



OSDBU'S CONTROLS OVER THE ELIGIBILITY OF CONTRACT RECIPIENTS

Audit Report 50601-0003-23

OIG reviewed how USDA awards contracts to small and disadvantaged businesses to ensure only eligible businesses receive contracts.

OBJECTIVE

To evaluate USDA's controls over OSDBU's programs and the monitoring of agency contracts to ensure they were awarded to eligible small businesses.

REVIEWED

We performed our audit work at USDA's headquarters in Washington, D.C., 8 of 11 USDA procurement agencies, and 50 businesses that contracted with USDA agencies.

RECOMMENDS

Inform the General Services Administration (GSA) and SBA officials of the issues OIG found during this audit, including details concerning the specific contracts; take action against the four businesses that could not support their disadvantaged status; and review a sample of contracts at least annually and notify GSA and SBA regarding businesses with inaccurate statuses.

WHAT OIG FOUND

In fiscal year (FY) 2016, the Department of Agriculture (USDA) awarded a total of 53,769 contracts valued at \$5.2 billion. The mission of USDA's Office of Small and Disadvantaged Business Utilization (OSDBU) is to encourage the Department's purchasing agencies to enter into a certain percentage of contracts with small and disadvantaged businesses. Each Federal agency with procurement powers is required to report to the Administrator of the Small Business Administration (SBA) regarding how many contracts it has awarded to small and disadvantaged businesses and their dollar values. SBA then sends an annual report to the President describing the number and dollar value of contracts made to these businesses.

USDA's controls over contracting with small and disadvantaged businesses were largely effective; however, we found that USDA overstated its goal achievements for 8 of the 50 statistically sampled contracts. Of those eight contracts, four were with businesses that could not support their small and disadvantaged status in the Federal system used for obtaining government contracts. For example, USDA reported (in the Federal procurement system) that four of these eight businesses were women-owned, but these businesses could not support that they were at least 51 percent owned and controlled by a woman. This occurred because USDA relied on the businesses' self-certifications, which were not always accurate. As a result, the Department was not able to report accurate information. Based on our sample, we estimate that USDA should not have counted towards its goals 1,390 of the 8,685 contracts in our universe (valued at more than \$42 million).

OSDBU agreed with our recommendations, and we accepted management decision on all three recommendations.



United States Department of Agriculture
Office of Inspector General
Washington, D.C. 20250



DATE: September 28, 2018

AUDIT
NUMBER: 50601-0003-23

TO: Donald Bice
Deputy Assistant Secretary for Administration
Departmental Management

Lynn Moaney
Acting Chief Financial Officer
Office of the Chief Financial Officer

ATTN: Annie Walker
Director
Internal Control Division

FROM: Gil H. Harden
Assistant Inspector General for Audit

SUBJECT: Office of Small and Disadvantaged Business Utilization's (OSDBU) Control
Over the Eligibility of Contract Recipients

This report presents the results of the subject review. Your written response to the official draft is included in its entirety at the end of the report. We have incorporated excerpts from your response, and the Office of Inspector General's (OIG) position, into the relevant sections of the report. Based on your written response, we are accepting management decision for all three audit recommendations in the report, and no further response to this office is necessary. Please follow your internal agency procedures in forwarding final action correspondence to the Office of the Chief Financial Officer (OCFO).

In accordance with Departmental Regulation 1720-1, final action needs to be taken within 1 year of each management decision to prevent being listed in the Department's annual Agency Financial Report. Please follow your internal agency procedures in forwarding final action correspondence to OCFO.

We appreciate the courtesies and cooperation extended to us by members of your staff during our audit fieldwork and subsequent discussions. This report contains publicly available information and will be posted in its entirety to our website (<http://www.usda.gov/oig>) in the near future.

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Background and Objectives

Background

The mission of the Department of Agriculture’s (USDA) Office of Small and Disadvantaged Business Utilization (OSDBU) is to encourage USDA’s purchasing agencies to enter into a certain percentage of contracts with small and disadvantaged businesses. Five categories of small and disadvantaged businesses are tracked by USDA: (1) woman-owned, (2) veteran-owned, (3) service-disabled veteran-owned, (4) historically underutilized business zone (HUBZone), and (5) minority-owned (8(a) program). The Small Business Act, as amended (hereafter referred to as “the Act”), defines a small business as one that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and in accordance with the size standards specified by the Small Business Administration (SBA).¹ The Act established an annual Government-wide goal that not less than 23 percent of the total value of all prime contract awards would be provided to small businesses. The Act also established Government-wide goals of 3 and 5 percent of contracts for various types of small and disadvantaged businesses.²

USDA follows the Federal Acquisition Regulation (FAR), which provides regulatory requirements for most Government contracting and provides criteria for determining small business status for small business programs.³ USDA also follows SBA guidance to determine whether a small business concern meets size standards and disadvantaged status. To qualify as a small and disadvantaged business, the business owner(s) must own at least 51 percent of the business and meet the requirements for being both socially and economically disadvantaged.⁴

According to the FAR, prospective businesses seeking government contracts should be registered in the General Services Administration’s (GSA) System of Award Management (SAM) prior to award of a contract or agreement.⁵ The business is required to enter and validate (i.e., certify) core data.⁶ In addition, a business can indicate any socio-economic and disadvantaged status it meets. A Federal agency may consider a business’ disadvantaged status when it awards a government contract. Federal regulations allow businesses to self-certify in SAM concerning their socio-economic and disadvantaged status as woman-owned, veteran-owned, and service-

¹ 15 U.S.C. § 632(a).

² 15 U.S.C. § 644(g).

³ 41 U.S.C. § 3101.

⁴ Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias within American society because of their identities as members of specific groups and without regard to their individual qualities. Economically disadvantaged individuals are socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially disadvantaged (15 U.S.C. § 637(a)).

⁵ FAR Part 4.1102.

