

If I Audited Your Federal Small Business Program, I would...

May 17, 2017



I would...

- Pick the low hanging fruit
- Review the Small Business Program Policy Document
- Look at small business trends in prior years eSRS reports
- Examine company terms and conditions containing flow-down language
- Discuss the methodology used in developing and reporting goals and performance
- Require vendor names and revenue lost to Small Business Program because of purchases of small businesses by large business
- Examine overall commitment to the Small Business Program by company management.

Pick the Low Hanging Fruit

- Letter of Support from Senior Management
- Designation Letter Identifying SBLO (s)
- Ease for a Prospective Vendor to Register on Company Website
- Subcontractor Self-certification form
- Look at prior Small Business Program audits

Letter of Support from Senior Mgmt.. – Has a Companywide Small Business Program policy statement been issued by current senior management and disseminated throughout the company?

1. A diverse supply chain — focused on the highest standards of quality — benefits our communities and the diverse patients and physicians we serve. We also gain a competitive advantage through the innovation and flexibility of a diverse supplier base.”
2. It is XYZ company policy that its business areas will conduct socioeconomic subcontracting programs in recognition of compelling moral, social and economic necessity. It is also policy to facilitate the achievement of its negotiated subcontracting goals by developing the capabilities of, and pursuing opportunities to award subcontracts and other procurements to small, small disadvantaged, women, veteran, and historically black and tribally owned colleges and universities, and other minority institutions.
3. ABC company recognizes its responsibility to assist in the development and use of small business suppliers of goods and services. Consistent with legal and ethical obligations to all suppliers, the Company will strive to:
 - Seek out small businesses capable of supplying the materials and services that the Company requires.
 - Identify and advise small businesses so that they may become competitive and self-sustaining suppliers of goods and services.
 - Increase the amount of business placed with qualified small businesses.

Letter of Support from Senior Mgmt.. – Has a Companywide Small Business Program policy statement been issued by current senior management and disseminated throughout the company?

4. "XXX" understands and appreciates that small businesses play a crucial part in the overall health and vitality of our nation's economy. Diverse small businesses drive innovation and create jobs that help build prosperous communities. As such, XXX is committed to working with the small business community in its endeavor to expand subcontracting opportunities to this essential market. Inclusive procurement practices have been incorporated into the XXX supply chain and processes and objectives to partner with qualified small businesses are part of the company's overarching strategies and goals.

Designation Letter Identifying SBLO (s)

- Has the Small Business Liaison Officer been formally appointed by Senior level management?

Ease for a Prospective Vendor to Register on Company Website

- Look at the company website
 - Is there a “supplier” link?
 - Is there contact information available to become a prospective supplier?
 - Is the SBLO identified as a point of contact?
 - If the Supply Chain or Purchasing is mentioned, does the company identify that it is looking for qualified small businesses?

Subcontractor Self-Certification Form

- How does the company identify business size?
- Are all the various business size categories in the federal government small business program included?
- Does the company include all applicable federal small business size categories, e.g., women, veteran, disadvantaged, etc., on this form?
- If business size is documented on the Supplier Database, does the database require unnecessary business size certifications?

Look at Prior Small Business Program Audit Reports

- Have corrective actions been taken to resolve program shortcomings
- Are identified small business program policies being followed?
- Have employees responsible for vendor identification and selection been trained so they understand their responsibilities to provide the maximum practical opportunity for small business firms to bid on and be awarded subcontracts?

Look at Small Business Trends in Prior Year eSRS Reports

- Has eSRS reporting been done as required in a timely manner?
- Does trend analysis show an increase or decrease in vendor spend to small business entities?
 - If vendor spend is decreasing with any small business type, why?
 - Have company large business subcontractors that submitted a small business subcontracting plan to the prime been submitting eSRS reports?
 - Are such subcontractors meeting their goals?
 - If not, what is the prime SBLO doing to get compliance?

Examine Company Terms and Conditions Containing Flow-Down Language

- Does the company flow FAR 52-219-8, Utilization of Small Business Concerns, to all vendors?
- Does the company flow FAR 52.219-9, Small Business Subcontracting Plan, to all large business subcontractors receiving subcontracts >\$700,000?
 - Does someone at the prime contractor review and approve subcontractor Small Business Subcontracting Plans?
 - Do subcontractor Small Business Subcontracting Plans include all the requirements of the applicable FAR 52.219-9 clause (Jan 2017 is current clause)

Discuss the Methodology Used in Developing and Reporting Goals and Performance

- How does the company develop goals?
 - What employees inside or outside the Supply Chain identify prospective vendors?
 - If small business vendors aren't included in a product or services purchase, does a source selection determination sheet accompany the purchase requisition (PR) to the buyer so he/she can document the source selection on each purchase order (PO) file?
 - Sometimes, vendors are selected for other reasons
 - F-35 fighter program – inclusion of vendors from all states
 - Products shipping overseas – prime only considers ITAR registered subcontractors
 - Boeing to make more “in house” reducing subcontracting (WSJ, April 26, 2017)



Require Vendor Names and Revenue Lost to Small Business Program Because of Purchases of Small Businesses by Large Business

- If trend analysis shows a decrease in vendor spend with any small business category – women or veteran? How does the company explain this decrease? If purchase of small business entities by large business is the reason, require specific vendor names and revenue to validate such rationale.



