

OFPP Policy Letter 99-1



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON D.C. 20503

THE DIRECTOR
OFFICE OF MANAGEMENT AND BUDGET
OFFICE OF FEDERAL PROCUREMENT POLICY

OFPP Policy Letter 99-1 on Government-Wide Small Business, HUBZone Small Business, Small Disadvantaged Business, and Women-Owned Small Business Goals for Procurement Contracts

AGENCY: Executive Office of the President, Office of Management and Budget (OMB), Office of Federal Procurement Policy (OFPP).

ACTION: Notice of proposed policy letter.

SUMMARY: OFPP is requesting comments on proposed OFPP Policy Letter 99-1. This letter contains guidance on implementing government-wide goals for procurement contracts awarded to small businesses, HUBZone small businesses, small disadvantaged businesses, and women-owned small businesses. The Policy Letter also provides guidance on reporting requirements that will help the Small Business Administration (SBA) determine whether executive agencies are reaching these goals. This Policy Letter, when issued in final, will supersede OFPP Policy Letter 91-1.

COMMENT DATE: We must receive comments on or before June 1, 1999.

ADDRESS: Send your comments to Deidre A. Lee, Administrator, Office of Federal Procurement Policy, Old Executive Office Building, Room 352, Washington, DC 20503. Send e-mail comments to Keith Coleman at kcoleman@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Keith Coleman at 202-395-7209 or Linda Williams at 202-395-3302.

SUPPLEMENTARY INFORMATION: We issued an earlier Policy Letter, 91-1, entitled "Government-Wide Small Business and Small Disadvantaged Business Goals for Procurement Contracts" on March 11, 1991. That policy letter addressed sections 502 and 503 of the Business Opportunity Development Act of 1988. Section 502 establishes government-wide goals for contract awards to small business concerns and small disadvantaged businesses. Section 503 requires the President to include the agencies' actual goal achievements in the "State of Small Business" report. The report also includes an analysis of an agency's failure to achieve the goals, and the number and dollar value of prime contracts

awarded to small firms through noncompetitive negotiated procurements, restricted and unrestricted competitions, and information on subcontract awards.

We need to issue this new policy letter because of statutory changes made in 1994 and 1997. Section 7106 of the Federal Acquisition Streamlining Act of 1994 (FASA) establishes a 5 percent women-owned small business goal. Section 603 of the Small Business Reauthorization Act of 1997 increases the annual government-wide goal for prime contract awards to small business concerns from not less than 20 percent to not less than 23 percent. The Act also adds a 3 percent HUBZone small business goal phased-in over the next 5 years.

This Policy Letter, when issued in final, will supersede OFPP Policy Letter 91-1. This proposed Policy Letter supports the Small Business Administration's (SBA) policies of establishing its own guidance on the new goals, establishing with each agency mutually acceptable prime contract goals for awards made under section 8(a) of the Small Business Act, and using procurement data in the Federal Procurement Data System to measure accomplishments rather than requiring agencies to provide this information in separate reports.

We request comments on the proposed policy letter.

Deidre A. Lee

Administrator

Dated: March 29, 1999

POLICY LETTER 99-1

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Government-Wide Small Business, HUBZone Small Business, Small Disadvantaged Business, and Women-Owned Small Business Goals for Procurement Contracts.

1. **Purpose.** This Policy Letter provides guidance to Executive branch departments and agencies on government-wide goals for procurement contracts awarded to small businesses, HUBZone small businesses, small disadvantaged businesses and women-owned small businesses ("small businesses"). It also provides guidance on reporting requirements that will help the Small Business Administration (SBA) determine whether agencies are reaching these goals.

2. **Supersession Information.** This Policy Letter replaces OFPP Policy Letter 91-1, "Government-Wide Small Business and Small Disadvantaged Business Goals for Procurement Contracts," dated March 11, 1991.

3. **Authority.** This policy letter is based on the Small Business Act, the Office of Federal Procurement Policy Act, the Business Opportunity Development Reform Act of 1988, the Federal Acquisition Streamlining Act of 1994, and the Small Business Reauthorization Act of 1997.

4. **Background.** The Small Business Act requires executive agencies, in consultation with SBA, to develop annual goals for contract awards to small businesses. SBA monitors agency performance and reports their achievements to the President. The Office of Federal Procurement Policy Act, 41 U.S.C. 405, empowers the Administrator for Federal Procurement Policy to prescribe government-wide procurement policies.