⁶ Core data includes, but is not limited to, an entity’s Data Universal Numbering System number, name, address, commercial and Government entity, general information, financial information, and details about any proceedings in which the entity may currently be involved (System for Award Management User Guide–v1.8) (July 23, 2012).

disabled veteran-owned.⁷ Businesses can also register in SAM as an 8(a) Program or HUBZone participant, though SBA determines whether a business is eligible for an 8(a) Program and HUBZone small and disadvantaged status.⁸ However, the business is responsible for notifying SBA when the business no longer meets the requirements of an 8(a) Program or HUBZone small business status. The business is also responsible for making the appropriate status adjustment in SAM and recertifying every 12 months. The business should also recertify more frequently to ensure that SAM is up-to-date.

Federal agencies' contracting officers are required to check that a business is registered in SAM before awarding a contract.⁹ A contracting officer may rely on the small and disadvantaged status listed in that system when awarding contracts. After awarding a contract, the contracting officer inputs the contract information into the Government-wide Federal Procurement Data System—Next Generation (FPDS-NG).¹⁰ A business' core data—such as address and small and disadvantaged status—is auto-populated in FPDS-NG from SAM.

USDA has 11 contracting agencies and offices and more than 200 field procurement offices.¹¹ USDA agencies adhere to the FAR, which provides the requirements for contracting with small and disadvantaged businesses and allows agencies to use set-aside contracts¹² that are exclusively reserved for small businesses.¹³ While the FAR allows small and disadvantaged businesses to subcontract a portion of the contract award, there are limitations. The primary contractor must incur at least some of the costs with a percentage that varies depending on the contract type. For example, the primary contractor must incur at least 50 percent of the costs for

⁷ According to the SAM manual, an entity must renew and recertify its registration at least every 12 months from the date it previously registered to maintain an active status in SAM. In addition, an entity is responsible for ensuring the accuracy of its registration in SAM, which includes small and disadvantaged status and updating registration information as it changes (System for Award Management User Guide—v1.8) (July 23, 2012).

⁸ The Minority Small Business and Capital Ownership Development Program, commonly referred to as the 8(a) Program, offers business development support and financial assistance to eligible small and disadvantaged businesses. The 8(a) Program status lasts for up to 9 years or until the business exceeds certain criteria, such as income levels or number of employees. The HUBZone program provides Federal contracting assistance for qualified small business concerns located in historically underutilized business zones in an effort to increase employment opportunities, investment, and economic development in those areas. HUBZone status is valid until the business no longer resides in the SBA-determined zone or more than 35 percent of the business' employees reside outside the HUBZone. The business can retain HUBZone status if it attempts to maintain the applicable employment percentage during the performance of any HUBZone contract.

⁹ FAR Part 4.1103.

¹⁰ FPDS-NG is the single authoritative repository for Federal procurement award data. It contains data that the Federal Government uses to create recurring and special reports to the President, Congress, the Government Accountability Office, Federal executive agencies, and the public.

¹¹ Contracting agencies include the Agricultural Marketing Service, Agricultural Research Service, Animal and Plant Health Inspection Service, Office of the Chief Financial Officer (Departmental Management), Farm Service Agency, Food and Nutrition Service, Food Safety and Inspection Service, Forest Service, Natural Resources Conservation Service, Office of Inspector General (OIG), and Rural Development. As noted in the Scope and Methodology Section of this report, OIG contracts were not included as part of our audit.

¹² A “set-aside for small business” is the reserving of an acquisition exclusively for participation by small business concerns.

¹³ FAR Part 19.5.

a supplies contract, 25 percent for a specialty trades contract, and 15 percent for a general construction contract.¹⁴

USDA regulations provide guidance on the OSDBU process of acquisition planning, strategy, and execution phases to achieve USDA program goals and government-wide goals established by SBA.¹⁵ The government-wide and USDA goals for fiscal year (FY) 2016 are shown in the following table:

Table 1. Types of Disadvantage Status with Goal Percentages

Type of Small and Disadvantaged Business	Government-Wide Goals¹⁶	USDA Goals¹⁷
Women-owned small businesses	5 percent	5 percent
HUBZone-certified small businesses	3 percent	3 percent
Service-disabled veteran-owned small businesses	3 percent	3 percent
Total Participation by Small Business Contracts	Not Less than 23 percent	52.5 percent

The Act requires each Federal agency that has procurement powers to report to the Administrator of SBA on the extent of achievements against the goals. If USDA’s goals are not met, an appropriate justification for not meeting the goals is required.¹⁸ Public law requires that the President receive an annual report that includes the number and dollar value of contracts awarded to small business concerns.¹⁹ The SBA Administrator will analyze the reports²⁰ submitted by the individual agencies and submit a consolidated report to the President.²¹

¹⁴ FAR Part 52.219-14.

¹⁵ USDA Departmental Regulation 5090-001, Small Business Programs (June 14, 2007).

¹⁶ 15 U.S.C. § 644(g).

¹⁷ USDA Departmental Regulation 5090-2, Annual Preference Program Goals (July 1, 1998).

¹⁸ 15 U.S.C. § 644(h).

¹⁹ 15 U.S.C. § 644(h).

²⁰ GSA’s guidance on the Federal procurement system states that government agencies are responsible for collecting and reporting data on Federal procurements through the FPDS-NG. Throughout this report, we use the term “reporting” to mean the procurement data USDA entered into FPDS-NG. *Id.*

²¹ *Id.*

Objectives

The objectives of this audit were to evaluate USDA's controls over OSDBU's programs and the monitoring of agency contracts to ensure they were awarded to eligible small businesses.

We found that USDA's controls are delegated to each procurement agency. For the eight agencies we reviewed, the controls for contracting with small and disadvantaged businesses were generally functioning as intended. While Federal procurement requirements allow agencies to rely on the small and disadvantaged status listed in SAM, our fieldwork determined that the actual status did not always match what was in the SAM and FPDS-NG systems. USDA and SBA use the contract information from those systems to prepare the annual report to the President. See Finding 1.

