**Subcontracting Reform – USAID Subcontracting Regulations**

As part of the National Federal Contractors Association (NaFCA) and Set-Aside Alert Solutions Summit on Subcontracting Reform, focus working groups were formed. They are made up of small businesses that do business with the federal government and developed the following solution:

**Solution**

Implement the USAID approach to subcontracting management.

**Background and Discussion**

USAID has implemented a new process to incorporate subcontracting past performance in the evaluation of offers in response to its RFPs. This process requires bidders to describe past compliance, submit copies of their SF294s, provide points of contact for three small business subs that can attest to the prime’s willingness to work with small business (sort of an Open Ratings-type survey vehicle for subcontracting past performance), delineation of the names of the proposed subs, letters of commitment from the subs as to their roles, and indications of work-share or assignments. Such criteria go to the heart of many concerns in the subcontracting community. The RFP clauses are excerpted below:

(d) Performance in Using Small Business (SB) Concerns (as defined in FAR 19.001).

(1) This section (d) is not applicable to offers from small business concerns.

(2) As part of the evaluation of performance in Section M.1 of this solicitation, USAID will evaluate the extent you used and promoted the use of small business concerns under current and prior contracts. The evaluation will assess the extent small business concerns participated in these contracts relative to the size/value of the contracts, the complexity and variety of the work small business concerns performed, and compliance with your SB subcontracting plan or other similar small business incentive programs set out in your contract(s).

(3) In order to fully and fairly evaluate performance in this area, all Offerors who are not small business concerns must do the following:

(A) Provide a narrative summary of your organization's use of small business concerns over the past three years. Describe how you actually use small businesses--as subcontractors, as joint venture partners, through other teaming arrangements, etc. Explain the nature of the work small businesses performed--substantive technical professional services, administrative support, logistics support, etc. Describe the extent of your compliance with your SB subcontracting plan(s) or other similar SB incentive programs set out in your contract(s) and explain any mitigating circumstances if goals were not achieved.

(B) To supplement the narrative summary in (A), provide with your summary a copy of the most recent SF 294 “Subcontracting Report for Individual Contracts" for each contract against which you were required to report for the past three years.

(C) Provide the names and addresses of three SB concerns for us to contact for their assessment of your performance in using SB concerns. Provide a brief summary of the type of work each SB concern provided to your organization, and the name of a contact person, his/her title, phone number, and e-mail address for each

. . . .

(I) The information set forth below shall be provided for each subcontractor, if any, proposed. A separate sheet shall separate each element of subcontractor information, as well as each subcontractor. Each page shall have the subcontractor’s name clearly marked.

(1) A letter, on subcontractor letterhead, and signed by an authorized representative of each subcontractor, which specifically indicates the subcontractor's agreement to be included in the offeror's proposed teaming arrangement.

(2) The offeror must address each of the elements in FAR 44.202-2 in order for proposed subcontractor(s) to be considered by the contracting officer for consent of subcontractor(s) to be granted with the award.

(3) A discussion and arrangement on type(s) of subcontract(s) to be used, and approximate percentage of each type of work to be subcontracted.

(4) The offeror and each proposed major subcontractor shall indicate the number of hours and days in its normal work-day and its normal work-week, both domestically and overseas, for employees and consultants. In addition, the offeror and each proposed major Subcontractor shall indicate how paid absences (US holidays, local holidays, vacation and sick) shall be covered.

(5) A normal work-year, including paid absences (holidays, vacations, and sick leave) is 2,080 hours (260 days x 8 hours per day). However, some organizations do not have an 8-hour workday, and some accounting systems normally provide for direct recovery of paid absences by using a work-year of less than 2,080 hours to compute individuals' unburdened daily rates. Accordingly, the offeror and major subcontractors shall describe their work day and work week policies.

If the Offeror (Prime Contractor) is not a U.S. small business, U.S. small disadvantaged or U.S. women-owned small business concern, a small business subcontracting plan must be submitted as a part of the proposal. If an acceptable subcontracting plan cannot be negotiated, the Offeror will be ineligible for award.

As part of the evaluation criteria addressing Past Performance, offerors are required to demonstrate effective use of Small, Small Disadvantaged and Women-owned Small Businesses in activities undertaken in the past. This factor will not apply to a U.S. SDB Offeror. Information required for evaluation of this factor may go beyond, and require supplementation to, the information included in the small business subcontracting plan described in the preceding paragraph.

Reporting mechanisms

The Contractor's subcontracting plan [date of the Subcontracting plan] will be incorporated as a material part of the contract. The plan should be forwarded to the following address:

Name of Agency

Office of Small and Disadvantaged Business Utilization

Address

Small Disadvantaged Business (SDB) Participation

1. Narrative summary of offeror’s organization’s use of small businesses concerns over the past three years. Description of how offeror uses small businesses-as subcontractors, as joint venture partners, through other teaming arrangements, etc. Explain the nature of the work small businesses performed--substantive technical professional services, administrative support, logistics support, etc. Describe the extent of the offerors compliance with SB subcontracting plan(s) or other similar small business incentive programs set out in your contract(s).
2. Summary copy of the most recent “Subcontracting Report for Individual Contracts” for each contract against which there were requirements to report for the past three years.
3. Names and addresses of three SB concerns for [name of agency] to contact for their assessment of offeror’s performance in using SB concerns. Brief summary of the type of work each SB concern provided and the name of the contact person, his/her phone number, and e-mail address for each.

Subcontracting Plan

A large business must submit a Subcontracting Plan. Submitted Plans must address subcontracting with small business (SB), veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. Include a copy of the subcontracting plan in the Technical Proposal showing percentages of SB utilization. In addition, include a copy of the same subcontracting plan in the Pricing Proposal showing the corresponding amounts. The Technical proposal shall not show actual amounts.

EVALUATION

[Name of Agency] will evaluate all proposals in accordance with the following criterion for SDB participation

1. The extent to which SDB concerns are specifically identified
2. The complexity and variety of the work SDB concerns are to perform
3. Past performance of offerors in complying with subcontracting plan goals for SDB concerns and monetary targets for SDB participation
4. The extent of participation of SDB concerns in terms of the value of the total acquisition