



DEPARTMENT OF THE ARMY
OFFICE OF THE SECRETARY OF THE ARMY
OFFICE OF SMALL BUSINESS PROGRAMS
106 ARMY PENTAGON
WASHINGTON DC 20310-0106

OCT 18 2012

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MEMORANDUM FOR Head of Contracting Activities

SUBJECT: Policy Letter 03-12; The Army Small Business Programs

1. **References:** See Enclosure 1

2. **Purpose.**

a. The first purpose of this policy is to provide information and guidance in support of the Army Small Business Programs. The terms "Small Business Programs" and "Small Business" cover (1) through (7) below. An acronym dictionary is provided at Enclosure 2.

- (1) Small Business (SB)
- (2) Veteran-Owned Small Business (VOSB)
- (3) Service-Disabled Veteran-Owned Small Business (SDVOSB)
- (4) Historically Underutilized Business Zone Small Business (HUBZone)
- (5) Small Disadvantaged Business (SDB)
- (6) Women-Owned Small Business (WOSB)
- (7) Historically Black Colleges and Universities and Minority Institutions (HBCU/MI)*
- (8) DOD Pilot Mentor-Protégé (MP)

* Section 252 of the National Defense Authorization Act for Fiscal Year 2010 authorized the Department of Defense to establish a program to enhance participation of Historically Black Colleges and Universities and Minority-Serving Institutions in Defense research programs.

b. The second purpose of this policy is to provide information and guidance for implementing Department of Defense Directive (DODD) 4205.01, to include the appointment and waiver procedures for full-time small business personnel.

3. **Other Programs.** Programs not listed in 2.a.above, such as Ability One and non-appropriated fund procurements, are not under the cognizance of the Army Office of Small Business Programs (OSBP) and should be referred to the office with responsibility for that mission.

SASB

SUBJECT: Policy Letter 03-12; The Army Small Business Programs

4. Application. DODD 4205.01 establishes the policy and procedures for implementing and managing the Small Business Programs.

a. It has applicability to activities that award or administer contracts, and requires all contracting activities to have a Small Business Programs Office. This policy applies to functions involved in the acquisition process (including program management, technical development, engineering, requirements, contracting, and research and development), and the human resource management process for contracting and acquisition professionals (such as education, training, and recruitment).

b. Of particular importance is the appointment of small business personnel. In support of DODD 4205.01, this Policy Letter establishes a threshold for appointment in writing of full-time small business personnel at those contracting activities whose total annual purchases with U.S. business concerns (large and small) exceed \$100 million and requires that full-time small business personnel report to the Head of the Contracting Activity (HCA)/commander or the deputy (second in command). HCA/commander or deputy commander means a military officer or member of the senior executive service. Full-time small business personnel will not be subject to the control or direction of contracting, contract management or technical personnel. The HCA commander or the deputy (second in command) is responsible for performance plans and evaluations of small business personnel.

5. Duties and Responsibilities of the Director of the OSBP, Office of the Secretary of the Army (hereafter referred to as "Director OSBP"). Director OSBP is the principal advisor to the Secretary of the Army and the Under Secretary of the Army on all assigned Small Business Programs. The mission of the OSBP is to develop, implement, and oversee policy and management of the Army Small Business Programs. In accordance with Headquarters, Department of the Army General Orders 2012-01.

a. The Director OSBP, reports to the Secretary of the Army and the Under Secretary of the Army, and is the senior advisor on all Small Business Programs matters. The Director, OSBP, is responsible for developing policies for the implementation of programs designed to afford opportunities to small businesses, including all categories referenced in 2.a. above.

SASB

SUBJECT: Policy Letter 03-12; The Army Small Business Programs

b. Develop, implement, and oversee policy and management of the Army Small Business Programs in cooperation with the Assistant Secretary of the Army for Acquisition, Logistics and Technology to ensure the effective execution of the Small Business Programs. Develop targets and initiatives for the Small Business Programs; monitor performance through established metrics; and perform a mid-year review and an annual assessment of each program's accomplishments.

c. Review, provide recommendations, and coordinates on proposed job offers, appointments, performance elements, standards, and appraisals for Associate Directors of Small Business Programs (AD), and for Headquarters Army Materiel Command (HQ AMC) the Director of the AMC Small Business Office, who serve as principal staff assistants and advisors to the HCA/commander or the deputy (second in command) including HQ AMC. Additionally, Director OSBP shall review and provide, prior to their selection and appointment, concurrence with individual selections for all personnel performing the small business function, to include re-hired annuitants, as discussed below in paragraph 9.a.

d. Receive and rule on all appeals from the Small Business Administration.

e. Represent the Army with counterpart offices in the Office of the Secretary of Defense, Defense agencies, and other Federal agencies. Consults on a regular basis with Army and Department of Defense acquisition managers, representatives of the Small Business Administration, congressional representatives, and other executive agencies.

