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Doing Business with NNSA and DOE EM Contractors

Kansas City National Security Campus – 2019

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U.S. DEPARTMENT OF
ENERGY

OFFICE OF
ENVIRONMENTAL
MANAGEMENT



A PRIMER FOR GETTING STARTED IN FEDERAL PROCUREMENT AND SUBCONTRACTING

Have you ever thought about working as a contractor for the federal government? Have you heard the stories about all the money that can be made once you get a federal contract? Have you been on the internet and read that there are only four or five basic steps to follow in order to get a contract or subcontract? Sounds easy, right? Do a little work and make lots of money.

Well, not so fast. It's true there are a few basic steps you need to follow in order to get your business recognized and qualified to bid on a federal solicitation, but there's much, much more. Being qualified to bid and receive a contract is far different from being successful at federal contracting. Doing your homework first will pay huge dividends later.

Let's start at the beginning. The federal government buys everything from pencils to complex weapons systems. It's a huge market with total contract expenditures reaching \$500 billion in value each year. Knowing where and how to start is important, but there is much more to know and do before you're really ready to begin bidding and winning. It involves substantial work and effort and may take months if not years for you to succeed in obtaining your first federal prime contract. Before you begin, be sure to understand you'll need patience to reap the ultimate rewards.

The U.S. Small Business Administration does an excellent job of [outlining the essential basic steps](#) on its website. The SBA's online contracting guide provides you an overview of the process with additional information available to expand your review on related topics.

Although you're probably familiar with commercial contracting practices, you'll find the federal procurement process to be quite complicated, and you'll often wonder why things don't seem logical. One important concept to understand and remember is that the federal government is responsible not just for getting the best price. The government has social responsibilities to fulfill as well, and the procurement process is one means of doing so. It is responsible for obtaining a fair and reasonable price given the other parameters and objectives it is seeking.

Federal procurement has similarities to commercial procurement, but the rules are far more detailed. Unlike commercial contracting, the government process is fully open, transparent and allows you to challenge the decisions made via a formal protest process. Federal procurement is designed to be open and transparent, which benefits the public seeking to do business with it, but it also means there is far more information to search through in order to develop the best strategy for your company. The law firm McKenna Long & Aldridge has published a comparison presentation [that can be found on the internet](#) outlining the fundamental differences.

While there is no step-by-step flow chart to guide you through the process, there are a number of actions you can take and topics to think through that will help to smooth the process substantially. Although most guidance begins with getting a [DUNS number](#), registering in [SAM](#), and searching federal opportunities, there is an initial step that is far more important and one that will set the stage for all others. Note that the government is changing its primary company identification system from DUNS numbers to a new Unique Entity Identifier scheme in 2020. (Details can be found at: <https://www.gsa.gov/about-us/organization/federal-acquisition-service/office-of-systems-management/integrated-award-environment-iae/iae-information-kit/unique-entity-identifier-update>.)

SBA Topic 0: Determine Who You Are, What You Sell, and What Your Objectives Are

Prior to beginning any other work, to start the process of winning and performing federal contracts you first need to know who you/your company is, what you have to offer, and how this effort fits into your overall business strategy and plan. While this may sound easy and something you could answer off the top of your head, it is extremely important in order to allow you to focus your efforts on those activities that will maximize your return on your investment. Yes, investment! You will be investing a substantial amount of your time and money in your search for federal contracts.

Ask yourself why you want to sell to the government. Are you currently a profitable going concern wishing to expand your business, or are you forming a new commercial entity and have no prior commercial experience or past performance? What is your ultimate goal and objective? What will federal contracting do to help you accomplish your goal(s)? Is there a specific revenue goal you're trying to achieve? Some companies desire to have a federal contracting presence simply to help them expand their commercial business rather than focusing on the federal revenue. Their profits from federal contracting are minimal, but the exposure provides worthwhile marketing for their commercial work. Have you incorporated this activity, your objectives, goals, and potential revenue into your overall business plan? Knowing why, what you want to sell, and what you expect in return will help you frame your decisions appropriately.

Determine what exactly you have to offer and sell to the government. What do you do – and do well? Are you a manufacturer? What do you build? Do you have a wide variety of products? Do you want to offer all or just some of them to the government? Do you provide a service? If so, what service or services do you wish to offer the government? Knowing your current commercial market, what sets you apart from your peers? Why should the government buy from you instead of one of your peers?

Speaking of peers – who are they? Who among them is currently selling to the government? How did they get their contracts? What set them apart and what now would make you a more attractive supplier?

Assuming you are a small business, does your business strategy drive you to become a large business or do you wish to stay small? Remember, small businesses have some special advantages when it comes to receiving federal contracts, but large businesses do not. Once you outgrow your small business status, can you survive competing with existing large businesses?

What is the state of your product or service marketplace, and where are you in it? Know everything you can about your market.

Once you've thought through these questions and have a solid business strategy (and still want to pursue federal contracts), you're ready to proceed.

You may wish to take some of the Small Business Administration's free courses as well. They offer a wide variety of courses that will provide you with substantial information on the various small business programs and contracting basics. Courses can be found at the following website.

<https://www.sba.gov/course/>

SBA Topic 1: Do Your Market Research

In order to bid and win government contracts, you'll have to sell products or services that the government buys – and at a competitive price. Use the resources below to see what the state of the federal market is for your product or service, determine how big the market is, and find potential buyers.

- **Federal Procurement Data System**

[Federal Procurement Data System – Next Generation](#) is the repository of all federal contracting data for contracts over \$25,000. With this system, you can see which agencies have contracts and with whom, what agencies buy, and which contractors have contracts.

