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(b) For a period of three years following the date upon which a concern purchases timber under a small business set-aside (other than through the Special Salvage Timber Sale program), it must maintain a record of:

(1) The name, address and size status of every concern to which it sells the timber or sawlogs; and

(2) The species, grades and volumes of sawlogs sold.

(c) For a period of three years following the date upon which a concern purchases timber, it must by contract require all small business repurchasers of the sawlogs or timber it purchased under the small business set-aside to maintain the records described in paragraph (b) of this section.

§ 121.508 What are the size standards and other requirements for the purchase of Government-owned Special Salvage Timber?

(a) In order to purchase Government-owned Special Salvage Timber from the United States Forest Service or the Bureau of Land Management as a small business, a concern must:

(1) Be primarily engaged in the logging or forest product industry;

(2) Have, together with its affiliates, no more than twenty-five employees during any pay period for the last twelve months; and

(3) If it does not intend at the time of offer to resell the timber—

(i) Agree that it will manufacture a significant portion of the logs with its own employees; and

(ii) Agree that it will log the timber only with its own employees or with employees of another business which is eligible for award of a Special Salvage Timber sales contract; or

(4) If it intends at the time of offer to resell the timber, agree that it will perform a significant portion of timber logging with its own employees and that it will subcontract the remainder of the timber logging to a concern which is eligible for award of a Special Salvage Timber sales contract.

§ 121.509 What is the size standard for leasing of Government land for coal mining?

A concern is small for this purpose if it:

(a) Together with its affiliates, does not have more than 250 employees;

(b) Maintains management and control of the actual mining operations of the tract; and

(c) Agrees that if it subleases the Government land, it will be to another small business, and that it will require its sublessors to agree to the same.

§ 121.510 What is the size standard for leasing of Government land for uranium mining?

A concern is small for this purpose if it, together with its affiliates, does not have more than 100 employees.

§ 121.511 What is the size standard for buying Government-owned petroleum?

A concern is small for this purpose if it is primarily engaged in petroleum refining and meets the size standard for a petroleum refining business.

§ 121.512 What is the size standard for stockpile purchases?

A concern is small for this purpose if:

(a) It is primarily engaged in the purchase of materials which are not domestic products; and

(b) Its annual receipts, together with its affiliates, do not exceed $76.5 million.

[61 FR 3286, Jan. 31, 1996, as amended at 67 FR 3056, Jan. 23, 2002; 70 FR 72594, Dec. 6, 2005; 73 FR 41254, July 18, 2008; 79 FR 33669, June 12, 2014; 84 FR 34281, July 18, 2019; 87 FR 69154, Nov. 17, 2022]

SIZE ELIGIBILITY REQUIREMENTS FOR THE 8(a) BUSINESS DEVELOPMENT PROGRAM

§ 121.601 What is a small business for purposes of admission to SBA's 8(a) Business Development program?

An applicant must not exceed the size standard corresponding to its primary industry classification in order to qualify for admission to SBA's 8(a) Business Development Program.

[69 FR 29205, May 21, 2004]

§ 121.602 At what point in time must a 8(a) BD applicant be small?

A 8(a) BD applicant must be small for its primary industry at the time SBA

certifies it for admission into the program.

[61 FR 3286, Jan. 31, 1996, as amended at 69 FR 29206, May 21, 2004]

§ 121.603 How does SBA determine whether a Participant is small for a particular 8(a) BD subcontract?

(a) *Self certification by Participant.* A 8(a) BD Participant must certify that it qualifies as a small business under the NAICS code assigned to a particular 8(a) BD subcontract as part of its initial offer including price to the procuring agency. The Participant also must submit a copy of its offer, including its self-certification as to size, to the appropriate SBA district office at the same time it submits the offer to the procuring agency. *See* § 121.404 for the time at which size is determined for, and § 121.406 for the applicability of the nonmanufacturer rule to, 8(a) BD procurements.

(b) *Verification of size by SBA.* Within 30 days of its receipt of a Participant's size self-certification for a particular 8(a) BD subcontract, the SBA district office serving the geographic area in which the Participant's principal office is located will review the Participant's self-certification and determine if it is small for purposes of that subcontract. The SBA district office will review the Participant's most recent financial statements and other relevant data and then notify the Participant of its decision.

(c) *Changes in size between date of self-certification and date of award.* (1) Where SBA verifies that the selected Participant is small for a particular procurement, subsequent changes in size up to the date of award, except those due to merger with or acquisition by another business concern, will not affect the firm's size status for that procurement.

(2) Where a Participant has merged with or been acquired by another business concern between the date of its self-certification and the date of award, the concern must recertify its size status, and SBA must verify the new certification before award can occur.

(3) Recertification is not required when the ownership of a concern that is at least 51% owned by an entity (*i.e.*, tribe, Alaska Native Corporation, or Community Development Corporation) changes to or from a wholly-owned business concern of the same entity, as long as the ultimate owner remains that entity.

(d) *Finding Participant to be other than small.* (1) A Participant may request a formal size determination (pursuant to §§ 121.1001 through 121.1009) with the SBA Government Contracting Area Office serving the geographic area in which the principal office of the Participant is located within 5 working days of its receipt of notice from the SBA district office that it is not small for a particular 8(a) BD subcontract.

(2) Where the Participant does not timely request a formal size determination, SBA may accept the procurement in support of another Participant, or may rescind its acceptance of the offer for the 8(a) BD program, as appropriate.

[61 FR 3286, Jan. 31, 1996, as amended at 65 FR 30863, May 15, 2000; 69 FR 29206, May 21, 2004; 85 FR 66182, Oct. 16, 2020]

§ 121.604 Are 8(a) BD Participants considered small for purposes of other SBA assistance?

A concern which SBA determines to be a small business for the award of a 8(a) BD subcontract will be considered to have met applicable size eligibility requirements of other SBA programs where that assistance directly and primarily relates to the performance of the 8(a) BD subcontract in question.

[61 FR 3286, Jan. 31, 1996, as amended at 69 FR 29206, May 21, 2004]

SIZE AND ELIGIBILITY REQUIREMENTS FOR THE SMALL BUSINESS INNOVATION RESEARCH (SBIR) AND SMALL BUSINESS TECHNOLOGY TRANSFER (STTR) PROGRAMS

§ 121.701 What SBIR and STTR programs are subject to size and eligibility determinations and what definitions are important?

(a) These sections apply to SBA's SBIR and STTR programs, 15 U.S.C. 638.

(b) *Definitions*—(1) *Funding agreement officer* means a contracting officer, a grants officer, or a cooperative agreement officer.