6. Duties and responsibilities of the HCA/Commander or Deputy Commander, including HQ AMC.

a. Implement the Small Business Programs within their commands; including the establishment of program targets and initiatives. Reporting dates to Army OSBP are 1 May (mid-year) and 1 December (end of fiscal year). These reports describe the command's qualitative and quantitative achievements in pursuit of small business targets and initiatives, and include a report on the staffing resources allocated for the execution of the Small Business Programs.

SASB

SUBJECT: Policy Letter 03-12; The Army Small Business Programs

b. Ensure that acquisition and technical personnel maintain knowledge of Small Business Programs requirements and take all reasonable actions to promote small business and HBCU/MI participation in the command mission.

c. Maintain adequate small business staff to support the contracting mission. Pursuant to DODD 4205.01, the contract award threshold for appointment in writing of full-time small business personnel is established for Army contracting activities/offices whose total annual purchases with U.S. business concerns (large and small) exceed \$100 million.

d. Appoint, in writing, a full-time AD, GS-1102-15 equivalent, after prior consultation and approval of the Director OSBP. At a minimum, there will be an AD, Deputy AD, and administrative staff. At Headquarters Army Materiel Command (HQ AMC), the senior small business staff member is the Director of the HQ AMC Office of Small Business Programs. The AD manages the Small Business Programs, reports directly to the HCA/commander or the deputy (second in command) on Small Business Programs matters, and is at a grade level with sufficient authority and resources to interface with the Command Group, other staff functions, and subordinate units. Full-time small business personnel shall not be subject to the control or direction of contracting, contract management, or technical personnel. The HCA/commander or the deputy (second in command) is responsible for performance plans and evaluations, and shall refrain from asking contracting personnel for input for Individual Performance Plans, performance criteria, or ratings. Additionally, contracting personnel shall not have oversight or control of the AD's budget or mission funding. The senior contracting official at the activity/office and the AD should work in a synergistic manner to accomplish the Small Business Programs' mission and goals.

e. Provide the AD with authority, and optimum staff and resources to perform their functions in support of the HCA's mission, including Headquarters AMC. Each HCA shall have a dedicated small business office staff. Any efforts to deviate from the letter or spirit of this requirement shall be approved in advance by the Director OSBP.

SASB

SUBJECT: Policy Letter 03-12; The Army Small Business Programs

f. There are circumstances which may justify a waiver to 6.c. above.

Waivers are assigned an expiration date when an activity/office must either reach full compliance or request another waiver. Detailed guidance is provided in paragraph 9 below.

g. As part of a military and civilian procurement internship program, establish a rotation with the local OSBP.

7. Duties and responsibilities of the AD.

a. Develop command policy, signed by each newly assigned HCA/commander or the deputy (second in command), to encourage maximum support of the Small Business Programs. The policy must be approved and signed by the appointing authority, or reporting official, and forwarded to the Director OSBP to ensure proper implementation of Small Business Programs and initiatives.

b. Prepare and present to the Director, OSBP, a semi-annual and an annual small business assessment in accordance with paragraph 6.a. above.

c. Develop and manage the command Small Business Program Plan to achieve the command's targets and initiatives based on the goals assigned by the Director OSBP. Recommend to the appointing authority the activity/office's Small Business Programs goals, including goal assignments to subordinate contracting offices; monitor the activity/office's performance against these goals; and recommend action to correct reporting errors/deficiencies.

d. Conduct annual reviews to ensure compliance with Federal Acquisition Regulation (FAR) 19, Defense FAR Supplement (DFARS) 219 and Army FAR Supplement (AFARS) 5119.

e. Work closely with and assist the organization competition advocate to ensure that potential small business opportunities, including all small business categories, are thoroughly explored.

f. Review and provide recommendations on proposed performance elements, standards, and evaluations for subordinate small business specialists/procurement analysts/contract specialists performing small business functions (also referred to as "small business personnel").

