Department of Energy
Washington, DC 20585

NOV 20 2012

MEMORANDUM FOR INGRID KOLB
DIRECTOR
OFFICE OF MANAGEMENT

P 547.1

THROUGH: KEVIN T. HAGERTY
DIRECTOR, OFFICE OF INFORMATION RESOURCES

FROM: LADORIS G. HARRIS
DIRECTOR
OFFICE OF ECONOMIC IMPACT AND DIVERSITY

SUBJECT: Notice of Intent to Develop a DOE Policy, *Small Business First*

PURPOSE: The Policy will require all programs to use small business entities to the maximum extent practicable for all contract actions. It will also reemphasize to all programs the need to follow existing Federal Acquisition Regulation guidance related to the use of small businesses for simplified acquisitions.

JUSTIFICATION: Although Secretary Chu issued a memorandum on April 11, 2012, emphasizing the importance of increasing small business contracting opportunities and making effort to achieve the Department's small business goals, we were not successful. We only achieved 5.14% of our 10% small business goal for FY2012.

The Policy should reflect a significant increase in small business achievement because all procurement actions will be reviewed. The Policy will also formalize the process of doing business with other than a small business for all contract actions.

SUMMARY OF POLICY DEVELOPMENT: See Attachment

IMPACT: The Policy will ensure departmental compliance with its plan for meeting FY2013 small business goals and sub-goals presented to the Office Management and Budget and the Small Business Administration (SBA). This Policy does not duplicate existing laws, regulations, or national standards or create undue burden on the Department. The Policy, however, will create a mechanism to ensure compliance and accountability in meeting established annual small business goals.

There should be no additional cost to implement the Policy.

There are no valid external, consensus or other Standards (e.g., ISO, VPP, etc.) available which can be used in place of this Policy.

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WRITER: LaTonya Poole, (202) 586-3835

OPI/OPI CONTACT: John Hale III, (202) 586-4620

Concur: _____ Nonconcur: _____ Date: 12-11-12

Attachment

Attachment

Small Business First Policy - Summary of Policy Development

Policy Development Team
John Hale, ED
Bill Valdez, ED
Gary Lyttek, NNSA
David Boyd, MA
Nick Demer, ED
LaTonya Poole, ED

Policy Reviewers	Date	Comments
All DOE Local and Field Small Business Program Managers	5/2/2012	Review
Jack Surash, EM	7/17/2012	Review
Jack Surash, EM	8/8/2012	Non-concur
Ingrid Kolb, MA	7/17/2012	Review
Paul Bosco, MA	7/17/2012	Review
David Boyd, MA	7/17/2012	Review
David Boyd, MA	8/8/2012	Review
Kevin Hagerty, MA	7/27/2012	Review
Stewart Clayton, FE	8/8/2012	Non-concur
Karen Tappert, NE	8/15/2012	Non-concur
Peter Gage, EERE	8/14/2012	Non-concur
Peter Gage, EERE	9/4/2012	Non-concur
ALL Department Elements and COOs	8/22/2012	Review
Devon Streit, S-3	8/22/2012	Comments
Devon Streit , S-3	11/16/2012	Concur/Revisions Requested
George Malosh, S-3	8/22/2012	Comments
Allison Markovitz, Exec. Sec.	8/22/2012	Comments
Joe Lenhard, GC	8/22/2012	Revisions Requested
Joe Lenhard, GC	8/30/2012	Concurs
Joseph McBrearty, SC	8/22/2012	Non-concur
Joseph McBrearty, SC	11/7/2012	Concur
Michael Lempke, NNSA	8/22/2012	Review
Michael Lempke, NNSA	9/4/2012	Concur/Revisions Requested
Joe Waddell, NNSA	10/16/2012	Concur
David Huizenga, EM	8/22/2012	Review
David Huizenga, EM	9/4/2012	Concur/Revisions Requested
Janet Freimuth, HG	8/30/2012	Revisions Requested

Eric Nicol, HS	8/31/2012	Concur
William Eckroade, HS	8/30/2012	Concur
Glen Podonsky, HS	8/31/2012	Concur
Steve Kirchhoff, HS	8/29/2012	Concur/Revisions Requested
Joann Luczak, OE	10/18/2012	Concur/Revisions Requested
Matt Dunn, EERE	Nov-12	Concurred

Risk Assessment Team
Bill Valdez, ED
Jack Surash, EM
David Boyd, MA
Gary Lyttek, NNSA

