

ISSUES AFFECTING SMALL BUSINESSES

Description of barriers and/or recommendations to open up access to government contracts

*by Raul Espinosa
CEO of FitNet Purchasing Alliance
Advisor to MBRT, MBELDEF and ASBL*

- a. *Free Universal Access (FUA)* to public solicitations – a small business initiative aimed at preventing unscrupulous private IT firms from charging fees to access federal, state, municipal and local government solicitations. The US government must support FREE access to any tax based solicitation.
- b. Strengthening FAR Part 19 while lowering the preferred status of GSA Contract holders (FAR Part 8) in open competition. The FAR fails to make a clear distinction between the two and, as a result, all set-asides solicitations are now at risk of been abused by limited competition. For example, some agencies are both ignoring and circumventing the FAR 19 requirements – and getting away - by limiting the competition to ‘GSA Schedule Holders Only.’
- c. *Contracting Abuse Resolution Board (CARB)* – an initiative aimed at permitting S/B to fairly settle disputes such as those detailed in the ‘*Contracting Abuse by the Air Force*’ Report. This report details specific ‘contracting abuse cases’ by both solicitation number and AF unit.
- d. The need for a federal directive (i.e., Executive Order) amending ALL existing GSA contracts to permit S/B to purchase commodities on the GSA schedule (for resell to the government) at prices below the GSA schedule without violating the law. The current GSA rules prevent manufacturers - on the Federal Schedule – from selling their commodities at prices below the GSA Schedule.
- e. More emphasis on *Reverse Auctions* by private sector entities. It reduces the government bureaucratic process while expediting deliveries. In short, *reverse auctions* are the future in government procurement. This technology has matured enough to be able to save the government billions of taxpayers dollars.
- f. The *Small Business Set-Aside Alliance (SBSAA)*. – An initiative aimed at creating a semi-private and self-supporting non-profit organization under which the majority of the critical services (by both private and by government agencies) could be both grouped and offered – under one umbrella - to small businesses at savings of billions of dollars.
- g. Strengthening the current ‘*Size Standards*’ of American businesses by incorporating ‘*penalties, enforcement and dispute resolution/size protest*’ as integral parts of ‘**Size Standards.**’ The current SBA efforts to revise ‘*size standards*’ might leave out these three elements making the entire revision effort worthless.
- h. Emphasizing ‘Debarment of ‘*Large*’ businesses’ caught either bidding or accepting Set Aside contracts. It’s the most effective deterrent to the violation. Refer to the article by Attorney Al Krachman http://www.ncmahq.org/publications/cm/docs/CM_June05p30.pdf
- i. Prevent ‘end-users’ – especially in the military - from unethically justifying award decisions based on ‘personal preference’ and/or ‘preferential status.’ End users must be held accountable if they create ‘contracting disputes.’ Agencies with a record of protests attributed to ‘end-user’ interference may be liable for lost of funding and/or disciplinary action or both.
- j. Adding ‘foreign purchases’ to the list of commodities subject to the ‘set-aside restrictions.’ As long as the purchase is for a US made commodity and/or the delivery is made in the US, the FAR 19 requirement must be followed. Currently, false assumptions that foreign countries regulations would prevent such transactions are affecting both small businesses and limiting competition.
- k. Research the way modern business arrangements (i.e., ‘alliances,’ joint ventures’) plus the IRS rule (which doesn’t count ‘independent contractors’) impact/affect the SBA size standard policy.