Section 1: Accuracy of Information Regarding Contracts for Small and Disadvantaged Businesses

Finding 1: USDA Needs to Provide Accurate Information Regarding Contracts for Small and Disadvantaged Businesses

USDA's controls over contracting with small and disadvantaged businesses were largely effective. However, we found that USDA overstated its goal achievements for 8 of the 50 (16 percent) statistically sampled contracts, including contracts with 4 businesses that could not support their small and disadvantaged status.²² For example, USDA reported that four of these eight businesses were women-owned, but could not support that they were at least 51 percent owned and controlled by a woman. This occurred because USDA relied on these four businesses' self-certifications in SAM, which were not always accurate. Since USDA relies on these sometimes inaccurate self-certifications, the Department is reporting inaccurate information regarding its small and disadvantaged business program goals. Based on our sample, we estimate that 1,390 of the 8,685 contracts in our universe (valued at more than \$42 million) should not have been counted towards these goals.²³

Each Federal agency with procurement authority is required to report to the Administrator of SBA regarding how many contracts it has awarded to small and disadvantaged businesses.²⁴ According to statutory requirements, SBA then sends an annual report to the President on the number and dollar value of contracts made to small and disadvantaged businesses.²⁵ In USDA, agencies' contracting officers are required to follow the FAR in most cases when contracting with private companies that want to conduct business with the Federal government. Contracting officers use two GSA-operated IT systems, SAM and FPDS-NG. A business must register in SAM before bidding on a government contract. SAM identifies those parties excluded from receiving Federal contracts, certain subcontracts, and some types of Federal financial and nonfinancial assistance and benefits. The contracting officers are required to verify that the business is in SAM before awarding a contract, and then record the contract award amount, terms, and other contract details in FPDS-NG. The business' small and disadvantaged status is auto-populated into FPDS-NG from SAM.

From a universe of over 8,000 USDA contracts in FPDS-NG, we statistically selected a sample of 50 contracts from 8 of the 11 USDA procurement agencies. To qualify as a small and disadvantaged business, that business must be at least 51 percent directly owned and managed by one or more socially disadvantaged and economically disadvantaged individual(s), including

²² The four contracts were not awarded based on the businesses' disadvantaged status, though they did misrepresent their status in SAM. In addition, these contracts were included in USDA's total number of disadvantaged business contracts to meet their program goals.

²³ We are 95 percent confident at least 715 of the 8,685 contracts (8.2 percent) were counted incorrectly as meeting an OSDBU goal.

²⁴ USDA Departmental Regulation 5090-002, Annual Preference Program Goals (July 1, 1998).

²⁵ 15 U.S.C. § 644.

women, veterans, service-disabled veterans, HUBZone participants, or 8(a) Program participants.²⁶

Our review found that USDA overstated its goal achievements for 8 of 50 statistically sampled contracts awarded to businesses and listed in FPDS-NG.

- (1) We found that one business claimed in SAM to be both veteran- and woman-owned, and the Department reported this information toward both goals. Although the business owner was a veteran, he also claimed that since his wife works with him, the business was also woman-owned. Since an owner must own at least 51 percent of the business, both the husband and the wife cannot claim sufficient ownership to support both disadvantaged statuses.
- (2) One business owned by a married couple claimed woman-owned status, but could not support that the wife owned at least 51 percent of the business. Based on the business' ownership documents, we determined that the business was owned equally by the husband and wife, and thus should not have been claimed as woman-owned.
- (3) Another company owned by a married couple claimed in SAM that it was woman-owned, and USDA counted it as such for its goal achievement purposes. However, based on our review of ownership documents, we determined that the woman claiming ownership owned only 20 percent of the business stock shares. Her husband held the remaining 80 percent. The woman stated that she held 95 percent of the shares at the time the business was awarded the contract, but she could not provide supporting documentation. She explained that the business shredded any documentation supporting that previous ownership claim as well as any documentation supporting the transfer of her shares. The woman also informed us in an interview that her husband makes most of the decisions on managing the business.
- (4) Another business owned by a married couple claimed woman-owned status, but we determined that the wife had passed away in June 2015, approximately 7 months before award of the January 2016 contract. However, the husband did not change the business' woman-owned status in SAM after his wife passed. As a result, the business was counted as woman-owned, even though it was owned and managed solely by the husband.
- (5) One contract was awarded to a business that had graduated out of the 8(a) program in 2012 and was no longer listed as an 8(a) business in SAM when the contract was signed in April 2016. Nonetheless, the Department counted this contract toward the program goals as having been awarded to an 8(a) business.
- (6) One business had been a certified HUBZone business in the past, but was no longer certified as of August 2015. SAM reflected that the business was no longer certified.

²⁶ According to the FAR, a small business concern means "a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria and size standards."

Nonetheless, the business was recorded as HUBZone-certified in FPDS-NG and counted by the Department toward its HUBZone goal in 2016.

- (7) A woman-owned business was reported as a small business for goal achievement purposes even though the agency coded the business in FPDS-NG as “other than small” based on the type of work performed for the contract. The contract work categorized a small business as one that was limited to \$15 million in average annual revenue, but we found the business averaged \$112 million. OSDBU and agency officials agree that this business should not have been listed as small, but they could not explain why this contract was included in the universe of small and disadvantaged businesses. Therefore, USDA should not have counted this contract toward its small business goals.
- (8) One service-disabled veteran was awarded a contract, and we confirmed the accuracy of the special status that the business owner claimed in SAM. However, the agency never notified the business of the contract award, and thus the business never fulfilled the contract. USDA nevertheless counted this contract toward its service-disabled veteran-owned goal percentage.

