

GUIDELINES

FOR

THE SMALL BUSINESS PROCUREMENT INITIATIVE

PROCUREMENT SERVICES

PROCUREMENT GOODS

INFORMATION TECHNOLOGY



pennsylvania

DEPARTMENT OF GENERAL SERVICES

HARRISBURG, PENNSYLVANIA

MARCH 6, 2013 EDITION

Guidelines for the DGS Small Business Procurement Initiative For Contracts for Goods and Services

1. General

- a. Pursuant to Executive Order 2011-09, the purpose of the Department of General Services' (DGS) Small Business Procurement Initiative (SBPI) is to provide DGS-certified small businesses with opportunities to compete against other DGS-certified small businesses for commonwealth agency and DGS statewide contracts. The goal is to foster opportunities for growth and advancement among these small businesses. While the program aims to foster competitive procurement, it does not guarantee every properly certified small business will receive a contract.
- b. All commonwealth agencies under the governor's jurisdiction are required to identify and target contracts for the SBPI, pursuant to direction provided by DGS. Independent agencies are also encouraged to participate.
- c. Under the SBPI, a business that satisfactorily completes the self-certification process will be deemed a "Small Business." Only Small Businesses will be eligible to bid on prime contracts issued within this program.
- d. Certification and participation in DGS' SBPI is race and gender neutral. The SBPI website may contain optional links to assist a Small Business interested in pursuing other certifications, but self-certification in the SBPI is a separate and distinct process from the DGS certification process for minority, woman, or veteran owned businesses.
- e. DGS reserves the right to modify these guidelines as necessary. The amended guidelines will be posted on the DGS website with the changes highlighted for easy comparison to the prior version.

2. Definition of a Small Business

In order to be considered a small business, a business must meet ALL of the following criteria:

- a. It must be a United States business.
- b. It must be independently owned.
- c. It cannot be dominant in its field of operation.
- d. It cannot exceed 100 full-time or full-time equivalent employees.
- e. It must earn less than \$20,000,000 in gross annual revenues (\$25,000,000 in gross annual revenues for those businesses in the information technology sales or service business).
- f. It must meet any and all criteria established by DGS regulation.

3. Certification Process

- a. **Process** - The process for certification is a self-certification process detailed at the link on the DGS SBPI Program website: www.smallbusiness.pa.gov. The SBPI Certification Application will provide a step-by-step questionnaire to be completed by a duly authorized person representing the business.
- b. **Time Period Certification is Valid** - The Self-Certification shall be valid for a period of one (1) calendar year from the day the DGS SBPI certificate is issued.
- c. **Fluctuation of Data within the 1 year period** - The Small Business' gross annual revenue figure may fluctuate within that one (1) calendar year certification period so long as the figure was accurate at the time of the certification.
- d. **Re-certification** – The small business assumes responsibility for re-certifying before the lapse of the one (1) calendar year period. If the certification lapses, the business may not bid on or be awarded any SBPI contracts during the period it does not have an active certification. A DGS-certified business will be notified thirty (30) days prior to the expiration of its certification. A valid DGS SBPI certificate will be required as part of the bid in order to be deemed a responsive bidder. Any business without a valid certificate as of bid date may be rejected as unresponsive.

4. Scope of Work for Small Business Procurement Initiative Contracts and Exclusions

Contracts to be included in the SBPI will be determined on a case by case basis utilizing the following criteria. Note: Agencies are not limited to considering only these factors in identifying contracts suitable for competition by, and award to, small businesses.

- a. Sufficient number of small businesses in the marketplace qualified to responsibly provide the goods or services required to generate competition.
- b. The small businesses are able to satisfactorily provide the scope of the goods or services required (e.g. distribute goods across the Commonwealth, provide a specific expertise).
- c. Contract value is less than the small business definition for gross annual revenue.
- d. Contract value is not increased by more than X% when compared to current contract. Current contract prices must not be more than one year old. The percentage will vary by procurement and agency budgets. It will be noted in the bidding documents.
- e. Contracts for emergency or sole source procurements, regardless of dollar value, are not within the scope of this Program.

