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Environmental Management Advisory Board Meeting

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Director, Office of Acquisition Management
March 22, 2006



EM SMALL BUSINESS PROGRAM OVERVIEW

- **EM Small Business Contract Awards**
- **FY 2006 Small Business Goals**
- **May 2005 GAO Report on Small Business Subcontracting**
- **Department of Energy/Small Business Administration Memorandum of Understanding**



EM SMALL BUSINESS PRIME CONTRACT AWARDS

- **Consistent with EM Small Business Contracting Strategy EM has awarded 11 significant prime contracts to small business firms**
- **Total award values range from \$3.8 million to \$191.6 million**
- **As a result of changed site priorities, the Fast Flux Test Facility Small Business Procurement was cancelled.**
- **Four Small Business ID/IQ Task Orders have been awarded – the largest with a value of \$19.4 million**



EM Small Business Goals

- **EM has established an FY 2006 Small Business goal of \$207.9 million representing 3.35 percent of total FY 2006 projected contract obligations**
- **In FY 2005 EM exceeded its Small Business Funding goal of 2.49 percent (\$171.7 million)**
- **Actual FY 2005 Accomplishments were 3.0 percent with small business obligations of \$202.6 million**



GAO Report on DOE Small Business Subcontracting

- **In May 2005, the Government Accountability Office (GAO) issued a report on small business subcontracting (GAO-05-459)**
- **GAO examined the subcontracting practices of 13 Department of Energy facility management contractors**



GAO Findings

- **The Small Business Administration (SBA) Guidelines permit exclusions from the procurement base for both contractors and the Federal government**
- **In the past contractors excluded from their procurement bases items that could not be purchased from small business including site utility services**
- **GAO found that these exclusions were inconsistent with SBA guidelines that limit exclusions to purchases from affiliates and foreign contracts**
- **GAO further found that the expanded list of exclusions taken by the contractors included in their review led to overstated small business goal achievement**



Factors Mitigating GAO Findings

- **Exclusions taken were consistent with DOE historical practices**
- **SBA guidelines refer to “maximum practicable opportunity” for small business subcontracting. Because utilities and similar exclusions could not be provided by small business firms, contractors believed these exclusions were permissible**
- **Despite their findings, GAO acknowledged small business subcontract funding of \$3.3 billion by facility management contractors in FY 2004**



GAO Recommendations

- **Ensure that facility management contractors follow guidelines for reporting subcontracting achievements**
- **Issue guidance to clarify oversight responsibilities**
- **Calculate achievements as a percent of annual contract funding**



DOE Response/Actions

DOE has completed action on all GAO recommendations:

- **In FY 2006, contractors were required to certify that subcontracting goals were based only on exclusions of affiliate purchases and foreign contracts**
- **On June 10, 2005, DOE issued Acquisition Letter 2005-08, *Small Business Programs*, to improve the accuracy of small business data and better define roles and responsibilities**
- **DOE did not agree with GAO's recommendation to calculate goal achievement as a percentage of annual contract funding, but agreed to collect the data internally**



EM Actions Related to GAO Report

- **EM continues to rely on the Head of Contracting Activity, site Contracting Officers and Small Business Program Managers to ensure compliance with Federal guidelines**
- **In FY 2006, EM reviewed each EM site subcontracting goal and ensured that each EM site submitted a certification that subcontracting goals were based on SBA authorized exclusions**
- **EM small business representatives are members are of a working group established by the Office of Small and Disadvantaged Business Utilization to improve oversight of subcontracting goals**



DOE/SBA Memorandum of Understanding

- **The Emergency Supplemental Appropriations Act for Defense, the Global War on Terror and Tsunami Relief (P.L. 109-13, 2005) required DOE to enter into an MOU with SBA**
- **The purpose of the MOU was to establish a methodology for measuring DOE small business achievement**



DOE Historical Small Business Practices

- **March 1991 – Office of Federal Procurement Policy (OFPP) permitted DOE to include subcontracts awarded by its management and operating (M&O) contractors in measuring its small business accomplishments**
- **November 1999 – OFPP issued a rescission of its earlier direction effective in FY 2000**



DOE ACTIONS

- **DOE established a 20-year plan to meet Government-wide statutory goals that include:**
 - **23% prime contracts for small business**
 - **5% prime/subcontracts for small disadvantaged businesses**
 - **5% prime/subcontracts for woman-owned small businesses**
 - **3% prime contracts for HUBZone small businesses**
 - **3% prime/subcontracts for service-disabled veteran-owned small businesses**



MOU Provisions

The MOU provides the methodology for calculating of achievements for prime contracts and subcontracts:

Prime Contracts:

$$\text{SB \%} = \frac{\text{FY SB Obligations}}{\text{FY Procurement Base (Total Prime contract obligations less exclusions)}}$$



MOU Provisions

Subcontracts:

$$\% \text{ SB} = \frac{\text{SB Subcontract \$}}{\text{Subcontract Procurement Base}} \\ \text{(Total Subcontract \$ Available Less Exclusions)}$$



DOE Small Business Program

Discussion/Questions