Of these eight contracts, we found that the first four businesses in the list above made unsupported statements in SAM about the businesses’ disadvantaged status. Since other Federal departments rely on SAM data, we are concerned that these four businesses could obtain additional government contracts based on those unsupported statements. Therefore, we question these four contracts listed in FPDS-NG, valued at \$65,570 for FY 2016, to ensure USDA takes action to resolve this issue with those four businesses. In addition, based on our sample, we estimate \$11.4 million (0.92 percent) was obligated in 2016 across 695 of the 8,695 contracts (8 percent) to businesses that could not support their status as small and disadvantaged businesses.²⁷ We concluded that all eight contracts, including the four contracts with businesses that made unsupported statements, were listed in FPDS-NG but were ineligible to be counted as meeting an OSDBU goal.²⁸ Since SBA’s annual report to the President is derived from the data listed in FPDS-NG, we concluded that the information USDA contributed to that report includes inaccuracies regarding the extent to which USDA has reached its goals of contracting with small and disadvantaged businesses.

As allowed by the FAR, USDA agencies’ contracting officers relied on the businesses’ self-certifications in SAM, and those officials were not aware that the businesses we took exception to could not support their claimed small and disadvantaged status. If a USDA contracting officer has reason to question a business’ representation, the contracting officer can contact SBA, which would initiate an investigation into the business. Since the contracting officers were not aware of the discrepancies, the agencies’ contracting officials did not notify GSA or SBA officials about the inaccurate business status for the four contracts mentioned above. The contracting officers

²⁷ We are 95 percent confident at least \$3,183,854 of \$1,232,647,963 (0.26 percent) was obligated in 2016 across at least 242 of the 8,685 contracts (2.79 percent) with this issue.

²⁸ Based on our projections, \$42,643,706 of \$1,232,647,963 (3.46 percent) was obligated in 2016 across 1,390 of the 8,685 contracts (16 percent) that USDA should not have counted toward achieving an OSDBU goal. We are 95 percent confident at least \$18,593,856 (1.51 percent) was obligated in 2016 across at least 715 contracts (8.23 percent) with this issue.

explained that they did not examine businesses' claimed special status, as the FAR allows the contracting officers to rely upon a business' representation in SAM.

We brought this issue to the attention of OSDDBU and procurement officials at each of the agencies and offices with contracts in our sample as well as the head of the Department's Office of Procurement and Property Management (OPPM). Each party acknowledged that we identified a significant issue, yet each party also emphasized that correcting this issue would be difficult. OSDDBU officials stated that they are not in the position to issue and enforce policy to USDA agencies with procurement authority. The various agencies all emphasized that the FAR allows them to rely upon the representations made by private businesses, whether those representations are accurate or not. OPPM agreed with the issues OIG identified, but emphasized that the real problem is that business owners are misrepresenting themselves.

While we agree that businesses did misrepresent their disadvantaged status, we concluded that the Department should take action to ensure the accuracy of the information it reports. We found that OSDDBU did not have a formal process to inform GSA and SBA when small and disadvantaged business statuses are inaccurate in SAM. OSDDBU needs to review a sample of contracts at least annually to see if there is documentation to support small business and disadvantaged business status. OSDDBU also needs to establish a process to notify GSA and SBA officials when they are aware of discrepancies in GSA's systems and to take necessary administrative actions to discourage other businesses from misrepresenting themselves as small and disadvantaged.

We also noted that, in some cases, small and disadvantaged businesses subcontracted out nearly 100 percent of their contracts to businesses that were not small or disadvantaged, yet USDA reported these contracts as serving the Department's goals for supporting small or disadvantaged businesses. Regulations allow this type of subcontracting arrangement for contracts less than \$150,000.²⁹ However, we question whether reporting these types of arrangements as benefitting small and disadvantaged business is fully accurate. Of the 50 contracts we reviewed, we identified 4 additional small or disadvantaged businesses, apart from the 8 examples above, that subcontracted out nearly 100 percent of the contract amount to a business of a different status.³⁰ For example, one agency contracted with a woman-owned small business to provide consumer good rentals within a national forest and paid the business \$41,873 to fulfill the contract. However, 100 percent of this contract was subcontracted to a business that was not woman-owned. USDA reported this contract as if it were contributing to its goals of promoting woman-owned small businesses, but we question if this reported information is fully accurate since 100 percent of the funds were provided to a non-woman-owned business.

Based our review, we recommend that OSDDBU inform GSA and SBA officials of the issues we found during this audit, including details concerning the specific contracts. In addition, OSDDBU should work with the USDA agencies to determine what actions need to be taken against the four businesses that could not support their disadvantaged status and consider taking suspension and

²⁹ 13 C.F.R. 121.406(c)(2)(d).

³⁰ Based on our sample, we estimate \$25,222,560 of \$1,232,647,963 (2.05 percent) was obligated in 2016 across 695 of the 8,685 contracts (8 percent) with subcontracting exceptions. We are 95 percent confident at least \$9,281,140 (0.75 percent) were obligated in 2016 across at least 242 contracts (2.79 percent) with a subcontracting exception.

debarment actions to prevent other USDA agencies and other Federal Departments from contracting with those businesses.³¹ Finally, OSDBU should develop and implement a process to periodically notify GSA and SBA officials regarding any businesses that USDA finds with inaccurate status information in SAM. By implementing these corrective actions, USDA could ensure that the information it is reporting to SBA regarding small or disadvantaged business contracts is as accurate as possible.

Recommendation 1

Inform GSA and SBA officials of the issues OIG found during this audit, including details on the specific contracts.

Agency Response

In its September 18, 2018, response, OSDBU stated that it agreed with this recommendation:

The Department of Agriculture's (USDA) Office of Small and Disadvantaged Business Utilization (OSDBU) agrees to schedule meetings with General Services Administration (GSA) and the Small Business Administration (SBA) to discuss the findings as the result of the Office of Inspector General's (OIG) audit conducted concerning OSDBU's control over the eligibility of contract recipients. The discussions will include the details concerning the ineligibility of specific contractors currently found in the Federal Procurement Data System—Next Generation (FPDS-NG).

