

# US Small Business Administration



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*America's Small Business Resource*



# SDB

SMALL DISADVANTAGED BUSINESS



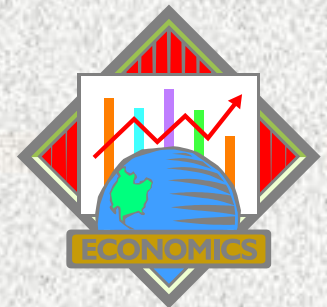
# Federal Acquisition Regulation (FAR) Council Rules:

*Final Rule Published on July 2, 1999*

June 30, 1998 : *Price Evaluation Adjustment*

- (PEA) for SDBs bidding as primes;

&



 July 1, 1998: *SDB Participation Program*

- (subcontracting) Evaluation Credit; Monetary Incentive



**Q.**

**New SDB Regulations:**

*Who is Affected?*



**A.** Small Disadvantaged Businesses (SDBs)

**B.** Other Small Businesses (*indirectly*)

**C.** Large Business Prime Contractors



***ANSWER:***

**All of the above**

# FAR Subparts 19.11 and 19.12

## *SDB Procurement Mechanisms*

*Effective October 1, 1998:*

Price evaluation adjustment (PEA) for  
SDBs bidding as primes.



*Effective January 1, 1999:*

Source Selection Evaluation Factor for SDB participation.

*Effective January 1, 1999:*

Monetary incentive upon contract  
completion for contractors that  
exceed their SDB target.





PEA

## *Price Evaluation Adjustment*



Once SBA Certified -

•*(or application pending)*

Qualified SDBs will receive a price benefit up to 10% on procurements where this approach is mandated by regulation. This policy will be accomplished by adding up to 10% to the price of bids or offers received from non-SDBs.

***SBA will expedite applications  
when a contract award is pending.***

# PEA

*Price Evaluation Adjustment*

FY 1999-2003

- The Department of Commerce has determined **the PEA should be 10%** in every 2-digit SIC code (now 3-digit NAICS code) in which it has been authorized.

- **In future years**, the Department of Commerce may authorize **different percentages in each industry** ranging from 0 to 10%.



# PEA

## *Price Evaluation Adjustment*



- This mechanism must be used in competitive acquisitions over the simplified acquisition threshold (currently \$100,000) where the 3-digit NAICS subsector for the prime contract is one in which the Department of Commerce has authorized the use of this benefit.



# PEA

## *Price Evaluation Adjustment*

### ***Main Exceptions:***

- 8(a) acquisitions
- Small business and HUBZone set-asides
- Where all fair and reasonable offers are accepted  
*(e.g., multiple award schedule contracts.)*
- Where price is not a selection factor  
*(e.g., architect/engineer acquisitions)*

Other Exceptions on the Next Two Slides



PEA

*Price Evaluation Adjustment*

## DOD Suspension

TERMS:



***DOD may not use the PEA if it met its 5% SDB Goal the Previous Fiscal Year.***

# PEA

*Price Evaluation Adjustment*

Cannot be Used:



- If it causes the award to be made at a price exceeding the fair market price by more than the factor determined by the Department of Commerce - for example, more than 10%.

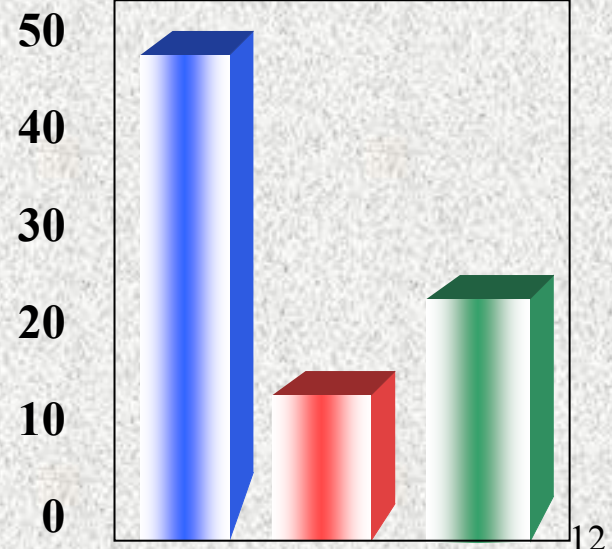
# PEA

## *Price Evaluation Adjustment*

An SDB winning a contract resulting from the PEA is subject to the “*limitations in subcontracting*” rule and must perform no less than the following percentages of the contract itself. (*This rule does not apply to non-manufacturers and dealers.*)

### Percentages:

- Supplies and Services - 50%
- General Construction - 15%
- Special Trade Construction - 25%



# PEA

## *Price Evaluation Adjustment*

*List of Authorized Two Digit SIC Codes  
(must be converted to 3-digit NAICS subsectors)*

- Is supposed to be published in the *Federal Register* by OMB at the beginning of each fiscal year.

