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ACQUISITION,
TECHNOLOGY
AND LOGISTICS

THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

17 JAN 2002

MEMORANDUM FOR SERVICE ACQUISITION EXECUTIVES DIRECTORS, DEFENSE AGENCIES

SUBJECT: Small Business Participation in Consolidated Contracts

Small businesses play a critical role in supporting DoD's mission and the overall strength of the U.S. industrial base. I am fully committed to providing small business concerns with the maximum practicable opportunity to participate in all contracts at both the prime contract and subcontract levels. The program manager, or other official responsible for the acquisition planning for procurement of supplies or services, must ensure that small business participation is considered from acquisition planning through program execution. This includes exploring alternative strategies that may enhance small business participation, fully complying with regulations, and establishing aggressive small business subcontracting provisions that are enforced.

I recognize that consolidation of requirements previously bought on smaller contracts in some instances may be deemed necessary and justified. However, when the Department consolidates requirements we must avoid unnecessary and unjustified bundling of requirements and take efforts to mitigate the negative impact that contract bundling has on small business concerns.

The Federal Acquisition Regulation (FAR) implements statutory requirements that are applicable when a contract consolidation meets the definition of bundling. These requirements are summarized on the attachment. Bundled acquisitions being conducted in accordance with OMB Circular A-76 are exempt from some but not all requirements levied upon bundled contracts. Consolidation is bundling when:

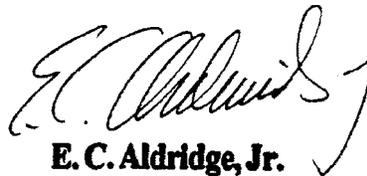
- Two or more requirements for supplies or services are consolidated into a solicitation for a single contract that is likely to be unsuitable for award to a small business concern, and
- the requirements were previously bought on separate smaller contracts that were performed by small business concerns or that were suitable for award to one or more small business concerns.

The sole fact that one solicitation results in award of multiple contracts, especially indefinite-delivery, indefinite-quantity contracts, does not guarantee that the resulting consolidated contracts are not bundled contracts. Each proposed contract award must be evaluated against the FAR criteria for bundled requirements.



In order to proceed with a bundled contract, there must be measurably substantial benefits as defined in the FAR. The agency must quantify the benefits and explain how they would be measurably substantial. A DoD Benefit Analysis Guidebook has been developed for use in completing the analysis required for each bundled contract. This guidebook includes practical advice on avoiding bundling and on mitigating the adverse impact upon small businesses when the bundled action has been determined to be necessary and justified. An electronic version of the guide is available on the acquisition website at: www.acq.osd.mil/sadbu or from your respective Director, Small and Disadvantaged Business Utilization.

Please ensure that your organization, at all levels, is in full compliance with the requirements for bundled contracts and that acquisition planners structure requirements to facilitate small business participation to the maximum extent practicable. We must ensure that every acquisition strategy is based on a sound business decision and that it is in the long term best interests of the Department and the survivability of a competitive defense industrial base.



E. C. Aldridge, Jr.

Attachment

FAR Requirements for Bundled Contracts

FAR Citation

FAR Requirement

Structuring the Requirement:

7.103(s) Acquisition planners, to the maximum extent practicable, shall structure requirements to facilitate competition by and among small business concerns; and avoid unnecessary and unjustified bundling that precludes small business participation as contractors.

Market Research:

7.107(a)* Conduct market research to determine whether bundling is necessary and justified. Market research may indicate that bundling is necessary and justified if agency would derive measurably substantial benefits.

10.001(c)(1) When performing market research, consult with the local Small Business Administration (SBA) procurement center representative (PCR), or if a PCR is not assigned, the SBA Office of Government Contracting Area Office serving the area in which the procuring activity is located.

Benefit Analysis:

7.107(b)* Agency must quantify the benefits and explain how their impact would be measurably substantial as defined at FAR 7.107(b).

7.107(d)* Reduction of administrative or personnel costs alone is not sufficient justification for bundling unless cost savings are expected to be at least 10 percent of the estimated contract value (including options) of the bundled requirement.

7.107(g)* In assessing whether cost savings would be achieved through bundling, must consider the cost that has been charged or , where data is available, could be charged by small business concerns for the same or similar work.

7.107(e) When it is substantial bundling (i.e. resulting contract has an average annual value of \$10 million or more), the acquisition strategy must:

- (1) identify specific benefits anticipated to be derived;
- (2) include an assessment of the specific impediments;
- (3) specify actions designed to maximize small business participation , including provisions that encourage small business teaming;
- (4) specify actions designed to maximize small business participation as subcontractor at any tier under the contract or contracts that may be awarded;
- (5) include a specific determination that the anticipated benefits justify the proposed bundled contract.

- 7.107(c)* Provision for nondelegable determination by Service Acquisition Executive or USD(AT&L) that bundling is necessary and justified when expected benefits do not meet thresholds of measurably substantial but are critical to the agency's mission success and the acquisition strategy provides for maximum practicable participation by small business concerns.
- 7.107(f)* Contracting Officer must justify bundling in acquisition strategy documentation.

AT LEAST 30 Days prior to release of solicitation:

- 10.001(c)(2) At least 30 days before release of solicitation, notify any affected incumbent small business concerns of the Government's intention to bundle the requirement and how the concerns may contact the appropriate SBA representative.
- 19.202-1(e) Provide a copy of the proposed acquisition package to the SBA and the contracting officer must provide a statement explaining why:
- (1) the proposed acquisition cannot be divided into reasonably small lots to permit offers on quantities less than the total requirement;
 - (2) delivery schedules cannot be established on a realistic basis that will encourage small business participation to the extent consistent with the actual requirement of the Government;
 - (3) the proposed acquisition cannot be structured so as to make it likely that small businesses can compete for the prime contract;
 - (4) consolidated construction project cannot be acquired as separate discrete projects; or
 - (5) bundling is necessary and justified.

Rejection of Small Business Administration Recommendation:

- 19.202-1(e)(4) If the contracting officer rejects the SBA recommendation made in accordance with FAR 19.402(c)(2), the contracting officer shall document the basis for the rejection and notify the SBA in accordance with FAR 19.505. *Please note that the SBA has 15 days after receipt of package to make the recommendation. Therefore, to avoid delays it is important to involve SBA as early as practicable in the acquisition cycle when considering bundling requirements.*

Special Provisions:

- 19.000(g) For bundled requirements, small business size standards for the requirements are applied to individual persons or concerns, not to the combined assets of a joint venture.

** Requirements do not apply if a cost comparison analysis will be performed in accordance with OMB Circular A-76*