The estimated completion date is August 22, 2019.

OIG Position

We accept management decision on this recommendation.

Recommendation 2

Work with the USDA agencies to determine what actions need to be taken against the four businesses that could not support their disadvantaged status. Consider taking suspension and debarment actions to prevent other USDA agencies and other Federal Departments from contracting with those businesses.

³¹ Suspension and debarment are discretionary administrative actions taken by Federal agencies to exclude persons and entities who are not presently responsible from doing business with the Federal Government.

Agency Response

In its September 18, 2018, response, OSDBU stated that it agreed with this recommendation:

OSDBU will work with the USDA agencies to determine the appropriate action, as it pertains to the notification, suspension, and debarment of individuals found to be operating under false pretense that have entered into contracts with agencies of the USDA.

The estimated completion date is August 22, 2019.

OIG Position

We accept management decision on this recommendation.

Recommendation 3

Develop and implement a process to review a sample of contracts at least annually to see if there is documentation to support small business and disadvantaged business status. Also, develop a process to periodically notify GSA and SBA officials regarding any businesses that USDA finds with inaccurate status information in SAM, or when information in FPDS and SAM does not match.

Agency Response

In its September 18, 2018, response, OSDBU stated that it agreed with this recommendation:

OSDBU will develop and implement a process to review a sample of contracts, at least annually, to see if there is documentation to support small business and disadvantaged business status. This will require the assignment of specific OSDBU staff to complete the task-at-hand, appropriate plan of record retention, contact with GSA and SBA to obtain agreement, designation of a point-of-contact, and implementation.

This is a Federal-wide issue that GSA and SBA are aware of and it is known to the OSDBU that steps are already being taken to make corrections. OSDBU would like to retain the rights to readdress this issue with the OIG when appropriate.

The estimated completion date is August 22, 2019.

OIG Position

We accept management decision on this recommendation.

Scope and Methodology

To accomplish our objectives, we evaluated USDA's controls over OSDBU's programs and the agencies' monitoring of contracts awarded to eligible small disadvantaged businesses. We performed our audit work at USDA's headquarters in Washington, D.C., 8 of 11 procurement agencies, and 50 businesses that contracted with USDA agencies.³² We performed audit fieldwork from August 2017 through June 2018. The scope of this audit covered OSDBU's activities from FYs 2013 to 2017.

In FY 2016, USDA awarded 53,769 contracts valued at \$5.2 billion. Of those contracts, 16,878 contracts valued at \$1.3 billion were awarded to small and disadvantaged businesses. We limited our universe to 8,685 contracts valued at \$1.2 billion by removing all contracts with OIG,³³ contracts under \$2,500 (micro-purchases),³⁴ and contracts in States with less than 100 contracts.³⁵

We statistically selected a sample of 50 contracts awarded to small and disadvantaged businesses. The contract sample covered 50 unique businesses located in 17 States with 8 different USDA agencies and offices.³⁶ See Exhibit C for our sampling methodology.

OPPM provided us the universe of contracts from FPDS-NG, which is owned and controlled by GSA. We also used SAM, a GSA system, to confirm the disadvantaged status of the businesses. USDA does not own or control either system; therefore, we did not perform any additional testing to evaluate the systems. Instead, we relied on documentation, such as physical contracts, to corroborate data obtained from those systems.

³² We visited 27 businesses in 6 States that included California, Florida, Maryland, Oregon, New York, and Virginia. We performed a desk review of documentation obtained from the remaining 23 businesses in our sample. We held conversations, either in-person or by telephone, with business owners to complete our testing and ask followup questions.

³³ We removed all contracts procured by OIG since OIG procurement activities are subject to OIG Office of Compliance and Integrity's quality assurance review program and the Council of the Inspectors General on Integrity and Efficiency's external peer review program. Those reviews provide reasonable assurance that OIG audits, investigations, data analytics, and/or program management functions are in compliance with all prescribed laws, regulations, professional standards, OIG policies, and other applicable authorities.

³⁴ A "micro purchase" is an acquisition of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold, which is generally \$2,500 (48 C.F.R. § 2.101).

³⁵ We removed all contracts from Alaska, Guam, Hawaii, Puerto Rico, Canada, Virgin Islands of the U.S., and Northern Mariana Islands due to the cost and length of time to travel to those locations to perform audit field work.

³⁶ The eight USDA agencies reviewed were the Office of the Chief Financial Officer (Departmental Management), Agricultural Marketing Service, Farm Service Agency, Agricultural Research Service, Food and Nutrition Service, Forest Service, Food Safety and Inspection Service, and Natural Resources Conservation Service. Also included in our universe were the Animal and Plant Health Inspection Service as well as Rural Development. However, the statistical sampling did not select contracts with those agencies.

To accomplish our audit objectives, we:

- Reviewed applicable laws, the Act, the FAR, and Departmental regulations related to small and disadvantaged contracts and goals;
- Interviewed OSDBU and OPPM officials to clarify the roles of each agency when awarding contracts to a small and disadvantaged business;
- Interviewed procurement officials from the Agricultural Marketing Service, Agricultural Research Service, Food and Nutrition Service, Forest Service, Farm Service Agency, Food Safety and Inspection Service, Natural Resources Conservation Service, and Office of the Chief Financial Officer (Departmental Management) about the policies and procedures of each agency and the roles and responsibilities of contracting officers when awarding a contract to a small and/or disadvantaged business;
- Interviewed sampled business owners and reviewed documentation to determine business status, size, and ownership;
- Compared FPDS-NG and SAM information against the agency's contract to determine accuracy;
- Analyzed documents received from business owners against FPDS-NG information to determine whether the awarded contract should have been counted toward small and disadvantaged contract goals;
- Analyzed agency annual forecast reports from FYs 2013 through 2017 to determine if there was a plan in place to award contracts to businesses holding a disadvantaged status in order to reach expected goal percentages;
- Analyzed each contract for accuracy and eligibility of disadvantaged status claimed;
- Evaluated each agency's monitoring of contracts; and
- Interviewed an SBA policy official to clarify goals, subcontracting thresholds, and disadvantaged status qualifications.

