

# SPRINGFIELD BUSINESS JOURNAL

SERVING SOUTHWEST MISSOURI

Reprinted from November 11, 2013

## Making government work for small business

### INDUSTRY INSIGHT

Chris Weiss

With the lingering effects of the recent government shutdown and continued debate regarding the nation's spending and debt, it is useful to consider how government spending can assist small businesses and the impact it has on our economy. Because small businesses are the economic engine of our nation, Congress has chosen to promote socioeconomic policies favoring them. Congress reserves certain government procurements, called set-asides, specifically for small-business contractors or vendors. According to the U.S. Small Business Administration, the U.S. government is the largest buyer of products and services in the world. Purchases by the federal government amount to nearly \$500 billion a year and include everything from space and military hardware to construction projects and janitorial services.

Federal law sets contracting goals for awards to small

businesses, with a current goal of 23 percent of all federal contracting dollars to be awarded to small businesses. In addition, the SBA annually negotiates agency goals with each federal department and agency, whose own goals might vary from the broader government goals. Subgoals, which can be met through the award of prime contracts or subcontracts on federal contracts, also are established for women-owned small businesses, with a goal of 5 percent; small disadvantaged businesses, 3 percent; service-disabled veteran-owned small businesses, 3 percent; and small businesses located in historically underutilized business zones, 3 percent.

Generally, acquisitions with values between \$3,000 and \$150,000 are automatically reserved for small-businesses. Acquisitions exceeding \$150,000 are required to be set-aside for small business participation when there is a reasonable expectation that offers will be obtained from at least two responsible businesses offering the products and the award can be made at fair market prices.

Although there are many regulations governing the qualifications to bid on a government contract, many small businesses stand to benefit from set-asides. In order to participate in the bid process as a small business, the first step is to determine if one's business is in fact small.

During the years, the SBA has established and revised numerical definitions for all for-profit industries called a size standard. It is generally determined by the number of employees or average annual sales. The SBA uses the

North American Industry Classification Systems codes to identify the size standards of various industries. All federal agencies must apply the SBA's size standards for contracts to be awarded to small firms. Size standards can be determined through the SBA website.

In addition to meeting the size standard, the SBA defines a small business as a concern that: is organized for profit; has a place of business in the U.S.; operates primarily within the U.S. or makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor; is independently owned and operated; and is not dominant in its field on a national basis.

A business might be a sole proprietorship, partnership, corporation or any other legal form in determining what constitutes a small business.

Any small business that desires to compete for set-asides also must register to do business with the government and certify itself as a small business. This can be done through a new consolidated online process called the System for Award Management. Items needed for the registration process, include NAICS codes for the business; a Dun & Bradstreet DUNS number, which can be obtained for free through D&B; a federal tax identification number; standard industrial classification codes; and product service codes.

*Chris Weiss is a partner in the Springfield office of Husch Blackwell and represents clients across a broad spectrum of civil litigation matters, including contract disputes. He can be reached at chris.weiss@huschblackwell.com.*