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# ADS Chapter 321

## Office of Small and Disadvantaged Business Utilization

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## ADS 321 – Office of Small and Disadvantaged Business Utilization

### 321.1 OVERVIEW

Effective Date: 08/06/2020

This chapter covers the Agency's policies and procedures on how the Office of Small and Disadvantaged Business Utilization (OSDBU) supports USAID in increasing contract awards to small businesses, including Small Business Administration (SBA) contracting programs. OSDBU responsibilities are in accordance with [Section 15\(k\) of the Small Business Act of \(1958\), as amended \(codified at 15 U.S.C. § 644\(k\)\)](#), [Federal Acquisition Regulation \(FAR\) Subpart 19.2](#), and [AIDAR 719.271-2](#). With the exception of Subpart 19.6, FAR Part 19 applies only in the United States or its outlying areas.

### 321.2 PRIMARY RESPONSIBILITIES

Effective Date: 08/06/2020

- a. The **Office of Small and Disadvantaged Business Utilization (OSDBU)** promotes the use of small businesses to ensure they receive maximum practicable opportunity to participate in USAID procurements. OSDBU carries out the responsibilities listed in [FAR 19.201](#) and [AIDAR Part 719](#). OSDBU:
- 1) Reviews contract requirements for commodities, services, and construction that can be recommended for set-asides for small business.
  - 2) Reviews Senior Obligation Alignment Review (SOAR) documents. For SOARs requiring Administrator approval, OSDBU must provide clearance (see [ADS 300, Agency Acquisition and Assistance \(A&A\) Planning](#)).
  - 3) Reviews subcontracting plans submitted by "Other Than Small Business," in collaboration with the Contracting Officer (CO), to ensure that subcontracting plans meet the criteria covered by [FAR 19.704](#).
  - 4) Monitors awards to small businesses as prime and subcontractors to facilitate USAID small business goal achievement.
  - 5) Conducts market research and outreach activities to increase the pool of capable small business firms.
  - 6) Provides guidance and training to the Agency concerning new and existing laws, regulations, and procedures that impact small business programs and acquisition professionals.
  - 7) Provides small business market research assistance to COs, Bureau and Independent Offices (B/IOs), and Mission personnel, when requested.
  - 8) Liaises with B/IOs and Missions to better integrate U.S. small businesses more effectively in support of USAID programs.

- 9) Provides technical support and counseling to U.S. small businesses on how to pursue contracting opportunities with USAID.

**b.** The **Bureau for Management, Office of Acquisition and Assistance (M/OAA)** and **Mission Acquisition Offices**, in conjunction with OSDBU, collaborate to facilitate maximum utilization of U.S. small businesses. Full CO responsibilities for U.S.-based COs are covered in [FAR Part 19](#) and [AIDAR 719.271-3](#).

**c.** The **Head of the Contracting Activity (HCA)** supports USAID Small Business Programs (see [FAR 19.201](#), [AIDAR 719.271-4](#), and [ADS 302, USAID Direct Contracting](#)).

**d.** **Program and Technical Offices** that play a role in the acquisition process must:

- 1) Consult with OSDBU regarding the availability of capable U.S. small businesses to compete for USAID procurement opportunities; and
- 2) Provide sufficient lead time to allow for U.S. small business participation in Agency acquisitions.

Program and Technical Offices are encouraged to consider small businesses for orders placed against Federal Supply Schedule (FSS) and Blanket Purchase Agreements (BPAs), when practical, although [FAR Part 19](#) does not apply.

### **321.3 POLICY DIRECTIVES AND REQUIRED PROCEDURES**

#### **321.3.1 Activity Conversion**

Effective Date: 08/06/2020

In accordance with [Section 15\(k\) of the Small Business Act \(15 U.S.C. § 644\(k\)\(11\)\)](#), the OSDBU Director must have an opportunity to review and advise the agency on any decision to convert an activity performed by a small business concern to an activity performed by a Federal employee. If such a conversion is proposed, the B/IO must notify OSDBU by email at [OSDBUstaff@usaid.gov](mailto:OSDBUstaff@usaid.gov). The email must identify the B/IO that seeks to initiate the conversion, contain a brief synopsis that outlines the decision to support the conversion, and provide B/IO contact information.

