
MEETING AGENDA

AGC – Small Business Session

2:15 PM – 4:00 PM

Welcome and Introductions

Roger Bartlett
AGC Chair, Small Business Committee

Small Business Representatives from SBA, GSA, NAVFAC, and USACE

SBA Representative

Sam Le
Associate General Counsel for Procurement Law

John Klein
Associate General Counsel for Procurement Law

GSA Representative

Exodie C. Roe, III
Associate Administrator, OSD/BU

NAVFAC Representative

Bianca Henderson
Director, Small Business Programs

USACE Representative

Liz Walker
Director of Small Business Programs

Valerie Oliver
Deputy Director of Small Business Programs

AGC Questions for Agencies

1. Small Business Initiatives

Please provide a general update on new, upcoming and anticipated small business initiative that will impact federal construction contracting.



2. Executive Order on Underserved Small Businesses

In June 2021, President Biden issued an Executive Order (EO) directing an “all-of-government effort to expand contracting opportunities for underserved small businesses across the country.” Among other initiatives, the goal of the E.O is to increase the share of contracts going to small disadvantaged businesses (SDB) by 50 percent by 2026, which the Administration calculates as an additional \$100 billion to SDBs over this five-year period. SDBs include 8(a) participants and other small businesses that are at least 51% owned and controlled by socially or economically disadvantaged individual or group. The Administration was silent about the other small business subcategories such as Women-Owned Small Businesses, HUBZone Small Businesses, and Service-Disabled Veteran Owned Small Businesses. While nowhere stated in the [White House’s Fact Sheet](#), it is presumed the small business goal for SDB federal contracts will increase from 5% to 7.5%, a fifty percent increase. Given that small business goals on federal contracts are codified in statute it is likely there will be legislative initiatives or other regulatory efforts that will need to go to the traditional public rulemaking process. Federal agencies and contractors routinely strive to exceed the small business goals. According to a recent [Congressional Research Service](#) report that analyzed federal contracts in FY2019 SDB contractors received 8.69% of all federal Contracts and 10.13% of all small business eligible federal contracts.

- A. Please provide an update on your agency’s implementation of this executive order.
- B. What, if any, are the possible challenges that agency personnel will have increase these small business goals?

3. Past Performance Ratings for Small Business Joint Venture Members and Small Business First-Tier Subcontractors

Recently, [regulations](#) were proposed to implement provisions of the National Defense Authorization Act FY 2021, to require performance evaluations in accordance with specified conditions for individual partners of joint ventures for construction and architect-engineer services contracts with an estimated value of \$750,000 or more.

- A. Please provide an update on this new regulation.
- B. Are SBA, GSA, NAVFAC, and USACE coordinating on this regulation in order to provide a uniform standard?
- C. What, if any, are the possible challenges that agency personnel will have with using this new data?

4. Small Business Subcontracting

FAR 17.702, statutory requirements Small Business Subcontracting Program, provides that subcontracting plans are not required “for contracts or contract modifications that will be performed entirely outside of the United States and its outlying areas”; both FAR 52.219-8, Utilization of Small Business Concerns, and FAR 52.219-9 Small Business Subcontracting Plans, employ FAR or SBA definitions of small businesses.

- A. Please confirm that for international projects, your agencies will not require the

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submission of Small Business Subcontracting Plans?

- B. Federal agencies such as NAVFAC, USACE, and GSA are now requiring Small Business Participation Plans as an evaluation factor. While these plans are different from subcontracting plans, they employ the FAR and SBA definitions of small business. Would a given agency apply the small business evaluation factor on these international projects; and if so, how?

5. Applicability of Small Business Regulations Outside the United States

On May 26, the final [FAR rule](#) went into effect to support the Small Business Administration policy of including overseas contracts in agency small business contracting goals. This final

rule allows small business contracting procedures, e.g., set-asides, to apply to overseas procurements.

- A. Please give an update on the implementation of this rule on your agency projects.
- B. What challenges/opportunities does your agency see implementing this rule?

General Questions

Open questions from the floor?

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