- **USASpending.gov**

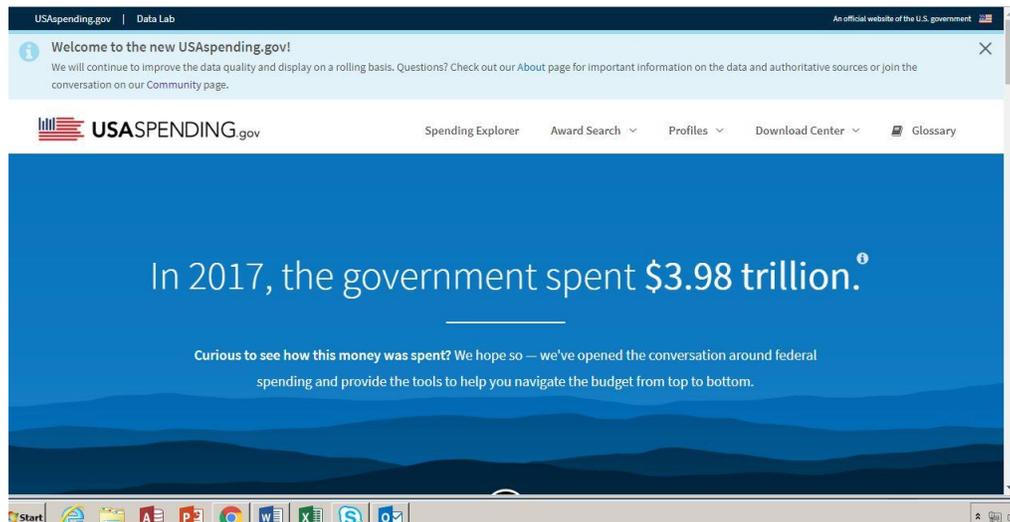
[USASpending.gov](#) tracks government spending through the contracts it awards. This searchable database contains information for each federal contract. You can use this information to help identify government purchasing trends.

- **Federal agency procurement forecasts**

Each government agency releases a procurement forecast that includes contracting opportunities for small businesses. You can review these [Agency Recurring Procurement Forecasts](#) to find out if there are agencies that are buying what you sell.

So how do you actually use these sites and analyze the data? This is a very time consuming effort, but a necessary one. Thankfully, the recently revised USASpending.gov site has an excellent search capability allowing you to drill down to specific agencies and actions. Before you begin to access these sites and download/analyze data, its best to understand why you're doing this and what are you trying to accomplish.

Following is an example of downloading and analyzing USASpending data for a simple commodity, humidifiers. First, enter into USASpending.gov:



Next, select the advanced search tab and type in your criteria. For this example, we're using humidifiers. Select the Fiscal Year(s) you want and run the search script.

The screenshot shows the 'Advanced Search' page on USASpending.gov. The search criteria are: Keyword: Humidifier; Time Period: Fiscal Year, FY 2018. A 'Submit Search' button is present. The main content area displays a large arrow pointing left and the text: 'Choose your filters and submit your search to begin.'

The results will appear like this:

The screenshot shows the 'Advanced Search' results page. The search criteria are 'Humidifier' and 'FY 2018'. The results are displayed in a table with columns: Award ID, Recipient Name, Start Date, End Date, and Award. The table contains 10 rows of data. A 'Download' button is visible in the top right corner.

Award ID	Recipient Name	Start Date	End Date	Award
W9128613C0004	CLARK MCCARTHY HEALTHCARE P...	1/29/2013	8/29/2018	\$873,2
VA101CFMC0003	CLARK/HUNT, A JOINT VENTURE-N...	9/23/2008	9/30/2018	\$399,2
VA101CFMC0039	MCCARTHY BUILDING COMPANIES,...	4/30/2009	12/31/2017	\$43,51
HHSN29200037	OLGOONIK MANAGEMENT SERVIC...	9/12/2013	5/2/2018	\$9,573
HHSN29200043	POLU KAI SERVICES, LLC	7/25/2017	2/11/2019	\$1,918
HHSN29200014	OLGOONIK MANAGEMENT SERVIC...	4/7/2010	1/31/2015	\$1,535
VA89D12C0244	CANNON MANAGEMENT GROUP, LLC	9/7/2012	3/30/2018	\$787,2
HHSN29200648	CHUGACH WORLD SERVICES, INC.	2/27/2015	1/31/2018	\$622,6
DTFACN13D00003CALL0002	DIVERSIFIED CONSTRUCTION OF O...	9/10/2014	5/31/2018	\$621,1
VA25816C0047	HGL CONSTRUCTION INC	3/10/2016	12/31/2017	

Next, select the "Download" button at the top right and follow the instructions. For this example, we downloaded the results for FY18 into an Excel file. Some searches will result in large volumes of data that may require the use of a database or other software to adequately analyze the data.

The results for humidifier are as follows:



Humidifier Spend
FY18.csv

The data fields are numerous allowing you to sort and group on a wide variety of structures. A listing of the data categories is contained in the following file:



USASpending Data
Categories.xlsx

In this simple example you can sort on the types of humidifiers being bought, which agency is buying them, the quantities being bought, and much, much more.

What makes a successful contractor?

The government prefers to work with established, reliable businesses. Do you have a track record of delivering quality goods and services on time and within budget? Is your reputation within your industry strong?

Not only can it take a long time to win your first government contract, it can take a significant amount of money. Some businesses spend between \$80,000 and \$130,000 to earn their first contract.

Also, it could take up to two years to start making a return on your investment. You'll need to have enough cash flow to sustain your business. Maintaining a diverse list of private-sector clients can help offset any potential initial losses.

Being savvy about e-commerce is very important in government contracting. For example, if you want to work with the Department of Defense, you must be able to invoice and receive payments electronically.

SBA Topic 2: Get Proper Registrations and ID Numbers

This is a critical step in the entire process and one that can be done at any time.

In order to sell goods and services to the government, you'll have to register your small business. (*Again, do note the pending transition from DUNS to [the new Unique Entity Identifier scheme](#).*)

DUNS number

Before you can bid on government proposals, you need to get a [Dun & Bradstreet number](#). A DUNS number is a unique nine-digit identification number for each physical location of your business.

When registering for your DUNS number, you'll need to have the following on hand:

- Legal name
- Headquarters name and address for your business
- Doing Business As (DBA) or other name by which your business is commonly recognized
- Physical address, city, state, and ZIP Code
- Mailing address (if different from headquarters and/or physical address)
- Telephone number
- Contact name and title
- Number of employees at your physical location
- Whether you're a home-based business

Once you have this information available, visit the [DUNS Request Service](#).