Example of an Activity Conversion: If the Agency (B/IO) has a contract in place where a small business is providing clerical services and at the conclusion of the contract, the B/IO does not renew the contract and instead converts the work to be performed by an agency employee, the change will be considered a conversion. OSDBU's role would merely be perfunctory with an email exchange. OSDBU's role does not have a binding impact on a B/IO decision.

#### **321.3.2 Purchase Card Summary Review**

Effective Date: 08/06/2020

The OSDBU Director or designee is required to review Agency purchase card summary data on an annual basis for purchases greater than the micro purchase threshold and less than the Simplified Acquisition Threshold (SAT) to ensure purchases are made in compliance with [41 U.S.C. 1902](#). The OSDBU Director or designee will conduct the review during the month of October to cover the preceding fiscal year. The OSDBU Director or designee will report data anomalies to the Senior Procurement Executive.

### **321.3.3 Consolidation and Bundling**

Effective Date: 03/30/2021

OSDBU is required to review proposed solicitations that involve significant bundling of contract requirements, which may have the potential to limit or restrict small business participation, consistent with [Section 15\(k\)\(5\) of the Small Business Act \(15 U.S.C. § 644\(k\)\(5\)\)](#), [FAR 7.107-2](#) Consolidation, and [FAR 7.107-3](#) Bundling.

Bundling is a form of consolidation that takes place when two or more contract requirements previously performed under separate contracts, that have been performed by small business concerns or that were suitable for award to a small business concern, are combined into a solicitation for a single contract that is likely to be unsuitable for award to a small business concern (see FAR 2.101).

When “substantial bundling” is included in a solicitation (see [FAR 7.107-4](#)), the Planner and CO must notify OSDBU during the acquisition planning stage (see [ADS 300](#)). When a proposed solicitation includes consolidation or bundling, COs must ensure that the acquisition plan and supporting acquisition plan documentation meets the requirements of [FAR 7.107-2](#) for consolidation, [FAR 7.107-3](#) for bundling, and [FAR 7.107-4](#) for substantial bundling.

The CO must coordinate any written determination on consolidation or bundling with the OSDBU Director or designee. OSDBU will work with the CO to revise the procurement strategies for such proposed solicitations, where appropriate, to increase the probability of small business participation.

OSDBU is required to support the SBA’s annual reporting mandate by recording the Agency’s substantial bundling activity and submitting the report to the SBA in accordance with [15 U.S.C. § 644\(p\)\(4\)\(A\)](#).

### **321.3.4 Market Research**

Effective Date: 08/06/2020

Market research is a fundamental component of the acquisition process covered by [FAR Part 10](#). Market research provides the framework to ascertain the best method to procure commodities, services, and construction. OSDBU provides small business market research assistance to COs, B/IOs, and Mission personnel, when requested.

Technical and acquisition personnel must consider the rule of two (see section **321.6**) as it relates to SBA small business socioeconomic programs, when conducting market research (see [FAR 19.5](#)). It is important to note, if a small business contract is awarded to an SBA approved 8(a) small disadvantaged business, the contract requirement must

remain in the 8(a) program unless it is released by the SBA via formal notification (see [FAR 19.8](#)).

### **321.3.5 Procurement Integrity**

Effective Date: 03/30/2021

OSDBU must maintain procurement integrity in the Agency's acquisition process in accordance with applicable statutes and regulations, including 41 U.S.C. chapter 21 and FAR Part 3.

OSDBU personnel with potential conflicts of interest (see [FAR Subpart 3.11](#)) must seek immediate guidance from the Office of the General Counsel before making any decision that may compromise procurement integrity.

To preserve the integrity of the Agency's procurement process and to ensure fair and consistent support to the small business community, OSDBU Points of Contact (POCs) must avoid making inappropriate disclosures of procurement information during the acquisition process. OSDBU personnel are privy to agency procurement information and it is imperative that OSDBU support M/OAA by disseminating information to small business concerns that is consistent with M/OAA market research objectives as communicated directly by a CO to OSDBU. To further safeguard OSDBU from making inappropriate disclosures to small business concerns, OSDBU POCs must limit information disclosure to the information M/OAA posts to the public via USAID's business forecast.

OSDBU personnel must not provide assistance to small business concerns that is outside of OSDBU's established role. For example, small business concerns may seek guidance from OSDBU regarding an ongoing contract matter. In those instances, it is imperative that OSDBU refer the small business contractor to the designated CO to avoid providing guidance that is not within OSDBU's authority.

