

Alaska Procurement Connection

A Monthly Newsletter From Your Procurement Technical Assistance Centers

Determining Small Business Size Standards

Contributed by Robert Brunett (anreb2@uaa.alaska.edu)

The U.S. Small Business Administration (SBA) Size Standards define whether a business entity is small and, thus, eligible for government programs and preferences reserved for small business concerns. Current size standards were established for types of economic activity, or industry, and are listed under the North American Industry Classification System (NAICS).

In determining size standards the SBA considers economic characteristics comprising the structure of an industry, including degree of competition, average firm size, start-up costs and entry barriers, and distribution of firms by size. It also considers technological changes, competition from other industries, growth trends, historical activity within an industry, unique factors occurring in the industry which may distinguish small firms from other firms, and the objectives of its programs and the impact on those programs of different size standard levels.

As part of the SBA's review of a size standard, the SBA investigates if any concern at or below a particular standard would be dominant in the industry. The SBA will also take into consideration market share of a concern and other appropriate factors which may allow a concern to exercise a major controlling influence on a national basis in which a number of business concerns are engaged. Size standards are designed to ensure that a concern that meets a specific size standard is not dominant in its field of operation.

As part of its review of size standards, SBA's Office of Size Standards examines the impact of inflation on monetary-based size standards (e.g., receipts, net income, assets) at least once every five years and submits a report to the Administrator or designee. If SBA finds that inflation has significantly eroded the value of monetary-based size standards, it will issue a proposed rule to increase size standards.

The Code of Federal Regulations, Title 13; Part 121 covers Small Business Size Regulations, and if you want to request changes to existing size standards or establish new ones for emerging industries, you can contact the Assistant Administrator for Size Standards, Small Business Administration, 409 3rd Street, SW., Washington, DC 20416.

If you have questions or concerns about your business's size standard contact your local Alaska PTAC office for assistance.

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Check out the PTAC Calendar of Events for Upcoming Opportunities!

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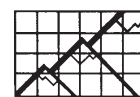
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Contributed by Megan Luna (anmcl1@uaa.alaska.edu)

SBA Revamps Website

Recently SBA updated its website, www.sba.gov. All government contracting information is now located at <http://www.sba.gov/services/contractingopportunities/index.html>. This portion of the SBA website has information on contracting regulations, size standards, certification programs, and submitting bids and proposals. Online training opportunities can also be found via the above link.

GSAAdvantage! Highlights Disaster Relief Resources

The Disaster Relief portion of GSA's GSAAdvantage! website has been moved to the front page. The website, an online resource for agencies to research and buy goods and services, was first added the Disaster Relief page in February 2006 following criticism of the federal procurement process in the aftermath of Hurricane Katrina. GSA's new, front page link to Disaster Relief provides easier access to information on purchasing items related to fire fighting, safety apparel, and cleanup supplies, as well as medical, construction, and staffing services. For more information, go to <http://www.GSAadvantage.gov>.

FedBizOpps Adds Quick Search

FedBizOpps, the federal government's portal for procurement opportunities, has added a "Quick Search" feature to its main page. Located in the upper left-hand corner of the web page, it allows for searches by keyword, NAICS, solicitation number, date range, set-aside codes, procurement classification codes and agency. To check out this new feature, visit <http://www.fbo.gov>.

SBA Offers 8(a) Training

The U.S. Small Business Administration (SBA) plans a series of free training sessions in 40 cities this year for 8(a) firms and some other disadvantaged businesses. The workshops focus on topics such as business and strategic plans and federal procurement. The Anchorage session is scheduled May 4, 2007. To register and view scheduled cities and dates, visit <http://www.ussmc.com>. For additional details contact Karen Forsland at 907-271-7022.

USPTO to Eliminate Disclosure Document Program

Contributed by Carolyn Pratt (ancap1@uaa.alaska.edu)

The Department of Commerce's United States Patent and Trademark Office (USPTO) eliminated its Disclosure Document Program on February 1, 2007. The USPTO implemented the Disclosure Document Program in 1969 to provide inventors not ready to file for a patent with an alternative method of establishing the date of conception of an invention. In the United States, priority for a patent goes to the person who is first to invent rather than to the person who is first to file a patent application. The date of conception is important in establishing who the first inventor is in the event another inventor applies for a patent for the same invention.

Under the Disclosure Document Program, the USPTO accepts, dates and retains for two years documents from inventors describing their inventions as evidence of the date the inventions were conceived. Very few inventors have used the Disclosure Document Program as part of the patent process, and some inventors who do use it erroneously believe that they are filing an application for a patent. In the over 3 million patents issued since 1976, only 1,330 (or 0.04%) reference a disclosure document.

Since 1995, inventors not ready to file a full patent application have been able to file a provisional patent application with the USPTO. A provisional application provides more benefits and protections to inventors than the disclosure document. A provisional patent application establishes a filing date and allows the term "patent pending" to be applied to the invention. A provisional application must contain a full disclosure of the invention, including drawings where necessary, and a cover sheet identifying the inventor(s). To maintain the priority date, a formal patent application for the invention must be filed with the USPTO within one year. A disclosure document is not an application for a patent and does not provide any benefits beyond establishing a conception date.

