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**General Information****Assigned Office:** OEDO**OEDO Due Date:** 05/03/2013**Other Assignees:****SECY Due Date:** 05/07/2013**Date Response****Requested by Originator:** 05/13/2013**Other Parties:****Subject:** Revised Section 15(k) of the Small Business Act - Organization and Duties**Description:****CC Routing:** OCA, OGC, SBCR**ADAMS Accession Numbers - Incoming:** ML13106A389**Response / Package:** ML13106A390**Other Information****Cross Reference No:** LTR-13-0328**SRM\Other:** No**Process Information****Action Type:** Letter**OEDO Concurrence:** No**Signature Level:** Chairman Macfarlane**OCM Concurrence:** No**Special Instructions:****OCA Concurrence:** No

Please prepare response in accordance with OEDO Notice 2009-0441-02 (ML093290179). SBCR to provide input to Roger Rihm, OEDO, if required. Roger Rihm will coordinate response with OGC and OCA. Please include response in ADAMS Package: ML131060532.

**Document Information****Originator Name:** Representative Sam Graves**Date of Incoming:** 04/16/2013**Originator Org:** Congress**Document Received by OEDO Date:** 04/16/2013**Addressee:** Chairman Macfarlane**Incoming Task:** Letter**OEDO POC:** Roger Rihm



Congress of the United States  
U.S. House of Representatives  
Committee on Small Business  
2361 Rayburn House Office Building  
Washington, DC 20515-6315

April 16, 2013

The Honorable Allison M. Macfarlane  
Nuclear Regulatory Commission  
11545 Rockville Pike  
Rockville, MD 20852

Dear Chairwoman Macfarlane:

As you know, the National Defense Authorization Act of 2013, Public Law 112-239, made significant changes to the organization and duties of each of the Offices of Small and Disadvantaged Business Utilization (OSDBU). These changes are reflected in the revised Section 15(k) of the Small Business Act, a copy of which is attached.

As the result of a March 19, 2013, hearing held by the Subcommittee on Contracting and Workforce in conjunction with the Committee on Veterans' Affairs' Subcommittee on Oversight and Investigations, it has come to my attention that some agencies were either unaware of recent changes to Section 15(k) or had not yet implemented the changes. These critical revisions include changes to the reporting relationship between the OSDBU Director and you; the prioritization of the OSDBUs work; prohibitions on the OSDBU holding other positions; improvements to the reporting relationship between small business specialists and the OSDBU, and a plethora of other changes that the Committee believed would improve the ability of each agency to ensure that small businesses receive the maximum practicable opportunity to compete for contracts.

Consequently, please provide the Committee with information documenting how the Nuclear Regulatory Commission intends to achieve compliance with the Small Business Act. Please address each subsection of Section 15(k) independently, and provide the date by which the Nuclear Regulatory Commission will be in compliance with the revised statute. This information should be provided no later than May 13, 2013. If you have any questions regarding this request, please contact Emily Murphy or Corey Cooke with the Committee at 202-225-5821.

Thank you in advance for your cooperation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sam Graves", is written over the word "Sincerely,".

Sam Graves  
Chairman

cc: Rebecca Schmidt, Director, Office of Congressional Affairs, Nuclear  
Regulatory Commission  
Corenthis B. Kelley, Director of OSDBU, Nuclear Regulatory Commission

Section 15(k) of the Small Business Act.

