



Contract Bundling Report to Congress

Fiscal Year 2014

Fiscal Year 2014 Contracting Bundling Report to Congress

The Small Business Act (the Act) requires the Small Business Administration (SBA) to annually submit a report on bundling to the Committees on Small Business of the House of Representatives and the Senate. Section 632(3)(o)(2) of the Act, 15 U.S.C. § 632(o)(2), defines bundling as:

Consolidating 2 or more procurement requirements for goods or services previously provided or performed under separate smaller 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—

- (A) the diversity, size, or specialized nature of the elements of the performance specified;
- (B) the aggregate dollar value of the anticipated award;
- (C) the geographical dispersion of the contract performance sites; or
- (D) any combination of the factors described in subparagraphs (A), (B), and (C).

Section 644(p)(4)(B) of the Act, 15 U.S.C. § 644(p)(4)(B), states that the report should contain the following information:

- (i) data on the number, arranged by industrial classification, of small business concerns displaced as prime contractors as a result of the award of bundled contracts by Federal agencies; and
- (ii) a description of the activities with respect to previously bundled contracts of each Federal agency during the preceding year, including—
 - (I) data on the number and total dollar amount of all contract requirements that were bundled; and
 - (II) with respect to each bundled contract, data or information on—
 - (aa) the justification for the bundling of contract requirements;
 - (bb) the cost savings realized by bundling the contract requirements over the life of the contract;
 - (cc) the extent to which maintaining the bundled status of contract requirements is projected to result in continued cost savings;
 - (dd) the extent to which the bundling of contract requirements complied with the contracting agency's small business subcontracting plan, including the total dollar value awarded to small business concerns as subcontractors and the total dollar value previously awarded to small business concerns as prime contractors; and
 - (ee) the impact of bundling contract requirements on small business concerns unable to compete as prime contractors and industries of such small business concerns.

Section 644(p)(5) of the Act (15 U.S.C. § 644(p)(5)) provides that SBA shall have access to information collected in the Federal Procurement Data System-Next Generation (FPDS-NG) and that the head of each contracting agency shall provide SBA with procurement information collected through existing data sources.

FPDS-NG and agency data collection sources do not currently contain sufficient information to quantify the extent to which bundling of contract requirements impacts the ability of small businesses to compete as prime contractors or to compare the savings realized under an existing bundled contract with the potential savings that may occur if that bundled contract is re-competed in its current configuration. This report contains a summary of all currently reported data in FPDS-NG and verified by the agency that reported such data. It is important to remember that the FPDS-NG data base is dynamic and as such, agencies can update, edit transactions and correct mistakes at any time. Therefore, ongoing changes to the data may not produce identical results each time the report is run, for the same point in time. SBA also used the Official Small Business Goaling Report as a source of information for this report.

FY 2014 RESULTS

Contract bundling activity continued to be a small percentage of total Federal contract actions. FY 2014 bundled contract actions totaled \$82,959,557 or 0.09 percent of a total \$91,984,825,300 in small business eligible actions that were part of the Small Business Goaling Base. For 2014, there were no mission critical or A-76 bundled contract exemptions.

The following is a synopsis of FY 2014 contract bundling activity of the Executive Branch agencies required by regulation to report such data:

DEPARTMENT OF DEFENSE

In support of the requirement from Section 15(p)(4) of the Small Business Act for the Small Business Administration (SBA) to prepare an Annual Report on Contract Bundling, the Department of Defense (DoD) Office of Small Business Programs submitted a report to the SBA that outlined the extent of the Department's contract bundling for FY 2014.

Based on an extensive review of the data reported in the FPDS-NG along with each DoD component that reported such data, it was determined that DoD bundled only one contract in FY 2014. That contract was a Performance-Based Remediation (PBR) contract for services supporting up to 120 environmental sites located at Joint Base McGuire-Dix-Lakehurst (JB-MDL), New Jersey.

The information below details the justification and impacts on small business that resulted from bundling of this contract:

1. Data on the number, arranged by North American Industrial Classification System (NAICS), of small business concerns displaced as prime contractors as a result of the award of bundled contracts by the DoD:

The single bundled contract (W912BV14C0030) in FY 2014 resulted in the displacement of six small businesses as prime contractors that were stratified into two NAICS industrial classifications. Two of the displaced small businesses were classified in each of two NAICS classifications, 541330 (Engineering Services) and 562910 (Remediation Services). Two other small businesses were classified under NAICS 541330 and two other small businesses were classified under NAICS 562910.

Primary NAICS	Description	Quantity of Displaced Small Business Concerns
541330	Engineering Services	2
562910	Remediation Services	4
Note: Two of the displaced Small Business Concerns were classified in both NAICS industrial classifications. A total of six Small Business Concerns were displaced.		

