

THIS PAGE MUST BE KEPT WITH DOE 4250.1A, SMALL BUSINESS/LABOR SURPLUS
AREA SET-ASIDE AND 8(a) PROGRAM REVIEW PROCEDURES

DOE 4250.1A, SMALL BUSINESS/LABOR SURPLUS AREA
SET-ASIDE AND 8(a) PROGRAM REVIEW PROCEDURES
HAS REVISED DOE 4250.1 TO REFLECT EDITORIAL
CHANGES REQUIRED BY SEN-6D-91 IN NEW PARAGRAPHS
2 AND 7C. THE INITIATING OFFICE. THE SIGNATURE
BLOCK, AND Attachment 1. NO SUBSTANTIVE CHANGES
HAVE BEEN MADE.

U.S. Department of Energy

Washington, D.C.

ORDER

DOE 4250.1A

2-27-92

SUBJECT: SMALL BUSINESS/LABOR SURPLUS AREA SET-ASIDE AND 8(a) PROGRAM
REVIEW PROCEDURES

1. PURPOSE. To establish procedures for the effective review of proposed procurements for small business and labor surplus area set-aside opportunities and opportunities for award to firms pursuant to the 8(a) Program.
2. CANCELLATION. DOE 4250.1, SMALL BUSINESS/LABOR SURPLUS AREA SET-ASIDE AND 8(a) PROGRAM REVIEW PROCEDURES, of 12-28-87.
3. REFERENCES.
 - a. Title 15 U.S.C. 631, et seq., as amended, the Small Business Act, which sets forth Federal policy regarding small businesses.
 - b. Public Law 95-507, an act to amend the Small Business Act and the Small Business Investment Act of 1958, and other subsequent legislation, including Public Laws 98-72, 98-191, 98-577, and 99-500, in which Congress expressed a purpose of promoting the participation of small businesses in Federal acquisition.
 - c. Title 48 CFR Chapter 1, Federal Acquisition Regulation (FAR), subparts 19.5, 19.8, and 20.2, which address contracting with small and small disadvantaged businesses.
 - d. Title 48 CFR Chapter 9, Department of Energy Acquisition Regulation (DEAR), subparts 919.5 and 920.1, which implement the FAR regarding contracting with small and small disadvantaged businesses.
 - e. Title 13 CFR Chapter 1, Small Business Administration (SEA), Part 121, which establishes small business size standards for Government procurement.
 - f. Title 48 CFR Chapter 1, Federal Acquisition Regulation, subpart 8.4, which discusses mandatory use of the Federal Supply Schedule program.
4. DEFINITIONS.
 - a. Small Disadvantaged Business Concern. A small business concern that is: (1) owned at least 51 percent by one or more individuals who are both socially and economically disadvantaged; or (2) publicly owned having at least 51 percent of its stock owned by one or more socially and economically disadvantaged individuals and has its management and daily business controlled by one or more such individuals.

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All Departmental Elements

INITIATED BY:

Office of Small and Disadvantaged
Business Utilization

- b. Small Business Concern. A concern, including its affiliates, that is independently owned and operated, not dominate in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria and size standards in 13 CFR 121.
- c. Partial Set-Aside. The reservation of a portion of an acquisition for award to small business or labor surplus area concerns or both.
- d. Procurement Request Package. The procurement request documentation that is appropriate to the supplies or services required and their estimated value, including the procurement request document, statement of work or specifications, DOE F 4220.2, "Section 8(a)/Small Business/LSA Set-Aside Review," and, if appropriate, the justification for other than full and open competition.
- e. Small business Administration Procurement Center Representative. The individual assigned by the SBA as its representative at certain Department of Energy (DOE) contracting activities.
- f. The 8(a) Program. The program, established by section 8(a) of the Small Business Act, authorizing SBA to enter into contracts with other agencies and to award subcontracts to qualified small disadvantaged business concerns for the services or supplies required under those contracts.
- g. Small Business/Disadvantaged Business Specialist. The individual (s) designated by the Head of a Contracting Activity to review proposed procurements, as provided by this Order.
- h. Small Business/Labor Surplus Area Set-Aside and 8(a) Program Review. The screening (review) by the cognizant small business/disadvantaged business specialist of a proposed procurement to ascertain if it may be set aside for competition among small businesses and/or labor surplus area concerns only or awarded under the 8(a) Program, pursuant to FAR subparts 19.5, 19.8, and 20.2, respectively.
- i. Total Set-Aside. The reservation of an entire acquisition or a class of acquisitions for award to small business and/or labor surplus area concerns.
- j. Labor Surplus Area Concern. A concern that together with its first-tier subcontractors will perform substantially in labor surplus areas, which are geographic areas identified by the Department of Labor as areas of concentrated unemployment or underemployment or areas of labor surplus. (See FAR section 20.101.)

