

SBA

SOP 60 02 7

Prime Contracts Program

Office of Government Contracting

U.S. Small Business Administration



**SMALL BUSINESS ADMINISTRATION
STANDARD OPERATING PROCEDURE
National**

| | | | |
|-------------------------------------|---------------|-----------|-----|
| SUBJECT: Prime Contracts Program | S.O.P. | | REV |
| | SECTION 60 | NO. 02 | 7 |

INTRODUCTION

1. Purpose. To outline the policy and procedures for the SBA Prime Contracts Program.
2. Personnel Concerned. All SBA employees involved in administering the Prime Contracts Program.
3. Directives Canceled. SOP 60 02 6.
4. Originator. The Office of Government Contracting.

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| Emily Murphy Acting Associate Administrator for Government Contracting | | PAGE 1 |

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Table of Contents

| Paragraph | Page |
|---|------|
| Chapter 1. Overview of the Prime Contracts Program | |
| 1. What Is the Purpose of the Prime Contracts Program?..... | 7 |
| 2. What Are Procurement Center Representatives (PCRs)?..... | 7 |
| 3. What Are the Laws and Regulations That Govern the Prime Contracts Program? | 8 |
| Chapter 2. As a Procurement Center Representative (PCR), What Are My General Responsibilities? | |
| 1. How Do I Provide Maximum Opportunities for Small Businesses (SBs)? | 9 |
| 2. How Do I Coordinate and Interface with Contracting Activities? | 10 |
| 3. How Do I Identify Qualified Sources? | 11 |
| 4. How Do I Counsel Small Businesses?..... | 13 |
| 5. What Are Some of My Special Initiatives? | 14 |
| 6. How Do I Network with Other SBA Offices? | 14 |
| 7. What Other SBA Programs Do I Promote? | 16 |
| 8. How Do I Handle Procurement Sensitive or Proprietary Information?..... | 16 |
| 9. How Do I Appeal a Contracting Officer's Rejection?..... | 17 |
| 10. How Do I Appeal an HCA's Rejection? | 17 |
| 11. What Records Do I Keep? | 19 |
| 12. What Should I Report to the Area Director? | 19 |
| Chapter 3. As a Procurement Center Representative (PCR), What Are My Responsibilities? | |
| 1. What Is a PCR Required to Do? | 21 |
| 2. How Do I Review Proposed Acquisitions? | 21 |

| | | |
|------------|---|----|
| 3. | How Do I Recommend a Small Business Set-Aside (SBSA) or HUBZone Set-Aside?..... | 22 |
| 4. | How Do I Review Proposed Bundled Requirements?..... | 23 |
| 5. | How Do I Review Solicitations Requiring Subcontracting Plans?..... | 24 |
| 6. | Do I Sign-Off on Acquisitions Unilaterally Reserved for the 8(a) Program? | 25 |
| 7. | How Do I Document PCR Initiated 8(a) Recommendations? | 26 |
| 8. | How Do I Support the HUBZone Program?..... | 27 |
| 9. | How Do I Support Small Disadvantaged Business Concerns?..... | 27 |
| 10. | How Do I Balance Support for the Various Segments of the Small Business Community?..... | 27 |
| 11. | How Do I Handle Unsolicited Proposals?..... | 28 |
| 12. | How Do I Interface with State and Other Service Providers?..... | 28 |
| 13. | How Do I Handle Requirements Subject to the Comp Demo Program?..... | 28 |
| Chapter 4. | How Do I Perform a Surveillance Review? | |
| 1. | Why Do I Perform Surveillance Reviews?..... | 31 |
| 2. | Who Participates in Surveillance Reviews? | 31 |
| 3. | How Are Surveillance Review Sites Selected? | 31 |
| 4. | As Team Leader, How Do I Plan for the Surveillance Review? | 32 |
| 5. | As Team Leader, How Do I Schedule a Surveillance Review? | 32 |
| 6. | What Should I Do Before the Review?..... | 33 |
| 7. | How Do I Select Contracts to Be Reviewed? | 34 |
| 8. | How Do I Conduct an Entrance Briefing? | 35 |
| 9. | What Do I Do in a Surveillance Review?..... | 35 |
| 10. | Why Do I Interview Contracting Activity Personnel?..... | 36 |
| 11. | What Portions of the Review Should I Conduct From My Post of Duty?..... | 36 |
| 12. | How Do I Conduct an Exit Briefing? | 37 |
| 13. | How Do I Prepare the Surveillance Review Report?..... | 37 |

| | | |
|------------|---|----|
| 14. | What Ratings Do I Assign to a Contracting Activity?..... | 38 |
| 15. | How Is the Report Distributed? | 39 |
| | | |
| Chapter 5. | What Are the Responsibilities of Area Directors? | |
| | | |
| 1. | What Are My Administrative Duties as Area Director?..... | 41 |
| 2. | What Should I Coordinate with Headquarters? | 42 |
| 3. | How Do I Network with District Offices and Other SBA Offices? | 42 |
| 4. | How Do I Recommend Assignments of PCRs? | 43 |
| 5. | When Do I Visit Contracting Activities?..... | 43 |
| 6. | How Do I Review PCR Records and Documentation? | 43 |
| | | |
| Chapter 6. | What Are the Responsibilities of Headquarters? | |
| | | |
| 1. | What Is the Office of Contract Assistance Responsible For?..... | 45 |
| | | |
| Appendices | | |
| | | |
| 1. | U.S. Small Business Administration Recommendation (SBA Form 70) | 46 |
| 2. | PCR Purchase Review Register (SBA Form 231)..... | 47 |
| 3. | Bundling Alert Form and Instructions (SBA Form 1970)..... | 48 |
| 4. | Sample Subcontracting Plan Review Checklist..... | 49 |
| 5. | Surveillance Review Preparation Checklist (Request for Information) | 53 |
| 6. | Sample Surveillance Review Notification Letter | 61 |
| 7. | Surveillance Review Analysis of Contract Files | 63 |
| 8. | Surveillance Review Interview Questions | 71 |
| 9. | Sample Surveillance Review Report Format..... | 76 |
| 10. | Proper Handling of Procurement Sensitive Information | 78 |

Chapter 1

Overview of the Prime Contracts Program

1. What Is the Purpose of the Prime Contracts Program?

The Prime Contracts Program serves to strengthen the economy of the Nation by increasing business opportunities for small, small disadvantaged (including 8(a) Business Development (BD) concerns), women-owned small, Historically Underutilized Business Zone (HUBZone), veteran-owned small, and service disabled veteran-owned small business concerns, while increasing overall competition in the Federal acquisition process.

2. What Are Procurement Center Representatives (PCRs)?

Procurement Center Representatives (PCR) are the Small Business Administration (SBA) procurement analysts and engineers who implement the Prime Contracts Program.

PCRs are located throughout the nation at major military and civilian Federal buying activities to aid, counsel and assist small businesses to ensure they have a fair and equitable opportunity to compete for Federal procurement opportunities by:

- a. Reviewing proposed contract actions and making recommendations to increase the number of acquisitions set aside for small business;
- b. Reviewing the small business programs of Federal contracting activities;
- c. Recommending procurement strategies to maximize small business participation in Government acquisitions as prime contractors and subcontractors;
- d. Counseling small businesses through outreach and training in obtaining Federal contracts and doing business with the Federal Government;
- e. Reviewing bundled procurements and making recommendations for strategies that will enhance small business participation for Federal prime contracting opportunities.
- f. Conducting or participating in surveillance reviews.

In addition to their duties to increase the share of Federal Government contracts and orders to small businesses, PCRs also advocate competition to achieve cost savings to the Federal Government. PCRs review procurement packages for any restriction to competition and recommend breakout or other competitive strategies that may enhance small business participation as well as overall competition in the Government's acquisition processes.

3. What Are the Laws and Regulations That Govern the Prime Contracts Program?

The acquisition-related sections of the Small Business Act, as amended (15 U.S.C. 631, et seq.), provide the statutory authority for the Prime Contracts Program. The major regulatory authorities are the Code of Federal Regulations (CFR), 13 CFR Part 125, and the Federal Acquisition Regulation (48 CFR) Part 19.

Chapter 2

As a Procurement Center Representative, What Are My General Responsibilities?

1. How Do I Provide Maximum Opportunities for Small Businesses (SBs)?

- a. As established by the Small Business Act, you strive to increase the small business share of prime contracts and small business participation in subcontracting opportunities by counseling and assisting small, small disadvantaged (including 8(a) Business Development (BD) concerns), women-owned small, Historically Underutilized Business Zone (HUBZone), veteran-owned small and service disabled veteran-owned small businesses, identifying and providing small business sources and other methods outlined in this chapter. You are assigned to Federal contracting activities to increase both the dollar value and percentage of total contract awards to small businesses and to enhance overall competition.
- b. You review and analyze proposed acquisitions not set aside or not proposed for competition by the Contracting Officers, to determine if they can be set-aside for one of the categories of small business, or if competition can be enhanced. You also review and investigate bundled acquisitions and make recommendations for strategies that will enhance small business participation for Federal prime contracting opportunities.

Typically, the acquisition review threshold is above \$10,000; however, it may be as low as the micro purchase threshold (currently \$2,500) depending on the covered contracting activity. Periodically, you should spot check procurements below the established threshold to ensure that small businesses are getting all awards and orders they are capable of performing and should be receiving according to current regulations.

Your review may be conducted by reviewing manual documents, an agency's internal website, e-mail, faxes, the "Federal Business Opportunities" (FedBizOpps) website, or other means developed by you and the contracting activity for this purpose.

You will also review subcontracting plans to provide advice and recommendations to the cognizant Contracting Officer regarding the suitability of the plan submitted. Contracting Officers are also required to provide resident PCRs with an opportunity to review any solicitation requiring submission of a subcontracting plan and to submit advisory findings before the solicitation is issued.

A resident PCR's office is generally located at the contracting activity. The

PCR will visit assigned liaison activities periodically to conduct reviews. You should establish review procedures with the activity when it is assigned to you.

- c. You must establish and maintain a positive attitude favoring the interest of small business and for the competitive process at the activity. You also investigate issues upon the request of a Small Business, the contracting activity, your Area Director or Headquarters.

2. How Do I Coordinate and Interface with Contracting Activities?

- a. You will interface with all of the contracting activities assigned to you and establish a written plan (e.g., Plan of Operation). The plan should include the following:
 - (1) A description of the items/services purchased by the contracting activity and its major customers. Identify the contracting activity's parent organization (e.g., for the Fleet Industrial Supply Center (FISC), the parent activity is the Naval Supply Command (NAVSUP)).
 - (2) Procedures for review of purchase requisitions, solicitations (including electronic solicitation systems), and subcontracting plans. This includes establishing the dollar levels of procurements that will be reviewed by you prior to issuance of the solicitations.
 - (3) Frequency of your visits.
 - (4) Copies of reports and other information that you will need.
 - (5) Names, addresses, and telephone numbers of the Contracting Officials, Head of Contracting Activity, Competition Advocate, Head of Agency Technical Support Officials, Small Business Specialist, and the Technical Advisor, if assigned. (You may want to request a copy of the activity's organizational chart, as an addendum to your Plan of Operation.)
- b. At a minimum, review this plan once each fiscal year (not later than October 15th) and continue to update it as needed. You must send each plan to the Area Director (not later than October 31st) for approval and provide updates as necessary.
- c. When your office is located at the contracting activity, you should obtain non-reimbursable administrative support for telephone (including data fax), internet access, photocopying, mailing services, and supplies. You should seek to be included in procurement-related training courses sponsored by the

contracting activity, assuming it is at no-cost to the SBA. You should coordinate these efforts with your Area Director, who will advise you on how to accomplish this goal.

- d. You must meet with the Head of the Contracting Activity (HCA), or designee, at least once a year and provide the Area Director with advance notice of all HCA meetings. Not later than five working days after the HCA meeting, you must provide the Area Director with a memorandum outlining the matters discussed and any actions you recommended that will enhance small business participation. (Note: If you make any recommendations to the HCA, you must follow-up to ensure that they have been implemented and periodically thereafter to assess if the desired results are being achieved).
- e. You will encourage the contracting activities to include you when training their personnel on aspects of the small business program. You will also seek the contracting activity's support for all SBA initiatives, e.g., Matchmaking events, etc.

3. How Do I Identify Qualified Sources?

You must identify qualified small business sources to provide to the contracting activities whether or not the procurements are set-aside. These sources must be capable of meeting the solicitation's technical, management, and delivery requirements. If a solicitation mailing list is not available (e.g., solicitation posted on FedBizOpps) you should notify qualified small businesses of the availability of the solicitation.

- a. Your primary tool to identify and match qualified small business concerns to a solicitation's requirements is the Central Contractor Registration (CCR) at <http://www.ccr.gov/> and click on the "Dynamic Small Business Search" button. The U.S. Small Business Administration, the Department of Defense, the Office of Management and Budget and the General Services Administration took steps to simplify the federal contracting process. The integration of PRO-Net and DOD's (CCR) databases has created one portal for entering and searching small business sources. The CCR/PRO-Net linkage was part of a comprehensive strategic effort to transfer PRO-Net's functions to the E-Gov Business Partner Network (BPN) in order to simplify government-wide vendor registration.
- b. You may identify other sources using the following market research techniques:
 - (1) Reviewing previous contract files for market survey results of the same or similar procurements;
 - (2) Contacting other Contracting Activities;

- (3) Contacting known SBs (they may be able to identify others in their field);
- (4) Contacting other PCRs who cover similar activities (if you receive a request from another PCR, respond as quickly as possible);
- (5) Coordinating with the activity's technical staff or, if assigned, PCR technical advisor;
- (6) Searching the CCR database;
- (7) Publishing "Sources Sought Notices" on the FedBizOpps website (encourage Contracting Officers to use Sources Sought Notices whenever possible); and
- (8) Using other source identification tools as follows:
 - (a) Thomas Register and Dun and Bradstreet;
 - (b) Trade associations and publications;
 - (c) Telephone yellow pages;
 - (d) Original equipment manufacturer's standard drawings;
 - (e) Internet WEB pages (use the various Internet search engines);
 - (f) Prime contractor's subcontracting plan;
 - (g) Award notices published in FedBizOpps or Commerce Business Daily (CBD) archives;
 - (h) Other SBA personnel, Commercial Marketing Representatives (CMRs), 8(a) Business Development (BD) Program Business Opportunity Specialist (BOS), Industrial Specialist, etc.; or
 - (i) State and local government source lists.