Historically, the predominant contract mechanism has been Indefinite Delivery Contracts (IDCs). The cumulative awarded amount of the contracts and task orders on the previous vehicles was approximately \$60M, of which \$7.2M was awarded to Small Business Concerns, including \$2.7M that was awarded to two 8(a) contractors. Those contracting actions represent similar types of services/work for the sites included under the JB-MDL Performance Based Remediation (PBR) program. Although the services performed under those contracting actions had similar scope elements, none of the contracts/task orders were for comprehensive cradle-to-grave services culminating in Site Closure, as were included in the JB-MDL PBR contract.

2. Description of the activities with respect to previously bundled contracts of the DoD during the preceding year:

(I) Data on the number and total dollar amount of all contract requirements that were bundled:

As discussed above, in FY 2014, DoD had a single bundled contract with a total dollar value of \$82,959,557 (Department of the Army contract number W912BV14C0030).

(II) With respect to each bundled contract, data or information on:

(aa) the justification for the bundling of the contract requirements:

DoD expects to realize substantial and measurable benefits by bundling these requirements under a single PBR contract. Benefits include accelerated Site Closeouts, reduced acquisition and Life Cycle Costs and overall better management of the project with the benefit of reduced environmental liability. Savings are based on the fact that more sites will be remediated and closed out quicker and more efficiently using this bundled approach.

(bb) the cost savings realized by bundling the contract requirements over the life of the contract:

DoD anticipates cost savings of approximately 17% or \$30M. Because the contract was awarded at the end of FY 2014 (September 26, 2014), it is too early to identify the realized cost savings over the life of this 10-year-contract.

(cc) the extent to which maintaining the bundled status of the contract requirements is projected to result in continued cost savings:

Maintaining the bundled status of this contract requirement is projected to reduce Life Cycle Costs by \$50M-\$60M.

(dd) the extent to which the bundling of contract requirements complied with the contracting agency's small business subcontracting plan, including the total dollar value awarded to small business concerns as subcontractors and the total dollar value previously awarded to small business concerns as prime contractors:

The small business subcontracting goal for the prime contractor for this bundled contract is 32.9%, with a dollar goal of \$2,085,878 for the year. As of submission of this report, the prime contractor submitted an Individual Subcontracting Report (ISR) in the electronic Subcontracting Reporting System (eSRS), for a total of \$9,379 subcontracted, of which \$1,489 was subcontracted to Small Business. That equaled .16% of the prime contractor's goal.

The prime contractor project team is aware of Small Business goals and has a procurement process in place to maximize use of small businesses under this contract, according to eSRS data.

(ee) the impact of the bundling of contract requirements on small business concerns unable to compete as prime contractors for the consolidated requirements and on the industries of such small business concerns, including a description of any changes to the proportion of any such industry that is composed of small business concerns:

The impact of bundling this contract on the industries of the impacted small business concerns is expected to be negligible. In FY 2014 alone, DoD awarded nearly \$4.2B under NAICS code 541330 and \$1.05B under NAICS code 562910 to small businesses. Based on analysis of this bundling effort, an estimated annual loss of \$212K and \$1.24M respectively for these NAICS codes is expected to have minimal impact on total small business dollars awarded and is not expected to change the overall small business participation in these industries for DoD.

The impact on the specific small business concerns referenced above cannot be determined yet, however DoD will monitor such impact over the life of the contract.

Summary

DoD remained committed to providing maximum opportunities to small business as evidenced by only awarding one bundled contracts in FY 2014. DoD continued to ensure that when contracts are bundled, appropriate justification is provided, and that ways to mitigate the loss of opportunities for small businesses are included in the development of acquisition strategies.

SOCIAL SECURITY ADMINISTRATION

For FY 2014, the Social Security Administration did not issue or report any bundled contracts.

DEPARTMENT OF AGRICULTURE

For FY 2014, the Department of Agriculture did not issue or report any bundled contracts.

DEPARTMENT OF COMMERCE

For FY 2014, the Department of Commerce did not issue or report any bundled contracts.

DEPARTMENT OF EDUCATION

For FY 2014, the Department of Education (DoED) did not issue or report any bundled contracts. DoED actively executed its established policies, procedures and practices to ensure that no bundling occurred. The Office of Small Business and Disadvantaged Business Utilization (OSDBU) consistently exchanged information with stakeholders to ensure awareness of historical issues, internal policies that established bundling restrictions and justification procedures if

bundling a contract was in the best interest of the government. Specifically, the OSDBU and contracting officers did the following:

- Provided training and regular information exchange with contracting and program officials; and
- Participated in acquisition planning with program and procurement officials who define foundational requirements; and
- Systematically reviewed statements of work by program officials, contracting officers, Contract Review Board and OSDBU to identify and address bundling; and
- Coordinated consultation and review with assigned PCR on a case-by-case basis, as judged necessary by the OSDBU staff

The DoED OSDBU, through its review processes, assessed whether bundling had been proposed and sought to address and avoid bundling altogether.