5. BACKGROUND. Federal agencies are required by the Small Business Act, as amended, to review prospective contract awards for their potential to be set aside for small business or labor surplus area concerns. Federal agencies are also required at FAR, subpart 19.8, to review prospective contract awards for the purpose of identifying award opportunities under the 8(a) Program. Under Public Laws 95-507, 98-191, and 99-500, all small purchases under \$25,000 are to be set aside for small business unless the contracting officer determines there is "no reasonable expectation" of obtaining quotations from two or more small business firms and documents that determination and its rationale. In addition, the Department has set aside, on a class basis, the acquisition of construction contracts not exceeding \$3,000,000 (including repair and alteration contracts) for small business, subject to Public Law 100-656, Title VII, "Competitive Demonstration Program." Also, various offices throughout DOE have set aside classes of goods and services for small businesses.
6. POLICY AND OBJECTIVES. It is the policy of the Department and objectives of this Order:
 - a. To ensure that a fair proportion of DOE procurements are set aside for competition among small businesses and/or labor surplus area concerns only or for award under the 8(a) Program, thus fulfilling statutory and regulatory obligations.
 - b. To establish a coordinated process that will identify those proposed procurements that may be set aside for small businesses and/or labor surplus area concerns or for award under the 8(a) Program.
7. RESPONSIBILITIES AND AUTHORITIES.
 - a. Procurement Request Initiators shall:
 - (1) Prepare DOE F 4220.2, "Section 8(a)/Small Business/LSA Set-Aside Review, " (Attachment 1) with all procurement requests intended to lead to the award or a contract, except:
 - (a) Procurements of \$25,000 or less;
 - (b) Basic research contracts with educational institutions;
 - (c) Incremental funding or other modifications where there is no change in the scope of work to existing contracts;
 - (d) The exercise of negotiated options included in the basic contract;
 - (e) Proposed awards to be made pursuant to the Small Business Innovation Research Program;

(f) Items required to be purchased from mandatory Federal Supply Schedule sources; and

(g) Change orders within the general scope of the contract.

- (2) Forward the completed DOE F 4220.2 with the procurement request package to the cognizant contracting activity.
- (3) Participate in subsequent consideration of recommendations by the small business/disadvantaged business specialist regarding whether the proposed procurement should be set aside for award to a small business and/or labor surplus area concern, or awarded under the 8(a) Program.

b. Small Business/Disadvantaged Business Specialists shall:

- (1) Review the procurement request package, including DOE F 4220.2 and evaluate its potential for being set aside for small business and/or labor surplus area concerns or for award under the 8(a) Program.
- (2) Recommend to the contracting officer the appropriate disposition of the procurement by entry on DOE F 4220.2.

c. Director Small and Disadvantaged Business Utilization (BU-1) shall:

- (1) Oversee and monitor the Departmental review and screening of planned procurements by program and procurement offices to ensure that preference programs are given thorough consideration throughout the decisionmaking process.
- (2) Provide information and assistance to all Departmental Elements in the screening of planned procurements and the completion of DOE F 4220.2.

d. Contracting Officers shall:

- (1) Evaluate the procurement request packages and DOE F 4220.2 and make the determinations discussed in FAR subparts 19.5, 19.8, and 20.2.
- (2) After making the determinations, make the procurement request package, including DOE F 4220.2, available to the cognizant SBA procurement center representative at his/her request, pursuant to FAR subsection 19.501(d).

- (3) Lead any subsequent discussion with the procurement request initiator, small business/disadvantaged business specialist, and, if appropriate, the SBA procurement center representative in resolving any disagreement over the disposition of the procurement based on the review of DOE F 4220.2.
- (4) Upon award of the resulting contract, supply one completed copy of DOE F 4220.2 to the cognizant small business/disadvantaged business specialist. When the award results from a small business set-aside, a copy of the abstract of bids/proposals, including the address and telephone number of the bidders/offerors, shall accompany DOE F 4220.2. In all other competitive actions, the contracting officer shall furnish the names, addresses, and telephone numbers of the small business and small disadvantaged business concerns that were in the competitive range.

8. PROCESSING PROCEDURES.

- a. The procurement request initiator shall forward an appropriately completed DOE F 4220.2 for all applicable, proposed procurements pursuant to paragraph 7a with the remainder of the procurement request package to the cognizant contracting activity.
- b. Upon receipt of the procurement request package, the contracting activity shall direct all procurement request packages containing DOE F 4220.2 to the designated small business/disadvantaged business specialist. (As an option, the contracting activity may forward the procurement request package directly to the contracting officer, who may complete the block entitled "Contracting Officer's Initial Finding." Unless the contracting officer chooses, the block need not be completed. The contracting officer shall then forward the procurement request package and DOE F 4220.2 to the designated small business/disadvantaged business specialist.)
- c. At the conclusion of the review by the small business/disadvantaged business specialist, he or she shall complete the additional appropriate portions of DOE F 4220.2 and forward it with the procurement request package to the contracting officer.
- d. The contracting officer shall review the recommendations of the procurement request initiator and the small business/disadvantaged business specialist, and determine whether the procurement shall be for award through the 8(a) Program or set aside for small business and/or labor surplus area concerns by completing the "Procurement Officer's Action" block on DOE F 4220.2.