Obviously, this list is not all inclusive. You should continually strive to develop innovative means to identify small business concerns for Government opportunities. As part of an ongoing reciprocal process, you should network with and share your successes with your fellow PCRs.

4. How Do I Counsel Small Businesses?

You must provide counseling assistance to all small businesses seeking information or help in doing business with the Federal government. Maintain a list of SBs counseled, which includes date assistance provided, name of person, company, and a brief description of the counseling session.

- a. You should provide information on the following:
- (1) Advising how to identify and where to sell items/services to the Federal government.
 - (2) Advising SBs on various assistance and certification programs available to them.
 - (3) Identify points of contact at the buying activity. If the SB experiences problems, arranges for SBs to meet with SB Specialists, Contracting Officers, Technical personnel, other PCRs, and CMRs, as appropriate.
 - (4) Assisting in all acquisition matters including delays in contract payments, protest procedures, electronic data interchange, contract changes, cases of contract bundling, terminations, cure and show cause notices, inspection and quality control, becoming an "approved" source, and restrictive specifications or clauses.
 - (5) Advising SBs about the CCR databases and other registrations necessary to sell their goods and services to the Federal government and its large business prime contractors. Explain how to register directly over the Internet, using homepages connected to the worldwide web as a marketing tool and as a link to procurement opportunities.
 - (6) Advising on subcontracting opportunities and alerting small businesses to the lists of SBA CMRs and Prime Contractor Small Business Liaison Officers on the SBA/GC webpage.
 - (7) Counseling on all government contracting assistance, including Certificate of Competency (COC), CMR, size determinations, and Property Sales Assistance.
 - (8) Discussing other SBA assistance, i.e., counseling sources - Small Business Development Centers (SBDC) and Service Corps of Retired Executives (SCORE); SBA loans/financial assistance; Small Business Innovative Research (SBIR); International Trade Opportunities, Women-Owned Business initiatives, 8(a) BD, Small Disadvantaged Business and HUBZone program certifications, the Veterans and Advocacy Programs.

- (9) Advising firms how to report cases of contract bundling directly on the GC Internet home page:

(<http://www.sba.gov/GC/indexprograms-bundlingreport.html>).

- b. Counseling sessions may be held with individual SBs or with SB groups through joint training activities with the contracting activity, SBDCs, procurement conferences, prime contractors, other Federal partners, SBA district, city, county, and state offices. Counseling groups of small businesses shall be reported as a training session on your monthly PCR Productivity Report. You should not report the total number of attendees as individual counseling cases.

5. What Are Some of My Special Initiatives?

You may be assigned to perform special initiatives in carrying out your PCR duties. Instructions for these activities will be provided when assigned.

Examples of special initiatives are:

- a. Women-Owned Small Businesses (WOSBs) initiatives – Individually, or as a team effort with the district office Women-Owned Business Representative, you will conduct training for WOBs on how to do business with the Federal government, as appropriate.
- b. Review of Reported Contract Bundling Cases - You may be assigned to review and follow-up on suspected cases of contract bundling, at other than your covered activities, within your Area Office's area of coverage. This review and any subsequent actions will be accomplished as reflected in Chapter 3, paragraph 4.
- c. Follow-up on "Non Set-Aside Report" - You may be assigned to review an acquisition for small business set-aside potential that was reported to SBA by the public via the Internet (<http://www.sba.gov/GC/indexprograms-nonsetasidereport.html>) or other means.

6. How Do I Network with Other SBA Offices?

Work closely and cooperatively with SBA area offices, other PCRs, district offices, and Headquarters. You must advise SBs of these resources and how to request assistance from these offices. Stay current on the SBA's programs and special initiatives. You may accomplish this by attending district staff meetings whenever possible, networking with other PCRs, maintaining written information, and logging onto the GC homepage. Make your supervisor and Area Director aware of significant actions at any of your covered activities and keep them informed of all significant developments. As part of your best practices routine,

share information on contracting activities and any special projects that are taking place.

a. Networking with District Offices.

As staffing levels permit, Area Directors will assign GC personnel as liaisons to the SBA district offices within the Area Office coverage. Your Area Director (AD) will discuss with each District Director (DD), or Deputy DD, how you/GC will provide support in government contracting activities. This could involve providing counseling and assistance to SBs referred by district personnel, and participating in joint activities such as procurement conferences, special programs, and initiatives. This agreement will be tailored to the needs of the specific district office as agreed to by the DD and AD. You should provide recommendations on this agreement to your AD. As necessary, and at the AD's discretion, this agreement can be formalized in writing.

b. Assisting the 8(a) BD Program.

You will provide services per the AD's agreement with the DD. Special emphasis should be placed on working with the 8(a) BD Business Opportunity Specialist (BOS) located at district offices in your area. Offer to introduce them to your contracting activities and to have them periodically accompany you on visits to your covered activities. Also include them in any training that you conduct at the contracting activity. You should also offer counseling and training for 8(a)BD Program contractors.

c. Assisting the HUBZone Program.

You as the PCR and the district offices have shared responsibilities related to support for the HUBZone Program. You are primarily responsible for ensuring that your covered activities are providing procurement opportunities for certified HUBZone firms. Requirements can be either sole source or competed among qualified firms. You shall make recommendations directly with Contracting Officers on all requirements submitted for your review that are suitable for the HUBZone program. You are also responsible for training personnel at your covered activities on this important contracting program, including how to apply the HUBZone program price evaluation preference (PEP). You should seek to include the local district office HUBZone coordinator in training sessions at your covered activities, whenever possible. You shall also counsel small businesses on the benefits of the program and guide them on how to determine if they qualify for certification.

7. What Other SBA Programs Do I Promote?

- a. Provide information on resources offered by the Office of Government Contracting/8(a) Business Development: Small Disadvantaged Business (SDB) program, SBIR/STTR programs, COC, Size Determination, Size Standards, Central Contractor Registry (CCR), and CMR subcontracting activities.
- b. Also provide directions and contacts regarding district programs: Loans, Surety Bond Guarantee, Economic Development, 8(a), Service-disabled veteran-owned, Veteran owned, and Women-owned small businesses.

8. How Do I Handle Procurement Sensitive or Proprietary Information?

- a. In the course of your PCR duties, you have access to a broad range of procurement sensitive and proprietary information. You must not disclose, directly or indirectly, any proprietary or source selection information regarding a procurement to any unauthorized person. Any information that is not available to the public but is known by the PCR is considered procurement sensitive information.
- b. You shall refer any requests from a member of Congress, or staff person, for procurement sensitive information to the Contracting Officer and immediately notify your Area Director. If the caller insists on an SBA response, they should be referred to SBA's Office of Congressional and Legislative Affairs at headquarters. The PCR shall provide the name, title and telephone number of the person making the contact, the information requested and the status of the request.
- c. You shall mark Reports that provide information about specific procurements and government estimates "Procurement Sensitive-For Official Use Only" prior to release to your Area Director/Supervisor or to Headquarters. Reports containing procurement sensitive information should only be distributed to procurement officials. Requests from entities outside of SBA for procurement sensitive information concerning any other agency's procurement information should be referred to the Freedom of Information Act officer at the agency that generated the information for release.

See appendix 10 for guidance on handling procurement sensitive information.

9. How Do I Appeal a Contracting Officer's Rejection?

You must appeal a Contracting Officer's unwarranted rejection of your set-aside or breakout recommendation to the HCA within two business days after receipt of the rejection. (See FAR 19.505(c)). In your appeal:

- a. You must clearly address the Contracting Officer's written rejection.
- b. You should also address the ability of the small businesses to perform the requirement. You may include letters from firms affirming their intent and capability to perform the requirement. You must comply with procurement integrity regulations during all phases of the appeal process and must not release sensitive information on the procurement, or a contractor's proprietary information, without prior approval.
- c. You must coordinate with the AD during the HCA appeal process and notify the AD specifically if you believe that the HCA will deny your appeal. You must describe the acquisition (contracting activity: title of the procurement, estimated dollar value, period of performance, deliverables, contract terms, type, and other pertinent information.) and briefly discuss the issues in dispute. If the HCA accepts the set-aside or breakout recommendation, advise the AD and Headquarters and report it on your monthly report.

10. How Do I Appeal an HCA's Rejection?

Upon receipt of the HCA's rejection of your appeal, you must immediately coordinate with the AD and Headquarters about a secretarial appeal. (See FAR 19.505(c)(2)(I)).

- a. You must have Headquarters approval before notifying the Contracting Officer of SBA's intent to pursue a secretarial appeal. You will coordinate this approval through your Area Director. You must notify the Contracting Officer within one business day after receipt of the HCA's rejection that SBA intends to appeal to the secretarial level. Further, you must request, in writing, that the Contracting Officer suspend action on the acquisition until the appeal is resolved. The SBA Administrator has 15 working days after making a request to suspend action on the acquisition to submit the appeal to the Secretary of the Department concerned.
- b. Contact firms about their interest and capability in the proposed acquisition. You must obtain the Contracting Officer's approval before discussing any information not available to the public (however, you may disclose information that was contained in a FedBizOpps announcement). In doing this, you must tactfully perform the task of describing the procurement to the small businesses without releasing any procurement

sensitive information or any other information that would give these firms an unfair advantage in the procurement process. If you believe that the HCA will reject your appeal, you should advise your AD and start preparing the Secretarial appeal so you can forward the necessary documentation to the AD and Headquarters in a timely manner.

- c. If you can discuss information specific to the proposed acquisition, obtain letters from firms affirming their intent to submit an offer on the proposed acquisition containing:
 - (1) Technical and management capability to perform the requirement; and
 - (2) Experience performing a similar procurement.
- d. If you cannot discuss information specific to the proposed acquisition, obtain letters from firms which address their overall corporate capabilities, recent contract performance history, and financial capabilities (i.e. bonding), as appropriate.
- e. Coordinate with your AD and Headquarters as you develop the appeal package.
- f. Obtain AD approval before forwarding the appeal package to Headquarters. You must send by overnight mail two copies of the complete appeal package to Headquarters within 10 business days after date of notification to the contracting activity of SBA's intent to appeal and one copy to your GC Area Director. You must also send an electronic copy of the Table of Contents and Executive Summary of the appeal package by electronic means and hard-copies of any other pertinent document that can't be transmitted electronically. You must include the following in the appeal package:
 - (1) Table of Contents.
 - (2) Executive Summary of sequential actions (not more than two pages).
 - (3) A tabbed appeal package including all PCR, technical officer, Contracting Officer (CO), and HCA correspondence. Address interest and capability of PCR identified firms to perform the requirement in the appeal. (This should include comments from competition advocate and Small Business Specialist, if available.)

- (4) A transmittal letter to Headquarters that includes a point-by-point rebuttal of the HCA's rejection. This letter must also include the CO's and HCA's full name, title, address, telephone number, facsimile number and e-mail address.
- (5) Include all SB letters as attachments to the appeal.

NOTE: PCRs do not process 8(a) BD appeals. This is handled by the cognizant DO. HUBZone appeals are only authorized up through the HCA level.

11. What Records Do I Keep?

a. A list of common PCR records is as follows:

- (1) SBA Form 231, "PCR Purchase Review Register."
- (2) Small Business Counseling Records.
- (3) Subcontracting Plan Review Log.
- (4) SBA Form 70, "U.S. Small Business Administration Recommendation."
- (5) PCR 8(a) recommendation memos.
- (6) HCA and Secretarial appeals.
- (7) Correspondence and notes of significant discussions with contracting activity and contractor personnel.
- (8) PCR Productivity Report.
- (9) SBA Form 1970, "Bundling Alert Form."
- (10) SBA Form 2005, "Non-Set Aside Report."
- (11) Copies of special and monthly reports, including highlights and success stories.
- (12) Annual Plan of Operation for each assigned activity.
- (13) Copies of any breakout recommendations and documented savings.

b. You must keep all reports, forms, and back-up documentation in your office for three years and then transfer the files to the appropriate Federal Records Center. See SOP 00 41, "Records Management Program," for transfer procedures.

12. What Should I Report to the Area Director?

You should report the following to the Area Director:

- a. PCR Productivity Report – monthly.
- b. Special Reports as requested by your Area Director or Headquarters.
- c. Annual Plan of Operations and updates, as applicable.
- d. High-dollar acquisition reports that include proposed acquisitions estimated at or above \$50 million (or lower threshold as established by the Area Director). The notification shall include procurement description, estimated value (base

period and options), whether the procurement was considered for breakout or set-aside action, and what action was taken.

- e. SBA Form 1970, "Bundling Alert Form."
- f. High-visibility, procurement sensitive information at any threshold.
- g. HCA Appeals including 'final' status
- h. Significant items of interest for submission to Headquarters for inclusion in the GC/BD weekly report to the Administrator.
- i. Success stories of how you benefited a particular small business or the small business community at-large.
- j. Summary of breakout activity including documented savings resulting from any breakout recommendations, as well as any other pertinent information related to breakout activities, e.g., success stories (annually).
- k. Anything else you believe is worthy of notice.

Chapter 3

As a PCR, What Are My Specific Responsibilities?