NAICS code

You'll also need to match your products and services to a North American Industry Classification System code. NAICS codes classify businesses based on the particular product or service they supply. A business will generally have a primary NAICS code, but it also can have multiple NAICS codes if it sells multiple products and services.

To find your NAICS code, view the NAICS code list at the [U.S. Census Bureau](#).

See the related sub-topic below for more information on NAICS codes.

Meet size standards

To be eligible for government contracts reserved for small businesses, your business must meet size requirements set by the SBA. These size standards define the maximum size that a business — and its affiliates — can be to qualify as a small business for a particular contract.

The SBA assigns a size standard to each NAICS code. Most manufacturing companies with 500 employees or fewer, and most non-manufacturing businesses with average annual receipts under \$7.5 million, will qualify as a small business.

However, there are exceptions by industry. You can view these in [Title 13 Part 121.201 of the Code of Federal Regulations](#) (CFR) or in the [SBA's table of small business size standards](#).

To determine if your business qualifies as “small” for government contracting purposes, use the SBA's [Size Standards Tool](#).

Although it may seem odd, your company can be both small and large at the same time. Depending upon the NAICS code and its associated size standard, you may be classified as small for one NAICS code and large for another.

Register with SAM

To participate in government contracting, you must register your business in the federal government's System for Award Management (SAM). SAM is a database that government agencies search to find contractors.

It is recommended that you read through the SAM registration user guide embedded below prior to beginning your entry.



User Guide
2018.pdf

Using SAM, you'll able to certify that your business is eligible for contracts that are reserved for small businesses. You'll also be able to represent if your business is eligible for contracts under an SBA contracting program because it is [disadvantaged](#), [women-owned](#), [veteran-owned](#), or located in an [underutilized area](#).

Your small business's profile in SAM is like a résumé. Creating a profile that's accurate and appealing is important to winning a government contract. Make sure to use accurate, descriptive terms about your business so that contracting officials will be able to find you in search results.

Maintain compliance

In order to participate in government contracting, you must comply with all laws and regulations. The federal government's purchasing process is governed by the [Federal Acquisition Regulation](#).

Regulations covering government contracting programs for small businesses are listed in [13 CFR 125](#).

SAM requires that you update your registration on an annual basis. ***Don't forget to do so!***

SBA Sub-Topic: Size standards define small business

Size standards define the largest size a business can be to participate in government contracting programs and compete for contracts reserved for small businesses. Size standards vary by industry, and are generally based on the number of employees or the amount of annual receipts the business has.

As mentioned previously, you can find small business size regulations in [13 CFR 121](#). Note that you may be covered by multiple NAICS codes. Also, please note that the NAICS codes in the 42xxxx through 45xxxx

series cannot be used by federal buyers (and federal prime contractors) when designating a NAICS code for any solicitation. Companies that are product distributors/resellers and not manufacturers have a size standard of 500 employees for all products (not services). Some federal contracting officers and contractor buyers are not aware of this and you may need to advise them of the rules at 13 CFR 121.406.

Common terms

There are some common terms you should be familiar with to help you ensure that a business is classified correctly as small.

- **Affiliates:** You must include the employees and receipts of all those affiliated when determining the size of a business. Affiliation with another business is based on the power to control, whether exercised or not. The power to control exists when an external party has 50 percent or more ownership. It may also exist with considerably less than 50 percent ownership by contractual arrangement or when one or more parties own a large share compared to other parties. Check the [SBA's compliance guide for size and affiliation](#) for more detailed information.
- **Annual receipts:** This is the "total income" (or "gross income") plus the "cost of goods sold." These numbers can normally be found on the business's Internal Revenue Service tax return forms. Receipts are averaged over a business's latest three complete fiscal years to determine the average annual receipts. If a business hasn't been in business for three years, multiply its average weekly revenue by 52 to determine its average annual receipts.
- **Employee calculation:** This is the average number of people employed for each pay period over the business's latest 12 calendar months. Any person on the payroll must be included as one employee regardless of hours worked or temporary status. The number of employees of a concern in business less than 12 months is the average for each pay period that it has been in business.

You can find the full definitions of these terms, and others, in [48 CFR 19](#).

Numerical requirements

Qualifying as small is one of the [basic requirements](#) your business needs to meet before you can compete for government contracts that are set aside for small businesses.

You can find out if your business qualifies as small by using the [Size Standards Tool](#), or by referencing the SBA's [table of small business size standards](#). Both the tool and the table help you find the small business classification requirements according to individual [NAICS codes](#).

When you calculate the size of your business, you must include the annual receipts and the employees of your affiliates. When another person or business can control your business, they are an affiliate. This is true even if they don't exercise their control.

The SBA determines affiliation in accordance with [13 CFR 121.103](#), and calculates receipts in accordance with [13 CFR 121.104](#). If you're unsure of whether you have an affiliate, check the SBA's affiliation guide.

General requirements

In addition to meeting the numerical standards for small businesses, your business must:

- Be a for-profit business of any legal structure
- Be independently owned and operated
- Not be nationally dominant in its field
- Be physically located and operate in the United States or its territories

Businesses outside the United States may still be counted as small if they have an operation in the United States that makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials, or labor.

How size standards are determined

Size standards are established by the SBA's Administrator. The Office of Size Standards makes recommendations to the administrator for establishing or revising size standards, according to changes in industries and the economy. When making these recommendations, the office uses the most recent NAICS codes available.

The [Size Standards Methodology Whitepaper](#) explains the SBA's process for establishing, reviewing, and modifying size standards.

You can follow announcements about updating size standards from the Office of Size Standards.

How you can comment on size standards

Size standards are reviewed every five years. When the SBA considers revising size standards, it issues a notice of proposed rules. The SBA takes comments from the public into consideration before finalizing proposed rules on size standards. The SBA welcomes suggestions on alternative methodologies, factors, datasets, effects on competition, and approaches that make sense in the current economic environment.

Size protests

Any interested party can [protest](#) a winning bidder's small business size status.

To file a protest, send the specific reasons for why you believe the winning business is not small to the contracting officer for that procurement. The procedures for making a size protest are outlined in [13 CFR 121.1001-1010](#).