### **321.3.6 Small Business Review Authority**

Effective Date: 08/06/2020

OSDBU reviews Agency acquisitions that are at, or above, the SAT to determine the feasibility of setting the acquisition aside for small business in accordance with the provisions of [15 U.S.C. § 644\(m\) of the Small Business Act section K\(10\)](#), [FAR 19.501](#), and [AIDAR 719.270\(d\)](#). The Agency must set aside open market acquisitions valued above the micro purchase threshold, and up to the SAT, for U.S. small business. Small business consideration must be provided above the SAT when market research supports the acquisition strategy. [AIDAR 719.271-7](#) covers acquisitions that are exempt from review.

### **321.3.7 Set-Aside and Reserve Instructions for Contracting Officers**

Effective Date: 08/06/2020

The CO must review acquisitions in accordance with [FAR Subpart 19.5](#) to determine if they can be set aside, in total or in part, or reserved, for small business, giving consideration to recommendations from OSDBU. [FAR 19](#) contains certain

mandatory set aside requirements based upon the anticipated dollar value of the contract.

The CO must document the decision to set aside, reserve or engage in unrestricted competition, or fair opportunity in the contract file.

### **321.3.7.1 Contracting Officer Procurement Review Responsibilities**

Effective Date: 08/06/2020

USAID/Washington acquisitions with an anticipated dollar value below the SAT are automatically reserved exclusively for small business. If the CO anticipates soliciting a contract below the SAT to an “other than small business,” OSDBU is required to review the requirement via the formal review process.

The CO or Contract Specialist must initiate the small business review request at the acquisition planning stage for acquisitions above the SAT by submitting required documents to **OSDBUsmallbusinessreview1410@usaid.gov**.

### **321.3.7.2 Contracting Officer Subcontracting Plan Responsibilities**

Effective Date: 03/30/2021

U.S.-based COs must comply with the requirements for small business subcontracting plans in [FAR Subpart 19.7](#) when a solicitation is expected to result in a contract with a total estimated cost exceeding the threshold amounts noted in that Subpart, currently **\$750,000** and \$1,500,000 for construction. Statutory exceptions to this requirement can also be found in [FAR Subpart 19.7](#).

COs must check that the subcontracting plans, submitted by the apparently successful offeror(s) (or contractor) contain the mandatory elements in [FAR Subpart 19.7](#). After the CO reviews the subcontracting plan(s), the CO must initiate a formal subcontracting plan review request by emailing: **SubcontractingPlanReview@usaid.gov**.

### **321.3.7.3 Subcontracting Plan Review Procedures**

Effective Date: 11/20/2020

OSDBU Points of Contact (POCs) must review subcontracting plan(s) submitted by apparent successful offeror(s) (or contractor if there is a revised plan in response to a contract modification).

OSDBU’s review ensures that the goals are in compliance with USAID and SBA subcontracting policy. OSDBU will review subcontracting plans for realistic goals that reflect the offeror/contractor’s best efforts to provide subcontracting opportunities to small businesses within each socioeconomic category.

- 1) Upon receipt of a formal Subcontracting Plan Review Request, OSDBU will issue the plan a tracking number and assign it to a designated OSDBU POC. Tracking numbers will correspond to the fiscal year the subcontracting plan was received by OSDBU. For example, 2020-001 would be reflective of the first plan OSDBU received during fiscal year 2020. If a revision is not required, the number issued

will be final. However, if the contractor is required to revise and resubmit the plan, the number would be adjusted to 2020-001-1 which would identify that the original plan required a resubmission. The number would change to 2020-001-2 if a second revision is required, etc. Subcontracting plans received from contractors under multiple award Indefinite Delivery Indefinite Quantity (IDIQ) solicitations that contain more than one subcontracting plan will be identified as follows: 2020-001A for the first plan, 2020-001B for the second plan, 2020-001C, etc. As noted, IDIQ subcontracting plans will contain the same number. However, alphanumeric characters will be used to differentiate the plans within the same IDIQ contract. The process of addressing revisions will remain the same as follows, 2020-001A-1 or 2020-001A-2 depending upon the number of revisions that may be required regarding a particular plan.

