

Small Business Set-Asides for Office Furniture

While office furniture is a commodity that is often manufactured by large businesses, there are opportunities to carve out a piece of the office furniture acquisition for small businesses such as seating. FAR 8.405-5 states that contracting officers, at their discretion may set aside orders or BPAs to any small business concern.

No special documentation is required if the agency is conducting a competitive set-aside. However, if the agency is limiting the number of small business sources considered, the agency must prepare documentation to justify the limitation.

Agencies must take the following steps to set aside an order under the Schedules program

1. Perform market research – determine if there are small businesses capable of performing the desired work
2. Include a statement in the RFQ for an order or BPA that will be set aside

Contractor Teaming Arrangements (CTA)

Please note that when a contractor teaming arrangement (CTA) is being utilized, all industry members of the CTA must be small or fall within the sub-set the requirement is set aside for - for the CTA to be eligible for that requirement.

GSA Schedules

It is also important to note that for a Multiple Award Schedule CTA, all team members must hold a schedule contract, they each are responsible for their portion of the work, and each member maintains privity of contract.

Non-Manufacturing Rule

Finally, a word of caution, the Non-Manufacturer Rule (NMR) does apply to schedule orders set aside for small business. The NMR requires that a small business performing under a set-aside contract or order must provide the products of small business manufacturers.

The Non-Manufacturer rule allows a small business to offer a product that it did not manufacture under a small business set-aside if SBA has offered a waiver. The NMR is an *exception* to the standard requirement that the contractor must perform at least 50 percent of the cost of manufacturing products (not including the cost of material) on a supply contract. In other words, it allows a contractor that is not the manufacturer to

supply products that come from a small business manufacturer located in the United States.

The NMR only applies under a set-aside order. If the ordering activity does not restrict the order to small business (or any of the sub-categories) the NMR does not apply even when an award is made to a small business. However, the ordering activity will receive small business credit when awarding to a small business, just as they would for a small business set-aside.

Office Furniture is a commodity that is commonly manufactured by large businesses and distributed by small businesses. When an ordering activity restricts a furniture order to small business (i.e. conducts a set-aside) under GSA Schedules, the NMR applies to that order. This means that the items ordered must come from a small business manufacturer unless a waiver is received. In most cases, the small business dealers on the GSA Schedule are dealers for furniture manufactured by large businesses. Therefore, since the small business itself is not a manufacturer of the furniture being procured, the ordering activity must receive a waiver prior to issuing the solicitation in order to comply with the NMR. The small business dealer is responsible for ensuring compliance with the NMR. If the ordering activity does not restrict the competition to small business, but awards to small business, they will receive socio-economic credit for the order.

As the Contracting Officer applying the Non-Manufacturer Rule to your acquisition strategy, there are some things to remember:

- A non-manufacturer who receives a set-aside contract must agree to supply the product of a domestic small manufacturer or processor, unless the ordering activity receives a waiver from the SBA or a class waiver exists.
- The contracting officer must designate the proper NAICS code and size standard. Note that for orders placed against GSA Schedule contracts the NAICS code and size standard will flow down from the Schedule contract to the ordering activity's delivery order

For more information contact furniture@gsa.gov.