- e. After making the determination, the contracting officer shall make the procurement package, including the DOE F 4220.2, available to the cognizant SBA procurement center representative in accordance with paragraph 7d(2). Should the contracting officer reject the recommendation of the SBA procurement center representative, the conflict shall be resolved pursuant to FAR section 19.505.
- f. The contracting officer shall ensure that the award of the contract is made in accordance with the determinations. Upon award, the contracting officer shall forward the documentation specified in paragraph 7d(4), above, to the small business/disadvantaged business specialist.

BY ORDER OF THE SECRETARY OF ENERGY:



JOHN J. NETTLES, JR.
Director of Administration
and Human Resource Management

U.S. DEPARTMENT OF ENERGY

DOE F 4232.2 (10-84) (Formerly PB-418) SECTION D (a) SMALL BUSINESS/LSA SET-ASIDE REVIEW		I.D. NO. 01-87AD25413.000	
ITEM TITLE/DESCRIPTION Photographic Library Services- Energy Technology Visual Collection		SMALL BUSINESS SIZE STANDARD RECOMMENDED BY S.B. SPECIALIST EMPLOYEES NUMBER _____ DOLLAR \$ <u>3.5 Million</u> SIC CODE: <u>7399</u>	
PROGRAM OFFICE CODE <u>AD-632</u>		PROCURING ACTIVITY CODE <u>PR-321.2</u>	
CONTRACTING OFFICER: <u>John Law</u>		NAME AND LOCATION OF PROPOSED SOURCE: (If Sole Source)	
SB/LS PARTICIPATION WAS CONSIDERED IN THE PREPARATION OF THIS PROCUREMENT ITEM AND FOLLOWING IS RECOMMENDED <input type="checkbox"/> SBA Section 8(a) Procurement _____ % \$ _____ <input type="checkbox"/> Small Business Set-Aside <u>100</u> % \$ <u>250,000</u> <input type="checkbox"/> Labor Surplus Set-Aside _____ % \$ _____ <input type="checkbox"/> Set-Aside Action Not Recommended		<input type="checkbox"/> Small Non-Disadvantaged Firm <input type="checkbox"/> Small Disadvantaged Firm <input type="checkbox"/> Labor Surplus Firm <input type="checkbox"/> Large Minority Firm <input type="checkbox"/> Other	
SET-ASIDE NOT FEASIBLE BECAUSE: <input type="checkbox"/> No Qualified Section 8(a) Firms <input type="checkbox"/> No Reasonable Expectation of Receiving Sufficient Offers From SB/LS Firms To Assure Award <input type="checkbox"/> Program Objectives Dictate Broadest Possible Solicitation To Obtain "Best Available" Expertise <input type="checkbox"/> Solicitation Is For "Best Idea/Approach" R&D Effort <input type="checkbox"/> Continuing and Directly Related R&D Effort: Competitive Procurement Not Feasible For Economic and/or Technical Reasons <input type="checkbox"/> Procurement Is For Within Scope Expansion of _____ <input type="checkbox"/> Funding of Unsolicited Proposal Under Current DOE Policy Directives <input type="checkbox"/> Other*		<div style="text-align: right;"> 586-7834 TELEPHONE </div> <div style="text-align: right;"> 2-26-87 DATE </div> <div style="text-align: right;"> 586-5521 TELEPHONE </div>	
SMALL/DISADVANTAGED BUSINESS SPECIALIST'S ENDORSEMENT <input type="checkbox"/> Accepts <input type="checkbox"/> Rejects <input type="checkbox"/> Requests Reevaluation <input type="checkbox"/> Other Comments/Attached		CONTRACTING OFFICER'S INITIAL FINDING <input type="checkbox"/> Accepted <input type="checkbox"/> See Comments <input type="checkbox"/> Rejected 2-25-87 DATE CONTRACTING OFFICER <u>John Law</u> 586-5521 TELEPHONE	
EXPLANATION/ADDITIONAL COMMENT: (CHECK MORE THAN ONE BOX AS REQUIRED)		<input type="checkbox"/> Request Solicitation of SB/LS Sources Attached <input type="checkbox"/> Request Special SB/DB Incentive Provision (Att)	
REEVALUATION OF RECOMMENDATIONS/FINDINGS <input type="checkbox"/> Reaffirmed <input type="checkbox"/> Set-Aside Feasible		REVIEWED BY SBA <input type="checkbox"/> Request Solicitation of SB Sources Attached <input type="checkbox"/> SBA Form 20 Attached I M. Sura 2-26-87 SBA REPRESENTATIVE DATE	
PROCUREMENT OFFICER'S ACTION <input type="checkbox"/> Section 8(a) Award <input checked="" type="checkbox"/> SB Set-Aside <input type="checkbox"/> Other Recommendations/Request Accepted <input type="checkbox"/> Recommendation Rejected For Attached Justification <u>John Law</u> 2-26-87 PROCUREMENT OFFICER DATE		CONTRACT NO. (S) DE-AC01-87AD25413 SB/DB/OTHER Micro-Fish, Inc. 25 Ocean Drive Clearwater, Florida 34217-0622	

