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## Socioeconomic Programs

### Types of small businesses

There are several types of small businesses. They are:

- Small
- Small Disadvantaged
- 8(a)
- Historically Underutilized Business Zone (HUBZones)
- Woman-Owned
- Indian Owned Economic Enterprises & Organizations
- Veteran-Owned/Service-Disabled Veteran-Owned

### Size standards (FAR Subpart 19.102)

The term “size standard” describes the numerical definition of a small business. A business is considered “small” if it meets or is below an established “size standard.”

(a) The SBA establishes small business size standards on an industry-by-industry basis.

(b) Small business size standards are applied by—

Classifying the product or service being acquired in the industry whose definition, as found in the North American Industry Classification System (NAICS) Manual (available via the Internet at <http://www.census.gov/epcd/www/naics.html>), best describes the principal nature of the product or service being acquired;

Identifying the size standard SBA established for that industry; and

Specifying the size standard in the solicitation so that offerors can appropriately represent themselves as small or large.

- (c) For size standard purposes, a product or service shall be classified in only one industry, whose definition best describes the principal nature of the product or service being acquired even though for other purposes it could be classified in more than one.
- (d) When acquiring a product or service that could be classified in two or more industries with different size standards, contracting officers shall apply the size standard for the industry accounting for the greatest percentage of the contract price.
- (e) If a solicitation calls for more than one item and allows offers to be submitted on any or all of the items, an offeror must meet the size standard for each item it offers to furnish. If a solicitation calling for more than one item requires offers on all or none of the items, an offeror may qualify as a small business by meeting the size standard for the item accounting for the greatest percentage of the total contract price.

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## Socioeconomic Programs, Continued

### Size standards (FAR Subpart 19.102), continued

- (f) Any concern which submits a bid or offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is deemed to be a small business when it has no more than 500 employees, and—
- (1) Except as provided in paragraphs (f)(4) through (f)(7) of this section, in the case of Government acquisitions set-aside for small businesses, such nonmanufacturer must furnish in the performance of the contract, the product of a small business manufacturer or producer, which end product must be manufactured or produced in the United States. The term "nonmanufacturer" includes a concern which can manufacture or produce the product referred to in the specific acquisition but does not do so in connection with that acquisition. For size determination purposes there can be only one manufacturer of the end item being procured. The manufacturer of the end item being acquired is the concern which, with its own forces, transforms inorganic or organic substances including raw materials and/or miscellaneous parts or components into such end item. However, see the limitations on subcontracting at 52.219-14 which apply to any small business offeror other than a nonmanufacturer for purposes of set-asides and 8(a) awards.
  - (2) A concern which purchases items and packages them into a kit is considered to be a nonmanufacturer small business and can qualify as such for a given acquisition if it meets the size qualifications of a small nonmanufacturer for the acquisition, and if more than 50 percent of the total value of the kit and its contents is accounted for by items manufactured by small business.
  - (3) For the purpose of receiving a Certificate of Competency on an unrestricted acquisition, a small business nonmanufacturer may furnish any domestically produced or manufactured product.
  - (4) In the case of acquisitions set aside for small business or awarded under section 8(a) of the Small Business Act, when the acquisition is for a specific product (or a product in a class of products) for which the SBA has determined that there are no small business manufacturers or processors in the Federal market, then the SBA may grant a class waiver so that a nonmanufacturer does not have to furnish the product of a small business. For the most current listing of classes for which SBA has granted a waiver, contact an SBA Office of Government Contracting. A listing is also available on SBA's Internet Homepage at <http://www.sba.gov/gc>. Contracting officers may request that the SBA waive the nonmanufacturer rule for a particular class of products.
  - (5) For a specific solicitation, a contracting officer may request a waiver of that part of the nonmanufacturer rule which requires that the actual manufacturer or processor be a small business concern if no known domestic small business manufacturers or processors can reasonably be expected to offer a product meeting the requirements of the solicitation.

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## Socioeconomic Programs, Continued

### Size standards FAR Subpart 19.102, continued

- (7) The SBA provides for an exception to the nonmanufacturer rule where the procurement of a manufactured item processed under the procedures set forth in Part 13 is set aside for small business and where the anticipated cost of the procurement will not exceed \$25,000. In those procurements, the offeror need not supply the end product of a small business concern as long as the product acquired is manufactured or produced in the United States.

### Determination of size

These web sites may be useful in determining the size of a business.

NAICS Code <http://www.census.gov/epcd/naics02/>

SBA Size Standard <http://sba.gov/size/>

### Small Business

What qualifies you as a small business?

