



November 18, 2003

PROCUREMENT MEMORANDUM 2004-02

INFORMATION

Memorandum for: Heads of Contracting Offices

/signed/

From: Christine A. Makris
Deputy Director for Office of Acquisition Management
and Director Acquisition Policy and Programs

Subject: An Innovative Approach to Small Business Set Asides: Small
Business Cascading Evaluation Preference Process

When should a Contracting Officer (CO) reserve an acquisition exclusively for participation by small business concerns?

The rule is clear...

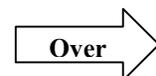
Acquisitions over \$100,000 are to be set aside for small businesses when there is a reasonable expectation of receiving offers from at least two (2) responsible small businesses offering the products of different small businesses and that an award will be made at fair market prices. {See [FAR 19-502-2\(b\)](#)}

What if... the CO is unsure that offers from two or more small companies will be submitted? **Then...** the CO must conduct a thorough market research/survey and actively pursue outreach efforts with small businesses before soliciting.

What if... the CO receives only one acceptable offer from a responsible small business in response to a set-aside? **Then...** the CO may make an award to that firm, if award can be made at a fair and reasonable price, otherwise resolicit.

What if... the CO receives NO acceptable offers from a small business in response to a set-aside? **Then...** the CO must initiate a withdrawal of an individual set-aside by giving written notice to the agency Small Business Specialist and the SBA PCR stating the reasons. If the requirement is still valid, the CO may resolicit.

Each scenario could cost you valuable time...





What Other Agencies Are Doing...

In an effort to promote small business participation while also providing the agency with an efficient means to continue the procurement in the event that sufficient small business participation is not realized, several agencies, including DOD and HUD, have been utilizing an innovative procurement approach that has become known as the Small Business Cascading Evaluation Preference Process[#]. A cascading set-aside preference provision is put into the Request For Offers which put large businesses on notice that, if the agency receives a sufficient number of eligible small business offers, large business proposals received simply would not be considered for award. HUD explains that the cascading set-aside approach was formulated in conjunction with, and has been endorsed by, the SBA. See [The Urban Group, Inc.; McSwain and Assocs. Inc., B-281352, B-281353, Jan. 28, 1999](#), 99-1 CPD ¶ 25 at 7.

The cascading set-aside preference terms establish, at best, only a potential for participation of large businesses in the competition for award. See id. ([Carriage Abstract, Inc., B-290676; B-290676.2, August 15, 2002](#)) Such an approach has been used recently by several agencies in an effort to promote the interests of small business concerns while also providing agencies with an efficient means to continue the procurement in the event that sufficient small business participation is not realized. This innovative approach has saved agencies valuable time by streamlining coordination with the Small Business Administration and eliminating the need to resolicit a requirement as a result of inadequate competition among small businesses. Furthermore, the General Accounting Office (GAO) has also found the approach to be unobjectionable when administered in accordance with the terms of the solicitation.

Suggestions...

Use this approach for commercial items buys. The approach may result in decreased competition for noncommercial items procurements.

When planning the acquisition strategy for your next small business set-aside commercial items procurement, consider whether or not a cascading set-aside preference will work for you and your customer.

In order to measure the effectiveness of this process and to facilitate the dissemination of valuable information and best practices, inform the Office of Acquisition Management when using this technique.

Keep in mind that the use of this technique still requires the submission of the CD-570, Small Business Set-Aside Review clearance form.

[#] Use of the Small Business Cascading Evaluation Preference Process requires a FAR Deviation. See [FAR 1.4](#) - Deviations from the FAR and [CAR Subpart 1352](#).

cc: Acquisition Council
Acquisition Community