1. What Is a PCR Required to Do?

- a. As a PCR you cover procurement activities that have major contracting opportunities for SBs. You may reside at the contracting activity and perform complete reviews of purchase requisitions, acquisition forecasts, subcontracting plans, and systems as you determine necessary. For example, while you may choose not to individually review purchases under the simplified acquisition threshold, you must perform periodic examinations to determine that set-asides are being made or files are properly documented as to why not.
- b. When your office is located at another facility, your review may be accomplished by telephone, mail, electronic means, or facsimile. Occasionally you must make site visits. You should advise the SB Specialist of items you need during your on-site review. This should include completed actions as well as those in process. It is important that your AD or supervisor know of your whereabouts and how to reach you while you are not at your regular post of duty.

2. How Do I Review Proposed Acquisitions?

The most effective way to increase the SB share of Federal acquisition dollars is to recommend small business, 8(a), service-disabled veteran-owned small business, and/or HUBZone set-asides. You should use the procedures discussed in chapter 2 to identify potential SBs. You must recommend set-asides on all requirements that meet FAR 19.502 or 19.1305 (or 19.1306 for HUBZone sole source awards) and are not unilaterally set aside by the CO.

- a. Most purchase requisitions should be reviewed within two working days after receipt and no longer than five working days under unusual circumstances. A PCR has 15 days to review a requisition which involves bundling.
- b. You must notify your AD of each procurement you reviewed during the previous month with an estimated value more than \$50 million (or lower threshold as established by the AD), including options. The notice should include the title of the procurement and a description of the supplies/services, estimated dollar value, whether you considered the procurement for set-aside or breakout, and any actions taken. This is in addition to actions taken with regard to a "bundling alert."

- c. You should review the FedBizOpps website regularly as a way to audit your covered activities to ensure that they are submitting all applicable procurements for your review.
 - d. As authorized in 13 CFR 121.1101-1103, you may appeal a North American Industry Classification System (NAICS) code should you determine that an incorrect NAICS code is assigned. Make every effort to convince the CO to use the correct NAICS code. This action may change the size standard and permit a set-aside.
 - e. You should concur/nonconcur with the CO's recommended action. You must maintain a record of each acquisition screened for set-aside on SBA Form 231, "PCR Purchase Request Review Register." (See appendix 2).
- 3. How Do I Recommend a Small Business Set-Aside (SBSA) or HUBZone or SDVOSB Set Aside?**
- a. What Is an Informal SBSA/HUBZone Set-Aside Request?

You must attempt to set aside all requirements that meet the regulatory criteria for an SBSA, SDVOSB, 8(a) or HUBZone Set-Aside. You should identify qualified firms using the techniques discussed in chapter 2, paragraph 3. Before issuing an SBA Form 70, you should discuss your set-aside recommendation with the Contracting Officer and other appropriate personnel (i.e., the initiator of the requirement). If the Contracting Officer accepts your recommendation, document by filling out an SBA Form 70 for your records and report this as an informal SBA Form 70.
 - b. What Is a Formal SBSA/HUBZone or SDVOSB Set-Aside Request?
 - (1) You must use SBA Form 70 to formally recommend either a total, partial, or class small business set-aside, SDVOSB, 8(a) or HUBZone Set-Aside. If you recommend a class set-aside, clearly identify the product(s) or services(s) covered and follow the guidance provided in FAR 19.503.
 - (2) You must precisely state your rationale for the set-aside recommendation. If you believe this action may result in a Secretarial Appeal, you must alert your AD.

c. What Action Do I Take If the Contracting Officer Rejects My Set-Aside Request?

If the Contracting Officer denies the Set-Aside request, upon approval by the AD, you must issue an appeal to the HCA. The process is described in chapter 2, paragraphs 9 and 10.

4. How Do I Review Proposed Bundled or Consolidated Requirements?

- a. Contract bundling (also known as consolidation) poses a significant negative impact on the ability of small businesses to fairly compete for Federal contract opportunities. Due to the potential effect on small business participation, when considering bundling requirements agencies must conduct adequate market research that clearly indicates that the proposed bundled procurement is necessary and justified, i.e., the agency will derive “measurably substantial benefits.” Bear in mind that a reduction of administrative or personnel costs alone is not sufficient justification for bundling. Contract bundling includes multiple award contract vehicles (e.g., GWACs, including GSA multiple award schedules) and task and delivery orders under such vehicles.
- b. Agencies are required to take additional actions with respect to “substantial bundling.” There are three dollar thresholds for substantial bundling: \$7 million for DOD, \$5 million for NASA and \$2 million for all other agencies. These dollar thresholds trigger requirements for specific actions to maximize small business participation as subcontractors, assuming that bundling is justified. Agencies must also issue a specific determination that the anticipated benefits of the proposed bundling justify its use and identify alternative strategies that will minimize the effect of the bundling on small business and the rationale for not choosing those alternatives.
- c. Agencies must coordinate acquisition strategies or plans contemplating bundling with the contracting activity’s Small Business Specialist (SBS) and PCR at least 30 days before issuing a solicitation. The SBS must notify the agency Office of Small and Disadvantaged Business Utilization (OSDBU) when those strategies include contract bundling that is unnecessary or unjustified.
- d. You must aggressively pursue all instances where contracting agencies bundle requirements making it unlikely that small business concerns can compete for the consolidated requirements. Take actions to ensure you are “in the loop” with regards to proposed bundled actions. You will accomplish this by reviewing purchase requisitions and proposed solicitations for contract bundling.
- e. To mitigate the consequences of bundling on small business, it is imperative that you get involved early on in the acquisition planning stages. Request that you be involved as soon as a decision has been made to pursue a bundled acquisition. Procedures on how you should handle bundled requirements are contained in

Section 125.2 of 13 CFR.

- f. If you need assistance from other GC personnel, including other PCRs, CMRs, or Industrial Specialists to investigate bundled requirements, advise your AD. These reviews will be given priority treatment.
- g. Your analysis of the break-up, or other recommended strategy, should be sufficient to support a secretarial appeal, if necessary. As time is of the essence, be sure to maintain orderly, chronological and comprehensive records and files in support of your position.
- h. When a set-aside is not possible, you must also review the solicitation's terms and conditions to determine if they preclude or restrict SB participation. Some examples of these restrictions are: an "all or none" clause; restrictive performance specifications; unrealistic delivery requirements; an overly wide geographic area of performance; combining diverse items/services. Advise the Contracting Officer of overly restrictive terms and conditions by letter. (Note: The Contracting Officer must include the HCA's market research that determined that the consolidation is necessary and justified).
- i. You must complete an SBA Form 1970, "Bundling Alert Form," for each instance of bundling identified. An interim bundling report should be filed when a bundling situation arises and is not likely to be resolved in the near term; a follow-up interim report(s) should be filed as significant events develop; and, a final bundling report should be issued when SBA actions are no longer applicable (e.g., the activity accepted the PCR's formal or informal recommendation or the activity did not accept some or all of the PCR's formal recommendations). You should submit this to your AD as quickly as possible. You should be familiar with the electronic system which allows SBs to report instances of bundling using the Internet. On the Government Contracting Home Page, at the SBA World Wide Web site, there is a bundling alert home page; the SB may enter information on suspected bundled requirements. Headquarters will receive and analyze all reports and submit them to the cognizant AD for investigation. You should alert small businesses to this reporting mechanism during counseling and training sessions. The Internet address is <http://www.sba.gov/GC/indexprograms-bundlingreport.html>.

5. How Do I Review Solicitations Requiring Subcontracting Plans?

- a. As required by FAR 19.705-3, you must review solicitations requiring subcontracting plans. You may submit advisory findings prior to issuance of the solicitation. A sample Pre-Award Subcontracting Plan Review Checklist is contained in appendix 4. You can tailor the checklist to meet your individual needs. Copies of checklists should be retained in your files. You should develop a log to track all plans submitted for your

review. At a minimum, your subcontracting plan review log should track the name of the firm submitting the plan, the contracting activity that submitted it for your review, the initial and final review dates, the plan type (e.g., individual, comprehensive, commercial, etc.), and brief comments.

- b. You must review subcontracting plans submitted if you are resident at the contracting activity. As stated in FAR 19.705-4(d)(7), Contracting Officers from other contracting activities may seek your advice and recommendations on subcontracting plans. You should also consult with the cognizant CMR to receive comments on the proposed plan.
 - (1) You must review plans per guidelines established in FAR Subpart 19.7. Submit your written recommendations to the Contracting Officer. This response should include your advisory comments regarding the acceptability of the plan and must be submitted within five working days after receipt of the plan.
 - (2) You must keep a record of the plans that you review, your recommendation, and when you do not concur, whether the plan was accepted without modification. In some cases, you may review more than one plan for a single solicitation; report all of these plans on the monthly PCR Productivity Report.
 - (3) Make sure that the contracting activity sends a copy of the plan plus award documents to the appropriate SBA area office.
- c. Small business subcontracting goals must be aggressive yet reasonable in relation to the items that will be subcontracted. It is not necessary for the prime to submit goals that meet/exceed the statutory minimums (e.g., 23% for small, 5% for SDB and women-owned small businesses, etc.). However, any plan proposing a low or zero goal for any category of small business shall be challenged and must be justified and supported by the large prime submitting the plan. Zero goals must be coordinated within the contracting activity per that organization's procedures, e.g., two levels above the Contracting Officer, etc.

6. Do I Sign-Off on Acquisitions Unilaterally Reserved for the 8(a) Program?

No. You should recommend that the Contracting Officer notify the cognizant SBA 8(a) BD office. You may take it upon yourself to notify the local SBA 8(a) BD office of the procurement via e-mail, or by faxing a copy of the small business coordination record.

If the Contracting Officer insists that you sign-off on unilateral 8(a) acquisitions, be sure to add a caveat, in the signature block, that your concurrence is subject to

offer by the contracting activity to, and acceptance by, the 8(a) BD office. (This will eliminate the possibility of future claims that the CO assumed that the PCR accepted the requirement on behalf of SBA and negated the CO's requirement to coordinate offer and acceptance within the 8(a) BD Program regulations).

7. **How Do I Document PCR Initiated 8(a) Recommendations?**

You should document PCR initiated 8(a) recommendations by writing "refer to 8(a) Program" in lieu of your signature on the Agency's Small Business Coordination Record (e.g., DD FORM 2579, or Agency equivalent). Follow-up by e-mail to the Contracting Officer and 8(a) BD staff with supporting rationale and recommend that they coordinate further action. If the 8(a) BD program declines to pursue the requirement for that program you should consider it for a set-aside.

- a. Consideration should be given to the 8(a) program when reviewing the activity's requirements. You must identify potential requirements for the 8(a) program and also encourage contracting activities to support 8(a) contractors by:
 - (1) Offering special assistance on how to do business at their activity;
 - (2) Encouraging them to bid on competitive contracts; and most importantly; and
 - (3) Offering contracts to SBA's 8(a) BD Program.
- b. Instruct 8(a) contractors on doing business with the Federal government, in general, and specifically at your assigned contracting activities. Provide counseling as set forth in chapter 2, paragraph 4. When appropriate, recommend that contractors offer to make a presentation at your contracting activities.
- c. Check CCR for 8(a) BD firms capable of meeting specific requirements. Request capability statements from these contractors when needed. Discuss the contractor's capabilities and current status with the local 8(a) BD BOS.
- d. Review the contracting activity records for search letters and their responses. Ask 8(a) BD BOS personnel to provide you with search letters issued to any of your covered activities. Monitor for contract awards. Continue to monitor during contract performance as appropriate.
- e. Maintain a record of the number of your written requests for 8(a) procurements and the estimated value of the requests.

8. How Do I Support the HUBZone Program?

- a. You support the HUBZone program by identifying acquisitions suitable for performance by those firms and recommending set-asides or sole-source procurements as applicable. You can recommend that requirements previously set-aside for small business concerns be set-aside for HUBZone firms. Ensure that the activity's Contracting Officers are knowledgeable on how to apply the HUBZone PEP.
- b. It is the responsibility of the contracting activity to decide to solicit a requirement to firms in the 8(a) BD or HUBZone programs. This decision should take into account the contracting activity's achievements relative to its goals for these programs. You can provide the contracting activity with your recommendations as to how they should proceed.
- c. Instruct HUBZone contractors on doing business with the Federal government, specifically at your assigned contracting activities. Provide counseling as set forth in paragraph 2-4. When appropriate, recommend that contractors offer to make a presentation at your contracting activities.
- d. All training sessions for contracting agency personnel must include the HUBZone program.

9. How Do I Support Small Disadvantaged Business Concerns?

- a. You support SDB concerns by counseling those firms on doing business with the Federal government. You should also provide advice to SDB concerns on how to market your covered activities. Counsel firms on how to apply for certification and the benefits they can take advantage of once they obtain SDB status.
- b. Ensure that Contracting Officers and technical personnel are aware of the evaluation factor/subfactor available for the participation of SDB concerns in the performance of applicable contracts and price evaluation adjustment (PEA) for authorized NAICS Industry Subsectors.

10. How Do I Balance Support for the Various Segments of the Small Business Community?

As a PCR, you are responsible for advocating on behalf of all segments of the small business community equally. You must avoid even the appearance of supporting one segment of small businesses over another. You should encourage Contracting Officers to consider the contracting activity's achievements relative to its assigned goals when deciding which program (e.g., 8(a) BD, HUBZone SDVOSB or small business set-aside) to utilize to meet its procurement needs.

11. How Do I Handle Unsolicited Proposals?

You must forward them to the appropriate official at the contracting activity. You must maintain documentation of the receipt and disposition of all unsolicited proposals.

12. How Do I Interface with State and Other Service Providers?

- a. You should develop contacts with state, city, and county organizations (i.e., Chambers of Commerce) offering small business assistance. Offer your services for presentations at their activities or as a referral to counsel SBs interested in doing business with the Federal government. Coordinate your efforts with the local SBA district office. (The district office may be able to provide contact names.)
- b. Participate in procurement conferences, local meetings, and other activities that have been planned by service providers.
- c. Advise your contacts periodically about SBA's special initiatives, e.g., Matchmaking events, and learn of theirs.
- d. Instruct them how to use CCR to identify small business sources, including small disadvantaged, women-owned small, veteran-owned small and service-disabled veteran owned small businesses for their procurement opportunities.

