

the entire procurement, then the proper size standard is the one for that particular industry, and not the Environmental Remediation Service size standard.

15. *Subsector 483—Water Transportation—Offshore Marine Services*: The applicable size standard shall be \$23.5 million for firms furnishing specific transportation services to concerns engaged in offshore oil and/or natural gas exploration, drilling production, or marine research; such services encompass passenger and freight transportation, anchor handling, and related logistical services to and from the work site or at sea.

16. *NAICS codes 611519—Job Corps Centers*. For classifying a Federal procurement, the purpose of the solicitation must be for the management and operation of a U.S. Department of Labor Job Corps Center. The activities involved include admissions activities, life skills training, educational activities, comprehensive career preparation activities, career development activities, career transition activities, as well as the management and support functions and services needed to operate and maintain the facility. For SBA assistance as a small business concern, other than for Federal Government procurements, a concern must be primarily engaged in providing the services to operate and maintain Federal Job Corps Centers.

17. *NAICS code 115310 (Support Activities for Forestry)—Forest Fire Suppression and Fuels Management Services* are two components of Support Activities for Forestry. Forest Fire Suppression includes establishments which provide services to fight forest fires. These firms usually have fire-fighting crews and equipment. Fuels Management Services firms provide services to clear land of hazardous materials that would fuel forest fires. The treatments used by these firms may include prescribed fire, mechanical removal, establishing fuel breaks, thinning, pruning, and piling.

18. *NAICS code 541519—An Information Technology Value Added Reseller* provides a total solution to information technology acquisitions by providing multi-vendor hardware and software along with significant services. Significant value added services consist of, but are not limited to, configuration consulting and design, systems integration, installation of multi-vendor computer equipment, customization of hardware or software, training, product technical support, maintenance, and end user support. For purposes of Government procurement, an information technology procurement classified under this industry category must consist of at least 15% and not more than 50% of value added services as measured by the total price less the cost of information technology hardware, computer software, and profit. If the contract consists of less than 15% of value added services, then it must be classified under a NAICS manufacturing industry. If

the contract consists of more than 50% of value added services, then it must be classified under the NAICS industry that best describes the predominate service of the procurement. To qualify as an Information Technology Value Added Reseller for purposes of SBA assistance, other than for Government procurement, a concern must be primarily engaged in providing information technology equipment and computer software and provide value added services which account for at least 15% of its receipts but not more than 50% of its receipts.

19. *NAICS Sector 92—Small business size standards* are not established for this sector. Establishments in the Public Administration sector are Federal, State, and local government agencies which administer and oversee government programs and activities that are not performed by private establishments. Concerns performing operational services for the administration of a government program are classified under the NAICS private sector industry based on the activities performed. Similarly, procurements for these types of services are classified under the NAICS private sector industry that best describes the activities to be performed. For example, if a government agency issues a procurement for law enforcement services, the requirement would be classified using one of the NAICS industry codes under 56161, Investigation, Guard, and Armored Car Services.

[65 FR 30840, May 15, 2000, as amended at 65 FR 53535, Sept. 5, 2000; 65 FR 60343, Oct. 11, 2000; 65 FR 69438, Nov. 17, 2000; 65 FR 70637, Nov. 24, 2000; 66 FR 30647, June 7, 2001; 66 FR 32416, June 14, 2001; 67 FR 3045, Jan. 23, 2002; 67 FR 11880, Mar. 15, 2002; 67 FR 19637, Apr. 23, 2002; 67 FR 38191, May 31, 2002; 67 FR 56906, Sept. 6, 2002; 67 FR 62292, Oct. 4, 2002; 67 FR 67103, 67253, Nov. 4, 2002; 68 FR 13811, Mar. 21, 2003; 68 FR 15050, Mar. 28, 2003; 68 FR 16408, Apr. 4, 2003; 68 FR 33354, June 4, 2003; 68 FR 59314, Oct. 15, 2003; 68 FR 74841, 74842, 74847, Dec. 29, 2003; 69 FR 29203, May 21, 2004]

SIZE ELIGIBILITY REQUIREMENTS FOR SBA FINANCIAL ASSISTANCE

§ 121.301 What size standards are applicable to financial assistance programs?