There are severe criminal penalties for knowingly misrepresenting the size of a business for a federal contract. The penalties are defined in [13 CFR 121.108](#).

NAICS code appeals

Contracting officers must designate a NAICS code for a contract according to [13 CFR 121.402](#). However, you can appeal the NAICS code designation of any contract. You can learn more about how NAICS codes are assigned before you submit your appeal.

You must send any NAICS code appeal to the SBA's [Office of Hearings and Appeals](#) within 10 days of the publication of the solicitation. Follow the procedures in [13 CFR 121.1102-1103](#) and [134 Subpart C](#).

Need help?

[Office of Size Standards](#)

409 Third St. SW

Mail Code 6530, Eighth Floor

Washington, DC 20416

Phone: 202.205.6618

Fax: 202.481.1749

sizestandards@sba.gov

SBA Topic 3: Find Contracts

There are a number of databases you can use to find federal contracts to bid on. Similarly, there are multiple databases that government agencies use to find contractors.

Dynamic Small Business Search

The [Dynamic Small Business Search](#) is a database that government agencies use to find small business contractors for upcoming contracts. Small businesses can also use DSBS to find other small businesses to work with.

The SBA maintains the DSBS database. The information you provide when you register your business in the [System for Award Management](#) is used to populate DSBS, so you should create a comprehensive business profile on SAM.

Federal Business Opportunities

Federal business opportunities for contractors are listed at [Beta.Sam.Gov](#). Government agencies are required to use Beta.Sam.Gov to advertise all contracts over \$25,000.

GSA Schedules

If you want to sell to the government, securing a contract with the [U.S. General Services Administration](#) — the government agency that connects government buyers with contractors — is a great place to start. Securing a contract with the GSA also is called “getting onto the GSA Schedule,” which means you’ve been approved to do business with the government.

If you’re interested in getting on the GSA Schedule, you may want to pay for a [Past Performance Evaluation](#) report from Open Ratings. The report assesses your performance relative to businesses in the same industry, and is often requested as part of a vendor bid process. Your company must register and provide the names and email addresses of six to 20 of your customers.

Subcontracting opportunities

[SubNet](#) is a database of subcontracting opportunities posted by large contractors looking for small businesses to serve as subcontractors.

The SBA maintains a directory of [federal government prime contractors with subcontracting plans](#).

The GSA also publishes a [subcontracting directory](#) for small businesses that are looking for subcontracting opportunities with prime contractors. The directory lists large business prime contractors that are required to establish plans and goals for subcontracting with small businesses.

The U.S. Department of Defense maintains a similar [directory of large prime contractors](#) that small businesses can use to find subcontracting opportunities.

Marketing to the government

You may want to market your small business directly to a government agency or prime contractor. You can do that by learning what agencies or prime contractors need and then showing them how your business can fulfill that need.

Below are several databases mentioned earlier that can support your research:

- [Federal Procurement Data System – Next Generation](#) is the repository of all federal contracting data for contracts over \$25,000. With this system, you can see which agencies have contracts and with whom they have contracts, what agencies buy, and which contractors have contracts.
- [USASpending.gov](#) tracks government spending through contracts awarded. This searchable database contains information for each federal contract. You can use this information to help identify procurement trends within the government and potential opportunities.

Small business offices

Many federal agencies have what's called an Office of Small and Disadvantaged Business Utilization or an Office of Small Business Programs. These offices work to identify opportunities to contract with small businesses.

Each agency releases a procurement forecast that includes contracting opportunities for small and disadvantaged businesses. Once you've reviewed an agency forecast and used systems like the [Federal Procurement Data System](#) and [USASpending.gov](#) to identify opportunities at a specific agency, you can contact that agency's small business office. Also, each office hosts training and networking events to help small businesses identify contract opportunities.

Another website that may be useful is maintained by the Department of Veterans Affairs with links to each federal agency's business portal:

<https://www.va.gov/OSDBU/entrepreneur/businessFederalAgencies.asp>

Handling protests

When the government awards a contract, someone may allege that a winning business misrepresented itself, causing the contract to be awarded unfairly.

Size and status protests

A losing bidder, a contracting officer, the SBA, or another interested party or government official can file a protest, questioning a winning business's size or socio-economic status.

In the event of a protest, the SBA will determine the size or status of the winning small business. If the SBA determines that the business did not qualify for the set-aside, the business is no longer eligible for that contract.

Any of the interested parties can appeal the SBA's size determination to the SBA's [Office of Hearings and Appeals](#), which issues a final decision.

Certificate of Competency

If a federal contracting officer rejects a low bid from a small business because of questions about the business's ability to fulfill the contract, the case is referred to the SBA.

The SBA will then offer the small business a chance to apply for a Certificate of Competency. If the small business applies for a COC, the SBA will review the business's ability to fulfill the contract. If the business

demonstrates the ability to fulfill the contract, the SBA will issue a COC to the contracting officer, requiring the award of that contract to the small business.

A COC is valid only for the specific contract for which it is issued. A small business that's capable of handling one contract may not be qualified to handle another.

Bundling and consolidation

If you think a federal agency has engaged in bundling or consolidation practices that keep a small business from competing for a contract, contact your local [Procurement Center Representative](#).

Bundling and consolidation are defined in [Title 13 Part 125.1 of the Code of Federal Regulations](#).

Need help?

The SBA offers [counseling and other assistance](#) to small businesses that want to sell products and services to the government.

SBA Topic 4: Types of Contracts – There Are Several Different Ways of Contracting that Can Help You Win Awards from the Federal Government

To help provide a level playing field for small businesses, the government limits competition for certain contracts to small businesses. Those contracts are called “small business set-asides,” and they help small businesses compete for and win federal contracts.

There are two kinds of set-aside contracts: competitive set-asides and sole-source set-asides.

Competitive set-aside contracts

When at least two small businesses could perform the work or provide the products being purchased, the government sets aside the contract exclusively for small businesses. With few exceptions, this happens automatically for all government contracts under \$150,000.

Some set-asides are open to any small business, but some are open only to small businesses that participate in SBA contracting assistance programs.