13. How Do I Handle Requirements Subject to the Comp Demo Program?

- a. The Small Business Competitiveness Demonstration Program (Comp Demo Program), covered in FAR subpart 19.10, consists of two major components:
 - (1) unrestricted competition in four designated industry groups (DIGs), e.g., construction (except dredging), non-nuclear ship repair, architectural and engineering services (including surveying and mapping), and refuse systems and related services; and
 - (2) enhanced small business participation in 10 agency targeted industry categories (TICs).
- b. The Comp Demo Program, applicable to the top 10 Federal procuring agencies (see FAR 19.1004 for a complete list of participating agencies), restricts the use of small business set-asides for the four DIGs. Participating agencies must increase small business participation in the 10 TICs through continued use of set aside procedures.

- c. Although requirements for DIGs cannot be set aside for small business, assuming that they have met assigned goals established for awards to small business for each of the DIGs, they can be set-aside for HUBZone firms, performed by 8(a) BD firms and can be set aside for Service Disabled Veteran Owned Small Businesses (SDVOSB). You should review these requirements with the aim of recommending HUBZone, SDVOSB or 8(a) set-asides for these requirements.
- d. You should request that the contracting activity notify you immediately if small business set-asides have been reinstated so you will be in a position to recommend set-asides for any DIGs requirements. You should also be aware of the contracting activity's assigned TICs to be in a position to identify small business firms that can satisfy agency requirements in these categories.

Chapter 4

How Do I Perform a Surveillance Review?

1. Why Do I Perform Surveillance Reviews?

A surveillance review is a comprehensive assessment of a contracting activity's small business program. You perform surveillance reviews to:

- a. Assess the quality of a contracting activity's small business program;
- b. Evaluate its impact on small business; and
- c. Recommend changes to improve small business participation in the contracting activity's acquisition process.

2. Who Participates in Surveillance Reviews?

Any SBA Government Contracting employee may be selected by the Area Director to take part in surveillance reviews. Consideration of an employee's close proximity to the selected contracting activity, or other budgetary considerations, will be taken into account.

3. How Are Surveillance Review Sites Selected?

Area Directors will coordinate with Headquarters during the last quarter of the fiscal year to determine where surveillance reviews will be performed for the upcoming fiscal year. SBA Headquarters will notify and coordinate with the small business headquarters office of the appropriate Federal agencies or departments (e.g., the OSDDBU at the DoD) about the surveillance review schedule. Factors to consider when selecting a contracting activity for review:

- a. Availability of SBA Government Contracting staff who are within commuting distance to the buying agency, or other budgetary considerations;
- b. Contracting activity mission and acquisition workload;
- c. Small business program goal achievement and overall level of small business participation over the past two fiscal years;
- d. Experience indicating known or potential problems (e.g., PCR knowledge of significant problems, and numerous complaints from the small business community about a contracting activity); and
- e. Changes in a contracting activity's acquisition policy.

4. As Team Leader, How Do I Plan for the Surveillance Review?

- a. Before scheduling a surveillance review, you should allow enough time to:
- (1) Contact the contracting activity to schedule the surveillance review and confirm the dates at least 60 days prior to the review;
 - (2) Request that the contracting activity provides you with the information and documentation listed in the “Surveillance Review Preparation Checklist and Request for Information” (appendix 5) that you send to the agency as part of the coordination letter to the HCA (see paragraph 5 below);
 - (3) Advise the agency that you will schedule a *telephone conference call for the Entrance Briefing upon receipt of the “Preparation Checklist and Request for Information”;
 - (4) Obtain information from the contracting activity for your evaluation prior to the review;
 - (5) Contact the team members to discuss each member’s role; and
 - (6) Prepare the report after the review, including coordinating with team members and obtaining the Area Director’s approval. The report is due in Headquarters 30 days after the exit briefing.
- b. You should plan to spend several days conducting a review of the information and documentation received in the “Surveillance Review Preparation Checklist and Request for Information” prior to visiting the contracting activity. You should plan to spend one to one and one-half days at the contracting activity to continue your review. You should not schedule a surveillance review at the beginning or end of the fiscal year.

*All telephone conference calls/interviews may be conducted in person if no travel expenses are incurred, e.g., if SBA personnel are duty stationed at the agency.

5. As Team Leader, How Do I Schedule a Surveillance Review?

You must contact the contracting activity to set the dates for the surveillance review, request the information and documentation required in the “Surveillance Review Preparation Checklist and Request for Information”, and schedule the entrance telephone conference call and the exit briefing. At least 60 days prior to

the review, the Area Director/Government Contracting must send a coordination letter and the “Surveillance Review Preparation Checklist and Request for Information” to the HCA about the surveillance review. In the letter, the Area Director should:

- a. Confirm the dates of the review;
- b. Name you as the SBA team leader and request that the “Surveillance Review Preparation Checklist and Request for Information” be sent to you;
- c. Advise the agency that you will schedule a telephone conference call for the Entrance Briefing upon receipt of the “Surveillance Review Preparation Checklist and Request for Information”;
- d. Describe the purpose of the surveillance review;
- e. Discuss the areas that will be evaluated;
- f. Note the scope of the review, which should cover at least two fiscal years;
- g. Identify the team members;
- h. Request (or confirm, if known) a point of contact to coordinate:
 - (1) Information and documentation needed before the site visit (“Surveillance Review Preparation Checklist and Request for Information”);
 - (2) Work area requirements, including desk space and phone access;
 - (3) Access issues (e.g., security clearances);
- i. Send a copy of the letter to the contracting activity Small Business Specialist and to all team members; and
- j. Follow-up with the HCA and the Small Business Specialist a few days after the Area Director sends the coordination letter.

(See appendix 6 for a sample letter to the HCA.)

6. What Should I Do Before the Review?

You should prepare for the review by doing the following:

- a. Reviewing copies of any previous surveillance review reports and discussing observations about the strengths and weaknesses of the contracting activity’s small business program with the appropriate PCRs;

- b. Contacting the Small Business Specialist and other contracting activity personnel (e.g., Director of Contracting) before the actual review, if appropriate. Advise the Area Director before scheduling any pre-review conference calls or meetings at the contracting activity;
 - c. Researching special acquisition regulations and procedures that apply to the contracting activity;
 - d. Coordinating with the point of contact about surveillance review activity (e.g., obtaining contract files, and interviewing contracting personnel by telephone);
 - e. Requesting the presence of the Director of Contracting, Small Business Specialist, Competition Advocate, Technical Director, as appropriate, at the telephone conference call/entrance briefing; and
 - f. Coordinating with team members about the review. You should consider the knowledge and work experience of team members when assigning review tasks.
- 7. How Do I Select Contracts to Be Reviewed?**

You must review enough files to detect significant trends and to make sure that your findings are valid. You should obtain appropriate information from the contracting activity to make sure that your sample includes a. through g. below. (For example, request a print out of all SF 279 or DD Form 350 actions of more than \$100,000, indicating contract number, award amount, contractor name and business size, type of action, NAICS code, synopsis code, type of set-aside and subcontracting plan information)

- a. Awards to large business over and under the Simplified Acquisition Threshold (SAT);
- b. Contracts for mission and base support operations;
- c. Contracts for construction, supplies, research and development, and services of varying complexity;
- d. Contracts of various types, including fixed-price, time and material, cost-reimbursement, and indefinite delivery;
- e. Awards to large business over the subcontracting plan thresholds, including those where contract administration functions are retained by the contracting activity;

- f. Awards subject to special regulations or procedures; and
- g. Contracts for consolidated/bundled services.

(See appendix 7 for sample questions for the Analysis of Contract Files.)

8. How Do I Conduct an Entrance Briefing?

Upon receipt of the “Surveillance Review Preparation Checklist and Request for Information” package from the contracting activity, you, as the team leader, schedule and conduct a telephone conference call/entrance briefing by:

- a. Introducing the team members;
- b. Discussing the purpose, scope, and methodology of the surveillance review;
- c. Seeking information on areas of special concern to the activity acquisition managers and the HCA;
- d. Discussing how the report will be prepared and issued; and
- e. Confirming the exit briefing.

1. What Do I Do in a Surveillance Review?

You should use the “Surveillance Review Preparation Checklist and Request for Information” in appendix 5 to perform the review. You may have to tailor your approach depending on the type of activity you are reviewing. Your review must consider the following:

- a. Management of its small business program;
- b. Compliance with regulations and procedures;
- c. Effectiveness of advance procurement planning;
- d. Pre-award and post-award functions;
- e. Small business training programs;
- f. Industry outreach programs which focus on small business;
- g. Review of procurement logs, small business coordination records, and contract actions; and
- h. Small business goal achievement.

2. Why Do I Interview Contracting Activity Personnel?

You should interview contracting activity personnel initially by telephone using the sample questions in appendix 8. The purpose of this process is to:

- a. Determine the effectiveness of training programs;
- b. Assess program and management emphasis on small business issues; and
- c. Highlight areas of weakness or strength in the activity's overall small business program that may not be apparent from written records.

11. What Portions of the Review Should I Conduct From My Post-of-Duty?

You should conduct portions of the review from your post-of-duty by doing the following:

- a. Reviewing a list of contracts or contract award actions for the period covered by the review and selecting a representative sample of contracts for review;
- b. Conducting the telephone conference call/entrance briefing;
- c. Reviewing and analyzing the information and documentation submitted by the agency in the "Surveillance Review Preparation Checklist and Request for Information" package;
- d. Conducting telephone interviews of Contracting Officers, Small Business Specialists, etc.;
- e. Determining if other documentation is required and if follow-up in-person interviews are required;
- f. Notifying agency if additional documentation and interviews are Required;
- g. Notifying the contracting activity of the contract files and logs required for review and scheduling an on-site review date at which time all the additional documentation and people (if any), files, and logs will be available for your review in the morning, if feasible; and
- h. Scheduling an Exit Interview on the same date as the on-site review in the afternoon of the last day. If this is not feasible, the exit briefing should be conducted within five days after the completion of the on-site review.

12. How Do I Conduct an Exit Briefing?

- a. Although it is preferable to conduct the exit briefing on a face-to-face basis, it can be conducted via telephone conference call. Before conducting the exit briefing, you must advise the AD about your preliminary assessment (e.g., general program strengths and weaknesses, issues of non-compliance).
- b. At the exit briefing you should:
 - (1) Discuss significant deficiencies and program strengths identified during the review;
 - (2) Solicit comments about the surveillance review (make a note of any forthcoming corrective action, and offer to accept rebuttals within a reasonable time);
 - (3) Discuss how the rating will be developed after a thorough analysis of the findings; and
 - (4) Recognize those contracting activity personnel who assisted the team during the review.
- c. At the exit briefing you must not:
 - (1) Discuss the proposed rating with contracting activity personnel;
 - (2) Belabor minor deficiencies; or
 - (3) Argue about any issues (acknowledge that the points raised by the contracting activity will be considered before the final report is written).

13. How Do I Prepare the Surveillance Review Report?

- a. You will use the surveillance report format (see appendix 9) as a guide in preparing the report. The AD must approve the report before forwarding it to Headquarters. The original and two copies of the signed report, along with an electronic copy (verify software version compatibility) must be sent to Headquarters within 30 days after completion of the exit briefing. Your report should be provided to your AD within 25 days after the exit briefing to allow the AD time to review the report and recommend changes before it is delivered to Headquarters.

- b. The Report should be logical and follow the prescribed format. For example, list all deficiencies and recommendations in the appropriate section of the report. Each recommendation shall be numbered sequentially and include your recommended course of action for correcting the specific deficiency. Avoid personal opinions. All deficiencies and recommended corrections must be tied to a specific regulation. A separate attachment sheet listing the numbered deficiencies and recommendations must be included with the report.
- c. Every report must address bundling and what the Agency is doing with and about bundling.
- d. A separate attachment sheet listing all the acquisition files reviewed must be included with the report.
- e. Be sure to provide appropriate information to Headquarters for the cover letter to the report (e.g., address of the HCA, and names of those deserving special mention). The surveillance review team leader must forward the backup documentation to the Area Director after Headquarters issues the report.

14. What Ratings Do I Assign to a Contracting Activity?

There are five possible ratings you can assign to a contracting activity. Your report must clearly support the rating you assign. The ratings are:

a. Outstanding.

You should assign this rating when the contracting activity has undertaken special initiatives to successfully promote its small business program and has no major deficiencies. The majority of all statutory goals should have been achieved.

b. Highly Satisfactory.

Assign this rating when the contracting activity has a strong small business program, but lacks unique or innovative small business program initiatives that warrant special recognition. All statutory goals achievements should show significant improvement over the last two years.

c. Satisfactory.

Use this rating if you do not identify any major deficiencies which affect the ability of small business to participate in the contracting activity's acquisition process.

d. Marginally Satisfactory.

If you identify a negative trend or deficiency which is serious in nature, assign this rating.

e. Unsatisfactory.

Assign this rating if small business is being denied an opportunity to participate in the acquisition process due to anti-small business bias, unreasonable policies, or any other significant impediment in violation of applicable rules and regulations.

Prior to the assignment of a rating, the Team Leader must discuss the basis for the proposed rating with the Area Director. The Surveillance Review Team members should be allowed to offer their recommendations with respect to any rating proposed by the Team Leader.

Whether an activity met or did not meet its goals should not be the basis for the assignment of the rating. You must evaluate how the goals are assigned and how realistic they are after taking into consideration the types of supplies and services that are being acquired. For example, a 20% SB goal may be a very aggressive goal at an R&D contracting agency, while a 50% SB goal at an agency involved primarily in construction might not be challenging at all. Also take into consideration the efforts undertaken by the agency to enhance small business participation.

