

## NOTICE OF PARTIAL SMALL BUSINESS SET-ASIDE (10-25-94)

(a) Definitions. (1) "Labor surplus area," as used in this clause, means a geographical area identified by the Department of Labor as an area of labor surplus.

(2) "Labor surplus area concern," as used in this clause, means a concern that, together with its first-tier subcontractors, will perform substantially in labor surplus areas.

(3) "Perform substantially in labor surplus areas," as used in this clause, means that the costs incurred under the subcontract on account of manufacturing, production, and performance of services in labor surplus areas exceed 50 percent of the subcontract price.

(4) "Small business concern," as used in this clause, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the size standards in paragraph (b) below.

(b) Size Standards. (1) Nonmanufacturers. If this is a solicitation for offers to furnish supplies, a concern that submits an offer in its own name, but which proposes to furnish supplies that it did not itself manufacture, is deemed to be a small business when (i) its "number of employees," as defined in 13 CFR 121.407, does not exceed 500 persons, and (ii) it complies with paragraph (d)(3) below.

(2) Manufacturers and Providers of Services. If this is a solicitation for offers (i) to furnish supplies, and the offeror is the manufacturer, or (ii) for services, the offeror is deemed to be a small business when it complies with paragraph (d)(4) or (d)(5) below, as applicable, and when (checked block applies):

its "number of employees," as defined in 13 CFR 121.407, does not exceed \_\_\_\_\_ persons.

its "annual receipts," as defined in 13 CFR 121.402, do not exceed \$ \_\_\_\_\_.

The product classification used for determining the size standard in this paragraph (b) was:

Standard Industrial Classification (SIC) Code  
\_\_\_\_\_

Title: \_\_\_\_\_

(c) General. (1) A portion of this requirement, identified elsewhere in this solicitation, has been set aside for award to one or more small business concerns.

(2) Offers on the non-set-aside portion will be evaluated first and award will be made on that portion in accordance with the provisions of this solicitation.

(3) The set-aside portion will be awarded at the highest unit price(s) in the subcontract(s) for the non-set-aside portion, adjusted to reflect transportation and other costs appropriate for the selected subcontractor(s).

(4) (i) The subcontractor(s) for the set-aside portion will be selected from among the small business concerns that submitted technically acceptable offers on the non-set-aside portion. These concerns fall into two groups: Group 1--Small business concerns that are also labor surplus area concerns, and Group 2--Other small business concerns.

(ii) Negotiations will be conducted with the concern in Group 1 that submitted the lowest technically acceptable offer on the non-set-aside portion. If the negotiations are not successful or if only part of the set-aside portion is awarded to that concern, negotiations will be conducted with the concern that submitted the second-lowest technically acceptable offer on the non-set-aside portion. This process will continue, first with concerns in Group 1 and then with concerns in Group 2, until a subcontract or subcontracts are awarded for the entire set-aside portion.

(5) The Company reserves the right to not consider token offers or offers designed to secure an unfair advantage over other offerors eligible for the set-aside portion.

(d) Agreements. (1) The offeror agrees that, if awarded a subcontract as a small business-labor surplus area concern, it will perform the subcontract, or cause it to be performed, substantially in areas classified as labor surplus areas at the time of award or performance of the subcontract. However, if an area selected by the offeror is no longer classified as a labor surplus area at the time of performance, the offeror will make an effort to select another area for performance that is classified at the time as a labor surplus area.

(2) The offeror agrees that, if awarded a subcontract that exceeds \$10,000, it will submit a report to the Company within 30 days after the date of award (or a longer period of time, if prescribed by the Company) that contains the following information: (i) the dollar amount of the subcontract; (ii) identification of each labor surplus area in which subcontract (and next-lower-tier subcontract) performance is taking or will take place; (iii) the total costs incurred and the total costs to be incurred under the subcontract on account of manufacturing, production, and performance of services in each of the labor surplus areas by (A) the Seller and (B) next-lower-tier subcontractors; and (iv) the total dollar amount attributable to performance in labor surplus areas.