Examine Overall Commitment to the Small Business Program by Company Management.

- Is upper management briefed on status of Small Business Program to include achievement of goals?
- What does management do to emphasize program to employees?
- Does training occur to keep employees current?

Best Practices Action List

1. Show relationship of SBLO to company or division buyers
2. Maintain a Small Business Program Action File
3. Be Familiar with FAR and SBA Small Business Program Requirements
4. Establish a working relationship with your government small business program representatives
5. Identify goal setting and goal accomplishment lessons learned
6. Identify a way to assess the success or failure of your small business program
7. Include SBLO into past performance review responses to Government
8. Create a checklist geared to Small Business Program Compliance
9. Start a log to keep track to efforts employees make to find new small businesses of all types

Best Practice Action list - continued

10. Create a checklist geared to Small Business Program Compliance
11. Ensure that the company maintains organized and complete files, in order to accurately track the total amount of subcontracting dollars being spent by the company
12. Receive up-to-date representations, signed by the subcontractor, of the subcontractor's size and socioeconomic status, obtained at least on an annual basis or when the subcontractor has a change of status
13. Maintain an internal subcontractor database, to cross-reference by NAICS code and socioeconomic status those subcontractors eligible for specific opportunities
14. Search diligently for qualified small businesses to keep the internal database a robust and a meaningful resource
15. Conduct training to help company employees identify subcontracting opportunities available for small businesses
16. Attend only those trade fairs, industry meetings, and other events where you can truly engage in outreach to the small business community and identify potential teaming partners

Best Practice Action list - continued

17. <http://www.dema.mil/smallbusiness/bestpractices/> - Best Practices for Prime Contractors

SBA Proposal to Change NAICS Codes

- On April 18, 2017, the SBA proposed to incorporate the 2017 NAICS code revision into the SBA's size standards table. If the proposed rule is made final, it will replace SBA's current size standards table, which SBA has relied on for making size determinations since 2012.
 - The revised size standards table will add 21 new NAICS industries.
 - The revised NAICS code table also will feature larger standards for six industries, smaller standards for two industries, and will switch one size standard from revenue-based to employee-based.
- The SBA is asking for comments on the proposed rule before June 19 and seeks to adopt the rule on October 1, 2017

SBA Proposal To Allow 2nd Tier Reporting of Small Business Awards

- On December 23, 2016, the SBA issued a final rule amending its regulations to implement section 1614 of the National Defense Authorization Act for Fiscal Year 2014. The rule is effective January 23, 2017....but
- Section 1614
 - Amended the Small Business Act so if the prime contractor has an individual subcontracting plan for a specific prime contract with an executive agency, the prime contractor shall received credit towards its subcontracting plan goals for awards made to small Business entities at any tier under the contract, to the extent reported on the subcontracting plans of its lower tier subcontractors.
 - The final rule also implements the statutory requirements related to the subcontracting plans of all subcontractors that are required to maintain such plans, including the requirement to monitor subcontractors' performance and compliance toward reaching the goals set out in those plans as well as their compliance with subcontracting reporting requirements.
 - SBA is also clarifying that the size standard for a particular subcontract must appear in the solicitation for the subcontract.

Takeaways

- eSRS inputs will be used by the government to “assess” the effectiveness of your Small Business Program. If individual small business subcontracting plan goals are not met, a desk performance review or on-site review could result.
- Be able to show a connection between the “source identifiers” and the SBLO to show that the source identifiers are trained by the SBLO and understand the objective of providing the maximum practical opportunity for small businesses to compete for your business.
- Document outreach efforts – if you attend an event, who did you talk to and how many vendors did you add to your vendor database?

References

- DCMA Form 640, Defense Contract Management Agency (DCMA) Review of Contractors Subcontracting Program
- FAR Clause 52.219-8, Utilization of Small Business Entities
- FAR Clause 52.219-9, Small Business Subcontracting Plan
- SBLO Handbook (on Small Business Administration (SBA) website
- <http://www.dcms.mil/smallbusiness/>
- <http://www.aptac-us.org/>
- <https://www.census.gov/eos/www/naics/>

Other Readings

- Diversity Gone Wild, Contract Management, September 2005, Philip G. Bail, Jr, CPCM, Fellow
- Socioeconomic Programs – On the Road to Failure?, Contract Management, April 2006, Philip G. Bail, Jr.,
- Missed Opportunities for Small Business, Contract Management, December 2006, Philip G. Bail, Jr., CPCM, Fellow
- The Small Business Act of 1953, Contract Management, October 2009, Philip G. Bail, Jr., CPCM, Fellow