15. How Is the Report Distributed?

SBA Headquarters will approve the report before sending it to the appropriate Headquarters office of the contracting activity. Headquarters will also send copies of the cover letter and final report to the Area Director, all team members, and the cognizant PCR (if applicable). To ensure that SBA speaks with “one voice,” and that only the officially-sanctioned report is circulated, you must not provide the contracting activity with a “draft” copy of your report.

Chapter 5

What Are the Responsibilities of Area Directors?

1. What Are My Administrative Duties as Area Director?

- a. You provide direction and supervision for the Prime Contracts Program within your designated area. You:
 - (1) Ensure that contracting activities are appropriately covered by a PCR;
 - (a) You should be familiar with all contracting activities in your geographical area; and
 - (b) You should conduct a review and evaluation of all buying activities in your geographical area every two years to evaluate coverage and propose changes in coverage.
 - (2) Implement the plans and policies established by Headquarters;
 - (3) Coordinate and request training and security clearances for PCRs as needed;
 - (4) Conduct joint activities with PCRs to encourage communication and networking within your area; and
 - (5) Provide PCRs with current information and instructions that will be necessary and beneficial in performing their duties.
- b. You must participate in outreach for small businesses, such as attending procurement conferences, and meeting with private and public organizations to assist the small business community in understanding the Federal procurement program.
- c. You must assign special duties for review of bundling reports or other matters that are referred to you for inquiry by Headquarters.

2. What Should I Coordinate with Headquarters?

- a. You must recommend the contracting activities for PCR coverage and provide your rationale for the assignment to Headquarters.
- b. You must review prospective Secretarial Appeal files to ensure that proper documentation is included in the file. You should prepare a one-page analysis of the appeal and include it with your transmittal memo to Headquarters indicating your concurrence with the appeal.
- c. You must request security clearances, when warranted, and obtain necessary information from the employees and forward to Headquarters. SOP 90 22, "Investigations Program," provides instructions for the process.
- d. You must promptly process all reported instances of contract bundling.
- e. You must recommend to Headquarters where surveillance reviews will be conducted and provide your rationale for the locations. You must appoint a team leader and member(s) for each review and advise Headquarters of the composition of the team, and the plan for accomplishing the review. Within 30 days after completion of the exit interview, you must provide a copy of the report to Headquarters.
- f. Make selections to fill PCR positions, and provide your recommendations to Headquarters.
- g. Ensure that reports have been provided to Headquarters and produce any requested evaluation of that data. Also provide special reports as needed (i.e., bundling, success stories).
- h. You must advise Headquarters of large acquisitions or other issues that may be of Agency level concerns.

3. How Do I Network with District Offices and Other SBA Offices?

- a. You must assign PCRs to provide government contracting assistance to district offices. You should discuss with district director(s) (DDs) specific services that will be furnished. These services will include counseling of referred small businesses, assisting 8(a) BD, participating in conferences and other activities, and special initiatives (i.e., Federal Dollars and Sense for Women-Owned Businesses). Share information with the district offices regarding government contracting projects and other items of interest. Upon a change of district director you will discuss GC support for that office.

- b. You will network with regional administrators, other area and Headquarters offices and provide assistance whenever it is requested.

4. How Do I Recommend Assignments of PCRs?

Recommend assignment of PCR(s) to those contracting activities that generate significant contract dollars and activities. A PCR presence must be beneficial to small businesses and increase small business awards and competition. Your recommendations and substantiation will be provided to Headquarters. Should changes occur at the contracting activity, advise Headquarters of these changes and your recommendations for coverage.

5. When Do I Visit Contracting Activities?

- a. You will meet with contracting activities not regularly visited by PCRs to establish and maintain a cooperative attitude toward SBA programs and small businesses. Advise that PCR assistance can be provided on special issues at the request of the contracting activity or small businesses.
- b. When conducting PCR visits, initiate meetings with HCAs, whenever possible. If deficiencies exist at the contracting activity, discuss these problems with the contracting officials to reinforce action that has already been taken by the PCR.

6. How Do I Review PCR Records and Documentation?

- a. All PCRs should be visited every other year, as other duties and travel funds permit; more frequently when problems with the contracting activity or PCR have been identified. Conducting on-site reviews of the PCR's records and documentation is preferable. If an on-site review is not feasible, you should request that they provide you with records, e.g., listing of subcontracting plan review checklists, counseling logs, etc. Verify method used by the PCR for obtaining socio-economic reporting information, records of activities that were attended at the contracting activity, method of recording other reporting information required by the monthly PCR Productivity Report, and SBA Form 231s, "PCR Purchase Request Review Register."
- b. Check the PCR's records for indications that a good working relationship with the contracting activity has been established and that the PCR is discussing special small business activities. Review records to verify that the PCR is meeting annually with the HCA and that the Plan of Operation is current.
- c. Prepare a report of your review and submit a copy to Headquarters.

- d. Review records submitted by PCRs at your office. Maintain information that document performance evaluations.

Chapter 6

What Are the Responsibilities of Headquarters?

1. What Is the Office of Contract Assistance Responsible For?


The Office of Contract Assistance must:

- a. Establish plans to accomplish the Prime Contracts Program mission (e.g., SOP 60 02);
- b. Oversee the use of SBA plans and policies by area office personnel;
- c. Coordinate the Prime Contracts Program with other SBA programs;
- d. Prepare legislative proposals and regulations to enhance the effectiveness of the Program;
- e. Interpret regulations affecting small business;
- f. Determine reporting requirements;
- g. Coordinate assignment of resident and liaison PCRs with Headquarters officials of other Federal government departments and agencies;
- h. Prepare appeals and reports for the Administrator (e.g., secretarial appeals);
- i. Work with senior government acquisition officials on small business issues (e.g., FAR Council);
- j. Establish annual goals for area offices;
- k. Coordinate personnel issues (e.g., PCR training, security clearances); and
- l. Make sure that area office personnel have adequate tools to perform their work (e.g., computers, access to SBA networks and other online information sources, and current regulations).

Appendix 1

US Small Business Administration Recommendation

(SBA Form 70)

| | | |
|--|---------------|---|
|  U. S. Small Business Administration Recommendation | | |
| Acquisition Activity: | | |
| Location: | | |
| Solicitation No. | Value: | No. of Years: |
| Title of Solicitation: | | |
| <p>On behalf of the U.S. Small Business Administration and in accordance with FAR Subpart 19.5, I recommend the following action, in accordance with the rationale on Page 2 or in the attached memorandum:</p> <p>A. total small business set-aside _____</p> <p>B. breakout action _____</p> <p>C. break-up and set aside the following services/components included in item number _____, covering _____ CLIN/SIN _____, covering _____</p> <p>D. partial small business set-aside _____</p> <p>E. un-bundle items/services _____</p> <p>F. reconsideration of the acquisition strategy _____</p> <p>G. other action (i.e., restrictive specifications, mandatory subcontracting, etc.) _____</p> | | |
| SBA, PCR Signature | | Date |
| Concur | | Nonconcur (justification attached) |
| Contracting Officer | | Date |
| SBA Form 70 (6-98) Ref: SOP 60 02 Previous Edition Obsolete | | |

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**U. S. Small Business Administration
Recommendation
Page 2**

Acquisition Activity:

Location:

Solicitation No.

Title of Solicitation:

SBA Rationale:

SBA Form 70 (6-98) Ref: SOP 60 02 Previous Edition Obsolete

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Appendix 2

PCR Purchase Review Register (SBA Form 231)



PCR PURCHASE REQUEST REVIEW REGISTER

| ACTIVITY: | | | FY | | | QUARTER |
|-----------|------------------------|----------------------|---------------|--------------------|----------------------|---------|
| No. | PR or Solicitation No. | Title of Acquisition | Date Reviewed | PCR Recommendation | PCR Follow-up Action | |
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SBA Form 231 (9-92) Ref: Sop 60 02 Previous Edition Obsolete

Appendix 3

Bundling Alert Form (SBA Form 1970)

60 02

SBA Form 1970, "Bundling Alert Form"

BUNDLING ALERT FORM

(NOT FOR PUBLIC DISCLOSURE)

(1) Date: _____ Interim Final

(1a) Fiscal Year _____ Quarter _____

(2) Procuring Activity: _____

(3) SBA Case No.: _____

(4) Solicitation No.: _____

(5) Description of Supplies/Services: _____

(5a) Estimated Dollar Value: _____

(6) Procuring Agency POC/Telephone: _____

(7) Form 70 Filed?: Yes No
 Explain: _____

(8) No. of Current Contracts/Requirements Being Bundled: _____

(9) No. of Current Contracts/Requirements Previously Set-Aside: _____

| | | | | | |
|---|-----------|------------|-------------|------------|-----------|
| (10) Type(s) of Contractors Performing Current Contracts (No.): | <u>SB</u> | <u>SDB</u> | <u>8(a)</u> | <u>WOB</u> | <u>LB</u> |
| | _____ | _____ | _____ | _____ | _____ |

(11) No. of Bidders/Offerors on Current Contracts (No.): _____

 SBA PCR Signature Date

SBA Form 1970(4-96)

Appendix 4

PRE-AWARD SUBCONTRACTING PLAN REVIEW CHECKLIST

Format for Letter from SBA to Contracting Officer Providing Advisory Comments on Subcontracting Plan

Subject: Advisory Comments on Subcontracting Plan for

Dear _____:

The subcontracting plan submitted by _____ is considered **acceptable/unacceptable** *{as applicable}*. The following checklist was used to determine compliance with applicable requirements:

Acceptable/Unacceptable

1. Offeror's plan **did/did not** *{as applicable}* include separate percentage goals (expressed in terms of percentage of total planned subcontracting dollars) for planned subcontracting to small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns. (The offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect or overhead costs.)

As part of its establishment of percentage goals, the offeror shall include in its subcontracting plan:

(a) A statement of: (i) total dollars planned to be subcontracted; (ii) total dollars planned to be subcontracted to small business concerns; (iii) total dollars planned to be subcontracted to veteran-owned small business concerns, (iv) service-disabled veteran-owned small business concerns; (v) total dollars planned to be subcontracted to HUB Zone small business concerns; (vi) total dollars planned to small disadvantaged business concerns; and (vii) total dollars planned to be subcontracted women-owned small business concerns. (Note: A subcontract awarded to a small disadvantaged business concern which is also women-owned and a HUB Zone small business concern would be included in (i),(ii), (v) and (vi) and (vii), above.)

Acceptable/Unacceptable

2. Offeror's plan **did/did not** *{as applicable}* contain a description of **all** (including planned subcontracting to large business concerns) the principal supplies and services to be subcontracted, identifying those supplies and services where it is planned to use: (i) small business subcontractors; (ii) veteran – owned small business, (iii) service-disabled veteran-owned small business (iv) HUBZone small business subcontractors; (v) small disadvantaged business subcontractors, and (vi) women-owned small business subcontractors.

Acceptable/Unacceptable

3. Offeror's plan **did/did not** *{as applicable}* describe the method used to develop the subcontracting goals for: (i) small business concerns; (ii) veteran – owned small business, (iii) service-disabled veteran-owned small business (iv) HUBZone small business concerns; (v) small disadvantaged business concerns; and (vi) women-owned small business concerns.

Acceptable/Unacceptable/Not Applicable

4. If the offeror includes indirect costs in establishing subcontracting goals, the offeror **did/did not** *{as applicable}* describe the method used to allocate the proportionate share applicable to this plan.

Acceptable/Unacceptable

5. Offeror's plan **did/did not** *{as applicable}* include the name of the employee responsible for administering its subcontracting plan, and furnish a description of his/her duties.

Acceptable/Unacceptable

6. Offeror's plan **did/did not** *{as applicable}* furnish a description of the efforts the offeror will take to assure that small, veteran–owned small business, service-disabled veteran-owned small business, HUBZone small, small disadvantaged, and women-owned small business concerns will have an equitable opportunity to compete for subcontracts.

Acceptable/Unacceptable

7. Offeror's plan **did/did not** *{as applicable}* contain assurances that it will include the clause entitled "Utilization of Small Business Concerns" (FAR 52.219-8) in **all** subcontracts which offer further subcontracting opportunities. Additionally, the offeror's plan shall contain assurances that it will require all subcontractors (except small business

concerns) who receive subcontracts in excess of \$500,000 (\$1,000,000 if it is a subcontract for construction services) to adopt a plan similar to the plan agreed to by the offeror. Such assurances shall describe the offeror's procedures for the review, approval and monitoring for compliance with such subcontracting plans.

Acceptable/Unacceptable

8. Offeror's plan **did/did not** *{as applicable}* contain assurances that it will: (i) cooperate in any studies or surveys as may be required; (ii) submit periodic reports in order to allow the government to determine the extent of compliance by the offeror with the subcontracting plan; (iii) submit SF 294, "Subcontracting Report for Individual Contracts," and/or SF 295, "Summary Subcontracting Report," in accordance with the instructions on the forms; and (iv) ensure that its subcontractors agree to submit Standard Forms 294 and 295.

Acceptable/Unacceptable

9. Offeror's plan **did/did not** *{as applicable}* include a recitation of the types of records it will maintain to demonstrate procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists, and a description of its efforts to locate small, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small, small disadvantaged, and women-owned small business concerns, and award subcontracts to them. The records shall include at least the following:

(i) Source lists (e.g., PRO-Net), guides and other data that identify small, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small, small disadvantaged, and women-owned small business concerns.

Acceptable/Unacceptable

(ii) Organizations contacted in an attempt to locate sources that are small, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small, small disadvantaged and women-owned small business concerns.

Acceptable/Unacceptable

(iii) Records on each subcontract solicitation over \$100,000, indicating: (a) whether small business concerns were solicited, and if not, why not; (b) whether veteran-owned small business concerns were solicited, and if not, why not; (c) whether service-disabled veteran-owned small business concerns were solicited, and if not, why not; (d) whether HUBZone small business concerns were solicited, and if not, why not; (e) whether small disadvantaged business concerns were solicited, and if not, why not; (f) whether women-owned small business concerns were solicited, and if not, why not; and (g) if applicable, the reason award was not made to a small business concern.