Sole-source set-aside contracts

Most contracts are competitive, but sometimes there are exceptions to this rule. Sole-source contracts are a kind of contract that can be issued without a competitive bidding process. This usually happens in situations where only a single business can fulfill the requirements of a contract.

To be considered for a sole-source contract, register your business with the [System for Award Management](#) and participate in any [contracting program](#) you may qualify for.

In some cases, sole-source contracts must be published publicly, and will be marked with an intent to sole source. Potential vendors can still view and bid on these contracts. Once the bidding process begins, the intent to sole-source may be withdrawn.

Set-asides for government contracting programs

Some set-asides are for small businesses in certain socio-economic categories. You can bid on these set-aside contracts by participating in any of the SBA's contracting assistance programs listed below:

- **8(a) Business Development:** The federal government tries to award at least 5 percent of all federal contracting dollars to small disadvantaged businesses each year.
- **HUBZone:** The federal government tries to award at least 3 percent of all federal prime contracting dollars to HUBZone-certified small businesses each year.
- **Women-Owned Small Business:** The federal government tries to award at least 5 percent of all federal contracting dollars to women-owned small businesses each year.
- **Service-Disabled Veteran-Owned:** The federal government tries to award at least 3 percent of annual federal contracting dollars to service-disabled veteran-owned small businesses.

Participating in one of these SBA programs means you'll have fewer businesses to compete with to win a government contract. However, you must meet eligibility requirements and certify your business's socio-economic status before you can bid on a set-aside contract.

How to certify

The certification process may vary depending on the SBA contracting program. For some, you can self-certify just by updating your business profile in the [System for Award Management](#).

For other programs, you have to apply for certification. As part of the application, you'll answer questions about your business and its ownership, and upload supporting documents.

Check each [contracting program's page](#) for specific details about eligibility requirements and the certification process.

Joint ventures

Two or more small businesses may pool their efforts by forming a joint venture to compete for a contract award. A joint venture of multiple small businesses still qualifies for small business set-aside contracts if its documentation meets SBA requirements.

Small businesses that have a mentor-protégé relationship through the [All Small Mentor-Protégé program](#) can form a joint venture with a mentor (which can be a large business). These joint ventures can compete together for government contracts reserved for small businesses.

A joint venture can also bid on contracts that are set aside for [service-disabled veteran-owned](#), [women-owned](#), or [HUBZone](#) businesses, if a member of the joint venture meets SBA requirements to do so.

Need help?

[Office of Government Contracting & Business Development](#)

409 Third St. SW, Suite 8000

Washington, DC 20416

Phone: 202.205.6459

Fax: 202.205.5206

SBA Topic 5: Governing Rules and Responsibilities – Small Businesses Must Comply with Regulations

Regulations dealing with government contracting programs for small businesses are outlined in the [Title 13 Part 125 of the Code of Federal Regulations](#). The government's purchasing process is governed by the [Federal Acquisition Regulation](#). Some government agencies are authorized to have their own supplement to the FAR.

You can find all federal FAR supplements via the following website:

<http://farsite.hill.af.mil/>

As a government contractor, you also must comply with labor standards statutes (Service Contract Act, Contract Work Hours, Safety Standards Act, and more), as well as other statutes, unless the contract states that a particular statute isn't applicable.

You should understand the contract provisions protecting the integrity of the government procurement process. These provisions include the "officials not to benefit" clause, the "anti-kickback" provisions, organizational conflict of interest provisions, "gratuities" clause, and more. Look for these clauses in any contract the government provides.

Limitations on subcontracting

Under set-aside award conditions, small business prime contractors are required to perform minimum levels of work on a government contract.

These limitations ensure that otherwise ineligible businesses don't use small or disadvantaged businesses merely as vehicles to access set-aside contracts.

The limitations apply to contract set-asides for small businesses when the contract amount exceeds \$150,000, and all other [set-aside contracts](#) under the [8\(a\)](#), [HUBZone](#), [service-disabled veteran-owned](#), or [women-owned](#) small business programs.

- **Service contracts:** The small business prime contractor must provide at least 50 percent of the contract cost for personnel.
- **Supply contracts:** The small business prime contractor must perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials, unless the business qualifies as a non-manufacturer.
- **General construction contracts:** The small business prime contractor must perform at least 15 percent of the cost of the contract with its own employees, not including the cost of materials.
- **Specialty construction contracts:** The small business prime contractor must perform at least 25 percent of the cost of the contract with its own employees, not including the cost of materials.
- Under the HUBZone, women's contracting, or disabled veterans' programs, the small business prime contractor *can utilize similarly situated subcontractors* to meet these performance requirements.
- Under the HUBZone program, there are *higher performance requirements for construction contracts*.

The prime contractor's limitations on subcontracting are explained in detail in [13 CFR 125.6](#).

Non-manufacturer rule

The non-manufacturer rule is an exception to the usual requirement that contractors supplying goods to the government perform at least 50 percent of the cost of manufacturing the items. Simply put, it allows a small business to supply products it did not manufacture – as long as those products come from another small business.

The SBA can waive the non-manufacturer rule requirement. To do this, the contracting officer must apply for a non-manufacturer rule waiver.

The regulations that govern the non-manufacturer rule are outlined in [13 CFR 121.406](#).

Important elements of a government contract

Government contracts are generally similar to commercial contracts. However, there are some key differences that you need to understand.

Specifications

The government has exact specifications for most of the products and services it buys. As a contractor, you must deliver the product or service as described in the specifications. If you don't, the government may terminate your contract.

Inspection and testing

You're responsible for controlling the quality of the products and services you deliver to the government.

The government may inspect and test your products to determine if they meet contract requirements and specifications. The government won't accept a contractor's product unless it passes inspection. The type and extent of inspection and testing depend largely on what's being purchased.

Contract changes

The contracting officer may change the specifications and other contract terms. The changes must be "within the general scope of the contract." You must fulfill the contract as changed by the contracting officer.

If the government changes the general nature of the contract after it's been awarded, then you're entitled to a fair adjustment in price and delivery schedule.

The contracting office may make some unilateral changes, while other changes may be bilateral requiring your agreement. The contract provides a provision for resolving disagreements under the disputes clause.