- 2) The OSDDBU POC will complete the review using the OSDDBU Subcontracting Plan Review Form, which covers the subcontracting plan requirements outlined in [FAR Subpart 19.7](#). The POC will confirm if the subcontracting plan includes the FAR requirements and provides maximum practicable small business opportunities.
- 3) OSDDBU POCs are required to exercise good judgement in making a determination, recognizing that a contractor's listing of numerical goals does not automatically mean compliance and in contrast, not meeting a particular numerical goal does not necessarily mean non-compliance.
- 4) Upon completion of the subcontracting plan review, the OSDDBU POC must provide written rationale for each element in the plan that has been identified as insufficient. The rationale is required even if the plan, overall, is found to be acceptable.
- 5) The OSDDBU POC must return a fully executed subcontracting plan review document to the CO within five business days. IDIQ solicitations, which may consist of multiple subcontracting plans, will be returned in 10 business days.
- 6) In the event the OSDDBU POC rejects a subcontracting plan, the CO must review the OSDDBU POC's concerns and follow up with offeror/contractor to secure an appropriate subcontracting plan revision prior to award or modification.
- 7) If the CO disagrees with the OSDDBU POC's recommendations and elects to finalize the subcontracting plan without OSDDBU concurrence, the CO must provide a written decision to the OSDDBU POC within three business days.

#### **321.3.7.4 Subcontracting Plan Accountability**

Effective Date: 11/20/2020

OSDBU non-concurrence of subcontracting plans must remain in the subcontracting plan review document and be placed in the contract file for audit purposes. COs must provide OSDDBU with copies of all finalized subcontracting



plans by emailing them to **[SubcontractingPlanReview@usaid.gov](mailto:SubcontractingPlanReview@usaid.gov)**. When the CO returns the finalized plan to OSDBU, the plan must contain the assigned tracking number and the contract number to ensure appropriate filing and tracking.

While a contract may not have more than one subcontracting plan, in order to promote subcontracting plan goal achievement under Indefinite Delivery Indefinite Quantity (IDIQ) contracts, COs may establish subcontracting goals for each task order under an IDIQ contract as covered in **[FAR 19.705](#)** when the IDIQ contract contains a subcontracting plan.

When a subcontracting plan is required, COs are encouraged to instruct offerors to include the names and socioeconomic status of the proposed subcontractors who will be issued a subcontract.

COs are required to monitor subcontracting plan compliance and ensure that the prime contractor reports the status of subcontracting plan goal achievement in the electronic subcontracting reporting system (eSRS) in accordance with **[FAR Subpart 19.7](#)**.

### **321.3.8 Small Business Goals**

Effective Date: 08/06/2020

OSDBU formulates USAID's annual small business prime contract and subcontracting goals via consultation and approval of the SBA as expressed in **[Public Law 85-536, the Small Business Act](#)**. B/IOs and Missions must collaborate with OSDBU, when requested, to establish the Agency's small business and subcontracting goals to ensure that the goals are consistent with the annual SBA reporting requirement. Goals are required for B/IOs and Missions with annual contract obligations in excess of \$5 million.

The Director of OSDBU negotiates USAID's internal goals with the SBA and the goals must be consistent with the SBA's congressionally mandated socioeconomic small business category goals that cover SB, SDB, HUBZone, WOSB, and SDVOSB (see section **321.6**).

OSDBU publishes the **[Agency's annual small business and subcontracting goals](#)**, as required.

### **321.3.9 OSDBU Small Business Outreach and Training**

Effective Date: 08/06/2020

OSDBU conducts both formal and informal outreach and training to the small business community and Agency personnel. Small business outreach activities include conferences, scheduled matchmaking events, and impromptu meetings.

OSDBU plans and implements USAID small business training on an annual basis. Topics may cover regulatory updates and other matters that pertain to small business program implementation.

USAID employees can access formal small business training in USAID University under “Small Business Programs” and may request individualized training by contacting OSDBU at [osdbu1@usaid.gov](mailto:osdbu1@usaid.gov).

COs are encouraged to complete OSDBU’s Small Business Training Program, at a minimum, once every three years.

## **321.4 MANDATORY REFERENCES**

### **321.4.1 External Mandatory References**

Effective Date: 08/06/2020

- a. [13 CFR Chapter 1 – Small Business Administration](#)
- b. [Federal Acquisition Regulation Part 19](#)
- c. [Small Business Act \(1958\), as amended](#)

### **321.4.2 Internal Mandatory References**

Effective Date: 08/06/2020

- a. [ADS 300, Agency Acquisition and Assistance \(A&A\) Planning](#)
- b. [ADS 302, USAID Direct Contracting](#)
- c. [AIDAR 719 Small Business Programs](#)
- d. [Partnership Agreement USAID and SBA](#)

## **321.5 ADDITIONAL HELP**

Effective Date: 08/06/2020

There are no Additional Help documents for this chapter.