(a) For Business Loans and Disaster Loans (other than physical disaster loans), an applicant business concern, including its affiliates, must not exceed the size standard for the industry in which the applicant is primarily engaged.

(b) For Development Company programs, an applicant must meet one of the following standards:

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(1) The same standards applicable under paragraph (a) of this section; or

(2) Including its affiliates, tangible net worth not in excess of \$7 million, and average net income after Federal income taxes (excluding any carry-over losses) for the preceding two completed fiscal years not in excess of \$2.5 million. If the applicant is not required by law to pay Federal income taxes at the enterprise level, but is required to pass income through to its shareholders, partners, beneficiaries, or other equitable owners, the applicant's "net income after Federal income taxes" will be its net income reduced by an amount computed as follows:

(i) If the applicant is not required by law to pay State (and local, if any) income taxes at the enterprise level, multiply its net income by the marginal State income tax rate (or by the combined State and local income tax rates, as applicable) that would have applied if it were a taxable corporation.

(ii) Multiply the applicant's net income, less any deduction for State and local income taxes calculated under paragraph (b)(2)(i) of this section, by the marginal Federal income tax rate that would have applied if the applicant were a taxable corporation.

(iii) Sum the results obtained in paragraphs (b)(2)(i) and (b)(2)(ii) of this section.

(c) For the Small Business Investment Company (SBIC) program, an applicant must meet one of the following standards:

(1) The same standards applicable under paragraph (a) of this section; or

(2) Including its affiliates, tangible net worth not in excess of \$18 million, and average net income after Federal income taxes (excluding any carry-over losses) for the preceding two completed fiscal years not in excess of \$6 million. If the applicant is not required by law to pay Federal income taxes at the enterprise level, but is required to pass income through to its shareholders, partners, beneficiaries, or other equitable owners, the applicant's "net income after Federal income taxes" will be its net income reduced by an amount computed as follows:

(i) If the applicant is not required by law to pay State (and local, if any) in-

come taxes at the enterprise level, multiply its net income by the marginal State income tax rate (or by the combined State and local income tax rates, as applicable) that would have applied if it were a taxable corporation.

(ii) Multiply the applicant's net income, less any deduction for State and local income taxes calculated under paragraph (c)(2)(i) of this section, by the marginal Federal income tax rate that would have applied if the applicant were a taxable corporation.

(iii) Add the results obtained in paragraphs (c)(2)(i) and (c)(2)(ii) of this section.

(d) For Surety Bond Guarantee assistance—

(1) Any construction (general or special trade) concern or concern performing a contract for services is small if, together with its affiliates, its average annual receipts does not exceed \$6.0 million.

(2) Any concern not specified in paragraph (d)(1) of this section must meet the size standard for the primary industry in which it, combined with its affiliates, is engaged.

(e) The applicable size standards for purposes of SBA's financial assistance programs, excluding the Surety Bond Guarantee assistance program, are increased by 25% whenever the applicant agrees to use all of the financial assistance within a labor surplus area. Labor surplus areas are listed monthly in the Department of Labor publication "Area Trends in Employment and Unemployment."

[61 FR 3286, Jan. 31, 1996, as amended at 66 FR 30648, June 7, 2001; 67 FR 3056, Jan. 23, 2002; 69 FR 29204, May 21, 2004]

§ 121.302 When does SBA determine the size status of an applicant?

(a) The size status of an applicant for SBA financial assistance is determined as of the date the application for financial assistance is accepted for processing by SBA, except for applications under the Preferred Lenders Program (PLP), the Disaster Loan program, the SBIC program, and the New Markets Venture Capital (NMCV) program.

(b) For the Preferred Lenders program, size is determined as of the date