**Subcontracting Reform – RFP Requirement for Subcontracting Strategy**

**Solution**

On contracts worth more than $1,000,000, large business prime contractors will be required – by the RFP – to submit a subcontracting strategy to be evaluated by proposal evaluators for competence and quality of the subcontractor. The proposed regulation will require that a prime contractor’s proposal must include a formal, comprehensive subcontracting strategy that will clearly identify the work that will be performed by the small business subcontractors that are identified in the proposal. The RFP-required subcontracting strategy will also identify the exact timeframe for which the subcontractor will be performing contract work, and what the value of said contract work will be.

The subcontract becomes valid when the large business prime is formally awarded the contract.

**Benefits**

* The proposal evaluation team has the opportunity to review and evaluate the total solution that the prime contractor is proposing, and has the certainty that the work will be performed exactly as detailed in the proposal, including the personnel and capabilities.
* The large business prime contractor is relieved from the obligation of developing a subcontracting plan, resulting in
  + Substantial cost and time savings to the large business
  + Substantial cost and time savings to the contracting officer
  + Substantial cost and time savings to the entity tasked with reviewing and evaluating the subcontracting plan
  + Substantial cost and time savings to small businesses as the RFP requirement ensure that only those small businesses, who will ultimately perform on the contract, will negotiate to be part of the subcontracting strategy
* Institutionalizes ethical private sector business practices into the federal market place

**Background and Discussion**

After over 20 years of large business federal prime contractors submitting subcontracting plans, which were fulfilled very inconsistently, the SBA and the legislative branch are currently focusing attention on enhancing the effectiveness of the federal government’s subcontracting policies. At the same time, the several trillion dollar federal budget shortfall provides an opportunity for a close review on how to enhance the effectiveness of the federal subcontracting program so that it meets the spirit and letter of the law. When Public Law 95-507 was signed into law in 1978, it was to support the policy of the Government to provide maximum practicable opportunities in its acquisitions to small and disadvantaged businesses.

At present, there is significant effort by the small business federal contractors to improve requirements for federal subcontracting plans. The RFP-required subcontracting strategy proposal will streamline, eliminate or minimize cost to the government and large companies in ensuring compliance with federal subcontracting provisions and ensure that regulations conform to the government’s original intent of providing maximum opportunities to small and disadvantaged businesses in the federal marketplace.

Further, it will ensure that the federal government has complete access to and benefit from the total capabilities that will be used on the contract by the prime and small business subcontractors. There have been many cases when there is no consistency between what large businesses originally propose in their subcontracting plans and what actually occurs with regard to small business support on the contract.

Frequently, prime contractors use the credentials, past performance, or other unique capabilities of small business subcontractors to help them win a federal contract. However, after the federal government awards the contract to the large business prime, the prime contractor fails to provide the small business subcontractor with any actual work or does not use the small business subcontractor throughout the life of the contract. Ahead of contract award, prime contractors often form so-called “teaming agreements” with small business subcontractors. Unfortunately, these agreements do little to bind the prime contractors to their ethical and legal obligation of utilizing the small business subcontractors that helped in preparing the proposal.

Too often, prime contractors begin preliminary discussions and work with these small business subcontractors in order to increase their chances of securing the contract award. These small firms spend significant resources on industry analysis and capture strategy development and implementation, in order to be on the initial contract bid teams. Many of the small business subcontractors are eliminated by the large business prime from the process, once the prime contractor secures the bid. Often, the small firms receive no communication from the prime once the contract is awarded, left with no indication on why they are not being called to perform the work. This bait and switch tactic contributes to the perception of unethical practices by large businesses in the federal contracting industry.

The most important justification and value of the proposed RFP-required subcontracting strategy solution is its focus on ethical business practices. For the first time since the inception of the SBA and its management of the federal government’s subcontracting program, a clear focus on ethical business practices will exist. What both the executive and legislative branch must clearly identify is the true purpose of the federal subcontracting regulations, which is to contribute to the competitiveness of the small business federal contractor community by enhancing capacity.