We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Abbreviations

C.F.R.	Code of Federal Regulations
FAR	Federal Acquisition Regulation
FPDS-NG	Federal Procurement Data System—Next Generation
FY	fiscal year
GSA	General Services Administration
HUBZone	Historically Underutilized Business Zone
IT	information technology
OIG	Office of Inspector General
OPPM	Office of Procurement and Property Management
OSDBU	Office of Small and Disadvantaged Business Utilization
SAM	System for Award Management
SBA	Small Business Administration
U.S.C.	United States Code
USDA	United States Department of Agriculture

Exhibit A—Summary of Monetary Results

This exhibit summarizes the monetary results for this audit by finding and recommendation number.

Finding	Recommendation	Description	Amount	Category
1	2	Unsupported Small and Disadvantaged Status in SAM	\$11,389,509	Questioned Costs and Loans, No Recovery

Exhibit B—Listing of Statistically Selected Contracts

This exhibit provides a listing of the 50 statistically selected contracts, related agencies,³⁷ and disadvantaged status we reviewed during the audit.

Contract Count	Agency	Status Claimed	State
1	FSA	8(a)	VA
2	NRCS	Veteran-Owned	MD
3	FSIS	Women-Owned	MD
4	OCFO	Service-Disabled Veteran- and Veteran-Owned	VA
5	FSIS	Women-Owned and 8(a)	MD
6	ARS	Women-Owned	MD
7	FS	Women-Owned	VA
8	ARS	8(a)	VA
9	ARS	Women-Owned and 8(a)	VA
10	FS	Service-Disabled Veteran- and Veteran Owned	FL
11	FS	Service-Disabled Veteran-, Veteran-, and Women-Owned	CA
12	FS	Women-Owned and 8(a)	CA
13	FS	Women-Owned	CA
14	FS	Veteran- and Women-Owned	CA
15	OCFO	Women-Owned	CA
16	FS	Women-Owned	CA
17	FS	Women-Owned	CA
18	FS	Women-Owned	CA
19	AMS	Service-Disabled Veteran- and Veteran-Owned	CA
20	FS	Women-Owned	OR
21	FS	Women-Owned	OR
22	FS	Women-Owned	OR
23	FS	Women-Owned	OR

³⁷ The eight USDA agencies reviewed were the Office of the Chief Financial Officer (OCFO) (Departmental Management), Agricultural Marketing Service (AMS), Farm Service Agency (FSA), Agricultural Research Service (ARS), Food and Nutrition Service (FNS), Forest Service (FS), Food Safety and Inspection Service (FSIS), and Natural Resources Conservation Service (NRCS).

Contract Count	Agency	Status Claimed	State
24	FS	HUBZone, Service-Disabled Veteran-, and Veteran-Owned	OR
25	FS	HUBZone	OR
26	FS	HUBZone, 8(a), and Women-Owned	OR
27	FS	8(a)	OR
28	FS	Women-Owned	CA
29	FS	Veteran-Owned	ID
30	FS	Women-Owned and 8(a)	ID
31	FS	Women-Owned	MT
32	FS	Women-Owned	ID
33	FS	Veteran-Owned	LA
34	FS	Women-Owned and 8(a)	TX
35	OCFO	Women-Owned and 8(a)	LA
36	FS	Women-Owned	NM
37	ARS	Women-Owned	NY
38	FS	Women-Owned	UT
39	FS	8(a)	TX
40	FS	8(a), Service-Disabled Veteran-, and Veteran-Owned	CO
41	FS	8(a)	UT
42	FS	8(a) and HUBZone	CO
43	NRCS	Women-Owned	MI
44	FNS	8(a)	UT
45	FS	8(a) and HUBZone	FL
46	NRCS	Women-Owned	MO
47	FS	HUBZone	GA
48	FS	HUBZone	NY
49	FSA	Women-Owned	AZ
50	FS	Women-Owned	NY

Exhibit C—Sampling Methodology for OSDBU’s Controls over the Eligibility of Contract Recipients

Objective

This statistical sample was designed to support OIG Audit 50601-0003-23. The objectives of this audit were to evaluate USDA’s controls over OSDBU’s programs and the monitoring of agency contracts to ensure they were awarded to eligible small businesses.

To help achieve this objective, we developed a representative random statistical sample of contracts for review.

Audit Universe

To achieve an optimal balance between maximizing universe representation and minimizing travel expenses, the universe was limited to all non-OIG contracts that had at least \$2,500 obligated in 2016 awarded to small and disadvantaged businesses in D.C. or in a State with at least 100 of these contracts, except Alaska. This comprised \$1,232,647,963 obligated in 2016 across 8,685 contracts awarded to businesses in D.C. and 24 States.³⁸

Exhibit B indicates the 17 States with at least one contract in the sample. The seven States with contracts in the universe, but not in the sample, are Arkansas, North Carolina, Illinois, Minnesota, Ohio, Tennessee, and Washington.

Sample Design³⁹

We considered various sample designs and ultimately chose to limit the universe geographically and to larger contracts as described above, then audit 50 randomly selected without replacement from the 8,685 contracts in the universe.⁴⁰

The sample size was determined based on the following factors:

Audit universe: 8,685 contracts.