As a result of rigorous collaboration between the OSDBU and contracting activities, no contract bundling occurred in FY 2014.

DEPARTMENT OF ENERGY

For FY 2014, the Department of Energy did not issue or report any bundled contracts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

For FY 2014, the Department of Health and Human Services (HHS) did not bundle any contracts. Additionally, HHS did the following to avoid bundling contracts:

- a. For all contracts over the simplified acquisition threshold, HHS required acquisition personnel to verify that a requirement either is or is not being bundled. If the requirement was bundled, the Contracting Officer was required to provide adequate justification.

Additionally, as part of the small business review process, the Contracting Officer was required to discuss potentially bundled requirements with small business specialists and the SBA Procurement Center Representative (PCR).

- b. Substance Abuse and Mental Health Services Administration (SAMSHA) reported that there were times when consolidating similar requirements into one contract resulted in

efficiencies and cost savings for the Government without impact to Small Business concerns. For instance, SAMSHA consolidated similar services for the grantee technical services. These services were previously performed by large businesses under three separate contracts. The consolidated requirement was competed among large and small businesses. The award was made to a small business; the consolidation did not adversely affect small businesses. In the future, this requirement will solely be competed amongst small businesses.

c. At Centers for Medicare and Medicaid Services, a procurement action plan containing a recommendation to bundle a contract was returned to the program office with a recommendation to unbundle the requirement. The recommendation was followed resulting in maximum small business participation.

d. The Center for Disease Control (CDC) did not bundle any contracts in FY 2014. CDC created a strong culture that valued awarding the majority, if not all, requirements to small businesses. CDC outreach, education, and market research demonstrate that small businesses are capable of meeting their requirements and therefore contract bundling was not an issue for them.

e. The Program Support Center contract specialists routinely coordinated with the HHS Small Business Specialist to identify set-aside opportunities for small businesses and to detect bundling prior to releasing solicitations. There was one attempt to bundle a requirement however, after discussions with the OSDBU Director the requirement was released as a small business set-aside. Aside from the one attempt, no other bundled contract action was contemplated in FY 2014.

- f. The Agency for Healthcare Research and Quality closely reviewed all planned procurements to ensure no bundling occurred.
- g. The National Institutes of Health - Avoidance of contract bundling was part of the acquisition planning process, and bundling was specifically addressed in each acquisition plan and subsequently reviewed and approved by acquisition officials. As a result bundling contracts did not occur in FY 2014.

DEPARTMENT OF HOMELAND SECURITY

In FY 2014, the Department of Homeland Security (DHS) did not bundle any contracts. The OSDDBU reviewed 1,382 contracts that met the DHS review threshold of \$2,500,000. Of these, 467 were set-aside for small business prime contracts and 426 were subject to the bundling review process. The total dollars of those contracts subject to the bundling review process was \$6,721,907,528.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

For FY 2014, the Department of Housing and Urban Development did not issue or report any bundled contracts.

DEPARTMENT OF INTERIOR

For FY 2014, the Department of Interior (DOI) did not issue or report any bundled contracts. The DOI will continue to closely monitor and take actions necessary to make certain that no prime contracts are bundled in the future.

DEPARTMENT OF JUSTICE

For FY 2014, the Department of Justice did not issue or report any bundled contracts.

DEPARTMENT OF LABOR

For FY 2014, the Department of Labor (DOL) did not issue or report any bundled contracts. Policies implemented to guard against contract bundling are specified in the Department of Labor Manual Series (DLMS) 2, Chapter 1000, which is the supplemental policy governing the small business utilization program. Section 1009 clearly states DOL's policy to avoid and mitigate the adverse effects of bundled contracting on small business. The DLMS requires submission of an Acquisition Screening Form to the OSDBU, where the procurement representative provides comprehensive information on the requirement, including confirmation that it was not bundled. In accordance with FAR Subpart 7.104, this supplemental policy required the submission of a bundling certification to the OSDBU for acquisitions exceeding \$2.5million that were not already set aside for small business.

In Fiscal Year 2014, the OSDBU reviewed 53 requirements valued at \$2.5million, or more, to ensure requirements were not bundled and did not adversely affect the small business community. Furthermore, DOL's Operating Plan requires the annual submission of a bundling report from its component agencies.

DEPARTMENT OF STATE

For FY 2014, the Department of State did not issue or report any bundled contracts.

DEPARTMENT OF TRANSPORTATION

In FY 2014 Department of Transportation (DOT) did not bundle any contracts. The Office of Small and Disadvantaged Business Utilization (OSDBU) continued to be proactive and collaborated with the Senior Procurement Executive Office to deter bundling of contracts. In accordance with DOT's Transportation Acquisition Manual, an internal Small Business Review is required anytime a bundled contract is proposed.