Termination

If you don't meet your contractual obligations, the government may terminate — or cancel — the contract for default. The government may terminate a contract for default if:

- You fail to deliver within the time specified in the contract.

- You fail to make progress so as to risk the performance of the contract.
- You fail to comply with any provisions of the contract.

If your contract is terminated for default, you're entitled to payment for any goods or services you've already provided. If the government still needs the items that you failed to deliver, it can get them elsewhere and, if they cost more, charge you for the excess costs.

However, before terminating a contract for default, the contracting officer must give you a chance to improve your performance or show why the contract shouldn't be terminated.

If you can show that your performance is excusable, your contract won't be terminated. To be excusable, a delay must be beyond your control and not caused by your fault or negligence. If your contract is terminated for default and you can prove that the government's action was improper, the termination will be treated as being done for the "convenience of the government."

The government may terminate all or part of a contract for its convenience. Termination for convenience is not the fault of the contractor. Rather, it allows the government to cancel contracts for products or services that become obsolete or unnecessary.

The government must give you written notice of termination for convenience, but it's not required to give advance notice. After, the government will pay you for any work you've already done.

Payments

Your contract will specify the government office responsible for payment and will contain invoicing instructions. The more accurate your invoices, the more quickly you'll be paid. Under certain circumstances, if the government doesn't pay on time, you can request interest payments.

Under fixed-price contracts, the method of payment can vary with the dollar value of the contract. For relatively small contracts with a single item of work, you'll generally be paid in one lump sum after you deliver the product or service.

For larger contracts with many items, you can receive payments for partial deliveries. For larger fixed-price contracts and subcontracts where the first delivery is several months after the award, you may be able to receive progress payments based on costs incurred as work progresses.

Because progress payments are based on work that's not completed, you must repay the government if you fail to complete the work. To qualify for progress payments, you must have an accounting system that can accurately identify and segregate contract costs.

A contracting officer can assign payments under a contract to a separate institution, like a financing source. This can be valuable for contractors who are trying to secure financing.

Need help?

[Office of Policy, Planning and Liaison](#)

409 Third St. SW
Washington, DC 20416

SBA Step 6: Prime and Subcontracting – The Federal Government Helps Small Businesses Get an Opportunity to Subcontract on Federal Prime Contracts

Prime contractors work directly with the government. They manage any subcontractors, and are responsible for ensuring that the work is completed as defined in the contract.

Subcontracting with small businesses

Unlike prime contractors, subcontractors do not work directly with the government, but instead they work for other contractors. However, to become a subcontractor you still have to follow many of the same steps discussed above.

Subcontracting generally occurs under a large business prime contract. In certain instances, some small business prime contractors may be required to subcontract. Regardless of any mandate to subcontract, many prime contractors must subcontract portions of their work scope in order to deliver the required results in a timely manner. This is especially true in the services sector. Few prime contractors will have all of the necessary people and equipment necessary to fulfill the complete scope of work and will, therefore, need to procure assistance from other contractors via subcontracts.

The Federal Acquisition Regulation, Part 19.702, requires subcontracting under the following conditions:

19.702 – STATUTORY REQUIREMENTS.

Any contractor receiving a contract with a value greater than the simplified acquisition threshold must agree in the contract that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns will have the maximum practicable opportunity to participate in contract performance consistent with its efficient performance. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

(a) Except as stated in paragraph (b) of this section, section 8(d) of the Small Business Act (15 U.S.C. 637(d)) imposes the following requirements regarding subcontracting with small businesses and small business subcontracting plans:

(1) In negotiated acquisitions, each solicitation of offers to perform a contract that is expected to exceed \$700,000 (\$1.5 million for construction) and that has subcontracting possibilities, shall require the apparently successful offeror to submit an acceptable subcontracting plan. If the apparently successful offeror fails to negotiate a subcontracting

plan acceptable to the contracting officer within the time limit prescribed by the contracting officer, the offeror will be ineligible for award.

(2) In sealed bidding acquisitions, each invitation for bids to perform a contract that is expected to exceed \$700,000 (\$1.5 million for construction) and that has subcontracting possibilities, shall require the bidder selected for award to submit a subcontracting plan. If the selected bidder fails to submit a plan within the time limit prescribed by the contracting officer, the bidder will be ineligible for award.

(3) Each contract modification that causes the value of a contract without a subcontracting plan to exceed \$700,000 (\$1.5 million for construction), shall require the contractor to submit a subcontracting plan for the contract, if the contracting officer determines that subcontracting opportunities exist.

(b) Subcontracting plans (see subparagraphs (a)(1) and (2) of this section) are not required –

(1) From small business concerns;

(2) For personal services contracts;

(3) For contracts or contract modifications that will be performed entirely outside of the United States and its outlying areas; or

(4) For modifications that are within the scope of the contract and the contract does not contain the clause at 52.219-8, Utilization of Small Business Concerns.

(c) As stated in 15 U.S.C. 637(d)(9), any contractor or subcontractor failing to comply in good faith with the requirements of the subcontracting plan is in material breach of its contract. Further, 15 U.S.C. 637(d)(4)(F) directs that a contractor's failure to make a good faith effort to comply with the requirements of the subcontracting plan shall result in the imposition of liquidated damages.

(d) As authorized by 15 U.S.C. 637(d)(12), certain costs incurred by a mentor firm in providing developmental assistance to a protégé firm under the Department of Defense Pilot Mentor-Protégé Program, may be credited as if they were subcontract awards to a protégé firm for the purpose of determining whether the mentor firm attains the applicable goals under any subcontracting plan entered into with any executive agency. However, the mentor-protégé agreement must have been approved by the Director, Small Business Programs of the cognizant DoD military department or defense agency, before developmental assistance costs may be credited against subcontract goals. A list of approved agreements may be obtained at http://www.acq.osd.mil/osbp/mentor_protege/.

