

# The Small Business Insider

From the Office of Small Business Utilization (OSBU)

[www.gsa.gov/sbu](http://www.gsa.gov/sbu)

[insite.gsa.gov/sbu](http://insite.gsa.gov/sbu)

[insite.gsa.gov/sbu/goals](http://insite.gsa.gov/sbu/goals) (for small business goals/scorecard)

[interact.gsa.gov/groups/small-business-solutions](http://interact.gsa.gov/groups/small-business-solutions)

JUNE 2011

Welcome to The Small Business Insider! This newsletter is brought to you by OSBU with news regarding policy changes that will impact small business procurements.

## CONTENTS

Possible Small Business Set Asides For Task and Delivery Orders Against Multiple Award Schedules ..	1
Highlights of the Small Business Jobs Act of 2010.....	2
SBA Toughens Requirements for 8(a) Mentor-Protégés and Joint Ventures.....	3
Parity Among 8(a), HUBZone, SDVOSB, and WOSB Firms .....	3
WOSB Program is Here! .....	4
eSRS Part I—What Is It? .....	5
eSRS Part II—How Does it Differ from FSRS? How Does USASPENDING.GOV Apply? .....	5
Coming Soon to InSite--New Subcontracting Desk Guide, Acquisition Alert on “Market Research Tools For Finding SDVOSBs” and “Tips on Conducting Market Research to Find SDVOSBs” .....	6
Did You Know? .....	6
Additional Information .....	6

## POSSIBLE SMALL BUSINESS SET ASIDES FOR TASK AND DELIVERY ORDERS AGAINST MULTIPLE AWARD SCHEDULES

- SBA is considering a rule that would allow agencies to set aside for small businesses orders made against Multiple Award Schedules (MAS) and other indefinite-delivery, indefinite-quantity (IDIQ) contracts.
- Currently, agencies are not required to set aside task and delivery orders placed against these contracts, and in some cases are discouraged from doing so.
- However, the [Small Business Jobs Act of 2010](#) (Public Law 111-240) directs SBA and the Office of Federal Procurement Policy to develop guidance to reverse that policy.
- A critical question in implementing this provision is whether to mandate a set aside or allow agencies flexibility in determining when to use it.
- SBA is also considering a dual approach, under which agencies would be required to set aside task and delivery orders only if they fail to meet their annual small business contracting goals. Agencies that meet their targets would be allowed, but not required, to use the set-asides.
- For further information, see the article in Government Executive:  
[http://www.govexec.com/story\\_page.cfm?articleid=47454&oref=todaysnews](http://www.govexec.com/story_page.cfm?articleid=47454&oref=todaysnews)

SBA and OMB, in consultation with GSA (specifically FAS's Office of Acquisition Policy, the Chief Acquisition Officer and OSBU) are working to implement this rule in the most effective way possible to maximize small business opportunities while recognizing the inherent flexibility of the MAS and IDIQ contracts.

If you have feedback or concerns regarding the implementation of this rule, email Mark Lee or Mahruba Uddowla of FAS's Multiple Award Schedule Program Office, Office of Acquisition Management. Their email addresses are [mark.lee@gsa.gov](mailto:mark.lee@gsa.gov) and [mahruba.uddowla@gsa.gov](mailto:mahruba.uddowla@gsa.gov) by **June 30**. They will collect and forward all feedback and concerns to SBA.

## HIGHLIGHTS OF THE SMALL BUSINESS JOBS ACT OF 2010

American entrepreneurs are a key driver of our job creation efforts. The Small Business Jobs Act of 2010 (SBJA) fosters one of our nation's greatest economic resources - the creativity and ambition of American entrepreneurs – by creating the right conditions for entrepreneurs to start and invest in small businesses and create jobs. The SBJA contains approximately 101 provisions with 18 provisions specific to contracting. On June 3, SBA completed its SBJA Tour of various cities to provide an overview of the SBJA and to solicit input on the SBJA regulations that SBA is drafting. GSA is waiting for the SBJA regulation's implementation to be decided by SBA before GSA makes any regulatory or policy changes. No date has been set as to when the SBJA regulations will be introduced—check back on our InSite page, [insite.gsa.gov/sbu](http://insite.gsa.gov/sbu), for updates.

The following provisions in the SBJA will affect small business contracting.

