



## **HUBZone Contractors National Council**

*The HUBZone Contractors National Council is a non-profit trade association providing information and support for companies and professionals participating and interested in the Small Business Administration's (SBA) HUBZone program. The HUBZone program is designed to provide economic assistance to underserved areas by awarding federal contracts to small businesses that operate and employ workers in those areas.*

### **Area 3 Responses**

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### **Area 3: Procurement and Contracting Questions**

**How do we achieve equity in a procurement system that must balance competing economic and social goals, including the need to conduct procurements in a streamlined and rapid manner?**

- The HUBZone price evaluation preference helps to create a more equitable system in full-and-open competition and allows federal agencies greater opportunity to devote federal spending to HUBZone firms. Regrettably, federal agencies have interpreted FAR 19.1304 as prohibiting the price evaluation preference to task orders when, in fact, it only prohibits commodities. Federal agencies should amend their interpretation to follow the law as Congress intended and apply the price preference to task orders. As the federal government increasingly drives its spending through IDIQ contracts, such as the “Best in Class” contracts, a significant opportunity for HUBZone spending is being lost because the HUBZone price evaluation is not being applied in the award of task orders. Applying the price preference would significantly benefit HUBZone firms and the underserved communities they serve.
- The Department of Transportation’s Disadvantaged Business Enterprise (DBE) program is the second-largest source of potential small business contract dollars. The DOT should allow HUBZone and Service-Disabled Veteran-Owned companies to be recognized in the DBE program. This change would provide increased opportunities for HUBZone businesses hire more employees from underserved communities and contribute to the economic development of the nation’s most economically challenged communities. Additionally, the HUBZone Program includes a large portfolio of construction and engineering companies that would become eligible to submit contract proposals if given equal access to DBE opportunities.

**What kinds of equity assessment tools might agencies use to identify inequity in their standard practices throughout the acquisition lifecycle, including, but not limited to, the development of requirements, market research (including outreach to businesses), selection of contract type, availability of financing, incentive structure, negotiation and evaluation of interested sources, debriefings of unsuccessful offerors, management of contracts, evaluation of contractor performance, and use of past performance in selection of sources?**

- Agencies should consider contract performance location when developing their acquisition strategy. The HUBZone program’s mission is to provide opportunities to underserved communities by giving small businesses incentives to locate and hire in areas that otherwise might not attract their companies. To further fulfill the mission of the program, federal agencies should consider awarding HUBZone set asides for contracts that can be performed at the contractor’s facility. These opportunities would give greater opportunities to these underserved communities and the workforce that supports these companies.
- The Director of OMB should work with the General Services Administration’s Category Management Program Management Office and other organizations, as appropriate, to develop additional tailored training for Office of Small Disadvantaged Business

Utilization personnel that emphasizes information about small business opportunities under the category management initiative.<sup>1</sup>

- As the government continues to increase buying through larger vehicles and move away from direct contracts, there are less opportunities for small businesses to participate in the federal marketplace. To create a more harmonized contracting system to utilize small businesses, sole source thresholds should be raised for individual-owned 8(a), SDVOSB, HUBZone and WOSBs by removing option years and streamlining requirements for sole source contracts.
- The Federal Acquisition Regulatory (FAR) Council was established to assist in the direction and coordination of government-wide procurement policy and government-wide procurement regulatory activities in the Federal Government. Current Council Members include the Administrator for Federal Procurement Policy, the Secretary of Defense, the Administrator of National Aeronautics and Space and the Administrator of General Services. While these individuals have deep knowledge of federal acquisition, a voice of the industrial base is missing. The Council supports adding the appropriate representative from the Small Business Administration. By adding the SBA to the FAR Council, we believe that delays impacting small businesses could be further mitigated. For example, there has been a discrepancy over multiple years between the FAR and the SBA's updated limitations on subcontracting rule that use different formulas to determine compliance. While the SBA rule allows the use of similarly situated entities on small business set-asides and 8(a) contracts, the FAR does not. This has created significant issues for both small businesses and the contracting community who have been confused on which rule to follow. Additionally, this conflict has led to legal protests on interpretations – which are timely and costly for both the government and small businesses. Adding SBA to the FAR Council could help accelerate solutions to discrepancies between the agency and interpretations of the FAR.

**What kinds of tools might agencies use to determine when there is inequity in the award of subcontracts under prime contracts and the cause of such?**

- Create a structured framework for large primes to provide past performance evaluations when requested. The FY2021 National Defense Authorization Act (NDAA) included language to require large primes with subcontracting plan requirements to provide past performance evaluations when requested. However, many small businesses have faced issues when requesting this information that they are using for proposal submissions for prime contracts. Creating a streamlined framework for large primes to provide this information to small businesses would greatly assist businesses trying to enter the prime contracting arena.

**How might agencies identify opportunities to engage with business owners and entrepreneurs who are members of underserved communities to promote doing business with the Federal Government? What kinds of training and capacity building within agency**

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<sup>1</sup> <https://www.gao.gov/assets/gao-21-40.pdf> (Recommendation 8)

### **teams would support equitable procurement and contracting efforts?**

- Agencies should work with industry associations, such as the HUBZone Contractors National Council, to host events that promote doing business with the federal government. Many industry associations have vast nationwide networks and partnerships that give federal agencies the opportunity to engage with business owners from underserved communities.

### **What kinds of benchmarks and assessment techniques might support equitable procurement and contracting efforts?**

- Over the last 20 years, the GAO, SBA and DoD's Inspector General have conducted small businesses subcontracting plan (SP) audits. The findings of these audits state that federal agencies evaluated are not performing their Subcontracting Assistance Program (SAP) roles and responsibilities due to the lack of priority amongst other duties, internal controls, understanding the regulation, guidance, training, and support. The findings also stated the large business contractors did not make timely payments or award millions of subcontract dollars to small businesses and were not held accountable per the regulatory guidance. A meaningful assessment technique that would support equitable procurement is increasing the weight of meeting subcontracting goals when evaluating a prime contractor. Putting greater emphasis on this aspect for a prime contractor's Contractor Performance Assessment Reporting System (CPARS) would support greater utilization of small businesses during contract performance.

### **What kinds of data should agencies collect and use to assess equity in their procurement practices?**

- When a federal contract is set-aside for a certain socioeconomic category, if the business is certified under multiple SBA programs, the awarding agency may also count the award toward multiple small business contracting goals. Counting a company with more than one certification multiple times skews small business contracting reporting data. The government should collect and report data of which set-aside the contract falls under so that the true number of contracts awarded to businesses in socioeconomic set-aside programs is accurate.
- Data is important to gauge effectiveness of contracting policies and make necessary changes. Current Government reporting on subcontracting dollars lacks transparency. The SBA should report the amount of subcontracting dollars, not just percentage, on its annual governmentwide procurement scorecard. Therefore, each agency should be required to report its subcontracting goal achievement including the number of businesses individual companies, dollar amount, and distribution of subcontracts awarded to small businesses each year. Transparency should also be applied in evaluating the effectiveness and usage of Best-in-Class (BIC) vehicles. The following data should be made publicly available: number of subcontractors on BICs broken down by small business and the socioeconomic set-aside programs listed under the Small Business Act; percentage

compliance of primes in achieving goals set forward in subcontracting plans; and percentage of subcontracting work performed by small business concerns on task orders.