Locating subcontracting opportunities is *completely different* from locating federal prime contracting opportunities. Contractor procurement systems generally follow commercial procurement rules and regulations rather than the federal rules and regulations. While the general processes of market research, solicitation, award, and administration are similar, there are a few major differences that make the

identification of subcontract opportunities difficult. The major difference is that contractors are not required to utilize full and open competition and post all opportunities on a public website (e.g. FedBizOpps). Prime contractors perform their market research through a variety of methods but normally develop their list of potential subcontractors to solicit internally. Some may possess and utilize a public website/portal where some, but not all, solicitations are posted, but most simply develop their solicitation recipients without public knowledge.

You will have to do a lot of homework in order to find subcontracting opportunities, but some useful sites include:

- Prime Contractor Supplier Websites – Registration Portals ([listed below in Step 7](#))
- [Subcontracting Network \(SubNet\) database](#)
- GSA's [Subcontracting Directory for Small Businesses](#)
- Department of Defense [Subcontracting for Small Business](#) Directory
- SBA's [Directory of Federal Government Prime Contractors with a Subcontracting Plan](#)

Nevertheless, the best method for locating subcontracting opportunities is to identify which businesses are intending to propose as a prime contractor and engage them early to establish your firm as one that they will/might subcontract with. Much of this intelligence can only be done via contacts you make with other contractors as bidding information is generally closely held. Word of mouth through personal relationships developed with other contractors is your best method for identifying potential subcontract opportunities. Maintaining constant vigilance over trade information by reading trade publications, joining trade associations and attending their functions, keeping abreast of federal protests and audits, performing your own market research to identify your strengths/weaknesses and competitors are all a part of understanding where you have the best opportunities for subcontracting.

Another tactic that may be useful is to identify prime contracts expiring in the near future that have had subcontracts and determine if they are intending to re-propose or identify which of their competitors are likely to propose. Engage that contractors and market your firm as a potential subcontractor or even team member.

Awards with subcontracting plans

Some federal contracts require a subcontracting plan to outsource work to a small business subcontractor as *explained above*. Contracting officers can include specific subcontracting goals for the prime contractor to try to meet.

In its proposal to a large business, a small businesses must self-certify as small [for the NAICS code on the solicitation](#). If a small business fails to do this, a subcontract will not count toward small business subcontracting goals.

Any large business can publish outreach events, notices of sources sought, and solicitations for subcontracting work to the [subcontracting database](#) in an effort to locate small business subcontractors.

You can also use the [Dynamic Small Business Search](#) to find small businesses. Contact a [Procurement Technical Assistance Center](#) for more help finding small businesses to subcontract.

For additional guidance about complying with prime contractor requirements, contact a [Procurement Center Representative or a Commercial Market Representative](#).

Limitations on subcontracting

Under certain kinds of [set-aside contracts](#), small business prime contractors are required to perform minimum levels of work.

Subcontracting limitations are part of the [governing rules and responsibilities](#) that all contractors should be familiar with.

The limitations on subcontracting are fully defined in [13 CFR 125.6](#).

Compliance reviews

Any prime contractor with a subcontracting plan can be selected for a subcontracting compliance review. The review confirms the prime is following relevant regulations, processes, procedures, and the subcontracting plan.

If you're selected for review, a CMR or an official from the awarding agency will contact your government point of contact. The review will rate the prime contractor's level of conformity and identify any deficiencies that need to be addressed.

If the review identifies any deficiencies, the prime contractor must submit a corrective action plan to their CMR. The CMR will follow up with the contractor several months later to see if the corrective action plan was followed. The entire compliance review will be documented in the contract file.

Failing to address any deficiencies could result in negative past performance ratings, which can affect your future ability to receive federal contracts. It could also cause you to be assessed liquidated damages according to [FAR 52.211-11](#) and [FAR 52.211-12](#).

Subcontractor compliance

Large business contractors must ensure lower-tier subcontractors adhere to the requirements of subcontracting-related contract clauses. This includes monitoring and enforcing compliance with flow-down clauses, subcontracting plans, subcontract reporting, and subcontracting goals.

Prime contractors may be required to "flow down" some clauses of their contract to subcontractors. When that's the case, obtain an acceptable flow-down subcontracting plan from your Commercial Market Representative.

Subcontract reporting

To track compliance with subcontracting requirements, large businesses are required to submit regular subcontract reports using the Electronic Subcontract Reporting System. You'll need to submit reports even if you don't have any active subcontracts for the reporting period.

The reporting periods and due dates are as follows:

Reports due for an individual subcontracting plan

Report	Reporting Period End	Report Due
Mid-year individual subcontracting report	Beginning of contract – March 31	April 30
Annual individual subcontracting report	Beginning of contract – Sept. 30	Oct. 31
Summary subcontracting report – individual	Oct. 1 – Sept. 30	Oct. 31

Reports due for a commercial subcontracting plan

Report	Reporting Period End	Report Due
Summary subcontracting report – commercial	Oct. 1 – Sept. 30	Oct. 31

Subcontracting rules and regulations

The rules and regulations that govern the subcontracting program are fully defined in the [Code of Federal Regulations](#), the [Federal Acquisition Regulations](#), and supplements that are individually published by federal agencies.

Here are some of the most-used subcontracting program regulations:

- [13 CFR 121.404](#): When is the size status of a business concern determined?
- [13 CFR 121.410](#): What are the size standards for SBA's Section 8(d) Subcontracting Program?
- [13 CFR 121.411](#): What are the size procedures for SBA's Section 8(d) Subcontracting Program?
- [13 CFR 125.3](#): What types of subcontracting assistance are available to small businesses?
- [FAR 19.7](#): The Small Business Subcontracting Program
- [FAR 52.212-5](#): Contract Terms and Conditions Required to Implement Statutes or Executive Orders — Commercial Items
- [FAR 52.219-8](#): Utilization of Small Business Concerns
- [FAR 52.219-9](#): Small Business Subcontracting Plan
- [FAR 52.244-6](#): Subcontracts for Commercial Items

Training and education

The SBA provides free training to both prime contractors and subcontractors. The courses are held online, and you don't need to register ahead of time.

Check the SBA's [upcoming events](#) to find training on subcontracting topics.

Need help?

A [Procurement Center Representative](#) can help you with subcontracting questions before a contract is awarded.