- **Set Asides on Task and Delivery Orders:** See above article.
- **Parity Among 8(a), HUBZone, SDVOSB, and WOSB Firms:** See article below.
- **Size Certification and Liability:** Small businesses will be required to certify their size annually on the Online Representations and Certifications Application (<https://orca.bpn.gov/>) database. Prior to the SBJA, small businesses were required to recertify their size status prior to the end of the fifth contract year of a long-term contract, and prior to the exercise of any option thereafter. Submitting a bid or proposal for procurements set aside for small businesses or registering in a database to be considered for award as a small business will be treated as an "affirmative, willful, and intentional" certification of small business size and status, although protection from liability will be provided for "unintentional errors, technical malfunctions, and other similar situations." Moreover, the government will be presumed to have incurred a loss for the amount expended on an award set aside for small businesses that was given to a contractor that willfully misrepresented its small business status. *At GSA, Contracting Officers can learn about the process for size standard protests through SBA training webinars.*
- **Subcontracting:** The Act requires prime contractors make a "good faith" effort to follow their small business subcontracting plans by acquiring goods and services from the small businesses and in the amount and quality indicated in their plans. The Act also requires prime contractors with small business subcontracting plans to notify the contracting officer if payment to a subcontractor is reduced or more than 90 days late. The CO must consider a prime contractor's unjustified failure to make a full or timely payment in evaluating the prime's performance, and prime contractors that have a history of unjustified, untimely payments will be documented in the Federal Awardee Performance and Integrity Information System.
- **Contract Bundling:** An agency that wants to bundle more than \$2 million in contract requirements must first conduct market research, identify alternative contracting approaches, make a written determination that bundling is necessary and justified, identify any negative impact on small business contracting, and certify it will take steps to include small businesses in the agency's acquisition strategy. Decisions regarding bundling of contract requirements must be made "with a view to providing small business concerns with appropriate opportunities to participate as prime contractors and subcontractors." The Act promotes transparency by requiring agencies to publish on their websites a list and rationale for their bundled solicitations and contracts. The Act also

establishes a five-year small business teaming pilot program to assist small business teams or joint ventures to compete for larger contracts. *GSA has reissued the GSA Form 2689, retitled Small Business Analysis Record, which requires contracting officers to provide market research, and a written determination when bundling is required. This Form must be approved by our Small Business Technical Advisors as well as the local SBA Procurement Center Representative.*

- **Mentor-Protégé Program:** As another means to create parity (equality) among the different small business categories, the Act authorizes SBA to establish mentor-protégé programs for service-disabled veteran-owned, women-owned, and HUBZone small businesses. *GSA's Mentor-Protégé Program has been in existence for over a year and recently met with the participants for an award ceremony recognizing the Mentor-Protégé of the Year, and to hear feedback on Program improvements. There have been many positive outcomes from the Program: contracts awarded, jobs created, and small businesses' opportunities expanded. GSA intends to build on the initial success of the Program and share its lessons learned with SBA as it develops its new mentor-protégé programs. See [www.insite.gsa.gov/mentorprotege](http://www.insite.gsa.gov/mentorprotege) for information on GSA's Mentor-Protégé Program, and <http://www.gsa.gov/portal/content/260001> for a recap of GSA's Mentor-Protégé award ceremony.*

For more information on the Small Business Jobs Act of 2010, see <http://www.sba.gov/content/small-business-jobs-act-2010>. If you have questions or comments regarding the SBJA, contact Karen Poole at [karen.poole@gsa.gov](mailto:karen.poole@gsa.gov).

## SBA TOUGHENS REQUIREMENTS FOR 8(a) MENTOR-PROTÉGÉS AND JOINT VENTURES

- SBA has revised its rules regarding the 8(a) program including tightening requirements for joint ventures to ensure that non-disadvantaged firms do not unduly benefit from the 8(a) program:
  - The 8(a) participant in a Mentor-Protégé agreement must perform 40% of the work of each 8(a) joint venture contract that it is awarded. Previously, SBA regulations stated that the protégé in a mentor-protégé joint venture must perform a “significant portion” of the work done by the joint venture—the “significant portion” was not defined as a fixed percentage or otherwise.
  - A joint venture awarded an 8(a) contract cannot subcontract work to any non-8(a) joint venture partner, including a large business mentor
  - Each 8(a) firm that performs an 8(a) contract through a joint venture must report to SBA how the performance of work requirements (i.e., that the joint venture performed at least 50% of the work of the contract and that the 8(a) participant to the joint venture performed at least 40% of the work done by the joint venture) were met on the contract.
  - SBA's new regulations regarding the 8(a) program took effect March 14, 2011. Awards and options made before March 14, 2011, are not impacted and will continue under the old rules. So, for example, there is no impact to 8(a) STARS task order awards if they were prior to March 14, 2011. New contract awards, task orders and task order options made on or after March 14, 2011 are affected by the revisions to the 8(a) Business Development program.
- Currently, there are no new action steps that contracting officers need to take pursuant to these new rules. SBA has advised that they are currently reviewing the rules to determine if new action steps are needed and if any revisions to the FAR are required. OSBU will post updates on the new rules on [insite.gsa.gov/sbu](http://insite.gsa.gov/sbu).