Acceptable/Unacceptable

(iv) Records of any outreach efforts to contact trade associations and business development organizations, or participate in conferences and trade fairs, to locate small, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small, small disadvantaged and women-owned small business sources.

Acceptable/Unacceptable

(v) Records of internal guidance and encouragement provided to buyers through:
 (a) workshops, seminars, training, etc., and (b) monitoring performance to evaluate compliance with the program's requirements.

Acceptable/Unacceptable

(vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the government, including the name, address, and business size of each subcontractor. (Companies with company or division-wide annual plans need not comply with this requirement.)

Summary Paragraph

{Add comments as appropriate}

In accordance with FAR 19.705-5(a)(5) and 19.705-6(a) and (e), the Contracting Officer shall ensure that an acceptable subcontracting plan is incorporated into and made a material part of the contract.

If there are any questions, please contact me at _____.

Name of PCR: _____

Signature: _____

Date: _____

Appendix 5

Surveillance Review

Preparation Checklist and Request for Information

Instructions

1. Please submit the following information and documentation in a binder in the same order it appears on this checklist:
 - a. Printout of all DD Form 350 actions of more than \$100,000, indicating contract number, award amount, contractor name and business size, item description, type of action, NAICS code, synopsis code, type of set-aside and subcontracting plan information for FYs 2001 through the present.
 - b. Printout of all awards at, or below, the Simplified Acquisition Threshold not awarded to small business concerns. The printout shall list the award document number, award amount, contractor name, and reason for not making award to a small business concern.
2. Submit the following information for the same fiscal years as noted above:
 - a. A list of contract awards in the Designated Industry Groups (DIGS), including any emerging small business set-asides below the emerging small business reserve amount (\$25,000).
 - b. A list of contracts terminated for default or convenience.
 - c. A list of contracts for which contract administration functions have been retained in-house.
 - d. A list of GAO, Board of Contract Appeals, and direct protests to the agency/command, noting the name of the protesting firm, the solicitation/contract number, the reference number (e.g. GAO file number), and, the status of the protest (dismissed, denied in whole or part, open).
 - e. An organization chart.

General Information

Please complete this sheet and use as a cover page in your binder.

Name of Contracting Activity:

Mailing Address:

Physical Address (if different):

City, State, Zip:

Contracting Activity Web site:

Mission:

Typical Products/Services Acquired:

HCA:

Phone:

Email:

Director of Contracting:

Phone:

Email:

Small Business Specialist:

Phone:

Email:

Small Business Technical Advisor:

Phone:

Email:

FOIA Officer:

Phone:

Email:

Credit Card Coordinator:

Phone:

Email

1. Overview of Small Business Awards

FY2001 Total \$ SB% SBSA% SDB% WOSB% HUBZone% VOSB% SDVOSB%

Goals

Actual

FY2002 Total \$ SB% SBSA% SDB% WOSB% HUBZone% VOSB% SDVOSB%

Goals

Actual

FY2003 Total \$ SB% SBSA% SDB% WOSB% HUBZone% VOSB% SDVOSB%

Goals

Actual (FY 2003 award data not applicable)

Discuss your plans to increase awards in any category (e.g., special initiative targeting WOSBs for SAP acquisitions, etc.)

2. Management of the Small Business Program

- a. Does the contracting activity have a Small Business Specialist formally appointed by an appropriate authority (e.g., OSDDBU or HCA)? Provide a copy of the appointment document.
- b. Does the Small Business Specialist report directly to the appointing authority or their Deputy for Small Business?
- c. Is the HCA active in implementing an effective small business program? Please describe.

- d. What does management do to make sure contracting and technical personnel maintain knowledge of small business program requirements (e.g., formal training, in-house seminars)?
 - e. How are small business program goals established (e.g., assigned by Headquarters), and are they reachable?
 - f. Are personnel who participate in the acquisition process aware of the small business goals? Please describe how they are informed.
 - g. Do technical advisors provide appropriate assistance to the PCR? Please describe.
 - h. Does the PCR have access to all reasonably obtainable contract information? If not, why not?
 - i. How is the small business program promoted? Provide examples.
 - j. What does the contracting activity do to enhance opportunities for small business to participate in its acquisition process (e.g., outreach efforts, procurement fairs)?
 - k. How does the contracting activity assess its small business program (e.g., internal management reviews, etc.)? Please describe.
 - l. How does higher level management evaluate your small business program (e.g., Headquarters office)? Please describe.
 - m. Discuss the effectiveness of any advance procurement planning as it relates to small business.
 - n. Discuss any special initiatives (e.g., in-house training, industry outreach).
- 3. Sourcing and Maintenance of Vendor Lists**
- a. How do the Contracting Officers make every reasonable effort to solicit additional SDB, WOSB, HUBZone, VOSB, SDVOSB sources? Describe your market research practices.
 - b. How does a small business apply to get on the contracting activity's source/vendor list (e.g. formal or informal lists), if applicable?
 - c. Does the list indicate business size, status, and type of business (e.g., WOSB manufacturer with NAICS code or keyword capabilities)?

- d. Is the list rotated to allow all businesses an equitable opportunity?
- e. Does the contracting activity solicit sources from PRO-Net?
- f. Are any small businesses denied a copy of a solicitation or otherwise denied an opportunity to participate in an acquisition? Why?

4. Encouraging Small Business Participation in the Acquisition Process

- a. Are requirements divided into reasonably small lots to permit offers on less than the total requirement? Provide examples. If not, why not?
- b. Are solicitations structured to allow more than one small business to satisfy the requirement? Provide examples.
- c. Are delivery schedules reasonable? Please describe.
- d. Are bundling requirements referred to the PCR at least 30 days prior to issuance of the solicitation? Does the file contain the HCA's required market research justifying the proposed consolidation? If not, why not? Please supply examples of market research.
- e. Provide a listing of all bundled/consolidated requirements over \$1 million procured prior to the scope of this Surveillance Review and solicited during the scope of this review. Include the re-competes of previously bundled requirements. Provide previous procurement history, dates of awards, contract numbers, dollar amounts and names of awardees. Describe the efforts taken to mitigate the negative impact on small business as a result of the bundling.
- f. How do you ensure that all appropriate small business clauses are included in all solicitations (e.g., FAR, DFARS)?
- g. Are Contracting Officers promptly addressing protest issues? Provide some examples.

5. Set-Asides

- a. Are Contracting Officers' decisions not to set-aside requirements for small business reasonable (e.g., in view of procurement history, market survey, known sources)? Please describe.
- b. Are all actions requiring Small Business Specialist and/or PCR review documented with a small business coordination record (e.g., DD Form 2579, or Agency equivalent, for new actions and all appropriate contract modifications)?

- c. Are all Small Business Specialist and PCR recommendations resolved appropriately (e.g., through the SBA appeal process)?
- d. Are Contracting Officers reluctant to unilaterally set-aside requirements for small business? If yes, please describe. If there is an unusually high number of Small Business Specialist or PCR set-aside recommendations, please describe.
- e. Are Contracting Officers using the GSA Schedules for awards without notifying the PCR and/or Small Business Specialists (i.e., no DD Form 2579, or Agency equivalent, is submitted for review indicating the GSA Schedule is recommended for purchase)?

6. Subcontracting Plans

- a. Do Contracting Officers obtain advisory comments from the Small Business Specialist and PCR for subcontracting plans? If a standard checklist is used, please provide a blank copy. Please describe process.
- b. Are subcontracting plans formally incorporated into the contract? Please provide three to five examples.
- c. Are copies of subcontracting plans sent to the cognizant contract administrative office (e.g., DCMA)? Are copies of commercial subcontract plans and notices of award for all contracts incorporating a subcontract plan forwarded to the cognizant SBA Area Office? If not, why not?
- d. If contract administrative functions are retained in-house, are prime contractors monitored for compliance with their subcontracting plans? Please describe.
- e. Is compliance with previous subcontracting plans a factor in determining an offeror's responsibility? Please describe.
- f. If a contract meets the dollar threshold to require a subcontracting plan, but the contractor or your Contracting Officer decides that the subcontracting plan requirement should be waived, what process do you follow to waive this requirement? Under what circumstances would you waive a subcontracting plan?
- g. Under what circumstances would a contract be awarded prior to or without the Small Business Specialist and PCR's signing off on the subcontracting plan? Please describe process.

- h. Do solicitations issued by your agency ever contain suggested subcontracting plan goals or mandatory minimum goals? If so, describe circumstances and purpose.
- i. How are the dollar and percentage goals proposed by the contractor in its subcontracting plan evaluated by your Contracting Officer?
- j. Does your agency obtain a revised subcontracting plan when a modification over \$500,000 (\$1 million for construction of a public facility) is issued? Are the steps identified in a-e above followed for modifications as well?
- k. How are Contracting Officers/Contract Specialists reminded that a new plan is due annually for contractors holding Commercial Subcontracting Plans or DOD Comprehensive Plans?
- l. Do you request contractors to deviate from the standard instructions in preparing the SF 294 and SF 295 forms? If so, please describe.
- m. At contract completion, describe your agency's process for evaluating a contractor's compliance with its subcontracting plan.
- n. Have you ever invoked liquidated damages or terminated a contract because of subcontracting plan performance? If so, please explain.
- o. Are subcontracting plans considered as an evaluation factor in bid evaluations? (e.g., formal source selection procedures for a major system)? If not, why not?
- p. Do Contracting Officers/Contract Specialists receive any type of regular training with regard to subcontracting plans?
- q. Did your agency meet its subcontracting goals for the most recently completed fiscal year?
- r. Do you use any of the SDB Procurement Mechanisms (i.e. FAR Clause 52.219-24 (SDB Participation Program Targets); FAR 52.219-25 (SDB Participation Program Reporting Requirement -Optional Form 312); FAR 52.219-26 (SDB Monetary Incentive Clause)? Describe circumstances when any of these clauses would be used.

7. Publicizing Contract Actions

- a. Does the contracting activity use FedBizOpps (e.g., to perform a market survey, synopsise a solicitation, publicize a contract award)? Please describe and provide some examples.

- b. Does the synopsis appear within the required time frame?
- c. Does the solicitation allow offerors the required response time to submit bids/proposals? If not, why not?

8. Other Small Business Program Issues

- a. Are small business responsibility issues referred to SBA for Certificates of Competency (COCs) as appropriate? Provide examples.
- b. Do Contracting Officers consider 8(a) contractors when processing requirements? Describe the process and define how the 8(a) firms are considered. If they are not considered, why not?
- c. Are copies of “show cause letters” and “cure notices” sent to the Small Business Specialist and appropriate SBA offices?
- d. Is the proper NAICS code and size standard included in the solicitation? Provide several examples.
- e. Do Contracting Officers promptly refer size, NAICS code and socio-economic challenges to SBA? Please describe the process.
- f. Are solicitations available on the Internet?

Additional Comments:

Appendix 6

**Name of HCA
(or Highest Official at Site)
Address**

Subject: SBA Surveillance Review of **(Name of Buying Activity)**
Small Business Program

Dear **(Name of HCA)**:

The Director of the Small and Disadvantaged Business Utilization Office, U.S. Department of **(Army, Navy, Veterans Affairs, etc.)**, has concurred with the Office of Government Contracting, U.S. Small Business Administration (SBA), that a surveillance review of **(name of buying activity)** be conducted by the SBA in 200__.

The surveillance review is scheduled for the week of **(date)**. An entrance briefing will be scheduled for **(date)** and the exit briefing will be scheduled at that time. Our review team consists of the team leader, **(name)** and **(name(s) of team members)**.

The objectives of the surveillance program are to: 1) assess the quality and effectiveness of a Federal contracting activity's implementation and day-to-day execution of the congressionally mandated small and small disadvantaged business utilization program within its procurement process; 2) evaluate its effect on small business participation; and, 3) recommend changes which will contribute to the small business community receiving its fair share of government contracts and maximum practicable subcontracts. A surveillance review assists the contracting activity by evaluating implemented acquisition processes that should result in an effective small business program within your activity.

The Small Business Act, as amended, authorizes SBA to make studies and conduct periodic reviews of, and recommendations to, Federal contracting activities to ascertain compliance with small business statutes and ensure that a fair proportion of total purchases and contracts for property and services; research and development; material, supplies and equipment; and sales of government property are made to small business concerns. Federal Acquisition Regulation Part 19 and 13 CFR 125 implement Part 15 of the Small Business Act.

The scope of the surveillance review and the areas that will be evaluated are included on the "Surveillance Review Preparation Checklist and Request for Information" (see attachment). The surveillance review team leader will discuss the checklist prior to the start of the surveillance review.

In general, the scope of the surveillance review includes: management of the small business program, compliance with regulations and published policies and procedures,

effectiveness of advance procurement planning, pre-award and post award functions, small business training programs, industry outreach programs, review of procurement documentation and comparative statistical data, including small business goal achievement. The period that the surveillance review will cover is FY01, FY02 and FY03, through the second quarter.

The following requests are submitted in order to conduct the surveillance review with the least disruption to your staff:

- (1) A suitable work area for our team;
- (2) A briefing at the start of our review which will outline your organizational structure, reporting chain, and methods of operation;
- (3) A list of contract awards (including contract modification) and all other information included in the attachment, the "Surveillance Review Preparation Checklist and Request for Information," for the period covered by our review, which is FY01 to the present. This information should be provided by **(specific date, which is approximately 6 weeks prior to the entrance briefing), to: (team leader and address);**
- (4) The designation of a senior official as a point of contact with whom the team may coordinate for information and documentation needed before the site visit and critique and/or clarify its findings during the course of the review. This official may also serve as a point of contact for access issues, i.e. security clearances;
- (5) Appropriate support personnel to pull contract files or to fulfill other access needs; and
- (6) Availability of procurement personnel for interviews either in person or by telephone. This may be needed to determine the validity of the written records or to obtain additional information on any unclear decisions or actions.