The Business Opportunity Development Reform Act establishes government-wide goals for small businesses and small disadvantaged businesses and requires the President to include the agencies' actual goal achievements in the "State of Small Business" report. The report must also include an analysis of any failure to achieve the goals, and the number and dollar value of prime contracts awarded to small businesses through noncompetitive negotiated procurements, restricted and unrestricted competitions, and information on subcontract awards. The Federal Acquisition Streamlining Act of 1994 (FASA) establishes a 5 percent women-owned small business goal. The Small Business Reauthorization Act of 1997 (SBRA) adds a 3 percent HUBZone small business goal phased-in over the next 5 years. It also increases the annual government-wide goal for prime contract awards to small business concerns to not less than 23 percent.

In March 1991, the OFPP issued Policy Letter 91-1 to implement government-wide goals for small businesses and small disadvantaged businesses. This proposed Policy Letter includes the guidance from Policy Letter 91-1, and also implements the more recent statutory provisions of FASA and SBRA.

This proposed Policy Letter also supports the Small Business Administration's (SBA) policies of establishing its own guidance on the new goals, establishing with each agency mutually acceptable prime contract goals for awards made under section 8(a) of the Small Business Act, and using procurement data in the Federal Procurement Data System to measure accomplishments rather than requiring agencies to provide this information in separate reports.

5. **Policy.** Prior to the beginning of each fiscal year, the SBA will mutually establish with each agency goals for participation by small business, small disadvantaged business, HUBZone small business, and women-owned small businesses. The agencies' cumulative goals shall count toward accomplishment of the government-wide goals.

6. Goals.

a. The government-wide small business goal is not less than 23 percent of the total value of all prime contracts awarded for the fiscal year. This includes all the goals for the specific categories of small business.

b. The following table lists the specific goals for small disadvantaged and women-owned small businesses.

The goal for...	is...
small disadvantaged business prime contracts	not less than 5 percent of the value of all prime contract awards.
small disadvantaged business subcontracts	not less than 5 percent of the value of all subcontract awards.
women-owned small business prime contracts	not less than 5 percent of the value of all prime contract awards.
women-owned small business subcontracts	not less than 5 percent of the value of all subcontract awards.

c. The following table lists the specific goals for HUBZone small businesses.

For FY...	the percentage goal is at least...
1999	1 percent of the value of all prime contract awards
2000	1.5 percent of the value of all prime contract awards
2001	2 percent of the value of all prime contract awards
2002	2.5 percent of the value of all prime contract awards
2003 and after	3 percent of the value of all prime contract awards

d. There is no specific statutory requirement to establish goals for awards made pursuant to section 8(a) of the Small Business Act. However, agencies must mutually establish with SBA acceptable goals for awards to 8(a) firms.

e. Agencies may count prime contract awards to small businesses toward more than one goal. Prime contract awards to small businesses, women-owned small businesses, small disadvantaged businesses, 8(a) firms, and HUBZone small businesses count toward the government-wide small business goal.

7. Responsibilities.

a. Agency Responsibilities

(1) Each department or agency must negotiate annually in good faith with the SBA to establish its specific goals for small business, woman-owned small business, small disadvantaged business, HUBZone small business, and 8(a) firms. These goals should provide the maximum practicable opportunity for all these types of small businesses to participate in contracts let by the agency. SBA's annual guidance on establishing small business goals, entitled "Guidelines on Goals Under Procurement Preference Programs," covers the goal-setting process.

(2) At the end of the fiscal year, agencies must submit a narrative report to SBA analyzing its achievements and any failures to achieve its small business goals for the year. The report must also include plans for improving performance in the next year.

(3) Agencies must ensure that their prime and subcontract data in the Federal Procurement Data System is accurate and complete in order to measure their small business goal accomplishments.

b. SBA Responsibilities

(1) Prior to the beginning of each fiscal year, the SBA will work with each agency to establish mutually acceptable goals for the different categories of small business.

(2) SBA must ensure that the mutually established cumulative goals for all agencies meet or exceed the government-wide small business goal of 23 percent.

(3) SBA must compile and analyze agencies' achievements against their individual small business procurement goals and report the results to the President.

(4) SBA will use data in the Federal Procurement Data System to determine:

(i) agencies' success in reaching their procurement goals for prime and subcontracts;

(ii) the number and dollar value of prime contracts awarded to small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns through:

- noncompetitive negotiation,
- competition restricted to small disadvantaged business concerns,
- competition restricted to small business concerns and HUBZone small business concerns, and
- unrestricted competitions;

(iii) the dollar value of subcontracts awarded to small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.

8. **Information Contact.** Direct any questions regarding this Policy Letter to Linda Williams (202-395-3302) or Keith Coleman (202-395-7209).

9. **Effective Date.** The Policy Letter is effective 30 days after issuance.

Deidre A. Lee

Administrator