The DOT Small Business Review is a first line evaluation by the OSDBU to mitigate any adverse effects of contract bundling on small businesses. Before proceeding with any acquisition strategy that might result in a bundled contract, procuring activities were required to conduct small business market research. Each Operating Administration (OA) collected and analyzed market research to satisfy OA needs, and procuring activities were required to conduct market research to arrive at the “most suitable strategy or approach for acquiring, such services regardless of whether there is any possibility of bundling.”

The OSDBU worked closely with each OA to guard against contract bundling and protect small businesses from the effects of such bundling. OSDBU participation as part of the Strategic Acquisition Council and Acquisition Strategy Review Board maximized contracting opportunities for small businesses and avoided possible bundling.

DEPARTMENT OF TREASURY

For FY 2014, the Department of Treasury did not issue or report any bundled contracts.

DEPARTMENT OF VETERANS AFFAIRS

For FY 2014, the Department of Veterans Affairs did not issue or report any bundled contracts.

ENVIRONMENTAL PROTECTION AGENCY

For FY 2014, the Environmental Protection Agency did not issue or report any bundled contracts.

GENERAL SERVICES ADMINISTRATION

For FY 2014, the General Services Administration (GSA) did not issue or report any bundled contracts due to a rigorous review policy, effective training program and close collaboration between GSA’s small business team and its contracting workforce.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

For FY 2014, the National Aeronautics and Space Administration did not issue or report any bundled contracts.

NUCLEAR REGULATORY COMMISSION

For FY 2014, the Nuclear Regulatory Commission did not issue or report any bundled contracts.

NATIONAL SCIENCE FOUNDATION

The National Science Foundation (NSF) did not bundle any contracts in FY 2014. NSF determined no contracts had been bundled by reviewing FPDS and conducting an internal confirmation with the NSF Division of Acquisition and Cooperative Support Contracts Branch Chief.

OFFICE OF PERSONNEL MANAGEMENT

For FY 2014, the Office of Personnel Management did not issue or report any bundled contracts.

SMALL BUSINESS ADMINISTRATION

The Small Business Administration awarded over 80% of all procurement actions to small businesses and did not bundle any contracts in FY 2014.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

The United States Agency for International Development (USAID) did not issue or report any bundled contracts. As the U.S. Government's primary agent for providing foreign assistance to developing countries around the world, USAID awards contracts for the purposes of providing technical and professional advisory and assistance services to these countries. As such, a large

portion of the work under these contracts is performed overseas by U.S. organizations. Contracts awarded and performed entirely outside the United States are not bundled under the FAR definition.

All Washington DC based awards were reviewed by the Office of Small and Disadvantaged Business Utilization (OSDBU) prior to the issuance of the solicitation. During review, USAID determined whether the award would be set-aside for small business or if it appeared to be bundled.

All proposed contract actions that exceeded \$25,000 were reviewed by the OSDBU using AID form 1410. All proposed contract actions that exceeded \$150,000 were submitted to the Agency's Acquisition and Assistance (A&A) system for pre-award review. All proposed contract actions that exceeded the \$25million threshold were reviewed by the Contract Review Board, a peer review group comprised of Contracting Officers and the Office of General Counsel. Proposed contracts that exceeded \$75 million were reviewed by the Board of Acquisition and Assistance Review (BAAR), a procurement oversight committee chaired by the Chief Acquisition Officer and OSDBU Director, the Assistant Administrator for the Management Bureau, General Counsel and representative from one of the agency's bureaus. One object of the BAAR was to assure that the assessment of planned acquisitions was both comprehensive and accurate in terms of identification of legitimate bundled awards and dismissal of procurements that did not meet the definition of a bundled contract as set forth in FAR Part 2 within the context of the exclusions contained in FAR Part 19.

The BAAR ensured small business market research was conducted and established an appropriate amount of small business set-asides. The BAAR reviews detected no instances of bundling in FY 2014. If there had been, the Contracting Officer would have been required to

justify it in accordance with FAR 7.107. If a bundling requirement was justified, the Contracting Officer would have been required to use a Subcontracting Plan as an evaluation criteria in accordance with FAR 15.304(c)(5).

The OSDBU and Office of Acquisition and Assistance reviewed FPDS-NG data to ensure that no actions contained a bundling code as an additional action to ensure unjustified bundling did not occur. FPDS-NG reflected five consolidated contract actions by USAID totaling \$367M. However, all of those actions were awarded by USAID missions entirely outside the United States. By definition (FAR 2.101), consolidated contract actions awarded and performed entirely outside of the United States are not considered bundled.