Risk Identification and Assessment

Small Business First Policy

Risk	Probability	Impact	Risk Level
People			
N/A	**Rare**	**Negligible**	**Minor**
Mission			
1. Failure to meet annual small business contracting goals.	**Likely**	**Medium**	**Significant**
Assets			
N/A			
Financial			
N/A	**Rare**	**Negligible**	**Minor**
Customer and Public Trust			
2. Improved policies, procedures, roles and responsibilities will improve customer and public trust.	**Likely**	**Medium**	**Significant**

Gap Analysis of Existing Risks and Controls

Laws	• Small Business Act, as amended (PL: 85-536); and the Small Business Jobs Act of 2010 (PL 111-240); Title 13 of the Code of Federal Regulations Parts 121, 124, 125 and127; 10 U.S.C. 2304c and 41 U.S.C. 253j
External Regulation	• Federal Acquisition Regulation (FAR) Parts 9 and 10
DOE Regulation	• DEAR
DOE Orders	• None
Contract Controls	• None
External Assessments	• N/A

Risk Mitigation Techniques

Risk Assessment for [DOE P 547.1, SMALL BUSINESS FIRST POLICY]					
Risk/Opportunity	**Risk Level**	**Potential Cost/Benefit**	**External Control(s)**	**Proposed Mitigation Technique**	**Internal Control (if needed)**
1. Failure to meet federal goals for small business contracts.	Significant	The Policy should reflect a significant increase in small business achievement because all procurement actions will be reviewed.	Small Business Act, Small Business Jobs Act, & FAR Parts 9 and 10	Mitigate	Requirement for market research to be conducted
2. Improved policies, procedures, roles and responsibilities will improve customer and public trust.	Significant	The Policy will formalize the process of doing business with other than a small business for all contract actions.	Small Business Act, Small Business Jobs Act, & FAR Parts 9 and 10	Mitigate	Addressed through control for risk 1.

References

Risk/Opportunity Categories

- People – Risks that affect the individual well being.
- Mission – Risks that impede the ability of the department or offices to accomplish their mission.
- Assets – Risks that impact federal land, buildings, facilities, equipment, etc.
- Financial – Risks that may incur costs or obligations outside of DOE's control.
- Customer and Public Trust – Risks that affect the trust and political environment around DOE.

Probability Ratings

- Rare – even without controls in place, it is nearly certain that event would not occur
- Unlikely – without controls in place, it is unlikely the event would occur
- Possible – without controls in place, there is an even (50/50) probability that the event will occur
- Likely – without controls in place, the event is more likely than not to occur
- Certain – without controls in place, the event will occur

Impact Ratings

Rating	Risk	Opportunity
Negligible	Events of this type have very little short-term or long-term impact and whatever went wrong can be easily and quickly corrected with little effect on people, mission, assets, finances, or stakeholder trust.	A benefit with little no to improvement of operations or utilization of resources.
Low	Events of this type may have a moderate impact in the short term, but can be easily and quickly corrected with no long term consequences.	A benefit with minor improvement of operations or utilization of resources.
Medium	Events of this type have a significant impact in the short term and the actions needed to recover from them may take significant time and resources.	A benefit with somewhat major improvement of operations or utilization of resources.
High	Events of this type are catastrophic and result in long-term impacts that significantly affect the ability of the Department to complete its mission.	A benefit with major improvement of operations or utilization of resources.

Risk Level Ratings

		Impact			
		Negligible	Low	Medium	High
Probability	Certain	Minor	Moderate	Extreme	Extreme
	Likely	Minor	Moderate	Significant	Extreme
	Possible	Minor	Moderate	Significant	Extreme
	Unlikely	Minor	Minor	Moderate	Significant
	Rare	Minor	Minor	Minor	Moderate

Risk Mitigation Options and Guidance

- Acceptance
- Monitoring
- Mitigation
- Avoidance

Unmitigated Risk / Strategy	Extreme	Significant	Moderate	Minor
Acceptance	• Not Appropriate	• Not Appropriate	• Not Appropriate	• Risks can be handled through performance feedback and accountability
Monitoring	• Mandatory Contractor independent assessments • Federal oversight with a mandatory periodicity • Mandatory, periodic reporting	• Mandatory Contractor Self-assessments with a minimum periodicity • Federal oversight with a periodicity that is based on performance • Mandatory, periodic reporting	• Limited Federal oversight based on performance • Mandatory reporting of threshold events	• Federal oversight on a for-cause basis • Standard performance evaluation processes
Mitigation	• Federal approvals of individual transactions • Detailed performance or process requirements • Detailed design requirements	• Federal approvals of systems and programs • Detailed performance or process requirements • Detailed design requirements	• Detailed performance requirements	• General Performance Requirements
Avoidance	• Prohibition of activities or operations	• Prohibition of activities or operations	• Prohibition of activities or operations	• Guidance