Bundling Brief

The Small Business Administration (SBA) has issued an interim ruling on contract bundling guidance so that it can be in compliance with Public Law 105-135, the Small Business Reauthorization Act of 1997 (Federal Register, October 25, 1999). The rule was effective January 1, 2000.

The interim rule defines bundling to be the "consolidation of two or more requirements for goods and services previously provided or performed under separate small contracts into a solicitation of offers for a single contract that is likely to be unsuitable for award to a small business concern" due to the aggregate dollar value of the anticipated award; the diversity, size, or specialized nature of the elements of the performance specified; the geographic dispersion of contract performance sites; or any combination of these three criteria. SBA also indicated that the aggregate dollar value of the anticipated award is the most important criterion for determining substantial bundling. Substantial bundling is defined as "any contract consolidation which results in an award whose average annual value is $10 million or more."

Agencies that intend to bundle requirements must document that such action is necessary and justified. Expected benefits of consolidation must be quantified and an explanation must be given as to how the impact of consolidation would be substantial. Benefits may include cost savings, price reduction, quality improvements, reduction in acquisition cycle times, better terms and conditions, and other benefits that individually, in combination, or in the aggregate would result in:

* benefits equivalent to 10 percent if the contract value (including options) is $75 million or less, or
* benefits equivalent to 5 percent if the contract value (including options) is $75 million.

To bundle requirements that don't meet the benefits test requires that a determination be made by the agency assistant secretary with responsibility for acquisition matters (service acquisition executives) on a nondelegable basis.

Acquisition strategies that include a bundling or consolidation of requirements must be referred to the cognizant SBA procurement center representative (PCR) or, if there is no such PCR, to the cognizant SBA Office of Government Contracting Area Office at least 30 days prior to issuance of the solicitation.

PCRs may identify small businesses (SMALL BUSINESS) that are capable of performing the requirements, including teams of SBs for large or bundled requirements. If the PCR believes that the proposed acquisition strategy will make it unlikely that SBs may participate as prime contractors, or that the consolidation action is not necessary or justified, the PCR will recommend alternative procurement methods to increase SMALL BUSINESS participation, such
as:

* breaking up the procurement into smaller ones.
* breaking out discrete components as SMALL BUSINESS set-asides.
* reserving one or more awards for SBs in multiple award contracts.
* ensuring SMALL BUSINESS participation is maximized through subcontracting opportunities.

If SBA believes the contract consolidation is not justified, it may appeal to the head of the contracting activity and then to the head of the agency. The procedures do not apply to requirements that are subject to cost comparisons that are conducted in accordance with Office of management and Budget Circular
A-76.