



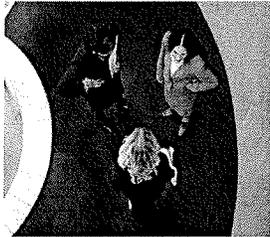
BROOKHAVEN
NATIONAL LABORATORY

SmallBiz Newsletter

Written by Jill Clough-Johnston, SBLO

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All Small Businesses are not created Equal.

Government Executive Magazine

A U.S. Court of Federal Claims judge's recent ruling invoked a statute that gives companies with Historically Underutilized Business Zone (HUBZone) status priority over others eligible for set-aside contracts.

A HUBZone small business is defined as:

A small business that is: located in an Historically Underutilized Business Zone (HUB-Zone), as determined by the U.S. Census; owned & operated by one or more U.S. citizens; and at least 35% of its employees must reside in a HUB-Zone, and it must be certified by the U.S. Small Business Administration.

Chief Judge Emily C. Hewitt said federal agencies must consider whether HUBZone companies can compete for a contract before awarding it under another small business program or on a sole-source basis.

There is a fine distinction between the words "shall" and "may." The law that governs the 8(a) minority program and the service-disabled veteran owned program, states "a contracting

officer may award contracts on the basis of competition restricted to small business concerns owned and controlled by service-disabled veteran owned." The HUBZone law says a contract opportunity "shall" be awarded on the basis of competition restricted to qualified HUBZone small business concerns.

In the wake of the federal claims court decision, there is extreme confusion over how contracting officers should move forward.

SBA will be aggressively spreading the message that parity among the small business programs still applies.

Other problems with HUBZone concerns are:

- Of the seventeen (17) HUBZone firms the Government Accounting Office (GAO) examined, ten (10) did not qualify to be in the program. Some had listed an address in an underutilized area but actually were running their companies from another location; others failed to meet the program's requirement that at least thirty-five percent (35%) of their staff live in the HUBZone area.
- During their review, auditors applied for HUBZone certifications for four fake firms, using fabricated employee information and documentation. The watchdog agency easily obtained certifications for all four, with little or no inquiry from SBA staff within two to five weeks. In one case, GAO claimed the principal address of its fake firm was in a Starbucks.

One way or another, the ball is in congress' court, either to clarify whether HUBZone,

minority-owned and service disabled veteran owned firms are equal in the eyes of the law or to empower SBA to tackle fraud in a program notoriously difficult to monitor.

More to come...

Second Quarter results:

| Type | DOE SBP Goals | BSA SBP Goals | SB Actuals with Major Const. of \$52.7M | SB Actuals without Major Const. of \$52.7 * |
|-------|---------------|---------------|---|---|
| SB | 46.4% | 32.36% | 29.94% | 50.16% |
| SDB | 5.0% | 3.49% | 2.88% | 4.83% |
| WOB | 7.0% | 4.88% | 4.13% | 6.92% |
| HUB | 3.0% | 2.09% | 2.15% | 3.60% |
| VOB | 3.0% | 1.39% | 3.15% | 5.28% |
| SDVOB | 3.0% | 2.09% | 1.28% | 2.14% |

* \$52,686,371 These are actuals less the Big business construction contracts, obligated to date.

FANTASTIC JOB – PPM TEAM

Awards over \$300,000 to small businesses (in alphabetical order) by:

Jennifer Cafiero

Best Plumbing (VC 38430), a small business was awarded a contract valued at \$750,000 (Contract # 151452).

Holman’s, Inc. (VC 96457), a small & SDB business, was awarded a contract valued at \$2,500,000 (Contract # 187717).

Phil Gardner

Major Systems Mechanical (VC94324), a small & WOB business, was awarded a contract valued at \$466,900 (Contract # 181164).

Lisa Kerr:

Nexsan Technologies, Inc. (VC95666), a small business was awarded a contract valued at \$800,537 (Contract # 183634).

Fran Militscher

Delta Tau Data Systems (VC99367), a small business was awarded a contract valued at \$720,220 (Contract # 184413).

Janet Schlock and George Woods

Advanced Energy Systems (AES), a small business was awarded a contract valued at \$ 6,511,498 (Contract # 182612).

Let me know of any small business awards you make that are over \$300,000 and I’ll highlight you in the next SmallBiz Newsletter.

Thanks, Jill Clough-Johnston, SBLO
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