SBA defines a small business concern as one that is independently owned and operated, is organized for profit, and is not dominant in its field. Depending on the industry, size standard eligibility is based on the average number of employees for the preceding 12 months or on sales volume averaged over a 3-year period. Examples of SBA general size standards include the following:

- Manufacturing: Maximum number of employees may range from 500 to 1500, depending on the type of product manufactured.
- Wholesaling: Maximum number of employees may range from 100 to 500 depending on the particular product being provided.
- Services: Annual receipts may not exceed \$2.5 to \$21.5 million, depending on the particular service being provided.
- Retailing: Annual receipts may not exceed \$5.0 to \$21.0 million, depending on the particular product being provided.
- General and Heavy Construction: General construction annual receipts may not exceed \$13.5 to \$17 million, depending on the type of construction.
- Special Trade Construction: Annual receipts may not exceed \$7 million.
- Agriculture: Annual receipts may not exceed \$0.5 to \$9.0 million, depending on the agricultural product.”

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## Socioeconomic Programs, Continued

### Small Disadvantaged Business

To be eligible as a small disadvantaged business a firm must qualify as a small business in accordance with the standards set forth by the Small Business Administration (SBA), i.e. ownership, affiliation, profit, and number of employees. Also, a firm must be socially or economically disadvantaged pursuant to Section 8(a) of the Small Business Act.

“At least one objective distinguishing feature that has contributed to social disadvantage, such as race, ethnic origin, gender, physical handicap, long-term residence in an environment isolated from the mainstream of American society, or other similar causes not common to individuals who are not socially disadvantaged:

1. Personal experiences of social disadvantage stemming from the objective distinguishing feature or features set forth in the preceding paragraph. The experiences must have been in American society, not in other countries, and must have been substantial and chronic.
2. Negative impact on entry into or advancement in the business world because of the disadvantage. SBA considers any relevant evidence in assessing this element. In every case, however, SBA considers education, employment, and business history, where applicable, to see if the totality of circumstances shows disadvantage in entering or advancing in the business world.”

Members of the following ethnic groups are classified as disadvantaged: Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, Subcontinent Asian Americans, and members of other groups designated on a case by case basis by the SBA.

Economically disadvantaged individuals are socially disadvantaged and their 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.

Self certification as a SDB prime contractor for statistical purposes is acceptable, however, anyone who misrepresents their status as a small disadvantaged business for the purpose of securing a contract or subcontract shall:

- Be punished by imposition of fine, imprisonment, or both.
- Be subject to administrative remedies, including suspension and debarment.
- Be ineligible for participation in programs conducted under the authority of the Small Business Act.

**Note:** Effective October 1, 1999, a subcontractor claiming SDB status must be certified by the Small Business Administration (SBA). SDBs can obtain application information from the SBA by calling 1-800-558-0884. SDBs that receive formal certification are listed in the SBA on line database *Pro-Net*.

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## Socioeconomic Programs, Continued

### 8(a) Firm

Participation in the Section 8(a) Program requires certification by the SBA. To be eligible, a firm must be at least 51 percent owned and controlled by a socially and economically disadvantaged individual or in the case of a publicly owned businesses, 51 percent of the stock must be owned by such individuals. Moreover, a firm's management and daily operations must be controlled by one or more disadvantaged individuals. While all 8(a) concerns are SDBs, not all SDBs are certified to participate in the 8(a) program. The applicant firm must have been operational for at least two full years as evidenced by business income tax returns for each of the two previous tax years which show operating revenues in the primary industry in which the applicant firm is seeking 8(a) program certification.

Program participation is divided into two stages:

- Developmental stage
- Transitional stage

The developmental stage is 4 years and the transitional stage is 5 years. The developmental stage is designed to help 8(a) certified firms overcome their economic disadvantage by providing business development assistance. The transitional stage is designed to help participants overcome the remaining elements of economic disadvantage and to prepare participants for leaving the 8(a) program.

8(a) firms are reviewed by SBA annually for compliance with eligibility requirements. As part of an annual review, each Participant firm must submit to the servicing district office the following:

- A certification that it meets the 8(a) BD program eligibility requirements.
- A certification that there have been no changed circumstances which could adversely affect the Participant's program eligibility.
- Personal financial information for each disadvantaged owner.
- A record from each individual claiming disadvantaged status regarding the transfer of assets for less than fair market value to any immediate family member, or to a trust in which an immediate family member is a beneficiary, within two years of the date of the annual review. The record must provide the name of the recipient(s) and family relationship and the difference between the fair market value of the asset transferred and the value received by the disadvantaged individual.
- A record of all payments, compensation, and distributions (including loans, advances, salaries, and dividends) made by the Participant to each of its owners, officers, directors, or to any person or entity affiliated with such individuals.
- IRS Form 4506, Request for Copy or Transcript of Tax Form.
- Such other information that SBA may deem necessary.

When a participant fails to provide documentation for annual review, SBA may initiate termination proceedings.