SASB

SUBJECT: Policy Letter 03-12; The Army Small Business Programs

g. Prepare, review, and/or coordinate the HCA/command position on Section 8(a), Small Business Set-Aside, and Certificate of Competency secretarial appeals before forwarding to the Director OSBP, in addition to requirements to be reviewed by the Army System Acquisition Review Council and Army Service Strategy Panel.

h. Monitor source approval requests; participate in source development surveys; perform market surveys, and other source development activities as required to support the HCA/command Small Business Programs.

i. Conduct and/or represent the HCA/command at procurement and outreach conferences in accordance with DFARS 219.201(e) Procedures, Guidance, and Information and Army Directive 2011-20 (Department of the Army Conferences) (including participation in Government-industry conferences and regional interagency small business councils) designed to locate and develop information on the technical competence of small businesses or to improve the efficiency or effectiveness of the Small Business Programs.

j. As requested, respond to OSBP with substantive nominations for Department of Army award programs. Manage the HCA on-going small business awards program. In the absence of a HCA small business awards program, promptly establish it.

k. Coordinate Small Business Administration Surveillance Review visits with the Director OSBP and ensure corrective actions are in place for any cited deficiencies.

l. Participate in OSBP staff assistance reviews or Procurement Management Reviews.

m. Work closely with the Deputy Program Executive Officer/Program Manager who serves as the designated point of contact for small business and assist in drafting the small business strategy in support of each acquisition strategy in accordance with AFARS 5119.201(b)(i).

n. Provide advice and counsel to the HCA/commander or the deputy (second in command) on all small business matters and brief the HCA/commander or the deputy (second in command) at least once quarterly, or more frequently as necessary, on program status.

SASB

SUBJECT: Policy Letter 03-12; The Army Small Business Programs

o. Advise and assist program managers and other related officials early in the acquisition planning, and throughout the follow-on process, in the development of strategies and market research to ensure maximum participation by small businesses. In accordance with Public Law 100-656 Business Opportunity Development Reform Act of 1988, support efforts for making available a forecast of projected and anticipated contracting opportunities to the public at large. Provide a copy of the command's acquisition forecast to the Director OSBP not later than 60 days into the new fiscal year.

p. Develop and implement education and training programs for personnel whose duties and functions affect the activity/office Small Business Programs.

q. Ensure that the contracting activity/office takes the necessary actions to implement Small Business Programs.

r. Advise and assist contracting, program manager, and requirements personnel on all matters that affect small businesses and HBCU/MIs.

s. Aid, counsel, and assist small businesses in all categories, to include HBCU/MI, by providing:

(1) Advice concerning acquisition procedures; and

(2) Information regarding proposed acquisitions.

(3) Outreach events.

t. Assist small businesses in obtaining payments under their contracts, late payments, interest penalties, or information on contract payment provisions.

u. Provide assistance to contracting officers in determining the need for and the acceptability of subcontracting plans, and assist administrative contracting officers (DFARS 219.706(a)(ii)) in evaluating, monitoring, reviewing, and documenting contract performance to determine compliance with subcontracting plans.

v. Participate in AD meetings conducted by the Director OSBP.

8. Duties and responsibilities of small business personnel. Appointment and functions of small business personnel are provided at DFARS 219.201(e), Procedures, Guidance, and Information.

SASB

SUBJECT: Policy Letter 03-12; The Army Small Business Programs

9. Appointment and waiver of full-time small business personnel. DODD 4205.01 establishes the policy and procedures for implementing and managing the Small Business Programs. Of particular importance is the appointment of small business personnel. In support of DODD 4205.01, this Policy Letter establishes a contract award threshold for appointment in writing of full-time small business personnel at those contracting activities whose total annual purchases with U.S. business concerns (large and small) exceed \$100 million and requires that full-time small business personnel report to the HCA/commander or the deputy (second in command). HCA/Commander or deputy commander means a military officer or member of the Senior Executive Service. Full-time small business personnel will not be subject to the control or direction of contracting, contract management or technical personnel. The HCA/commander or the deputy (second in command) is responsible for performance plans and evaluations. A waiver from the Director OSBP is required when contracting activities exceed the \$100 million threshold but do not have full-time small business personnel.

a. In accordance with DODD 4205.01, paragraph 4.e.(6), the Director OSBP shall review and provide, prior to their selection and appointment, concurrence with individual selections of all personnel nominated for assignment to the small business mission, including but not limited to, all full-time ADs, Deputy ADs and headquarters small business staff, Assistant Directors, small business specialists/procurement analysts/contract specialists and re-hired annuitants performing small business functions, at all levels within the Army, at contracting activities, contract management activities, subordinate activities, and direct reporting units, including HQ AMC. This review does not include part-time small business specialists/procurement analysts/contract specialists performing the small business function. This review and concurrence process ensures that personnel appointed as ADs, Deputy ADs and headquarters small business staff, Assistant Directors, and small business specialists/procurement analysts/contract specialists performing small business functions possess the business acumen, exposure to the Small Business Programs, knowledge of acquisition policies and procedures, training, and background to accomplish the Small Business Programs policy. Additionally, this review ensures that small business staff is not subject to the control or direction of contracting, contract management, or technical personnel. Completion of the Defense Acquisition University courses CON 260A The Small Business Program, Part A, and CON 260B The Small Business Program, Part B is required within one year of appointment, and highly recommended for all acquisition personnel, as well. The transmittal memorandum to the Director OSBP should include details explaining why the candidate is qualified for selection. The appointment can only be made upon approval by the Director OSBP.

