

Handout materials made available by the U.S. Small Business Administration at June 22, 2006 Educational Seminar for Architects and Engineers seeking Contracting Opportunities with Trinity Uptown held at the Fort Worth Botanical Gardens

What is a Small Business?

The Small Business Act states that a small business concern is "one that is independently owned and operated and which is not dominant in its field of operation." The law also states that in determining what constitutes a small business, the definition will vary from industry to industry to reflect industry differences accurately. SBA's [Small Business Size Regulations](#) implement the Small Business Act's mandate to SBA. SBA has also established a [table](#) of size standards, matched to North American Industry Classification System (NAICS) industries.

When the U.S. Congress first established SBA, the fundamental question was just what numerical definition should SBA use to define small businesses, industry by industry, to determine what businesses were eligible for SBA's programs. Over the years SBA has established and revised numerical definitions for all for-profit industries, and this numerical definition is called a "size standard." It is almost always stated either as the number of employees or average annual receipts of a business concern.

In addition to establishing eligibility for SBA programs, all federal agencies must use SBA's size standards for its Federal Government contracts it identifies as a small business. Agencies must also use SBA's size standards for their other programs and regulations, unless they are authorized by Federal statute to use something else.

19.001 Definitions.

As used in this part—

"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 in 13 CFR Part 121 (see 19.102). Such a concern is "not dominant in its field of operation" when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

541330 Engineering Services

This industry comprises establishments primarily engaged in applying physical laws and principles of engineering in the design, development, and utilization of machines, materials, instruments, structures, processes, and systems. The assignments undertaken by these establishments may involve any of the following activities: provision of advice, preparation of feasibility studies, preparation of preliminary and final plans and designs, provision of technical services during the construction or installation phase, inspection and evaluation of engineering projects, and related services.

541310 Architectural Services

This industry comprises establishments primarily engaged in planning and designing residential, institutional, leisure, commercial, and industrial buildings and structures by applying knowledge of design, construction procedures, zoning regulations, building codes, and building materials.

Size Standards

541310	Architectural Services	\$4.5	
541320	Landscape Architectural Services	\$6.5	
541330	Engineering Services	\$4.5	

UTILIZATION OF SMALL BUSINESS CONCERNS

(a) It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.

“Service-disabled veteran-owned small business concern”—

(1) Means a small business concern—

(i) 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

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

“Veteran-owned small business concern” means a small business concern—

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) 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 veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

“Women-owned small business concern” means a small business concern—

(1) That is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

Sec. 121.103 How does SBA determine affiliation?

(h) Affiliation based on joint ventures. A joint venture is an association of individuals and/or concerns with interests in any degree or proportion by way of contract, express or implied, consorting to engage in and carry out no more than three specific or limited-purpose business ventures for joint profit over a two year period, for which purpose they combine their efforts, property, money, skill, or knowledge, but not on a continuing or permanent basis for conducting business generally. This means that the joint venture entity cannot submit more than three offers over a two year period, starting from the date of the submission of the first offer. A joint venture may or may not be in the form of a separate legal entity. The joint venture is viewed as a business entity in determining power to control its management. SBA may also determine that the relationship between a prime contractor and its subcontractor is a joint venture, and that affiliation between the two exists, pursuant to paragraph (h)(4) of this section.

(3) Exception to affiliation for certain joint ventures. (i) A joint venture of two or more business concerns may submit an offer as a small business for a Federal procurement without regard to affiliation under paragraph (h) of this section so long as each concern is small under the size standard corresponding to the NAICS code assigned to the contract, provided:

(A) or

(B) The procurement is other than a "bundled" requirement within the meaning of Sec. 125.2(d)(1)(i) of this chapter, and:

(1) For a procurement having a receipts based size standard, the dollar value of the procurement, including options, exceeds half the size standard corresponding to the NAICS code assigned to the contract;

or

(2) For a procurement having an employee-based size standard, the dollar value of the procurement, including options, exceeds \$10 million.

Sec. 125.6 Prime contractor performance requirements (limitations on subcontracting).

(a) In order to be awarded a full or partial small business set-aside contract, an 8(a) contract, or an unrestricted procurement where a concern has claimed a 10 percent small disadvantaged business (SDB) price evaluation preference, a small business concern must agree that:

(1) In the case of a contract for services (except construction), the concern will perform at least 50 percent of the cost of the contract incurred for personnel with its own employees.

(2) In the case of a contract for supplies or products (other than procurement from a non-manufacturer in such supplies or products), the concern will perform at least 50 percent of the cost of manufacturing the supplies or products (not including the costs of materials).

(3) In the case of a contract for general construction, the concern will perform at least 15 percent of the cost of the contract with its own employees (not including the costs of materials).

(4) In the case of a contract for construction by special trade contractors, the concern will perform at least 25 percent of the cost of the contract with its own employees (not including the cost of materials).

(b) An SDVO SBC prime contractor can subcontract part of an SDVO contract (as defined in Sec. 125.15) provided:

(1) In the case of a contract for services (except construction), the SDVO SBC spends at least 50% of the cost of the contract performance incurred for personnel on the concern's employees or on the employees of other SDVO SBCs;

(2) In the case of a contract for general construction, the SDVO SBC spends at least 15% of the cost of contract performance incurred for personnel on the concern's employees or the employees of other SDVO SBCs;

(3) In the case of a contract for construction by special trade contractors, the SDVO SBC spends at least 25% of the cost of contract performance incurred for personnel on the concern's employees or the employees of other SDVO SBCs; and

(4) In the case of a contract for procurement of supplies or products (other than procurement from a non-manufacturer in such supplies or products), at least 50% of the cost of manufacturing the supplies or products (not including the costs of materials), will be performed by the SDVO SBC prime contractor or other SDVO SBCs.

(5) In accordance with Sec. 125.15(b)(3), the SDVO SBC joint venture must perform the applicable percentage of work.

(c) A qualified HUBZone SBC prime contractor can subcontract part of a HUBZone contract (as defined in Sec. 126.600 of this chapter) provided:

(1) In the case of a contract for services (except construction), the qualified HUBZone SBC spends at least 50% of the cost of the contract performance incurred for personnel on the concern's employees or on the employees of other qualified HUBZone SBCs;

(2) In the case of a contract for general construction, the qualified HUBZone SBC spends at least 15% of the cost of contract performance incurred for personnel on the concern's employees;

(3) In the case of a contract for construction by special trade contractors, the qualified HUBZone SBC spends at least 25% of the cost of contract performance incurred for personnel on the concern's employees;

*** Information from SBA's Web Site (www.sba.gov) and the Federal Acquisition Regulations and the Code of Federal Regulations***

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