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## Socioeconomic Programs, Continued

### **HUBZone Small Business**

The Historically Underutilized Business Zone (HUBZone) Program is designed to stimulate economic development in urban and rural communities by providing contracting preference to small businesses located in such zones. "HUBZone" means a historically underutilized business zone that is an area located within one or more qualified census tracts, qualified nonmetropolitan counties, or lands within the external boundaries of an Indian reservation.

In order to qualify, a firm must be owned and controlled by a U.S. citizen, be located or have its principal office located within a designated HUBZone area, and certify that at least 35 percent of its employees are HUBZone residents. In order to qualify, you must be a small business concern and certified by the Small Business Administration that your principal office is located in a HUBZone. The certification is good for a 3-year period, however; a firm must self certify annually to SBA that it remains a HUBZone entity.

Log onto the web at <https://eweb1.sba.gov/hubzone/internet/general/findout.cfm> and scroll down to "How do I determine if an address or area is in a HUBZone?" You can search the system using several designations, including a specific address, a county, or a full state.

### **Women-Owned Small Business**

In May 1979, Executive Order 12138 directed Agencies to take appropriate action to facilitate, preserve and strengthen women owned businesses and to ensure full participation by women in the free enterprise system.

Women-owned businesses are small business concerns at least 51 percent owned by women who are United States citizens and who also control and operate the business. "Control" means exercising the power to make policy decisions. "Operate" means being actively involved in the day-to-day management of the business.

There are currently no set aside preferences; however, Agencies are required to award 5 percent of their acquisition dollars to women-owned businesses. This program is one of special emphasis, law and regulations do not provide special procedures or treatment.

### **Service-Disabled Veteran-Owned Small Business (SDVOSB)**

SDVOSB are small business concerns with: not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and the management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2) as, "a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable" with a disability that is service-connected, as defined in 38 U.S.C. 101(16) as, "with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty in the active military, naval, or air service."

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## Socioeconomic Programs, Continued

### Indian-Owned Economic Enterprises and Organizations

The Department of Defense Indian Incentive Program (IIP) strives to provide opportunities to Indian organizations and Indian-owned economic enterprises by providing for the payment of 5 percent of the amount subcontracted to an Indian organization or Indian-owned economic enterprise at any sub-tier, when authorized under the terms of the contract. DoD contracts with prime contractors that contain the FAR clause 52.226-1, *Utilization of Indian Organizations and Indian-Owned Economic Enterprises*, are eligible for incentive payments under the program. For actions after 13 September 2001, sub-tier contractors who subcontract to an Indian-owned firm are eligible for the incentive payments by the Prime inserting DFARS Clause 252.226-7001 in the contract. These clauses may be added at any time during the performance of the contract by the Prime.

An "Indian-Owned Economic Enterprise," is any Indian-owned (as determined by the Secretary of the Interior) commercial, industrial, or business activity established or organized for the purpose of profit, provided that the Indian ownership constitutes not less than 51 percent of the enterprise.

"Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or group or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

### Small Business Set Asides (FAR Subpart 19.501)

Procurements may be set-aside for small businesses. A "set-aside for small business" is the reserving of an acquisition exclusively for participation by small business concerns. For a procurement to be totally set-aside, a contracting officer must have reasonable expectations that offers will be obtained from at least two responsible small businesses and awards will be made at reasonable or fair market prices. When such conditions exist, the Small Business Act mandates the establishment of a set aside.

Small business set-asides may be open to all small businesses. A small business set-aside of a single acquisition or a class of acquisitions may be total or partial.

Except for those acquisitions set aside for very small business concerns (see FAR Subpart 19.9), each acquisition of supplies or services that has an anticipated dollar value exceeding \$2,500 (\$7,500 for acquisitions as described in FAR 13.201(g)(1)(i) or \$15,000 for acquisitions as described in FAR 13.201(g)(1)(ii)), but not over \$100,000 (\$200,000 for acquisitions described in paragraph (2)(i) of the Simplified Acquisition Threshold definition at FAR 2.101), is automatically reserved exclusively for small business concerns and shall be set aside for small business unless the contracting officer determines there is not a reasonable expectation of obtaining offers from two or more responsible small business concerns that are competitive in terms of market prices, quality, and delivery. If the contracting officer receives no acceptable offers from responsible small business concerns, the set-aside shall be withdrawn and the requirement, if still valid, shall be resolicited on an unrestricted basis.

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## Socioeconomic Programs, Continued

### Small Business Set Asides (FAR Subpart 19.501), continued

Any acquisition over \$100,000 shall be set-aside for small business participation when there is a reasonable expectation that offers will be obtained from at least two responsible small business concerns offering the products of different small business concerns, and award will be made at fair market prices.