&



- Industries Eligible for Ten Percent Price Evaluation Adjustment can be found on the Internet at:
  - <http://www.arnet.gov/References/sdbadjustments.htm>

# SDB Participation Program

## *Evaluation Factor or Subfactor*

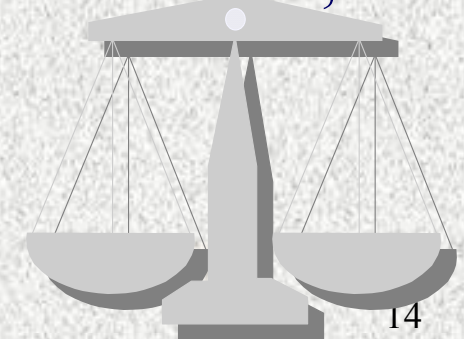
**FAR 19.12 and 52.219-24**

**O**fferors submit targets for SDB participation expressed as dollars and percentages of total contract value;



**NAICS<sup>P</sup>** proposals must identify the three-digit NAICS code (formerly the two-digit SIC code) authorized for each subcontract;

**C**ontracting Officer has discretion on how much weight to put on SDB participation.





# SDB Participation Program

## *Evaluation Factor or Subfactor*

***Basic Concept:*** The contracting officer awards the highest points to the offeror with the most dollars targeted to SDBs in the authorized 3-digit NAICS subsectors.

***More Sophisticated Approach:*** The contracting officer may consider several other elements.

# Evaluation Factor for SDB Participation

## *Hypothetical Example - #1*

<b>Company</b>	<b>Cost / Price</b>	<b>Past Performance</b>	<b>Technical Approach</b>	<b>SDB Target</b>
	<i>(35 pts.)</i>	<i>(15 pts.)</i>	<i>(35 pts.)</i>	<i>(15 pts.)</i>
<b>ABC</b>	<b>35</b>	<b>10</b>	<b>25</b>	<b>15</b>
<b>HIJ</b>	<b>25</b>	<b>10</b>	<b>35</b>	<b>10</b>
<b>XYZ</b>	<b>30</b>	<b>15</b>	<b>25</b>	<b>05</b>

Each offeror receives a total of 70 points on the first three factors. In this example, the fourth factor, SDB participation, gives ABC the highest total score; thus ABC wins the contract.



# Evaluation Factor for SDB Participation

## *Hypothetical Example - #2*

Company	Cost / Price	Past Performance	Technical Approach	SDB Target
ABC	\$25	A	A	15%
HIJ	\$30	A	A	21%
XYZ	\$23	A	U	18%

- These are sample evaluation factors for illustrative purposes.
- Past performance and technical approach are: A = Acceptable / U= Unacceptable.
- Unacceptable rating in either eliminates offeror from further consideration.
- Price and SDB target have equal weight.

# SDB Participation Program

## *Evaluation Factor or Subfactor*

*Contracting Officers May Also Consider:*



- The extent to which SDBs are specifically identified;
- The extent of the offeror's commitment to use the SDBs (*i.e., more weight afforded to enforceable commitments*);
- The complexity and variety of work SDBs are to perform.

# SDB Participation Program

## *Evaluation Factor or Subfactor*

*Contracting Officers May Also Consider:*



- The realism of the proposal;
- Past performance of offerors in complying with SDB subcontracting goals; and
- The extent of SDB participation in terms of the value of the total acquisition.

# SDB Participation Program

## *Evaluation Factor or Subfactor*

When an evaluation includes a factor giving additional credit to offerors who name the SDBs they plan to use, *the contractor must notify* the contracting officer of any substitutions of non SDB firms.

# SDB Participation Program

## *Evaluation Factor or Subfactor*

- Applies to competitive, negotiated acquisitions over \$500,000 or \$1,000,000 in construction (*exceptions to follow*);
- Allows credit for subcontracts only in the 3-digit NAICS subsectors authorized by the U.S. Department of Commerce.