See <http://www.sba.gov/content/revised-8a-business-development-program-regulations-fact-sheet> for additional information. For Frequently Asked Questions, go to: <http://www.sba.gov/content/8a-business-development-program-regulations-frequently-asked-questions>

## PARITY AMONG 8(a), HUBZONE, SDVOSB, AND WOSB FIRMS

- Interim rule (76 FR 14566), implemented section 1347 of the SBJA and amended the FAR (including sections 19.202, 19.203, 19.501, 19.502-2, 19.800, 19.804-2, 19.1305, 19.1306,

19.1405, and 19.1406). The interim rule took effect on March 16:

- For acquisitions under the Simplified Acquisition Threshold (SAT) (less than or equal to \$150,000) there is parity among:
  - Small Business;
  - 8(a);
  - HUBZone;
  - SDVOSB (Service Disabled Veteran-Owned Small Business); and
  - WOSB\* (Women-Owned Small Business).
- For acquisitions above the SAT (greater than \$150,000) there is parity among:
  - 8(a);
  - HUBZone;
  - SDVOSB; and
  - WOSB\*.
- If a contracting officer cannot set aside or sole source to one of these four categories for acquisitions above the SAT, then the contracting officer can consider a small business set aside.
- If a requirement has been accepted by the SBA under the 8(a) program, it must remain in the 8(a) program unless SBA agrees to its release.

Currently, GSA is reviewing GSAM 519.502-70 and Acquisition Letter MV-10-07 to determine if any further revisions to clarify the use of the GSA Form 2689 are needed.

\*Note the rules of the new WOSB program. See article below for details on the WOSB program.

See <http://www.gpo.gov/fdsys/pkg/FR-2011-03-16/pdf/2011-6138.pdf> and <http://www.gpo.gov/fdsys/pkg/FR-2010-10-07/pdf/2010-25179.pdf> for additional information.

## WOSB PROGRAM IS HERE!

- The Women-Owned Small Businesses (WOSB) program became effective in the FAR on April 1. The WOSB program authorizes contracting officers to set aside certain federal contracts for eligible:
  - Women-owned small businesses (WOSBs); or
  - Economically disadvantaged women-owned small businesses (EDWOSBs)
- To qualify as a WOSB, a firm must be at least fifty-one percent owned and controlled by one or more women, and primarily managed by one or more women. The women must be U.S. citizens and the firm must be considered small according to SBA size standards. To be deemed "economically disadvantaged", a firm's owners must meet specific financial requirements set forth in the program regulations.
- A requirement may be set aside for WOSBs if the NAICS code is in an industry in which SBA has designated that WOSBs are substantially underrepresented. There are 300+ such NAICS codes, such as:
  - Architectural Services (541310)
  - Engineering Services (541330)
  - Plumbing, Heating, and Air-Conditioning Contractors (238220)
  - Roofing Contractors (238160)
  - Computer Facilities Management Services (541513)
  - Administrative Management and General Management Consulting Services (541611)

If you are interested in learning more about the WOSB program, SBA is in the process of scheduling upcoming webinar trainings. Please contact OSBU's Liz Ivey at [liz.ivey@gsa.gov](mailto:liz.ivey@gsa.gov) or 202-501-4466. She can keep you updated as trainings are scheduled.

If you plan to or have set aside a requirement for WOSBs, we would love to hear about it. Please contact Liz Ivey. For details on the WOSB program, click on [www.sba.gov/wosb](http://www.sba.gov/wosb)

## ESRS PART I—WHAT IS IT?

- The Electronic Subcontracting Reporting System (eSRS), at [www.esrs.gov](http://www.esrs.gov), was created as a result of Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and FAR 19.7. eSRS is a web-based system that provides a single point of entry for federal government small business subcontracting reports.
- A small business subcontracting plan is required if the prime contractor is Other-Than-Small-Business and is awarded a contract whose total estimated value is expected to equal or exceed \$650,000 (\$1.5 million for construction), including all options whether exercised or not.
- The prime contractor must complete Individual Subcontract Reports (ISR), Summary Subcontract Reports (SSR), and Fiscal Year-End Supplementary Reports for Small Disadvantaged Businesses.
- The CO must inform prime contractors that they and their subcontractors are required to submit reports using eSRS, and provide prime contractors with the email addresses of government employees to whom they should submit reports. The CO must also provide prime contractors with their contract number as it appears in the Federal Procurement Data System and review and accept or reject ISRs, SSRs, and Year-End Supplementary Reports for Small Disadvantaged Businesses that relate to each contract he or she administers.