For small business set-asides other than for construction or services, any concern proposing to furnish a product that it did not itself manufacture must furnish the product of a small business manufacturer unless the SBA has granted either a waiver or exception to the nonmanufacturer rule. In industries where the SBA finds that there are no small business manufacturers, it may issue a waiver to the nonmanufacturer rule.

### Responsible Offeror (FAR Subpart 9.104-1)

To be determined responsible, a prospective contractor must—

- (a) Have adequate financial resources to perform the contract, or the ability to obtain them (see FAR 9.104-3(a)).
- (b) Be able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments.
- (c) Have a satisfactory performance record (see FAR 9.104-3(b) and Subpart 42.15). A prospective contractor shall not be determined responsible or nonresponsible solely on the basis of a lack of relevant performance history, except as provided in 9.104-2.
- (d) Have a satisfactory record of integrity and business ethics.
- (e) Have the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them (including, as appropriate, such elements as production control procedures, property control systems, quality assurance measures, and safety programs applicable to materials to be produced or services to be performed by the prospective contractor and subcontractors). (See 9.104-3(a).)
- (f) Have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them (see 9.104-3(a)).
- (g) Be otherwise qualified and eligible to receive an award under applicable laws and regulations.



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## Socioeconomic Programs, Continued

### Buy American Act FAR Subpart 25.101

- (a) The Buy American Act restricts the purchase of supplies that are not domestic end products. For manufactured end products, the Buy American Act uses a two-part test to define a domestic end product.
- (1) The article must be manufactured in the United States.
  - (2) The cost of domestic components must exceed 50 percent of the cost of all the components.
- (b) The Buy American Act applies to small business set-asides. A manufactured product of a small business concern is a U.S.-made end product, but is not a domestic end product unless it meets the component test in paragraph (a)(2) of this section.

When one of the following exceptions applies, the contracting officer may acquire a foreign end product without regard to the restrictions of the Buy American Act: (a) *Public interest*; (b) *Nonavailability*, (c) *Unreasonable cost*, (d) *Resale*.

### Subcontracting (FAR Subpart 19.702)

It is the intent of Congress that a fair proportion of the Government's procurements be awarded to Small Businesses. To promote this effort, Congress enacted Public Law 95-507 which requires that all acquisitions exceeding \$500,000 (\$1,000,000 for construction) and are awarded to concerns with employees greater than 500 (including affiliates) provide subcontracting opportunities for small business enterprises. Subcontracting offers small business firms an important means of participating in DLA purchasing; particularly, if your capabilities are such that prime contracts are not within your reach.

To be eligible as a subcontractor under the program, a concern must represent itself as a small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or a woman-owned small business concern.

The Department of Defense (DoD) offers two markets for small business seeking defense contracting and defense subcontracting opportunities. The first market encompasses prime contracting opportunities; the second market encompasses defense subcontracting opportunities. The DoD encourages small businesses to enter the defense subcontracting market. By entering the market, goods and services flow to strengthen national security and the defense industrial base.

<http://www.acq.osd.mil/sadbu/publications/subdir/index.html> This directory provides the names and addresses of DoD prime contractors and the names and telephone numbers of Small Business Liaison Officers (SBLOs), who are contractor employees responsible for the success of subcontracting programs at various plant sites. Also, this directory cites products and services supplied to the DoD.

Prime contractors use SUB-Net to post subcontracting opportunities. These may or may not be reserved for small business, and they may include either solicitations or other notices, e.g., notices of sources sought for teaming partners and subcontractors on future contracts.

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## Socioeconomic Programs, Continued

### Subcontracting (FAR Subpart 19.702), continued

Small businesses can review this Web site to identify opportunities in their areas of expertise. While the Web site is designed primarily as a place for large businesses to post solicitations and notices, it is also used by Federal agencies, State and local governments, non-profit organizations, colleges and universities, and even foreign governments for the same purpose.

<http://web.sba.gov/subnet/>

The new Web site has shifted the traditional marketing strategy from the shotgun approach to one that is more focused and sophisticated. Instead of marketing blindly to hundreds of prime contractors, with no certainty that any given company has a need for their product or service, small businesses can now use their limited resources to identify concrete, tangible opportunities and then bid on them.

### Subcontractor Responsibility (FAR Subpart 9.104-4)

Generally, prospective prime contractors are responsible for determining the responsibility of their prospective subcontractors (but see FAR 9.405 and 9.405-2 regarding debarred, ineligible, or suspended firms). Determinations of prospective subcontractor responsibility may affect the Government's determination of the prospective prime contractor's responsibility. A prospective contractor may be required to provide written evidence of a proposed subcontractor's responsibility.

When it is in the Government's interest to do so, the contracting officer may directly determine a prospective subcontractor's responsibility (e.g., when the prospective contract involves medical supplies, urgent requirements, or substantial subcontracting). In this case, the same standards used to determine a prime contractor's responsibility shall be used by the Government to determine subcontractor responsibility.