For more information, see the Federal Register notice: <http://www.uspto.gov/web/offices/com/sol/notices/71fr64636.pdf>.

SBA Announces New Recertification Rule for Size Status

Contributed by K. Anderson (anksa@uaa.alaska.edu)

In a November 14, 2006 press release, the U.S. Small Business Administration (SBA) announced a new regulation requiring small businesses to recertify their size status on long-term contracts when a contract option is exercised, when a small business is purchased by or merged with another business or at the end of the first five years of a contract.

The effective date of this rule is June 30, 2007, and applies to solicitations and contracts issued after the effective date, as well as contracts and solicitations in existence at the time of the effective date. It is unknown exactly how this will impact small business contracting in the future. However; SBA anticipates it will impact approximately 2,300 businesses in the first year of implementation based on data in the Federal Procurement Data System and Dynamic Small Business Search. Most businesses currently holding multiple award contracts which are affected by this rule have not had to certify their size status since contract award, which could be as long as eight years ago in some cases. Over time, some of these entities have grown beyond the small business size standards criteria or merged with or were acquired by large businesses. This rule does not apply to small businesses with subcontracts.

Historically, size status has been determined at the time of the initial offer on the contract and is retained over the life of the contract. However, federal agencies are increasingly using long-term contracts that with the exercise of contract options can extend to 20 years. The new regulation does not require termination of contracts if size status changes, nor does it require changes to contract terms and conditions.

According to the December 22, 2006 issue of *Set-Aside Alert*, the new rule allows contracting offers to request recertification on every task order under a multiple award contract, but they are not required to do so. Guidance may be provided to contracting officers on when this should be exercised or it may be addressed in an amendment to the Federal Acquisition Regulation. If a contracting officer opts to require recertification at the issue of a task order and the firm is found to be large, that finding will affect only the pending task order and will not be binding on other contracting officers.

Also at issue is how Congress will react once the SBA Reauthorization Bill, which contains language about recertification of size status, comes to the Senate floor for vote in 2007. Incoming chairman of the Senate Small Business Committee, Massachusetts Democrat John Kerry opposes the new rule, stating “five years is too broad,” according to the November 24, 2006 issue of *Set-Aside Alert*.

SBA, however, remains committed to creating an environment where small businesses can enter the federal marketplace as equal competitors, according to SBA Administrator Steven Preston. “This environment is created when agencies reduce contract bundling, consider small businesses as part of their overall procurement strategy, and ensure all agency reporting is accurate and reliable.” A cornerstone of this effort is the new regulation requiring recertification of size status.

Full text for the recertification regulation is available at The Federal Register’s web site at: <http://a257.g.akamaitech.net/7/257/2422/01jan20061800/edocket.access.gpo.gov/2006/pdf/E6-19253.pdf>.

PL 109-282: Show Me the Money

Contributed by Mary Sheehan (fnmhs@uaf.edu)

Public Law 109-282, the Federal Funding Accountability And Transparency Act of 2006, passed on September 26, 2006 is intended to require full disclosure of all entities and organizations receiving federal funds.

The law defines “entity” as for-profit or nonprofit, and, after January 1, 2009, includes not just prime contractors, but subcontractors as well. The law defines “federal award” as including grants, loans, awards, cooperative agreements, contracts, and subcontracts. The law covers all transactions at or over \$25,000.

It also requires that a searchable website be established for the public no later than January 1, 2008.

To read this law in its entirety, go to the Government Printing Office website for Public Law, <http://www.gpoaccess.gov/plaws/index.html>. Enter “Public Law 109-282” (in quotes) in the search box. Under the search results, select either PDF or text.



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CCR Information Once Public Now Blocked

Contributed by Mary Sheehan (fnmhs@uaf.edu)

Information in Central Contractor Registration (CCR) that was once accessible to the public through the Dynamic Small Business Search is now blocked. Blocked information includes a firm's actual revenues and number of employees. Firms are still required to provide the information, however it is no longer visible to the public. That area of the SBA Firm Profile now reads "A firm's actual revenues and number of employees are not releasable under the Freedom of Information Act."

SBA blocked this feature on December 12, 2006. The CCR site still permits searches by entering a range of employees or total revenues, for example, "more or less than \$10 million," but no longer provides specifics. There are legal and procurement issues involved in blocking (or unblocking) this data. SBA has stated that they are currently reviewing these issues and hope to resolve them shortly.

The Air Force has named John Caporal acting director of its Office of Small Business Programs. He succeeds Joseph Diamond, who retired.

In the office's newsletter, Caporal reported preliminary figures the Air Force awarded 16.6% of prime contract dollars to small firms in 2006. It's goal was 15.5%

—*Set-Aside Alert, December 22, 2006*