- Confidence level: We are reporting estimated lower limits with 95 percent confidence.
- Confidence level: We are reporting estimated lower limits with 95 percent confidence.
- Precision: We wanted to report estimates with at least 10 percent precision and consistent with sequential (or stop-or-go) sampling per paragraph 3.64 and Appendix B of AICPA’s Audit Guide *Audit Sampling* (May 1, 2017).

³⁸ We summarized on PIID all 2016 fiscal year records, resulting in 8,685 contracts with a unique PIID, an action obligation of at least \$2,500, and vendor state of Washington, D.C., or one of these 24 States.

³⁹ This statistical design is provided as evidence of the statistical sample and projections. It is simply an explanation of statistics involved with the audit work and results. This is not a reflection of the monetary results of this audit report. See Exhibit A and the related finding for the actual monetary results.

⁴⁰ ACL was used to select this simple random sample “on record” with sample parameters “random” and the Mersenne Twister algorithm (with a random seed of 2508) and with ACL reporting the selection order. The 10th randomly selected contract (for \$2,725) could not be audited since it was awarded to a sole proprietor who died before we could determine his eligibility. We replaced this with the 51st randomly selected contract.

- Expected exception rate: We did not have reliable historical information to help estimate this rate, but noticed the exception rates found in the first 50 selections would result in statistical projections consistent with the confidence level and precision described above.

Results

The results in the table below are projected to the audit universe of 8,685 contracts and corresponding \$1,232,647,963 obligated in 2016. Due to the relatively small sample size (50) and low exception rates, the lower limits for the universe of contracts are based on the hypergeometric distribution, and the lower limits for the universe of dollars obligated are based on empirical likelihood.⁴¹

Statistical Estimates

Reason	Actual found	Estimate		Precision	
Unsupported status in SAM	4	695			
Other reasons	4	695			
Total	8	1,390	715	7.77%	
		16%	8.23%		
Unsupported status in SAM	\$65,570	\$11,389,509			
Other reasons	\$179,932	\$31,254,197			
Total	\$245,502	\$42,643,706	\$18,593,856	1.95%	19.206
		3.46%	1.51%		4.130

⁴¹ We used an empirical likelihood method consistent with that described by Alan H. Kvanli and Robert Schauer in endnote 15, "Is Your Agency Too Conservative? Deriving More Reliable Confidence Intervals," *Journal of Government Financial Management*, Vol. 54, Summer 2005, pages 30-37. In addition, we incorporated the following adjustments, each causing the lower limits on dollar amounts to be slightly more conservative (i.e., lower).

- The 2.7055 (chi-square) was replaced with 2.8108 (F with 1 and 49 degrees of freedom).
- Bartlett correction for kurtosis (k) and skewness (s): $1/(1 - \alpha/n)$ with $\alpha = (k + 3)/2 - s^2/3$.

In combination, these adjustments result in calculations consistent with Kvanli and Schauer (2005, endnote 15) except each 2.7055 is replaced with $2.8108 \times 1/(1 - \alpha/50)$.

Subcontracted all or nearly all work to businesses that were not small and disadvantaged					
<i>Contracts</i>					
	4	695	242	5.21%	8.534
		8%	2.79%		3.193
<i>Dollars obligated</i>					
	\$145,208	\$25,222,560	\$9,281,140	1.29%	10.695
		2.05%	0.75%		3.442

The next section further explains these projections.

Interpreting the results

Based on our sample, we estimate the following:

- \$25,222,560 (2.05 percent) was obligated in 2016 across 695 contracts (8 percent) awarded to businesses that subcontracted all or nearly all of the work to businesses that were not small or disadvantaged. We are 95 percent confident at least \$9,281,140 (0.75 percent) was obligated across at least 242 contracts (2.79 percent) with this issue.
- \$42,643,706 (3.46 percent) was obligated in 2016 across 1,390 contracts (16 percent) that USDA should not have counted toward achieving an OSDBU goal. We are 95 percent confident at least \$18,593,856 (1.51 percent) was obligated in 2016 across at least 715 contracts (8.23 percent) with this issue.
 - \$11,389,509 of this \$42,643,706 and 695 of these 1,390 contracts had this issue because USDA awarded them to businesses that could not support their small and disadvantaged status in SAM. Projected separately, we are 95 percent confident at least \$3,183,854 (0.26 percent) was obligated in 2016 across at least 242 contracts (2.79 percent) with this issue.
 - \$31,254,197 of this \$42,643,706 and 695 of these 1,390 contracts had this issue for other reasons.

**OFFICE OF SMALL AND DISADVANTAGED
BUSINESS UTILIZATION'S
RESPONSE TO AUDIT REPORT**



United States
Department of
Agriculture

Office of Small
and
Disadvantage
Business
Utilization

1400
Independence
Avenue SW
Washington, DC
20250-9501

September 18, 2018

TO: Gil Harden
Assistant Inspector General for Audit
Office of Inspector General

THRU: Michelle Warren 
Deputy Director
Office of Small Disadvantage Business Utilization

FROM: Don Bice 
Deputy Assistant Secretary for Administration
Departmental Management

SUBJECT: Management Response on the Office of Inspector General
(OIG) Audit Number 50601-0003-23 "*Office of Small
Disadvantaged Business Utilization's Controls over the
Eligibility of Contract Recipients*"

Thank you for the opportunity to review and comment on the OIG Draft "*Office of Small Disadvantaged Business Utilization's (OSDBU) Controls over the Eligibility of Contract Recipients.*" The OSDBU generally concurs with the findings and recommendations and appreciate the time and effort that went into the report. Our response to the audit recommendations are attached.

Please contact Michelle Warren, Deputy Director, OSDBU at (202) 720-7835 for questions on recommendations.

Attachment

Office of Inspector General (OIG) Official Draft Audit Report No. 50601-0003-23
Office of Small Disadvantaged Business Utilization Controls over the
Eligibility of Contract Recipients

Recommendation 1: Inform GSA and SBA officials of the issues OIG found during this audit, including details on the specific contracts.

