must demonstrate “measurably substantial benefits,” such as cost savings, quality improvements, reduction in acquisition cycle times, or better terms and conditions. The U. S. Small Business Administration’s (SBA) implementing regulations further define “measurably substantial benefits” by requiring departments/agencies to demonstrate—

- For contracts of \$75 million or less - - benefits equivalent to 10 percent of contract value (including options), or
- For contracts over \$75 million - - benefits equivalent to 5 percent of contract value (including options) or \$7.5 million, whichever is greater.

### **Responsibilities**

The Federal Acquisition Regulation (FAR) establishes responsibilities for agency personnel who are considering contract bundling, e.g., FAR 7.103 and 7.107, 10, and 19.4. The FAR places responsibility on agency acquisition planners to structure requirements, to the maximum extent practicable, to facilitate competition by and among small businesses, and avoid unnecessary and unjustified bundling.

#### Bureau Head of Contracting Offices shall:

- (1) reinforce the Federal Acquisition Regulation to fulfill the public policy objectives; and
- (2) hold acquisition professionals accountable for maximizing small business participation in all procurements.
- (3) submit required data for quarterly contract bundling report and best practices.

#### Contracting officers shall:

- (1) perform market research to determine whether bundling is necessary and justified;
- (2) at least 30 days before the release of the solicitation, notify any affected incumbent small business concerns of the government’s intention to bundle the requirement and provide instructions on how the small business concerns may contact the SBA PCR.
- (3) justify their determinations in acquisition strategy documentation that identifies measurably substantial benefits that meet the statutory and regulatory requirements;

- (4) seek the approval of the bureau small business specialist, the OSDBU representative and the SBA's Procurement Center Representative on their acquisition strategies;
- (5) prepare and submit a CD-570 Small Business Set-Aside Review Form to OSDBU for approval in accordance with the instructions on the form;
- (6) encourage mentor/protégé and joint venture relationships with small firms through evaluation factors in solicitations that give extra credit for these relationships; and
- (7) assess contractor's past compliance with subcontracting plans as an evaluation factor prior to contract awards and prior to exercising options.

The Senior Procurement Executive (SPE) shall:

- (1) reinforce acquisition planning through the budget process, in collaboration with the CFO/ASA, CIO, Budget Director and the OSDBU Director;
- (2) ensure that the Departmental review boards consider the impact of any bundling that might affect small business participation and encourage acquisition strategies that maximize prime and subcontracting opportunities for small businesses;
- (3) ensure that the procurement reporting database collects the data required by the OMB quarterly bundling report; and
- (4) strengthen the monitoring and enforcement of subcontracting plans by the contracting officers/contract administrators in collaboration with the bureau HCOs.

The OSDBU Director shall:

- (1) coordinate reviews between the acquisition professionals and the SBA Procurement Center Representative;
- (2) collaborate with the acquisition professionals to maximize small business participation in prime and subcontracting opportunities;
- (3) be a member of review boards, e.g., CITRB and Acquisition Review Board, to influence acquisition strategies to maximize prime and subcontracting opportunities for small businesses;
- (4) sponsor small business program training for the acquisition professionals;
- (5) coordinate the submission of the quarterly contract bundling reports to OMB; and
- (6) compile best practices submitted by the bureaus and share with the SBA for inclusion in training courses.

Form CD-570, Small Business Set-Aside Review, has been updated (see Exhibit 1) to capture information on bundling and GSA's MAS and other types of agency task/delivery order contracts.

## **Quarterly Report**

The Heads of Contracting Offices (HCO) shall provide contract bundling data to OSDBU within 10 days after the end of the quarter. Data shall include (1) HCO responses to OMB's Request for Quarterly Contract Bundling Data (see Exhibit 2) and (2) examples of bureau best practices and accomplishments for the quarter.

The OSDBU, with the collaboration from OAM and bureau HCOs, will draft the Department's Contract Bundling Report to OMB within 20 days after the end of the quarter, and submit it to SPE for concurrence, and the CFO/ASA for approval.

Attachments:

Exhibit 1 – CD-570 Small Business Set-Aside Review Form

Exhibit 2 – Quarterly Contract Bundling Report Form