

May 24, 2013

The Honorable Sam Graves
Chairman, Committee on Small Business
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter of April 16, 2013, seeking information regarding the NRC's implementation of recently revised Section 15(k) of the Small Business Act.

The NRC recognizes the vital role small businesses play in maintaining a competitive supplier base and assisting in the economic recovery of the Nation through job creation. We are extremely proud of our record of success in providing ongoing support for small businesses competing for Federal contracts. I am pleased to report that the NRC received its first Small Business Administration scorecard grade of "A" for fiscal year 2011 performance. This scorecard recognizes the NRC's exemplary small business contract goal performance, compliance activities, support of Federal business development initiatives, and outreach activities.

In fiscal year 2012, the NRC exceeded all five of its small business prime contract goals for the first time. The NRC shares this accomplishment with only five other Federal agencies. For fiscal year 2013 to date, the agency continues to exceed all five of its small business prime contract goals, including more than doubling its performance goals for small disadvantaged firms and women-owned small businesses. This success in large measure arises from close collaboration among the various NRC offices involved in the acquisition process and an infrastructure that facilitates the participation of the Small Business Program in senior-level agency acquisition decisions.

The NRC Small Business Program staff has been collaborating on the NRC's recent strategic acquisition efforts regarding enterprise-wide contracting, by providing technical assistance in the areas of acquisition planning and market research. The positive results for small businesses have been significant. We also have increased our outreach efforts, holding our first small business seminar and business matchmaking event in collaboration with the Montgomery County, Maryland Chamber of Commerce, which resulted in the highest attendance to date for an NRC onsite small business event. The seminar introduced the agency, discussed our procurements and methods, and included information about upcoming contract opportunities. We will continue to participate in these types of events to ensure that small businesses receive the maximum practicable opportunity to complete and win Federal contracts.

The NRC is aware of Section 15(k) of the Small Business Act since it passed in January 2013, and is reviewing its various requirements in comparison with current agency practices.

In response to your letter's request for a paragraph-by-paragraph description of the NRC's implementation of the specific provisions of Section 15(k), I offer the following:

(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 function 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.

NRC Response

The Director of the Office of Small Business and Civil Rights (SBCR), Ms. Vonna Ordaz, has been designated as the Director of Small and Disadvantaged Business Utilization for the NRC. Ms. Ordaz, an engineer by training, has been head of SBCR since January 2012.

(2) Shall be appointed by the head of such agency to a position that is a Senior Executive position (as that 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).

NRC Response

Ms. Ordaz is a member of the Senior Executive Service and recognized within the NRC as a strong and effective advocate for small business interests. The Small Business Program Manager, who reports to Ms. Ordaz, is a GG-15 senior manager.

(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.

NRC Response

Ms. Ordaz reports to the NRC Executive Director for Operations (EDO). Under Section 2 of Reorganization Plan No. 1 of 1980, the EDO is the chief operating and administrative officer of the NRC, carrying out the policies and decisions of the Commission and directing the activities of the program offices. The EDO, in turn, reports directly to the NRC Chairman. The Chairman does not have a deputy per se, but the Executive Director's duties are similar to those of a deputy head of an agency. In addition, the Chairman's contracting authority has been formally delegated to the EDO.

- (4) Shall be responsible for the implementation and execution of the functions and duties under Section 8 and 15 of this Act which relate to such agency.**

NRC Response

Ms. Ordaz and her staff currently are responsible for the implementation and execution of these functions.

- (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 contractor, or to facilitate small business participation as subcontractors and suppliers, if a solicitation for a bundled contract is to be issued.**

NRC Response

Ms. Ordaz and her staff are routinely involved in NRC activities regarding potential contract bundling. Due to the size of the agency's acquisition program, the impact of bundling has not been significant thus far. Where contracts have been consolidated, the agency has either created a set aside for small businesses; incorporated mitigating measures, such as partial small business set-asides; or included a small business subcontracting plan evaluation factor that incentivizes subcontracting to small businesses.

- (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 Regulations or any individual agency supplement to such Government-wide regulations.**

NRC Response

Ms. Ordaz and her staff assist small businesses with these matters.

- (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.**

NRC Response

Ms. Ordaz has supervisory authority over the Small Business Program Manager (GG-15) and a Senior Small Business Specialist (GG-14), both of whom work full time on small business-related activities, including implementation of Sections 8 and 15 of the Small Business Act.

- (8) **Shall assign a small business technical advisor 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 principle duty shall be to assist the Administration procurement center representative in his duties and functions relating to Sections 8 and 15 of this Act.**

NRC Response

Under Ms. Ordaz's direction, both the Small Business Program Manager and Senior Small Business Specialist within SBCR fulfill the role of small business technical advisor to the NRC's sole procurement center representative.

- (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.**

NRC Response

Ms. Ordaz and her staff cooperate and consult on a regular basis with the Small Business Administration. In addition, the agency's Small Business Program Manager, under Ms. Ordaz's direction, serves on the Office of Small and Disadvantaged Business Utilization Directors Interagency Council and the Small Business Procurement Advisory Council.

- (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.

NRC Response

Ms. Ordaz and her staff carry out this responsibility.

- (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**

NRC Response

Ms. Ordaz and her staff carry out this responsibility.

- (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.**

NRC Response

Ms. Ordaz and her staff carry out this responsibility.

- (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.**

NRC Response

Under Ms. Ordaz's direction, the NRC's Small Business Program Manager is a regular presenter in the NRC's formal training program for acquisition personnel. The Program Manager also provides informal training and presentations to individual program offices and other groups within the NRC. As noted earlier, the NRC also engages in significant outreach activity to the small business community.

- (14) Shall receive unsolicited proposals and, when appropriate, forward such proposals to personnel of the activity responsible for reviewing such proposals.**

NRC Response

Ms. Ordaz and her staff carry out this responsibility.

- (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.**

NRC Response

Ms. Ordaz, as the Director of SBCR, has three key program areas of responsibility. In addition to her responsibility for small business efforts, she also oversees activities in the areas of equal employment opportunity, and outreach and compliance coordination for financially assisted programs and activities (grants). The SBCR mission focuses on diversity and inclusion, which directly support supplier diversity in the small business program.

As a small, independent agency, the NRC has not placed a senior executive in a position limited solely to oversight and implementation of activities under the Small Business Act. SBCR has two highly qualified and experienced staff members – a Small Business Program Manager (GG-15) and a Senior Small Business Specialist (GG-14) – who work closely with Ms. Ordaz on a full-time basis to promote and monitor the use of small businesses in contracting at the NRC. This approach has proven to be an effective, efficient, and accountable structure for managing successful small business advocacy and oversight activities at the NRC, which is among the smallest of the Chief Financial Officer Act agencies in contract spending.

Our record of success in small business contracting speaks to the effectiveness of our approach to structuring our small business organization consistent with the mission, financial resources, and management structure of the NRC. Given this success, at this time we do not anticipate making any changes to this structure.

- (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.**

NRC Response

Currently, the NRC carries out substantial reporting to the Small Business Administration. For fiscal year 2013, we will comply with this new requirement to submit a report directly to the Congress.

- 7 -

The NRC is proud of its strong record of, and ongoing commitment to, using and supporting small businesses. If you need any additional information, please contact me or Ms. Rebecca Schmidt, Director of the Office of Congressional Affairs, at (301) 415-1776.

Sincerely,

/RA/

Allison M. Macfarlane

cc: Representative Nydia M. Velazquez