

Contractor Code of Ethics and Business Conduct

On May 21, 2007, the Office of Advocacy sent a comment letter to the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils), in response to their notice of proposed rulemaking entitled, Code of Ethics and Business Conduct (72 Fed. Reg. 7588 February 16, 2007). Advocacy has advised the Councils to publish an initial regulatory flexibility analysis (IRFA) as required by Section 603 of the Regulatory Flexibility Act. A copy of Advocacy's letter to the Councils can be accessed at <http://www.sba.gov/advo/laws/comments>.

- The Councils have proposed to create government uniformity in corporate accountability by requiring all federal contractors that are awarded a contract in excess of a \$5 million threshold to implement a formal code of ethics and to provide an employee ethics and business conduct training program.
- The Councils have proposed that the requirement of a formal ethics code and business conduct training program would also be required of any subcontractors that are awarded contracts in excess of \$5 million.
- According to FY 2005 data from FPDS-NG, the official source of federal procurement contracting data, there were more than 763 small businesses that received prime contract dollars in excess of the proposed \$5 million threshold. In addition, there were more than 356 single small business contract actions in excess of this threshold. Detailed small business subcontracting data was not available but data was available to show that small businesses were awarded nearly 45 billion dollars in FY 2003. Subcontracting is a significant avenue for small businesses trying to enter the federal procurement market.
- Advocacy explained the importance of preparing an IRFA to consider the potential economic impact of this proposal on small entities and encouraged the Councils to publish one for this proposed rule.