Subpart 19.1 - Size Standards

Parent topic: Part 19 - Small Business Programs

19.101 [Reserved]

19.102 Small business size standards and North American Industry Classification System codes.

(a) *Locating size standards and North American Industry Classification System codes.*

(1) SBA establishes small business size standards on an *industry*-by-*industry* basis. Small business size standards and corresponding North American *Industry* Classification System (NAICS) codes are provided at 13 CFR 121.201. They are also available at *https://www.sba.gov/document/support--table-size-standards* .

(2) NAICS codes are updated by the Office of Management and Budget through its Economic Classification Policy Committee every five years. New NAICS codes are not available for use in Federal *contracting* until SBA publishes corresponding size standards. NAICS codes are available from the U.S. Census Bureau at https://www.census.gov/naics/.

(3) SBA determines the size status of a *concern*, including its *affiliates*, as of the date the *concern* represents that it is small to the *contracting officer* as part of its initial *offer*, which includes price.

(4) When an agency uses a *solicitation* for a *multiple-award contract* that does not require *offers* for the contract to include price, SBA determines size as of the date of initial *offer* for the *multiple-award contract*, whether or not the *offer* includes price or the price is evaluated. (See 13 CFR 121.404(a)(1)(iv)).

(b) *Determining the appropriate NAICS codes for the solicitation.*

(1) Unless required to do otherwise by paragraph (b)(2)(ii)(B) of this section, *contracting officers shall* assign one NAICS code and corresponding size standard to all *solicitations*, contracts, and task and *delivery orders*. The *contracting officer shall* determine the appropriate NAICS code by classifying the product or service being acquired in the one *industry* that best describes the principal purpose of the supply or service being acquired. Primary consideration is given to the *industry* descriptions in the U.S. NAICS Manual, the product or service descriptions in the *solicitation*, the relative value and importance of the *components* of the requirement making up the end item being procured, and the function of the goods or services being purchased. A *procurement* is usually classified according to the *component* that accounts for the greatest percentage of contract value.

(2)

(i) For *solicitations* issued on or before October 1, 2028, that will result in *multiple-award contracts*, the *contracting officer shall* assign a NAICS code in accordance with paragraph (b)(1) of this

section.

(ii) For *solicitations* issued after October 1, 2028, that will result in *multiple-award contracts*, the *contracting officer shall*–

(A) Assign a single NAICS code (and corresponding size standard) that best describes the principal purpose of both the *acquisition* and each subsequent order; or

(B) Divide the *acquisition* into distinct portions or categories (*e.g.*, *line item numbers*, Special Item Numbers, sectors, functional areas, or equivalent) and assign each portion or category a single NAICS code and size standard that best describes the principal purpose of the *supplies* or services to be acquired under that distinct portion or category.

(3)

(i) When placing orders under *multiple-award contracts* with a single NAICS code, the *contracting officer shall* assign the order the same NAICS code and corresponding size standard designated in the contract.

(ii) When placing orders under *multiple-award contracts* with more than one NAICS code, the *contracting officer shall* assign the order the NAICS code and corresponding size standard designated in the contract for the distinct portion or category against which the order is placed. If an order covers multiple portions or categories, select the NAICS code and corresponding size standard designated in the contract for the distinct portion or category that best represents the principal purpose of the order.

(4) The *contracting officer*'s designation is final unless appealed in accordance with the procedures in 19.103.

(c) *Application of small business size standards to solicitations.*

(1) The *contracting officer shall* apply the size standard in effect on the date the *solicitation* is issued.

(2) The *contracting officer may* amend the *solicitation* and use the new size standard if SBA amends the size standard and it becomes effective before the due date for receipt of initial *offers*.

19.103 Appealing the contracting officer's North American Industry Classification System code and size standard determination.

(a) The *contracting officer*'s determination is final unless appealed as follows:

(1) An appeal of a *contracting officer*'s NAICS code designation and the applicable size standard *shall* be served and filed within 10 calendar days after the issuance of the initial *solicitation* or any amendment affecting the NAICS code or size standard. However, SBA *may* file a NAICS code appeal at any time before *offers* are due.

(2) Appeals of a *contracting officer*'s NAICS code designation or applicable size standard *may* be filed with SBA's Office of Hearings and Appeals (OHA) by—

(i) Any person adversely affected by a NAICS code designation or applicable size standard. However, with respect to a particular sole source 8(a) contract, only the SBA Associate Administrator for Business Development *may* appeal a NAICS code designation; or

(ii) The Associate or Assistant Director for the SBA program involved, through SBA's Office of General Counsel.

(3) *Contracting officers shall* advise the public, by amendment to the *solicitation*, of the existence of a NAICS code appeal (see 5.102(a)(1)). Such notices *shall* include the procedures and the deadline for interested parties to file and serve arguments concerning the appeal.

(4) SBA's OHA will dismiss summarily an untimely NAICS code appeal.

(5) NAICS code appeals are filed in accordance with 13 CFR 121.1103.

(6) Upon receipt of a NAICS code appeal, OHA will notify the *contracting officer* by a notice and order of the date OHA received the appeal, the docket number, and the Administrative Judge assigned to the case. The *contracting officer*'s response to the appeal, if any, *shall* include argument and evidence (see 13 CFR part 134), and *shall* be received by OHA within 15 calendar days from the date of the docketing notice and order, unless otherwise specified by the Administrative Judge. Upon receipt of OHA's docketing notice and order, the *contracting officer shall* withhold award, unless withholding award is not in the best interests of the Government, and immediately send to OHA an electronic link to or a paper copy of both the original *solicitation* and all amendments relating to the NAICS code appeal. The *contracting officer shall* inform OHA of any amendments, actions, or developments concerning the *procurement* in question.

(7) After close of record, OHA will issue a decision and inform the *contracting officer*. If OHA's decision is received by the *contracting officer* before the date the *offers* are due, the decision *shall* be final and the *solicitation shall* be amended to reflect the decision, if appropriate. OHA's decision received after the due date of the initial *offers shall* not apply to the pending *solicitation* but *shall* apply to future *solicitations* of the same *products* or services.

(b) SBA's regulations concerning appeals of NAICS code designations are located at 13 CFR 121.1102 to 121.1103 and 13 CFR part 134.