The surveillance review team members look forward to meeting with you and your staff on **(date)**. If you have any questions about the review, please contact **(team leader's name and telephone number)**.

Sincerely,

Area Director for Government Contracting, Area

Attachment

cc: **Name of Small Business Specialist**
Names of SBA Team Members

Appendix 7

Analysis of Contract Files

A detailed analysis of specific contract files will be conducted to determine if specific actions were taken.

- Does each contract file contain documentation supporting the following actions? If not, why not?
- Does the file contain a properly completed and processed PCO-Small Business Specialist-PCR small business coordination record? Is there justification and rationale provided for not initiating a small business set-aside?
- Was a market survey conducted?
- Did the procurement request include suggested small business sources?
- Did the procurement meet the criteria for a small business-small purchase set-aside or a small business set-aside, but was unrestricted?
- If this contract was a bundle, was the requirement referred to the PCR at least 30 days prior to issuance of the solicitation? Does the file contain the HCA's required market research justifying the proposed consolidation?
- If the Contracting Officer rejected the set-aside recommendation of the Small Business Specialist or PCR, does the file contain written documentation, signed by the Contracting Officer, explaining why the recommendation was not accepted; and evidence that this signed documentation was sent to the PCR (if assigned) and the Small Business Specialist within five business days after the initial recommendation was made?
- If this acquisition was previously acquired successfully as a small business set-aside or HUBZone set-aside, were all subsequent requirements for this particular supply/service obtained on a repetitive set-aside basis? If not, does the file contain documentation that there was not a reasonable expectation that offers would be received from at least two responsible small business or HUBZone concerns and award would be made at a fair market price?
- If this acquisition was previously acquired successfully as an 8(a) or sole source HUBZone requirement, were all subsequent requirements for this particular supply/service obtained through the 8(a) or HUBZone Program?

- If this was a set-aside action and the Contracting Officer withdrew the set-aside determination (whether unilateral or joint), was written notice given to the Small Business Specialist and the PCR stating the reason(s) for the withdrawal?
- If this acquisition involved the rejection of the set-aside recommendation which was subsequently appealed to the HCA and the SBA Administrator; and a procurement suspension was not honored by the Contracting Officer, does the file contain the determination that proceeding to contract award and performance is in the public interest?
- If this contract file contains a GAO, Board of Contract Appeals or direct protest to the agency/command, was the protest handled promptly?
- If the contract file contains a protest of a concern's size self-certification, does evidence indicate that the Contracting Officer promptly forwarded the protest to the cognizant SBA Area office for a determination of eligibility, even if receipt of the challenge from an interested party was untimely?
- If the requirement was determined to be procured using other than full and open competition, did it include the Competition Advocate's review of the exceptions to competition?
- Was the synopsis published in FedBizOpps at least 15 days before the issuance of the solicitation? (Not applicable if the Contracting Officer established a shorter period for a commercial item acquisition or used the combined synopsis and solicitation procedure.) Was a minimum 45 days allowed for a response to an R&D requirement and 30 days for another requirement? (Not applicable for the acquisition of commercial items.)
- Did the Contracting Officer synopsise the contract award in FedBizOpps if it exceeded \$25,000 and was subject to the Trade Agreements Act or likely to result in the award of any subcontracts?
- Was the contract award synopsized in FedBizOpps no longer than 60 days after award?
- Were the appropriate product or service classification (NAICS code) and applicable size standard included in the solicitation?
- If the action is under the Small Business Competitiveness Demonstration Program, were procedures properly implemented, i.e., use of emerging small business set-asides, reporting of contract awards in the DIGS and TICS, etc.? Was consideration given to 8(a) firms and HUBZone firms for this requirement?
- Did the solicitation furnish specifications, plans or drawings, or provide information on where these documents could be obtained or examined?

- Were functional specifications used rather than detailed design specifications?
- Was the delivery schedule realistic?
- Was the requirement divided into reasonably small lots to permit offers on less than the total requirement?
- If practicable, was the action planned so that more than one small business concern might be able to satisfy the requirement?
- If the solicitation was for a large dollar value acquisition, did the Contracting Officer include an evaluation factor/subfactor that addresses large business commitment to subcontracting with all categories of small business concerns? Evaluation factors may include: (1) the extent to which such firms are specifically identified in proposals; (2) the extent of commitment to use such firms (for example, enforceable commitments are to be weighted more heavily than non-enforceable ones); (3) the complexity and variety of the work small firms are to perform; (4) the realism of the proposal; (5) past performance of the offerors in complying with requirements of the Utilization and Subcontracting Plan clauses; and, (6) the extent of participation of such firms in terms of the value of the total acquisition.
- Does the bid abstract or proposal tabulations reflect the size of firms?
- Is there any indication in the contract file that a small business offeror's bid or proposal was not given a fair evaluation?
- Does the statement of work or specifications appear to be tailored for a specific firm, or are they unnecessarily restrictive?
- If a small business bid or proposed on this action, and the Contracting Officer determined that the small business lacked certain elements of responsibility, did the Contracting Officer withhold contract award and refer the matter to the cognizant SBA Area Office for a COC?
- If there was a protest involving a NAICS code, was it promptly referred to the SBA?
- If the contract was for a new program or is a large dollar value requirement, was the extent of small business participation in the requirement evaluated as a source selection factor (e.g., best value criteria)? Can small businesses identify likely prime contractors during the pre-solicitation/pre-proposal stage (e.g., by accessing the list of firms that download program information) for potential subcontracting opportunities? How are large business offerors required to address the extent of small business participation in their proposal? Are small business offerors

exempt from this proposal requirement (except for the extent of SDB participation, when required), or are they burdened with addressing this requirement?

- If the contract is a multiple award, were portions set aside for 8(a), HUBZone, and/or small business concerns? If so, how does the activity ensure equitable distribution under the contracts?
- If the acquisition is accomplished through a schedule contract, are one or more small, women-owned small, small disadvantaged, veteran-owned small, service-disabled veteran-owned small, or HUBZone small business schedule contractor(s) considered? Was preference given to the items of small business concerns when two or more items at the same delivered price will satisfy the requirement?
- If this is a new contract or modification to an existing contract, did the successful offeror submit an acceptable subcontracting plan containing all six essential elements; and was negotiated, approved, and made a material part of the contract to include initial letter contract award files?
- If an approved subcontracting plan was not incorporated into the contract at the time of award, was a proper waiver placed in the file?
- Was the prime contractor encouraged to publish subcontracting opportunities in FedBizOpps and SUB-Net if a subcontracting plan was required?
- Did the Contracting Officer notify the PCR of the opportunity to review the proposed contract or modification, including the subcontracting plan and supporting documentation, in sufficient time to allow the PCR to submit advisory recommendations? Were the recommendations implemented?
- Did the Contracting Officer give the Small Business Specialist/PCR a reasonable period of time to review this solicitation, and submit advisory findings before the solicitation was issued? Were the changes recommended by the Small Business Specialist/PCR implemented?
- Was the subcontracting plan challenged if it did not contain positive small business goals?
- If the SDB subcontracting plan goal was less than five percent, does the file contain an approval two levels above the Contracting Officer, for a lesser goal? (Applies only to DOD contracting activities.)
- In this contract, was compliance with previous subcontracting plans a factor in determining the offeror's responsibility?

- For this contract, were subcontracting plans considered as an evaluation factor in proposal evaluations?
- Did this solicitation contain suggested subcontracting plan goals or mandatory minimum goals?
- If a modification over \$500,000 was issued, does the file contain a revised subcontracting plan?
- If contract administration functions are retained in-house, is the prime contractor monitored for compliance with its subcontracting plan for this contract?
- Does evidence indicate that the activity notified the SBA of this award if a subcontracting plan was a material part of the contract, by sending a copy of the award document to the SBA Area Office in the area where the contract would be performed?
- If the contract contains a commercial plan (which requires annual resubmissions), and contract administration functions are retained in-house, does the procuring activity have a tracking system in place to ensure receipt of a new commercial plan and does the contract file contain a current subcontracting plan? Note that 30 working days before the end of the contractor's fiscal year, it must submit a new subcontracting plan to the Contracting Officer responsible for the uncompleted government contract with the latest completion date. Copies of that approved plan must be obtained by each Contracting Officer responsible for an ongoing contract that is subject to the plan.
- Are contract administration functions for this contract accomplished in-house? If not, by whom?
- Did the Contracting Officer forward a copy of the subcontracting plan or a determination that a subcontracting plan is not required, to the DCMA if the contract was forwarded for administration?
- Is the subcontracting plan monitored for compliance? By whom and to what extent?
- Does the contract file contain applicable Standard Form 294?
- Is the activity obtaining and evaluating periodic reports on the extent of small business participation when such special reports are required by the contract? If the contract is completed, does the file include the contractor's completed SDB participation report (e.g., Optional Form 312), if applicable?
- If the contractor was issued a "show cause" or "cure notice" as a result of performance under this contract, was a copy of the notice(s) provided to the

contracting agency's own Small Business Specialist and to the SBA Area Office nearest the small business firm?

- If this contract was terminated, is there evidence that any attempts were made by the Contract Administrators to resolve contract problems with the small business firms?

FAR Clauses/Provisions Review List

Is FAR provision 52.219-1 "Small Business Program Representations" included in all solicitations above the micro-purchase threshold?

Is the appropriate FAR clause (52.219-3 Notice of Total HUBZone Set-Aside; 52.219-5 Very Small Business Set-Aside; 52.219-6 Notice of Total Small Business Set-Aside; 52.219-7 Notice of Partial Small Business Set-Aside; or, 52.219-20 Notice of Emerging Small Business Set-Aside) included when the solicitation is set-aside for small business, as applicable?

Is FAR clause 52.219-14 "Limitations on Subcontracting" included in SBSAs above \$100,000?

Is FAR clause 52.219-8 "Utilization of Small Business Concerns" included in all solicitations above the SAT?

Is either FAR clause 52.219-9 "Small Business Subcontracting Plan" or 52.219-10 "Incentive Subcontracting Program" included in non-set-aside solicitations above \$500,000 (\$1M for construction)?

Is FAR clause 52.219-16 "Liquidated Damages-Subcontracting Plan" included in solicitations with FAR clause 52.219-9?

Are FAR clauses 52.219-11 "Special 8(a) Contract Conditions" and 52.219-12 "Special 8(a) Subcontract Conditions" included in sole source 8(a) contracts?

Is FAR clause 52.219-17 "Section 8(a) Award" included in 8(a) competitive awards?

Is FAR clause 52.219-18 "Notification of Competition Limited to Eligible 8(a) Concerns" used when 8(a) competition is limited geographically or when the non-manufacturer rule is waived?

Is FAR provision 52.219-19 "Small Business Concern Representation for the Small Business Competitiveness Demonstration Program" used in all solicitations in the DIGS?

Is FAR provision 52.219-21 "Small Business Size Representation for Targeted Industry Categories under the Small Business Competitiveness Demonstration Program" used in all solicitations above \$25,000 in the TICs?

Is FAR clause 52.219-23 “Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns” used when the solicitation includes a PEA for SDBs?

Is FAR clause 52.219-24 “Small Disadvantaged Business Participation Program-Targets” and 52.219-25 “Small Disadvantaged Business Participation Program-Disadvantaged Status and Reporting” used in all solicitations that include an evaluation factor that considers the extent of SDB participation?

Is FAR clause 52.219-22 “Small Disadvantaged Business Status” included in all solicitations with either FAR clause 52.219-23 or 52.219-25?

Is FAR clause 52.219-26 “Small Disadvantaged Business Participation Program-Incentive Subcontracting” used when authorized?

Is FAR clause 52.219-4 “Notice of Price Evaluation Preference for HUBZone Small Business Concerns” included in all F&OC acquisitions above the SAT?

Is FAR clause 52.219-2 “Equal Low Bids” included when using sealed bidding procedures?

Additional Areas to Evaluate

- Was every new contract or modification that exceeded the small purchase threshold synopsized in FedBizOpps?
- Do any instances exist of the denial of the rights of small business to solicitations, to submit offers, or to otherwise participate in the procurement process?
- Is there any other evidence that reveals that a small business firm has not received the fullest opportunity called for by the Small Business Act?
- Report instances where the Small Business Specialist or PCR was not notified of a unilateral set-aside that was withdrawn denying the Small Business Specialist or PCR the opportunity to appeal the decision.
- How many set-asides resulted from joint determinations? How many set-asides resulted from the unilateral determination of the Contracting Officer?
- If information is available, list contracts reviewed that could have, with reasonable effort, been set-aside but were not. Summarize the circumstances existing prior to issuance of the solicitation which made the set-aside appropriate.
- Report the number of instances that the agency used “urgency” as a basis for not entertaining a PCR appeal. Cite instances, if any, in which the time between the date of the original purchase request and the date of declaration of urgency does

not support an actual urgency. Note any intervening events that affected this circumstance.

- Does the activity have a notice of the ten targeted industry categories that have been selected under the Competitiveness Demonstration Program? Are set-aside procedures in place for these? Determine whether acquisitions in the four designated industry groups are for an estimated \$25,000 or less; are they emerging small business; and do contract files contain the required certification by the emerging small business?
- Are First Article test procedures and schedules adhered to by the contracting activity? Is technical assistance offered to small business firms when needed?
- Are modifications/changes issued and definitively priced promptly on contracts with small business firms?

Appendix 8

Interview Questions

Interviews will be conducted with the Small Business Specialist and randomly selected Contracting Officers, contract specialists and technical proponents.

Questions for the Small Business Specialist

How long have you been in your present position?

What are your duties?

Who do you report to within your organization?

Do you periodically brief the Head of the Activity or the Deputy?

How do you deal with conflicts between what the HCA “wants” vs. the interests of small business?