A [Commercial Market Representative](#) can help you with subcontracting questions after a contract is awarded.

The [Office of Policy, Planning and Liaison](#) can help you with questions about subcontracting rules and regulations.

If you have questions about the Electronic Subcontract Reporting System, go to www.fsd.gov or call 1-866-606-8220 (within the United States) or 334-206-7828 (outside the United States).

For technical assistance with SubNet, email GLS@sba.gov.

Step 7: Subcontracting with the Department of Energy Major Site and Facility Contractors

The Department of Energy spends the vast majority of its budget through a relatively small number of major site and facility management contracts. The DOE, including the National Nuclear Security Administration, has under its management the National Laboratories, production plants, and cleanup operations of former weapons production facilities. A complete listing of these contracts with other information can be found at:

<https://www.energy.gov/management/office-management/operational-management/department-energy-guidance-acquisition-financial>

Useful contact information including each site's small business program manager can be found at:

<https://www.energy.gov/sites/prod/files/2018/07/f53/SBPMs%20Directory%20-%20July20%202018.pdf>

Each site's new supplier business portals can be accessed via the below listed links:

Location	Website
Kansas City National Security Campus	https://supplier.kcncsc.doe.gov/ptl/
Lawrence Livermore National Laboratory	https://www.llnl.gov/doing-business
Los Alamos National Laboratory	https://www.lanl.gov/business/vendors/index.php
Nevada National Security Site	https://www.nnss.gov/pages/NFO/Procurement.html
Pantex Plant	https://pantex.energy.gov/suppliers
Sandia National Laboratories	http://www.sandia.gov/working_with_sandia/prospective_suppliers/index.html
Supply Chain Management Center	https://thescmgroup.energy.gov/
Y-12 National Security Complex	https://www.y12.doe.gov/suppliers
Hanford Waste Treatment Plant	https://www.hanfordvitplant.com/business-opportunities
West Valley Demonstration Project	http://www.chbvw.com/Doing_Business.htm
Plateau Remediation Contract	https://chprc.hanford.gov/page.cfm/Suppliers-and-Contractors
Portsmouth Decontamination and Decommissioning Program	http://www.fbportsmouth.com/working-with-us/index.htm
Idaho Clean-up Project Core Contract	https://fluor-idaho.com/Procurement/default.aspx
Paducah Deactivation and Remediation Project	https://fourriversnuclearpartnership.com/about/doing-business
Paducah Gaseous Diffusion Plant Portsmouth Gaseous Diffusion Plant	http://duf6-mcs.com/duf6-suppliers-and-contractors.html
Hanford Mission Support	https://www.hanford.gov/pmm/
Waste Isolation Pilot Plant	http://www.wipp.energy.gov/library/cpp/cpp.htm
Savannah River National Laboratory	https://www.srs.gov/general/busiops/PMMD/index.htm
Savannah River Liquid Waste Disposition	http://srremediation.com/business.html
East Tennessee Technology Park Cleanup	http://info.ettp.energy.gov/
Tank Operations Contract	https://www.hanford.gov/tocpmm/

Ames Laboratory	https://www.ameslab.gov/operations/purchasing
Argonne National Laboratory	https://www.anl.gov/procurement
Brookhaven National Laboratory	https://www.bnl.gov/PPM/main_e.asp
Fermi National Accelerator Laboratory	http://www.fnal.gov/pub/resources/industrial-partnerships/index.html
Lawrence Berkley National Laboratory	http://procurement.lbl.gov/welcome-to-procurement-property/small-business-program/
Oak Ridge National Laboratory	https://web.ornl.gov/adm/contracts/
Pacific Northwest National Laboratory	https://www.pnnl.gov/contracts/homepage.aspx?area=Procurement
Princeton Plasma Physics Laboratory	https://procurement.pppl.gov/
SLAC National Accelerator Laboratory	https://suppliers.slac.stanford.edu/
Thomas Jefferson National Accelerator Facility	https://www.jlab.org/finance/procurement

Establishing and maintaining working relationships with DOE OSDBU contacts, registering with each prime contractor via their individual supplier interest portals, and maintaining relationships with their small business managers will greatly assist you in identifying potential subcontractor opportunities. Each site has a supplier registration function that allows you to input some basic data about your firm and make yourself known. The act of registration cannot take the place of personally engaging the small business program manager and providing further information. The DOE OSDBU's website (<https://www.energy.gov/osdbu/office-small-and-disadvantaged-business-utilization>) contains further information on doing business with the department.

The Supply Chain Management Center (www.thescmcgroup.energy.gov) is another venue through which you may identify potential opportunities. While their focus is on strategic commodities and strategic pricing agreements that multiple (regional) or all NNSA and Office of Environmental Management sites may utilize, they also make your marketing information available to each of the NNSA and EM prime contractors.

DOE OSDBU has [an annual small business conference](#) that offers marketing opportunities as you can meet many of the site/facility contractors, as well as other federal organizations. Educational presentations also are provided. (Other federal agencies provide similar conferences.) Individual site/facility contractors often have site-specific outreach events. Many are posted on the DOE OSDBU calendar that can be viewed at the following website:

<https://www.energy.gov/osdbu/calendars/office-small-and-disadvantaged-business-utilization-events>

Attending these events and maintaining close contact with the appropriate procurement and small business managers is key to obtaining subcontracts within the department.

APPENDIX

Acknowledgement

Special thanks to the Kansas City, SBA Procurement Center Representative, and the U.S. Small Business Administration for their assistance in the development of this document.

About the SCMC

By taking a common sense approach to strategic sourcing and leveraging common commodities for federal sites (specifically the National Nuclear Security Administration and the U.S. Department of Energy's Environmental Management sites), the Supply Chain Management Center makes the buying process easier, more efficient and effective, while enabling enterprise-wide savings of more than \$525 million in the last five years. Founded in 2006, SCMC makes life easier for buyers and sellers. It serves as a center of excellence across the enterprise, enabling pricing and process efficiencies. It values small business, using contracting criteria that ensures compliance and fair market competition, resulting in the overall best value for contract awards, while supporting the development of local, small, and minority owned businesses. To learn more, visit thescmgroup.com.