# SDB Participation Program

## *Evaluation Factor or Subfactor*

✓ Permits credit for SDBs regardless of whether they are joint venture partners, teaming partners, or subcontractors;

✓ Permits SDBs bidding as prime contractors to elect this benefit instead of the “price evaluation adjustment” (*they may not receive both*);

## ***ALSO:***

An SDB waiving the Price Evaluation Adjustment and seeking evaluation credit for SDB participation would receive credit for any work in the targeted NAICS subsectors that it does in-house and/or that it subcontracts to other SDBs.

# SDB Participation Program

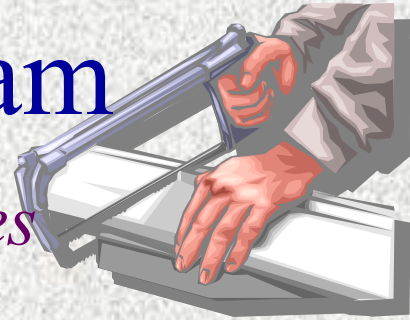
*Evaluation Factor **CANNOT** Be Used In*

- Sealed bidding
- 8(a) acquisitions
- Small business set-asides
- Negotiated acquisitions where the “*lowest price, technically acceptable*” source selection process is used
- Contracts performed outside the United States



# SDB Participation Program

## *Monetary Subcontracting Incentives*



### Remember:

The contracting officer may (*not must*) provide a monetary incentive up to 10% to prime contractors that exceed their SDB target in the authorized NAICS subsectors.

***Example:*** SDB target is \$1.0 million; the contractor achieves \$1.5 million. The excess is \$500,000; 10 percent of \$500,000 is \$50,000.



# FAR Council Amendment

*Published December 29, 1998, and July 2, 1999*

*October 1, 1999:*

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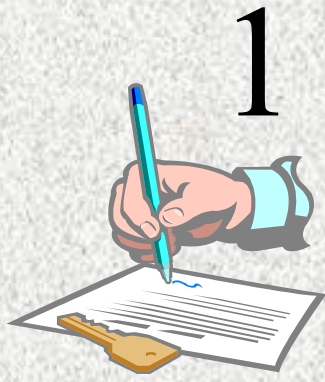
**Self-Certification for SDB  
Subcontractors ended. Firms  
acting as SDB subcontractors  
must be SBA certified.**

[View SDB Regulation Changes](#)

# AFFIRMATIVE ACTION REFORM

## *Points to Remember*

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 1 An SDB winning a contract as a result of the *Price Evaluation Adjustment* is subject to the “limitations in subcontracting” rule;

2 An SDB winning a contract as a result of the *Evaluation Factor* has no such restriction;



# AFFIRMATIVE ACTION REFORM

## *Points to Remember*

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- 3 For the *Evaluation Factor* or *Subfactor*, the Contracting Officer is not limited to 10 percent for SDB Participation.

**Example:** *If there are five Evaluation Factors, including SDB Participation, and if each factor is weighted equally, SDB Participation would then be worth 20 percent of the total evaluation score.*



# Points to Remember



## *Large Business Traditional Subcontracting Plan:*

- As of October 1, 1999, prime contractors are no longer allowed to accept self-certification from SDBs -- all SDBs must be certified by SBA;
- This rule applies regardless of whether the prime contractor is seeking benefit for using SDBs or simply tracking dollars for the SF-294 and SF-295 reporting forms.

# Points to Remember



## *Large Business Traditional Subcontracting Plan:*

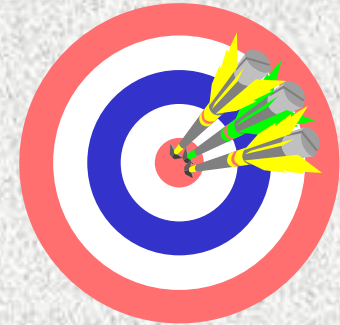
- Prime contractors may continue to accept self-certification from small business and women-owned small business on current contracts;
- Self-certification continues for small business and women-owned small business because they are not eligible for the new preferences.

# ADDITIONALLY:

A large business receiving a contract containing one of the SDB participation mechanisms (*Evaluation Factor/ Subfactor or Monetary Subcontracting Incentive*) has not one but **two (2) SDB targets or goals:**

## Two Goals:

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### Traditional Subcontracting Goal:

- (*subcontracts under all NAICS codes count towards the goal*)

### SDB Participation Target Goal:

- (*only those subcontracts in the eligible NAICS codes count towards the target*)

# AFFIRMATIVE ACTION REFORM

## *Points to Remember*

- For the Price Evaluation Adjustment, the 3-digit NAICS code for the prime contract must be on the list of eligible NAICS codes;
- For the SDB Participation Program (*the Evaluation Factor and the Monetary Subcontracting Incentive*), the 3-digit NAICS code of the subcontracts must be on the list.