Other than goal achievement, how do you assess your Small Business Program?

Does management support the Small Business Program?

Do you know what your buying activity’s Small Business goals are for FY 0_?

Do you provide any input to your activity’s goals?

Are you involved in any advance procurement planning as it relates to the Small Business Program?

How do you promote the Small Business Program?

How do you interact with the technical community regarding the Small Business Program?

Did your buying activity achieve its Small Business goals for FY 0_ and FY 0_? If not, what were the results of your analysis? What action, if any, did you take?

How do you monitor award activity in the DIGs and TICs? What special efforts have you taken to increase awards in the TICs?

Has the buying activity conducted any outreach programs to enhance opportunities for small business firms (including all sub groups) to participate in procurement requirements? If so, when?

What is your role as Small Business Specialist regarding the acceptability of subcontracting plans?

Over the last two FYs, how many subcontracting plans have you sent back to the Contracting Officers (prior to PCR review) recommending that goals be increased? Provide examples.

How many proposals have been received over \$500,000 during FY 0_ and FY 0_ that did not require the submission of a subcontracting plan?

Do you think Contracting Officers and contract specialists are knowledgeable of the Small Business Program procedures and goals?

Is on-going Small Business Program training a requirement at your buying activity? If yes, for whom?

Is any training provided on contract bundling regulations? If yes, when? What kind? For whom?

Do you believe that the Contracting Officers and contract specialists routinely make positive efforts to increase the participation of small business firms, including all subgroups?

Are positive efforts made by you and the Contracting Officers and contract specialists to identify new small businesses?

How do you obtain sources for your solicitation mailing list?

Where do you obtain information on vendors/sources, e.g., PRO-Net, CCR, local source list, etc.?

How do you evaluate a requirement for the 8(a) or HUBZone program? What do you do when you identify a requirement that is suitable for both programs?

Are you aware of NAICS Code, size and socio-economic protest and COC procedures?

What type of working relationship does your activity have with the PCR (if one is assigned)?

Questions for Contracting Officers, Contract Specialists, Technical Proponents, etc.

1. How long have you been in your present position?
2. Do you believe that the Small Business Program is effective at your activity?

3. Does management support the Small Business Program?
4. What type of Small Business Program training was offered at your activity, e.g. subcontracting, COC, size determination, set-asides, etc.
5. Is any training provided on contract bundling regulations? If yes, when? What kind? For whom?
6. Have you ever been involved in a bundled acquisition? If so, did you follow the special procedures that apply to bundling, e.g., notifying the PCR at least 30 days before solicitation issuance, documenting the benefits of a bundling strategy, etc.?
7. Do you feel that training in the Small Business Program is needed?
8. Do you know what your buying activity's Small Business goals are for FY 03?
9. Are you familiar with responsibilities of the Small Business Specialist and the SBA Procurement Center Representative (PCR)?
10. Are you familiar with the Small Business Act and FAR Part 19 requirements?
11. What type of working relationship do you have with the Small Business Specialist? With the PCR?
12. Do you routinely make positive efforts to increase the participation of small business firms, including all subgroups? How?
13. Do you make a positive effort to identify new small businesses?
14. Do you encourage small business participation in the acquisition process? How?
15. Describe how you conduct your market research activity.
16. Do you ensure compliance to the minimum FAR synopsis time requirements and minimum FAR proposal response time requirements?
17. How do you obtain sources for your solicitation mailing list?
18. Where do you obtain information on vendors/sources, e.g. Pro-Net, CCR, local source list, etc.?
19. How do you evaluate a requirement for the 8(a) or HUBZone program? What do you do when you identify a requirement that is suitable for both programs?
20. Do you consider re-procurement requirements that have been historically set-aside for small business as suitable "candidates" as HUBZone set-asides?

21. Do you process a DD Form 2579 for new work or additional work contract modifications valued over \$10,000?
22. Do you alert the Small Business Specialist and PCR when processing an urgent requirement?
23. How many proposals have you received over \$500,000 during FY 0_ and FY 0_ that did not require the submission of a subcontracting plan? What process do you follow to waive the requirements?
24. Do you obtain a new or revised subcontracting plan for contract modifications over \$500,000 (\$1M for construction)?
25. Do you evaluate subcontracting plans before getting Small Business Specialist and PCR comments? Do you evaluate prior compliance with subcontracting plans when evaluating an offeror's responsibility?
26. What do you do with the SF294s when you receive them?
27. Do you formally incorporate the subcontracting plan into the contract at time of award? Do you alert the appropriate ACO and SBA offices about an award involving a subcontracting plan?
28. Do you include in the source selection criteria an evaluation factor addressing the extent of SDB participation in a requirement when appropriate?
29. Are you aware of NAICS Code, size and socio-economic protest procedures?
30. Are you familiar with the COC process? Do you understand the non-responsibility issues when dealing with a small business offeror?
31. What do you do when you experience a problem with a small business, whether it is a question or protest before award or a performance issue after award?
32. What do you do when a small business asks you for help?
33. Are you aware of the Small Business Competitiveness Demonstration Program, i.e., the DIGs and TICs?
34. Do you consider how the solicitation requirements affect small business participation in your acquisition, e.g., large quantities, unrealistic delivery schedules, etc.?
35. How do you ensure that all the proper small business clauses are included in the solicitation?

36. How do you solicit and evaluate requirements when using the GSA Schedules?
37. Have you been involved in any outreach programs conducted by the buying activity to enhance opportunities for small business firms (including all sub groups) to participate in procurement requirements?
38. What comments, pro and con, do you wish to make about the Small Business Program?

Appendix 9

Sample Surveillance Review Report Format

U.S. Small Business Administration
 Surveillance Review Report
 of
 (Name of contracting activity)
 (City and State)

1. Surveillance Team Members and Review Dates

List the team members and their job titles (e.g., Industrial Specialist). Indicate who is the team leader. Include the dates of the review.

2. Scope of Review

Indicate the time period covered by the review (e.g., FY 2001 through the first quarter of FY 2003), and any limitations that apply (e.g., review limited to mission support acquisitions).

3. Small Business Program Rating

Provide the rating and rationale. Briefly discuss the overall effectiveness of the contracting activity's Small Business Program.

4. Overview of Small Business Awards

| | | | | | | | | |
|---------|----------|-----|--------|------|-------|----------|-------|---------|
| FY 200x | Total \$ | SB% | SBSA % | SDB% | WOSB% | HUBZone% | VOSB% | SDVOSB% |
|---------|----------|-----|--------|------|-------|----------|-------|---------|

Goals
 Actual

| | | | | | | | | |
|-----------|----------|-----|--------|------|-------|----------|-------|---------|
| FY 200x-1 | Total \$ | SB% | SBSA % | SDB% | WOSB% | HUBZone% | VOSB% | SDVOSB% |
|-----------|----------|-----|--------|------|-------|----------|-------|---------|

Goals
 Actual

Provide an analysis of the contracting activity's goals and accomplishments. Discuss significant acquisition policies which affect the actual awards to small business (e.g., Small Business Competitiveness Demonstration Program). Discuss the contracting activity's plans to increase awards in any category (e.g., special initiative targeting WOSBs for SAP acquisitions).

5. Small Business Program Management

Describe how the contracting activity's Small Business Program is managed. Discuss the effectiveness of any advance procurement planning as it relates to small business.

6. Deficiencies and Regulatory Non-compliance

State how you selected your sample and how many files you reviewed. List the deficiencies you identify, by contract number, during review of the contract files. Do not discuss isolated minor deficiencies unless they are numerous, then address as an overall deficiency. Reference regulatory criteria, including agency and/or contracting activity regulations, contract numbers, and recommend corrective action if appropriate. If there are many deficiencies, consider using subheadings (e.g., Publicizing Contract Actions, Subcontracting, COC/Eligibility Issues, Source Lists, etc.).

7. Small Business Program Strengths and Weaknesses

Discuss any special initiatives the contracting activity uses (e.g., in-house training, industry outreach). Also address weaknesses identified during the review that would not be discussed elsewhere in the report.

8. General Comments

Address significant issues that warrant the contracting activity's attention (e.g., denial of access to records, unusual assistance received during the review).

Surveillance Team Leader

Date

Appendix 10

Proper Handling of Procurement Sensitive Information

The Procurement Integrity Act, 41 U.S.C. § 423, places restrictions on disclosing and obtaining contractor bid or proposal information or source selection information. That statute broadly states that anyone who:

is a present or former official of the United States, or a person who is acting or has acted for or on behalf of, or who is advising or has advised the United States with respect to, a Federal agency procurement; and

by virtue of that office, employment, or relationship has or had access to contractor bid or proposal information or source selection information shall not knowingly disclose that contractor bid or proposal information or source selection information before the award of a Federal agency procurement contract to which the information relates. Thus, the Procurement Integrity Act applies not only to a “present or former official of the United States,” but to any “person” who advised the United States with respect to that procurement.

The Federal Acquisition Regulation (FAR) provides further guidance on this issue. FAR § 3.104 defines “contractor bid or proposal information” to mean any of the following information submitted to a Federal agency as part of or in connection with a bid or proposal to enter into a Federal agency procurement contract, if that information has not been previously made available to the public or disclosed publicly:

- (1) Cost or pricing data.
- (2) Indirect costs and direct labor rates.
- (3) Proprietary information about manufacturing processes, operations, or techniques marked by the contractor in accordance with applicable law or regulation.
- (4) Information marked by the contractor as "contractor bid or proposal information" in accordance with applicable law or regulation.
- (5) Information marked in accordance with FAR 52.215-1(e).

FAR § 2.101 defines “source selection information” to include information that is prepared for use by an agency for the purpose of evaluating a bid or proposal to enter into an agency procurement contract, if that information has not been previously made available to the public or disclosed publicly, including:

- (1) Bid prices submitted in response to an agency invitation for bids, or lists of those bid prices before bid opening;

- (2) Proposed costs or prices submitted in response to an agency solicitation, or lists of those proposed costs or prices;
- (3) Source selection plans;
- (4) Technical evaluation plans;
- (5) Technical evaluations or proposals;
- (6) Cost or price evaluations of proposals;
- (7) Competitive range determinations that identify proposals that have a reasonable chance of being selected for award of a contract;
- (8) Rankings of bids, proposals, or competitors;
- (9) Reports and evaluations of source selection panels, boards, or advisory councils;
- (10) Other information marked as "Source Selection Information - See FAR 2.101 and 3.104."

This contractor bid or proposal information and source selection information is often referred to as procurement-sensitive information. Basically, any information that is not available to the public but is available to the PCR should be considered procurement sensitive information. PCRs are required to protect procurement sensitive information, the release of which could give an unfair advantage to the recipients of that information and have a serious effect on the overall integrity of the government's procurement processes. Most of the information that the PCR reviews, or is asked by the agency to consider or discuss, which involves any aspect of the procurement process, is procurement-sensitive and must not be released to the public so that the procurement process is not compromised. PCRs may also be given access to agency sensitive information that should not be released to protect the integrity of the system and also to protect the credibility of the SBA and/or the procuring agency itself.

PCRs are often faced with preserving a delicate balance in the acquisition planning/pre-solicitation stages. For example, at the outset, a buying office's inclination may be to procure items or services on an unrestricted basis. While the PCR may be able to identify a number of potentially qualified small business concerns through PRO-Net, he/she may also need to contact the firms directly to determine whether or not they will submit bids and proposals if the requirement is procured on a set aside basis (i.e., to ensure the "rule of two" requirement can be met). The PCR must be adept in discussing the government's procurement needs in general terms and careful not to disclose any procurement sensitive information.

PCRs often come into possession of information on contractor proprietary processes, techniques or operations as part of the decision making process to recommend a set aside, when reviewing subcontracting plans or when participating in the source selection process. So, the PCR must also guard against the unauthorized release of contractor proprietary information to other parties, including competitors, buying office officials, e.g., Contracting Officers, unless granted express permission by the contractor.

The FAR requires Contracting Officers to process requests for information, “as appropriate.” FAR 5.403, covers “Requests from Members of Congress.” While Contracting Officers are required to give Members of Congress, upon request, detailed information on a particular contract, if responsiveness would result in disclosure of classified matter, proprietary information, or “information prejudicial to the competitive acquisition,” they shall refer the request to the “agency head and inform the legislative liaison office of the action.” One could infer that requests for procurement information from Members of Congress, or their staffs, shall be referred to the Contracting Officer for disposition.

Thus, if a member of Congress or staff person contacts a PCR requesting procurement sensitive information he/she shall refer the request to the cognizant Contracting Officer and immediately notify their Area Director. If the caller insists on an SBA response, they should be referred to the Office of Congressional and Legislative Affairs (CLA). The PCR shall provide the name, title and telephone number of the person making contact, the information requested and the disposition of the request, e.g., referred to the Contracting Officer. It will be within the Area Director’s discretion to notify GC Headquarters and/or CLA.

Weekly, monthly, quarterly and year-end reports that provide information about specific procurements and government estimates must be marked “Procurement Sensitive-For Official Use Only” by the PCR before submission to the Area supervisors/directors. In turn, all reports containing procurement sensitive information that are submitted to Headquarters by the Area directors should be marked “Procurement Sensitive-For Official Use Only.” Reports submitted by Headquarters should be marked appropriately. Requests from entities outside of SBA for procurement-sensitive information concerning any other agency’s procurement information should be referred to the agency that generated the information for release.

FAR § 15.201(f) expressly authorizes the release of general information about agency mission needs and requirements. However, PCRs should only release procurement-specific information that has already been released to the public, i.e., acquisition forecasts, FedBizOps synopsis notices, solicitation packages, amendments, information released subsequent to a pre-proposal conference. Any requests for information beyond what is in the public domain must be promptly referred to the Contracting Officer to ensure the integrity of the procurement process. There is nothing to prevent PCRs from recommending means, e.g., Freedom of Information Act, for small businesses to get information that a Contracting Officer may be unwilling to provide.