5. Procurement Process

- a. The procurement processes documented in the Procurement Handbook will be utilized for all SBPI procurements subject to the following exceptions:
 - i) For those contracts identified for award to small businesses, agencies shall seek competition only from qualified DGS-certified small businesses and shall award contracts only to qualified DGS-certified small businesses.
 - ii) Only properly DGS self-certified small businesses will receive a notice of bid opportunities that are part of the SBPI. Notices will be issued through DGS' eMarketplace: <http://www.emarketplace.state.pa.us>.
 - iii) Any potential bidder who does not have a DGS SBPI certificate as of bid due date will not be eligible to bid on opportunities that are part of the SBPI.
 - iv) Any bid submitted that does not contain a valid DGS SBPI certificate may be rejected as non-responsive.
- b. The small business must self perform 60% of the work in house.
- c. DGS reserves the right to adjust the revenue requirements on an individual contract basis. For example, the Department may choose to limit bidders to a specific range of revenue, i.e., under \$1 million.
- d. An SBPI procurement may be canceled and re-issued as a solicitation open to all businesses when after solicitation the issuing agency determines that one of the conditions set forth in Subsections 2.a.-d. above does not reasonably exist. Such determination shall not be invalidated and the procurement will not be required to be returned to the SBPI program regardless of the results of any such reissuance.

6. Enforcement and Verification of Eligibility

- a. Every small business that is awarded a contract will be reviewed in detail by the Commonwealth to verify the accuracy of the statements made during the self-certification process and to verify self-performance of the contract and any subcontracting to other small businesses.
- b. DGS retains the right to investigate at any time and for any reason the accuracy of any and all statements or assertions made by any business or individual in obtaining self-certification as a small business, re-certification or in bidding on a Commonwealth contract targeted for small businesses.
- c. Any individual or firm submitting a bid on a Commonwealth contract targeted for small businesses agrees to cooperate fully with any commonwealth agency in verifying the accuracy and current status of the business' status.

- d. Any business determined by the Commonwealth to have provided false information in connection with obtaining or attempting to obtain either certification or a contract under this DGS SBPI Program shall repay all reasonable expenses incurred by the Commonwealth during the investigation of the business.
- e. Subject to the provisions of the Unsworn Falsifications to Authorities Act (18 P.S. § 4904), anyone providing false information to the Commonwealth of Pennsylvania in connection with obtaining or attempting to obtain certification, re-certification or a contract under the SBPI will be subject to the following:
 - i. A determination by the Contracting Officer that the business and/or person is not responsible;
 - ii. A determination that a contract entered into is void or voidable under § 1711.2 of the Commonwealth Procurement Code;
 - iii. Liability for any costs incurred by the Commonwealth in investigating potential violations relating to the validity of information submitted during the self-certification process;
 - iv. Suspension and/or debarment under §531 of the Commonwealth Procurement Code;
 - v. Criminal prosecution for procurement fraud, perjury, or other applicable crimes;
 - vi. An entry in the Commonwealth's Contractor Responsibility Program System; and
 - vii. All other actions permitted by law deemed necessary to protect the Commonwealth's interest and ensure compliance with the laws of the Commonwealth.

7. Withdrawal from the Program

- a. A Small Business may withdraw from the Program at any time for any reason.
- b. The date of withdrawal shall be the date DGS receives written notice from the Small Business of their intent to withdraw.
As of the date of withdrawal:
 - viii. The business will not be eligible to bid on any Small Business Procurement Initiative reserved opportunity; and
 - ix. The business will not receive any further notices on Small Business Procurement Initiative opportunities.
- c. A Small Business may re-enter the Program at any time with proper self-certification which will be based upon the Gross Sales Income limits in effect at the time of re-certification.

8. Termination from the Program

The Department may terminate a Small Business' eligibility to participate in the Program by revoking the business' Small Business Self-Certification for one or more of the following reasons:

- a. A final determination by an authority having jurisdiction that the Small Business violated any one or more of the requirements set forth in the Self-Certification Application describing Enforcement and Verification of Eligibility.
- b. A written notice of default and/or notice of termination issued by DGS pursuant to the terms and conditions of a Small Business contract.

9. Monitoring and Reporting System to Measure Effectiveness of Program

Pursuant to Paragraph 2(e) of the Governor's Executive Order, DGS will measure the effectiveness of the Small Business Program by monitoring the following data on a yearly basis:

- a. Increase/Decrease in the number of businesses attempting and/or successfully completing the self-certification process; and
- b. Increase/Decrease in the number of contracts awarded to Small Businesses.
- c. For each individual Small Business:
 - i. Number and dollar value of contracts awarded and/or completed; and the
 - ii. Increase/decrease in gross annual sales compared to:
 1. The prior year; and
 2. The original sales figure on the self-certification certificate; and
 3. Comparison of business' activity for sales growth and work orders for similarly categorized firms within the database.