# AFFIRMATIVE ACTION REFORM

## *Points to Remember*

- 8(a) firms are always SDBs, but SDBs are not necessarily 8(a) firms;
- PRO-Net ([www.sba.gov](http://www.sba.gov) or [www.pro-net.sba.gov](http://www.pro-net.sba.gov)) contains separate fields for 8(a) and SDB certification;
  - *Either field is searchable*
  - *Only SBA can input data into these fields*



# New SDB Reporting Requirements for Prime Contractors

- If the contract contains SDB participation targets, the contractor must report on SDB's participation by 3-digit NAICS code at contract completion.
- Optional Form 312 may be used for this purpose - or the information may be submitted in the contractor's format.

## New SDB Reporting Requirements for Prime Contractors (continued)

- SF-295 “*Summary Subcontract Report*” submitted at the end of each year must include a breakout of subcontract awards to SDBs by 3 digit NAICS code.
- Contractors with *commercial plans* (formerly called “Commercial Products Plans”) can do this by obtaining a predominant NAICS code from each of their subcontractors.
- Reference: FAR clause 52.219-9(j)(2).

# FEDERAL PROCUREMENT

## *AFFIRMATIVE ACTION REFORM*

**QUESTION:** How do the new SDB regulations address the concerns of the Supreme Court in the 1995 Adarand case?

[View the Adarand Case.](#)



**ANSWER:** By structuring the new procurement mechanisms to work within industry benchmarks for minority participation, the government has met the requirement for “narrow tailoring” -- what had previously been missing from Federal procurement programs.

# Bottom Line:

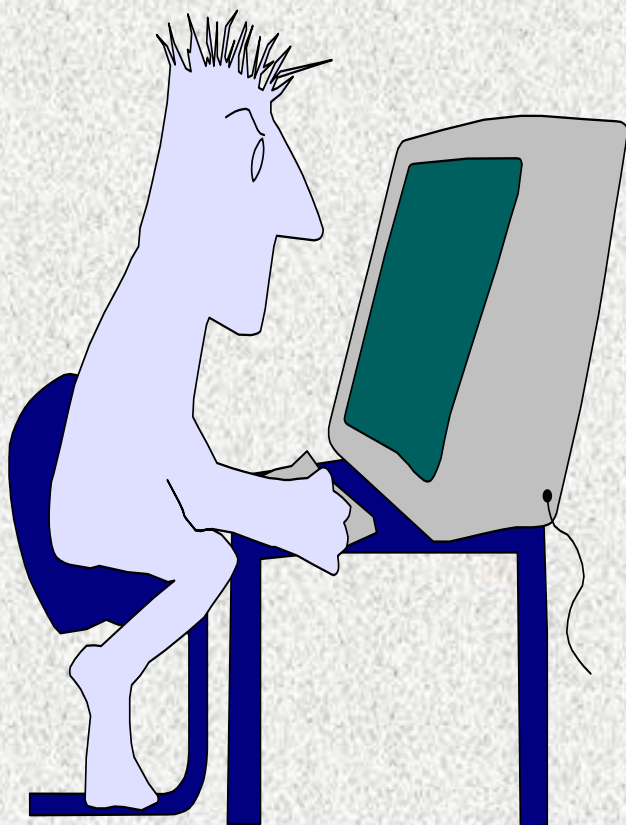
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*A Business Advantage:*

- SDBs now receive the benefit of three new procurement mechanisms (preferences) that should stand up to judicial challenges.
- By requiring all companies claiming disadvantaged status to be certified by the SBA, only those who are truly disadvantaged will receive the benefits.

# SBA's Key Internet Addresses



- SDB: [www.sba.gov/sdb](http://www.sba.gov/sdb)
- SBA's Home Page:  
[www.sba.gov](http://www.sba.gov) (includes links to *PRO-Net* and *SUB-Net*)
- Government Contracting:  
[www.sba.gov/GC](http://www.sba.gov/GC)
- HUBZone:  
[www.sba.gov/hubzone](http://www.sba.gov/hubzone)
- Women: [www.womenbiz.gov](http://www.womenbiz.gov)

# Thank You!