SASB

SUBJECT: Policy Letter 03-12; The Army Small Business Programs

b. Commanders of each major subordinate command (MSC) whose annual contract obligations with U.S. business concerns (large and small) exceed \$100 million shall appoint a full-time AD of Small Business Programs, if the Commander is a HCA, or an Assistant Director of Small Business Programs if the Commander is not a HCA. The AD or Assistant Director should be a GS-1102-15 equivalent, after prior consultation and approval of the Director OSBP. The MSC AD or Assistant Director is at a grade level with sufficient authority to interface with the command group, other staff functions, and subordinate units, and sufficient resources required to manage the program effectively within the MSC. The AD or Assistant Director shall report to the HCA/commander or the deputy (second in command), and shall execute the Small Business Programs functions at that activity.

c. Commanders of contracting offices reporting to HCAs whose annual contract obligations with U.S. business concerns (large and small) exceed \$100 million shall recruit a full-time small business specialist/procurement analyst/contracting specialist performing Small Business Programs functions at a grade level sufficient to interface with other staff functions, generally the same grade as the Chief of Contracting, with authority and resources required to manage the program effectively within the activity. After concurrence by the Director OSBP, the AD will issue an Appointment Letter to the small business specialist/procurement analyst/contract specialist performing Small Business Programs functions at contracting activities. Contracting offices whose annual contract obligations exceed \$300 million shall appoint a minimum of two full-time small business specialists/procurement analysts/contract specialists performing small business functions and a minimum of three full-time small business specialists/procurement analysts/contract specialists performing Small Business Programs functions for offices that exceed \$700 million in contract obligations.

d. For activities that do not exceed \$100 million, commanders of contracting offices/activities having geographically remote contracting branches shall appoint a part-time small business specialist/procurement analyst/contract specialist performing small business functions at each such remote branch.

e. If the contracting office/activity as a whole, including geographically remote branches, has annual contract obligations with U.S. business concerns (large and small) that exceed \$100 million, the commander shall appoint a full-time small business

SASB

SUBJECT: Policy Letter 03-12; The Army Small Business Programs

specialist/procurement analyst/contract specialist performing small business functions, with authority and resources required to manage the program effectively within the activity and to oversee and assist the part-time small business specialist/procurement analyst/contract specialist performing small business functions.

f. There may be circumstances which justify a waiver to the Army implementation of DODD 4205.01 which requires full-time small business personnel at those contracting activities whose total annual purchases with U.S. business concerns (large and small) exceed \$100 million. This policy letter addresses the standards and expectations for preparing a waiver to the Army implementation of this Directive for approval by the Director OSBP that ensures that the Army remains in full compliance with the spirit and intent of the Directive.

(1) Enclosure 3 is a template that addresses the minimum requirements that must be included in any waiver requests submitted for review and consideration for approval.

(2) Any waiver that is approved will be assigned an expiration date one year from the date that it is approved when an activity/office must either reach full compliance with the Directive or request another waiver.

(3) The part-time small business specialist/procurement analyst/contract specialist performing small business functions shall not be subject to the control or direction of contracting, contract management, or technical personnel. The HCA/commander or the deputy (second in command) is responsible for performance plans and evaluations for small business specialists/procurement analysts/contract specialists performing small business functions. In accordance with AFARS 5119.201(e)(C), where a part-time small business specialist/procurement analyst/contract specialist performing small business functions is appointed, they should be the chief of the contracting office.

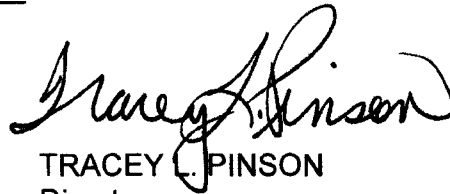
(4) If a waiver is granted, Small Business Program functions take priority among other duties.

SASB

SUBJECT: Policy Letter 02-12; The Army Small Business Programs

10. The point of contact for this action is Ms. Suellen Jeffress, telephone 703-697-2868 or e-mail suellen.d.jeffress.civ@mail.mil.