Contact Janice Keys if you have any questions or comments regarding the eSRS system. She can be reached at [janice.keys@gsa.gov](mailto:janice.keys@gsa.gov) or 202-501-0838. Regions can request eSRS training—please contact Janice Keys to schedule training for your region.

See [www.esrs.gov](http://www.esrs.gov) for additional information.

## ESRS PART II—HOW DOES IT DIFFER FROM FSRS? HOW DOES USASPENDING.GOV APPLY?

There are differences between the eSRS and the Federal Subaward Reporting System (FSRS) which is required by the Federal Funding Accountability and Transparency Act (FFATA).

- Prime Contractors awarded a federal contract or order are required to file a FFATA sub-award report by the end of the month following the month in which the prime contractor awards any subcontract greater than \$25,000. As of March 1, 2011, FFATA requires the reporting of subcontracts under federally-awarded contracts and orders valued equal to or greater than \$25,000.
- eSRS is a database used by all federal agencies and departments to report small business subcontracting award data for prime contracts valued at \$650,000 (\$1.5 million for construction).
- FSRS is broader than eSRS since it requires subcontracting reporting for any award that is \$25,000 or more, or where there is a subcontract of \$25,000 or more—regardless of whether the subcontractor is a small business or not.
- FSRS was built as a module off of eSRS. As a result, existing eSRS users can work in FSRS as needed without having to reregister. If you are an existing eSRS user and are having issues accessing FSRS, please contact Meredith "Memi" Whitehead at [meredith.whitehead@gsa.gov](mailto:meredith.whitehead@gsa.gov) or 703-605-9466.

The website [www.usaspending.gov](http://www.usaspending.gov) is a result of FFATA. It is a single, searchable and public website that provides information on every federal award. Part of the website includes subcontracting information: effective March 1, 2011, subcontracting information is gathered for any subcontract equal to or greater than \$25,000. The website's subcontracting data is compiled from FPDS-NG and FSRS.

If you have any question regarding FSRS or eSRS, please contact Janice Keys at [janice.keys@gsa.gov](mailto:janice.keys@gsa.gov) or 202-501-0838. Another helpful point of contact for any questions about FSRS

or the FFATA, or what connections there are between eSRS and FSRS, is Meredith "Memi" Whitehead of GSA's Office of Governmentwide Policy. You can reach her at [meredith.whitehead@gsa.gov](mailto:meredith.whitehead@gsa.gov) or 703-605-9466.

See [www.esrs.gov](http://www.esrs.gov), [www.fsr.gov](http://www.fsr.gov) and [www.usaspending.gov](http://www.usaspending.gov) for more information.

### **COMING SOON TO GSA INSITE--NEW SUBCONTRACTING DESK GUIDE, ACQUISITION ALERT ON "MARKET RESEARCH TOOLS FOR FINDING SDVOSBs" AND "TIPS ON CONDUCTING MARKET RESEARCH TO FIND SDVOSBs"**

Add OSBU's InSite page at [insite.gsa.gov/sbu](http://insite.gsa.gov/sbu) as one of your internet "Favorites"—don't miss out on any of our future postings of contracting updates and resources. For example, look for the new Subcontracting Desk Guide, the Acquisition Alert on "Market Research Tools for Finding SDVOSBs", and "Tips on Conducting Market Research to Find SDVOSBs" on OSBU's InSite page. These are excellent resources for the acquisition community and will be posted on OSBU's InSite page soon!

### **DID YOU KNOW?**

Did you know that SBA offers monthly webinars on small business topics? Each webinar is one-hour (usually at 10:30 ET) and is usually held on the first Wednesday of the month. Past webinar topics have SBA Size Standards, Small Business Market Research, HubZone Contracting, and 8(a) Contracting.

The next webinar is "Change: Update on the Small Business Jobs Act and More". It is scheduled for July 6 at 10:30 ET.

If you are interested in the SBA webinars, contact Dwight Johnson of the SBA at [Dwight.johnson@sba.gov](mailto:Dwight.johnson@sba.gov) and he will include you in his e-mail listing notifying of upcoming topics.

### **CONTACT INFORMATION**

We welcome your feedback and suggestions you may have on future newsletter topics. You can contact the Office of Small Business Utilization at [small.business@gsa.gov](mailto:small.business@gsa.gov). You can also locate your Regional OSBU at [www.gsa.gov/smallbizsupport](http://www.gsa.gov/smallbizsupport).