- (k) There is hereby established in each Federal agency having procurement powers an office to be known as the “Office of Small and Disadvantaged Business Utilization”. The management of each such office shall be vested in an officer or employee of such agency, with experience serving in any combination of the following roles: program manager, deputy program manager, or assistant program manager for Federal acquisition program; chief engineer, systems engineer, assistant engineer, or product support manager for Federal acquisition program; Federal contracting officer; small business technical advisor; contracts administrator for Federal Government contracts; attorney specializing in Federal procurement law; small business liaison officer; officer or employee who managed Federal Government contracts for a small business; or individual whose primary responsibilities were for the functions and duties of section 8, 15 or 44 of this Act. Such officer or employee—
- (1) shall be known as the “Director of Small and Disadvantaged Business Utilization” for such agency;
  - (2) shall be appointed by the head of such agency to a position that is a Senior Executive Service position (as such term is defined under section 3132(a) of title 5, United States Code), except that, for any agency in which the positions of Chief Acquisition Officer and senior procurement executive (as such terms are defined under section 44(a) of this Act) are not Senior Executive Service positions, the Director of Small and Disadvantaged Business Utilization may be appointed to a position compensated at not less than the minimum rate of basic pay payable for grade GS-15 of the General Schedule under section 5332 of such title (including comparability payments under section 5304 of such title);
  - (3) shall be responsible only to (including with respect to performance appraisals), and report directly and exclusively to, the head of such agency or to the deputy of such head, except that the Director for the Office of the Secretary of Defense shall be responsible only to (including with respect to performance appraisals), and report directly and exclusively to, such Secretary or the Secretary’s designee;
  - (4) shall be responsible for the implementation and execution of the functions and duties under sections 8 and 15 of this Act which relate to such agency;
  - (5) shall identify proposed solicitations that involve significant bundling of contract requirements, and work with the agency acquisition officials and the Administration to revise the procurement strategies for such proposed solicitations where appropriate to increase the probability of participation by small businesses as prime contractors, or to facilitate small business participation as subcontractors and suppliers, if a solicitation for a bundled contract is to be issued;

- (6) shall assist small business concerns to obtain payments, required late payment interest penalties, or information regarding payments due to such concerns from an executive agency or a contractor, in conformity with chapter 39 of title 31, United States Code, or any other protection for contractors or subcontractors (including suppliers) that is included in the Federal Acquisition Regulation or any individual agency supplement to such Government-wide regulation;
- (7) shall have supervisory authority over personnel of such agency to the extent that the functions and duties of such personnel relate to functions and duties under sections 8 and 15 of this Act;
- (8) shall assign a small business technical adviser to each office to which the Administration has assigned a procurement center representative—
  - (A) who shall be a full-time employee of the procuring activity and shall be well qualified, technically trained and familiar with the supplies or services purchased at the activity; and
  - (B) whose principal duty shall be to assist the Administration procurement center representative in his duties and functions relating to sections 8 and 15 of this Act,
- (9) shall cooperate, and consult on a regular basis, with the Administration with respect to carrying out the functions and duties described in paragraph (4) of this subsection;
- (10) shall make recommendations to contracting officers as to whether a particular contract requirement should be awarded pursuant to subsection (a), section 8(a) of this Act, or section 2323 of title 10, United States Code, which shall be made with due regard to the requirements of subsection (m), and the failure of the contracting officer to accept any such recommendations shall be documented and included within the appropriate contract file;
- (11) shall review and advise such agency on any decision to convert an activity performed by a small business concern to an activity performed by a Federal employee;
- (12) shall provide to the Chief Acquisition Officer and senior procurement executive of such agency advice and comments on acquisition strategies, market research, and justifications related to section 44 of this Act;
- (13) may provide training to small business concerns and contract specialists, except that such training may only be provided to the extent that the training does not interfere with the Director carrying out other responsibilities under this subsection;

- (14) shall receive unsolicited proposals and, when appropriate, forward such proposals to personnel of the activity responsible for reviewing such proposals;
- (15) shall carry out exclusively the duties enumerated in this Act, and shall, while the Director, not hold any other title, position, or responsibility, except as necessary to carry out responsibilities under this subsection; and
- (16) shall submit, each fiscal year, to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate a report describing—
  - (A) the training provided by the Director under paragraph (13) in the most recently completed fiscal year;
  - (B) the percentage of the budget of the Director used for such training in the most recently completed fiscal year; and
  - (C) the percentage of the budget of the Director used for travel in the most recently completed fiscal year.

This subsection shall not apply to the Administration.