Encls



TRACEY L. PINSON
Director

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SUBJECT: Policy Letter 03-12; The Army Small Business Programs

ENCLOSURE 1

REFERENCES

a. Department of Defense Directive (DODD) 4205.01, "Department of Defense Small Business Programs," March 10, 2009

c. Department of Defense Instruction (DODI) 5134.04, "Director of Small and Disadvantaged Business Utilization," September 27, 2005

d. Federal Acquisition Regulation Supplement (FAR) Part 19 "Small Business Programs" and Part 26 "Other Socioeconomic Programs"

e. Defense Federal Acquisition Regulation Supplement (DFARS) Part 219 "Small Business Programs" and Part 226 "Other Socioeconomic Programs"

f. Army Federal Acquisition Regulation Supplement (AFARS) Part 5119 "Small Business Programs"

g. Headquarters, Department of the Army General Orders No. 3, "Assignment of Functions and Responsibilities within Headquarters, Department of the Army," Paragraph 17, Director, Small and Disadvantaged Business Utilization (SADBU), July 9, 2002

h. Army Regulation 70-1, "Army Acquisition Policy," Paragraph 2-15, Director, Small and Disadvantaged Business Utilization, December 31, 2003

i. Department of the Army Pamphlet 70-3, "Army Acquisition Procedures," Chapter 3, Section VIII, January 28, 2008

j. Policy Letter 01-05, "The Army Small Business Program," April 25, 2005 (hereby canceled)

k. Policy Letter 01-09, "Request for Waiver of Appointment of Full-Time Small Business Personnel," Director OSBP, January 13, 2009 (hereby canceled)

l. Memorandum from the Director, Office of Small and Disadvantaged Business Utilization, "Appointment of Small Business Personnel," May 9, 2003 (hereby canceled)

SASB

SUBJECT: Policy Letter 03-12; The Army Small Business Programs

ENCLOSURE 2

ACRONYM DICTIONARY

AD – Associate Director
AFARS – Army Federal Acquisition Regulation Supplement
AMC – Army Materiel Command
DFARS – Defense Federal Acquisition Regulation Supplement
DOD – Department of Defense
DODD – Department of Defense Directive
FAR – Federal Acquisition Regulation
HCA – Head of the Contracting Activity
HBCU/MI – Historically Black Colleges and Universities and Minority Institutions
HUBZone – Historically Underutilized Business Zone Small Business
MP – Mentor-Protégé
MSC – Major Subordinate Command
OSBP – Office of Small Business Programs
SB – Small Business
SDB – Small Disadvantaged Business
SDVOSB – Service-Disabled Veteran-Owned Small Business
VOSB – Veteran-Owned Small Business
WOSB – Women-Owned Small Business

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SUBJECT: Policy Letter 03-12; The Army Small Business Programs

ENCLOSURE 3

MINIMUM REQUIREMENTS FOR DODD 4205.01 WAIVER REQUESTS

1. Three-year history of the activity/office's Small Business Programs, including the dollars and percentages compared with goal accomplishment.
2. Projection of the subsequent fiscal year's total spending and the anticipated spending with small businesses.
3. Commitment to have the part-time small business specialists/procurement analysts/contract specialists performing small business functions focus priority on small business functions (as indicated by providing the performance objectives stating such).
4. Commitment to develop a forecast each fiscal year projecting total opportunities (e.g., solicitations, task orders, etc.) and specific opportunities projected for small businesses.
5. Commitment to provide a semi-annual report on the status of the small business program implementation.
6. Part-time small business personnel are not subject to the control or direction of contracting, contract management, or technical personnel, and commander or the deputy (second in command) is responsible for performance plans and evaluations for small business specialists/procurement analysts/contract specialists performing small business functions. Small business personnel shall report to the commander or the deputy (second in command), and shall perform the small business functions at that activity/office. In accordance with AFARS 5119.201(e)(C), where a part-time small business specialists/procurement analysts/contract specialist performing small business functions is appointed, they should be the chief of the contracting office. Please indicate the position that will provide control, direction and reporting chain for the part-time small business personnel. If the small business specialists/procurement analysts/contract specialists performing small business functions reports to someone other than the commander or the deputy (second in command), justify why this channel of command is more effective and explain how the Small Business Programs will be effectively managed.

SASB

SUBJECT: Policy Letter 03-12; The Army Small Business Programs

7. Small Business Programs functions take priority among all other duties. If the SBS is less than full-time, please indicate how the Small Business Programs will be effectively managed.

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