(3) (i) Except as provided in subparagraph (ii) below, a manufacturer or regular dealer submitting an offer in its own name agrees to furnish, in performing the subcontract, only end products manufactured or produced by small business concerns inside the United States, its territories and possessions, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, or the District of Columbia. However, this requirement does not apply in connection with construction or service subcontracts.

(ii) As authorized by Section 8(a)(17)(B)(iv) of the Small Business Act, the Small Business Administration has determined that for the classes of products listed below by Standard Industrial Classification (SIC) Code, there are no small business manufacturers or processors in the Federal market. If this procurement is for a product in a listed class, the determination by SBA waives the requirements in subparagraph (i) above that the offered end products be manufactured by small business concerns and that they be manufactured in the United States, its territories and possessions, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, or the District of Columbia. (Offerors are cautioned that the determination has no effect on requirements—such as those in the Buy American Act—external to the Small Business Act that concern domestic sources of supply.)

(4) If the subcontract is for services, by submission of an offer the offeror agrees that at least 50 percent of the cost of subcontract performance incurred for personnel shall be expended for employees of the offeror.

(5) If the subcontract is for supplies (other than a subcontract with a regular dealer in such supplies), by submission of an offer the offeror agrees to perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials.

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### SIC Classes of Products Granted Waivers

2033 Apricots, canned.  
2033 Citrus sections, canned.  
2033 Pineapple: slices, tidbits, juice.  
2033 Spinach, canned.  
2033 Tomato paste, canned.  
2062 Sugar, granulated and brown.  
2091 Tuna, canned.  
2273 Carpet tile.  
2273 Carpet, woven, 6-ft. vinyl back broadloom.  
2674 Paper bags, small hardware type.  
2732 Dictionaries.  
2732 Thesauruses.  
2812 Caustic soda.  
2812 Soda ash.  
2812 Sodium hydroxide.  
2819 Acid, boric.  
2819 Acid, enriched boric.  
2819 Acid, hydrochloric.  
2819 Acid, hydrofluoric.  
2819 Calcium nitrate (uncoated).  
2819 Heptane HPCL.  
2819 N-dodecane.  
2865 Benzene.  
2865 Toluene.  
2869 Ethyl acetate.  
2869 Methyl isobutyl ketone.  
2869 Methylene chloride.  
2869 NN-dimethyl formahide.  
2869 Propylene glycol.  
2869 Trichloroethane, 1, 1, 1.  
2873 Ammonium sulfate.  
2911 Hydrocarbon diluent.  
3312 Bars and rod, high nickel alloy.  
3312 Pipe and tubing, high nickel alloy.  
3312 Plate, sheet, strip, and foil: stainless steel and high nickel alloy.  
3312 Structural shapes, high nickel alloy.  
3331 Copper cathodes.  
3339 Nickel brickettes.  
3339 Nickel cathodes.  
3353 Plate, sheet, and strip: nickel-copper, copper-nickel, and copper.  
3353 Sheet and strip, aluminum.  
3353 Plate, sheet, strip, foil, and wire, high nickel alloy.  
3356 Wire, nonelectrical, high nickel alloy.  
3531 Construction, backhoe.  
3531 Construction, crane over 15-ton capacity.  
3531 Construction, loader.  
3531 Construction, road grader.  
3532 Construction, drill rigs.  
3533 Construction, scrapers.  
3537 Trucks, four-wheel drive utility.  
3571 Computers, mainframe, including peripheral ADP equipment (not other computers) necessary to support the mainframe in an operational system environment when acquired on the same purchase.  
3577 Laser printers.  
3579 Office copiers.  
3589 Sweepers, warehouse.  
3651 Video cassette recorders.  
3651 Compact disc players.  
3651 Television receiving sets  
3661 Communications, digital EPBX equipment.  
3699 Nuclear batteries.

3711 Tractors, wheeled.

3711 Sweepers, street.

3861 Photographic film.

3996 Tile and roll, vinyl surface.

5014 Tire, aircraft, pneumatic.