



## SIZE AND AFFILIATION

### DATE

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### SPEAKERS

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### BACKGROUND

The Department of Defense (DoD) Office of Small Business Programs (OSBP) in partnership with the Small Business Administration sponsored Small Business Training Week (SBTW17) at the Sheraton Atlanta in Atlanta, Georgia. Answers to questions submitted through the OSBP SBTW mobile app are included below.

### QUESTIONS AND ANSWERS

**If a solicitation is issued prior to October 2017 with R&D NAICS code 541712, but a contract award takes place after SBA issues size standards for the 2017 NAICS, which code should be used?**

The date of the solicitation is applicable. So, if the solicitation is issued prior to October 1, 2017, then the 2012 NAICS should be used. If it is issued after October 1, 2017, then the 2017 NAICS should be used, assuming SBA's change to the 2017 NAICS is effective at that time.

**If a SB awardee turns large a little less than 1/2 way through MATOC, will subcontract plans apply?**

A firm is required to re-certify its size if there is a merger or novation, or the contract has a duration of more than five years (13 CFR 121.404(g)). In the event that the entity recertifies as "other than small," it is up to the CO whether to require a subcontracting plan for the duration of the contract. 13 CFR 121.404(g)(3)(ii). In a Multiple Award Contract, the CO has the option of requesting size recertification with a specific order. 13 CFR 121.404(a)(1)(ii).

## TWEETS

SBA finds firms "affiliated" if one controls or has the power to control the other, or a third party has the power to control both. #SBTW17

The SBA tries to issue size-standard determinations within 15 days. @SBAGov's Stephanie Lewis at #SBTW17

The SBA gives agencies the discretion to require small-business-size-standard recertification at the task order level. #SBTW17

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We are the Department of Defense (DoD) Office of Small Business Programs (OSBP). We maximize opportunities for small businesses to contribute to national security by providing combat power for our troops and economic power for our nation.

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### **Is it possible to get the specific definitions for the NAICS codes that have exceptions from SBA?**

On the SBA size webpage at [www.sba.gov/size](http://www.sba.gov/size), one can click on the "Table of Small Business Size Standards." This table is available in pdf and Word. The NAICS exceptions are listed in the table (one may also need to refer to the applicable footnotes).

### **What is direction for major competitive actions that are under sequestered source selections? Would they have to issue an amended to the RFP even though it closed and possibly reopen discussions for NAICS change could cause significant time delays?**

The same procedures apply to sequestered source selections. The NAICS code should be determined by following the guidance in 13 CFR 121.402 and the NAICS should be included in the solicitation. The agency uses the size standard that is effective at the date the solicitation is issued. Once the agency issues the solicitation, the NAICS code and size standard are set. The two exceptions are where an interested party successfully appeals the NAICS code to SBA's Office of Hearings and Appeals or where the agency—at its discretion—issues a solicitation amendment to change the size standard to adopt a change that SBA has made to its size standards before receipt of offers. However, if the agency chooses not to issue an amendment to adopt an SBA change, the size standard remains the one specified in the solicitation.

### **What happens to a contract that was issued to a small business but half way through they no longer fall under small business rules (they grew)?**

A firm that self-certified as small at time of offer, including price, remains small for the life of the contract unless one of three regulatory exceptions applies (merger, novation, the contract during is greater than five years.). 13 CFR 121.404(a) and (g).

### **A start-up company wants to do business with the federal government. They are told to register in SAM. They need to know if they are large or small and their NAICS codes. Who at the SBA can help them?**

The business should consult the SBA size web page at [www.sba.gov](http://www.sba.gov). It contains the Size Standard table and other information pertinent to determining a firm's size. If a firm is having difficulty determining its applicable NAICS code(s), it may want to use the NAICS keyword search at <https://www.census.gov/eos/www/naics/>. If a firm needs assistance, it can contact 1-800-UASK-SBA or one of the Size Specialists.

### **You mentioned that services codes are based on a company's income + COGS, but SAM only asks for three-year average revenue, which is correct?**

SAM (and the Dynamic Small Business Search) ask for a firm's average annual receipts. This is an average of annual receipts from a firm's most recently completed three fiscal years. Annual receipts are determined by adding the "total income" plus "cost of goods sold" lines on its federal tax returns. A firm must also include the average annual receipts of its affiliates in its receipts calculation. This information can be found in 13 CFR 121.103(a) (6) and 13 CFR 121.104. Note that there are a few exclusions from receipts that can be found in 13 CFR 121.104(a).

### **Is it acceptable for size decisions to take five months?**

SBA strives to render size determinations within 15 working days. At times, there are circumstances when SBA is not able to meet this deadline. Extensions on the behalf of the contractor or SBA should be worked out with the Contracting Officer. If a CO needs to make an award and has not received the size determination within 15 working days, the CO can follow the procedures in 13 CFR 121.100g.