OSDBU Response: The Department of Agriculture's (USDA) Office of Small and Disadvantaged Business Utilization (OSDBU) agrees to schedule meetings with General Services Administration (GSA) and the Small Business Administration (SBA) to discuss the findings as the result of the Office of Inspector General's (OIG) audit conducted concerning OSDBU's control over the eligibility of contract recipients. The discussions will include the details concerning the ineligibility of specific contractors currently found in the Federal Procurement Data System - Next Generation (FPDS-NG).

Estimated Completion Date: August 22, 2019

Recommendation 2: Work with the USDA agencies to determine what actions need to be taken against the four businesses that could not support their disadvantaged status. Consider taking suspension and debarment actions to prevent other USDA agencies and other Federal Departments from contracting with those businesses.

OSDBU Response: OSDBU will work with the USDA agencies to determine the appropriate action, as it pertains to the notification, suspension and debarment of individuals found to be operating under false pretense that have entered into contracts with agencies of the USDA.

Estimated Completion Date: August 22, 2019

Recommendation 3: Develop and implement a process to review a sample of contracts at least annually to see if there is documentation to support small business and disadvantaged business status. Also, develop a process to periodically notify GSA and SBA officials regarding any businesses that USDA finds with inaccurate status information in the System for Award Management (SAM), or when information in FPDS-NG and SAM does not match.

OSDBU Response: OSDBU will develop and implement a process to review a sample of contracts, at least annually, to see if there is documentation to support small business and disadvantaged business status. This will require the assignment of specific OSDBU staff to complete the task-at-hand, appropriate plan of record retention, contact with GSA and SBA to obtain agreement, designation of a point-of-contact, and implementation.

This is a Federal-wide issue that GSA and SBA are aware of and it is known to the OSDBU that steps are already being taken to make corrections. OSDBU would like to retain the rights to readdress this issue with the OIG when appropriate.

Estimated Completion Date: August 22, 2019

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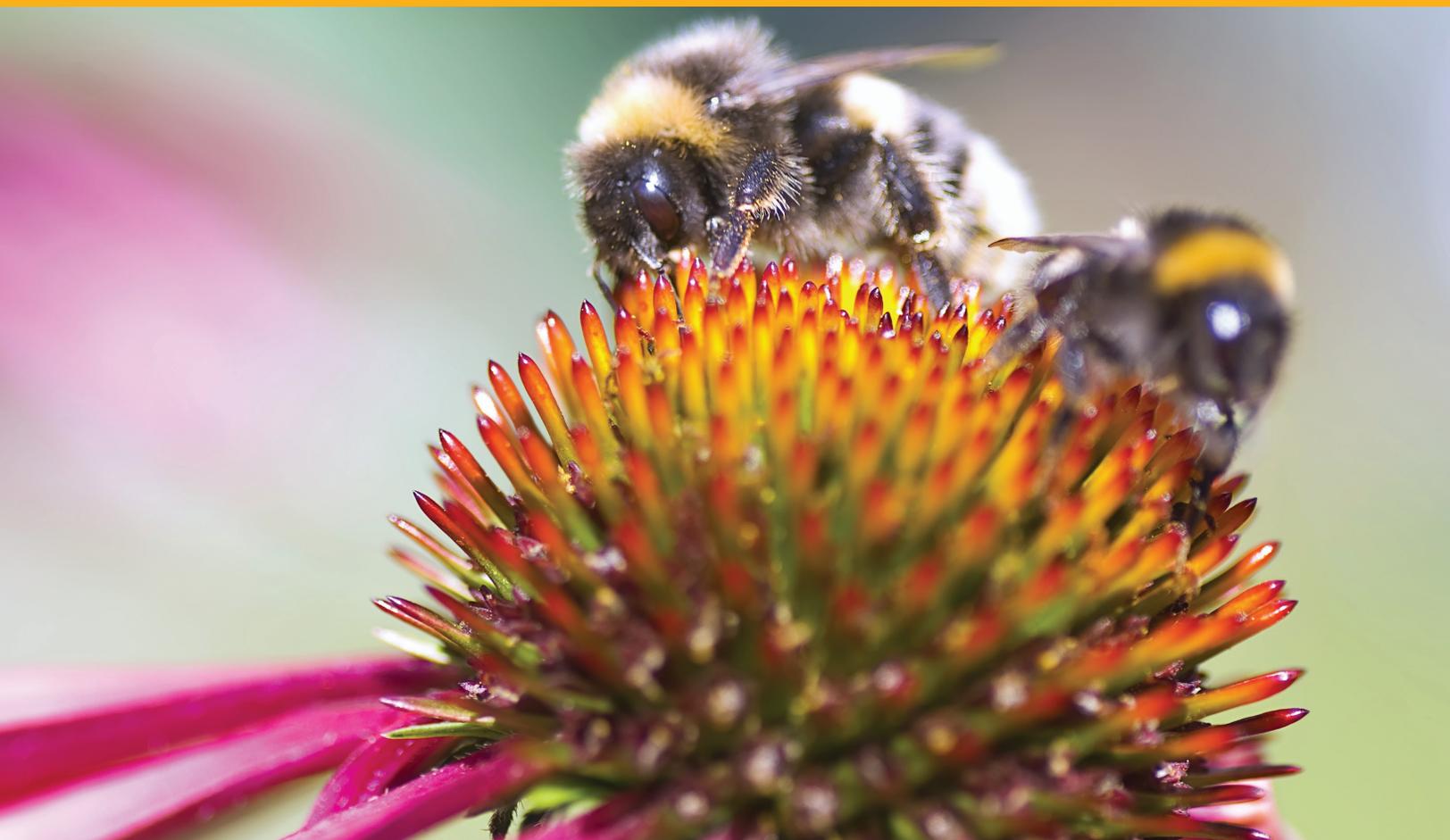
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