## **321.6 DEFINITIONS**

Effective Date: 03/30/2021

See the [ADS Glossary](#) for all ADS terms and definitions.

### **Bundling**

A subset of consolidation that combines two or more requirements for supplies or services, previously provided or performed under separate smaller contracts (a contract that has been performed by one or more small business concerns or that was suitable for award to one or more small business concerns), into a solicitation for a single contract, a multiple-award contract, or a task or delivery order that is likely to be unsuitable for award to a small business concern (even if it is suitable for award to a small business with a Small Business Teaming Arrangement) due to: (i) The diversity, size, or specialized nature of the elements of the performance specified; (ii) The aggregate dollar value of the anticipated award; (iii) The geographical dispersion of the

contract performance sites; or (iv) Any combination of these factors. This definition does not apply to a contract that will be awarded and performed entirely outside of the United States. **(FAR Part 2) (Chapter 321)**

### **Consolidation**

Consolidation or consolidated requirement means a solicitation for a single contract, a multiple-award contract, a task order, or a delivery order to satisfy; (i) Two or more requirements of the Federal agency for supplies or services that have been provided to or performed for the Federal agency under two or more separate contracts (a contract that has been performed by any business, including small and other than small business concerns), each of which was lower in cost than the total cost of the contract for which offers are solicited; or (ii) Requirements of the Federal agency for construction projects to be performed at two or more discrete sites. **(FAR Part 2) (Chapter 321)**

### **Historically Underutilized Business Zone Small Business (HUBZone)**

The HUBZone Empowerment Contracting Program, which is included in the Small Business Reauthorization Act of 1997, stimulates economic development and creates jobs in urban and rural communities by providing contracting preferences to small businesses that are located in the HUBZone and that hire employees who live in a HUBZone. **(Chapter 321)**

### **Office of Small Disadvantaged Business Utilization - Point of Contact (POC)**

A qualified staff member in the OSDBU office who is assigned to support a designated B/IO or Mission including small business and subcontracting review duties in accordance with (FAR 19.201(C)(8)). **(Chapter 321)**

### **Rule of Two**

During market research, if a minimum of two small businesses are found to have the capacity to compete for a contract opportunity, the contracting officer can set the contract aside for a small business. For example, if the Contracting Officer locates two women-owned small business (WOSB) firms, they can set the contract aside for WOSB. The same applies for all other socio-economic categories. **(Chapter 321)**

### **Service-Disabled Veteran-Owned Small Business (SDVOSB)**

A small business concern that is at least 51 percent unconditionally and directly owned by one or more service-disabled veterans may represent itself as a Service-Disabled Veteran-Owned Small Business Concern. To participate in the Federal marketplace, the Veteran must have a service-connected disability that has been determined by the Department of Veterans Affairs or their respective military service branch. **(Chapter 321)**

### **Set-aside Contract**

A “set-aside” is a restricted Federal contract for which only small businesses may submit offers. Throughout this document, reference to small business encompasses U.S. small business concerns. **(Chapter 321)**

### **Small Business Concern**

A concern, including its affiliates that is independently owned and operated, not dominant in the field of operation in which it is bidding on government contracts, and qualified as a small business under the criteria and size standards in 13 CFR part 121. A business is further determined to be small by the North American Industry Classification System (NAICS) size standards. A business can be considered small under one NAICS code and other than small under another. (**Chapter 321**)

#### **Small Disadvantaged Business (SDB)**

While the 8(a) Business Development Program offers a broad scope of assistance to socially and economically disadvantaged concerns, SDB certification strictly pertains to benefits in Federal procurement. 8(a) concerns automatically qualify for SDB certification. SBA certifies SDBs to make them eligible for special bidding benefits. Evaluation credits available to prime contractors boost subcontracting opportunities for SDBs. (**Chapter 321**)

#### **Women Owned Small Business (WOSB)**

WOSB is a small business program in which one or more woman has 51 percent or more stock ownership in the company. (**Chapter 321**)

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