

AAPD 02-06 Source Selection and Evaluating Past Performance in Using Small Business Concerns

PURPOSE:

The purpose of this AAPD is to establish policy and corresponding procedures to ensure that contracting officers (COs) include the offeror's past performance in using small business concerns under previous contracts as part of the overall past performance evaluation in source selection.

BACKGROUND:

Greater opportunity should be provided to contractors who display initiative in developing, proposing, and implementing acceptable subcontracting arrangements with small and disadvantaged businesses under USAID financed projects. Federal statutes, regulations, and executive orders establish a clear Government-wide policy to provide maximum practicable opportunities in federal acquisitions to small business concerns, including the different categories of small business (SB) concerns covered in FAR Part 19. These include veteran-owned small business (VOSB), service-disabled VOSB, HUBZone small business, small disadvantaged business, and women-owned small business concerns. The FAR requirements for the Small Business Subcontracting Program are found in Subpart 19.7, with the statutory mandate for subcontracting plans in section 19.702.

The Office of Procurement (M/OP) and the Office of Small and Disadvantaged Business Utilization (OSDBU) will closely monitor the effectiveness of the following policy and the interim procedures and will adjust or revise the policy and procedures as needed. Your comments as the new policy is implemented will be welcome.

GUIDANCE:

NEW POLICY: For solicitations issued May 1, 2002, and after, contracting officers must ensure that, as part of the evaluation factors and source selection procedures for new contracts, the past performance evaluation includes the offeror's past performance in using small business concerns under previous contracts.

APPLICABLE TO: All USAID solicitations and contracts (except those for personal services) that include past performance as an evaluation factor for source selection. This AAPD does **not** apply to any solicitation or contract for which a justification for other than full and open competition is approved.

For how this AAPD applies to Indefinite Quantity Contracts (IQCs), see the last paragraph below.

METHODOLOGY: Although COs are to use any relevant information available from the National Institutes of Health (NIH) Contractor Performance System (CPS) (see ADS 302), the Contractor Performance Reports do not currently provide much detail on subcontracting plan compliance nor on the contractor's past use of small business concerns. Therefore, contracting officers must ask offerors to include in their proposals the relevant information needed for this component of the past performance evaluation.

Solicitation Language: When past performance must be evaluated (FAR 15.304) and in accordance with the applicability criteria stated above, include the following language as part of the solicitation's proposal preparation instructions and evaluation criterion/criteria for overall past performance:

I. Solicitation Section L: In Uniform Contract Format (UCF) Section L "Instructions, conditions, and notices to offerors or respondents", include the following:

L.XX*. Small Business Participation

PAST PERFORMANCE IN USING SMALL BUSINESS CONCERNS—FOR OTHER THAN SMALL BUSINESS CONCERNS (as defined in FAR 19.001).

(a) As part of the evaluation of past performance in Section M.XX of this solicitation, USAID will evaluate the extent you used and promoted the use of small business concerns under current and past contracts. The evaluation will assess the extent small business concerns participated in these contracts relative to the size/value of the contracts, the complexity and variety of the work small business concerns performed, and compliance with your SB subcontracting plan or other similar small business incentive programs set out in your contract.

In order for USAID to fully and fairly evaluate performance in this area, all offerors who are not small business concerns must do the following:

1. Provide a narrative summary of your organization's use of small business concerns over the past three years. Describe how you actually use small businesses--as subcontractors, as joint venture partners, through other teaming arrangements, etc. Explain the nature of the work small businesses performed--substantive technical professional services, administrative support, logistics support, etc.? Describe the extent of your compliance with your SB subcontracting plan(s) or other similar small business incentive programs set out in your contract(s).
2. To supplement the narrative summary in 1. above, provide with your summary a copy of the most recent SF 294 "Subcontracting Report for Individual Contracts" for each contract against which you were required to report for the past three years.
3. Provide us with the names and addresses of three SB concerns for us to contact for their assessment of your performance in using SB concerns. Provide a brief summary of the type of work each SB concern provided to your organization, and the name of a contact person, his/her phone number, and e-mail address for each.
4. USAID reserves the right to obtain past performance information from other sources, including any SB concern you have not named [per (a)2.] or government agency.

(b) Small business concerns will not be evaluated favorably or unfavorably (consistent with FAR 15.305(a)(2)(iv)).

[End of Section L provision]

(* number this section as appropriate for the solicitation)

II. Solicitation Section M: In UCF Section M, incorporate language substantially as follows in the criterion or criteria for Past Performance:

Past performance of offerors in using SB concerns (COs: Include relative weighting for this factor. Regardless of the evaluation method you use--numerical weights, adjectival, or other non-numerical ratings--at a minimum, this factor may not have a weight less than the lowest-weighted non-cost/price factor).

Offers from small business concerns will not be evaluated against this factor.

[End of Section M language]

COs must consider the relevance of past performance information (FAR 15.305(a)(2)(i)). For the purposes of evaluating past performance in using small business concerns, relevance may be as broad as the offeror's overall use of SB concerns for any purpose, thereby focusing the assessment on "use" in a very basic sense. For some solicitations and contracts, though, the CO and requiring office may decide to more strictly define what kind of SB use is relevant for this purpose, if the nature of the acquisition supports doing so. If this is the case, COs must include language into paragraph (a)1. of the above Solicitation Section L language to explain how "relevance" will be considered. Note, however, that a stricter definition of relevance may exclude a significant portion of the offeror's past use of SB concerns. In any case, COs must conduct the evaluation in accordance with the evaluation criteria and strategy described in the solicitation.

Evaluating: COs and negotiators are to evaluate the information in the narrative and on the data included in the SF 294s provided by offerors. They are also to contact (by phone, letter, or e-mail) references, including at least one of the offeror's recommended references, and ask for the contact's assessment of the offeror's past performance in using small business concerns. The CO must document as part of the overall source selection memorandum any verbal information provided by the contacts. Remember that any adverse past performance information is subject to FAR 15.306 "Exchanges with offerors after receipt of proposals", specifically sections (a)(2), (b)(3), (b)(4), and (d)(3).

Indefinite Quantity Contracts (IQCs): This AAPD applies to new IQC solicitations as well as ALL other applicable solicitations (see "Applicable to" section above) issued after the effective date. Past performance is usually an element of the procedures for providing that all IQC awardees are given a "fair opportunity to be considered" for the award of task orders. When this is the case, COs must also include language in the solicitation and resulting contract to require past performance in using small business concerns to be part of the overall past performance assessment for "fair opportunity" procedures. We may issue additional guidance after the IQC Standardization Committee in M/OP completes its efforts to standardize the "fair opportunity" process. Although this AAPD does not apply to the "fair opportunity" procedures in existing IQCs, COs and cognizant technical officers

(CTOs) may, however, apply the theory in this AAPD when the circumstances of the “fair opportunity” competition support doing so.

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