



SBA FINAL RULE – SIZE AND STATUS INTEGRITY

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Summary

1. Implements Small Business Jobs Act of 2010 pertaining to small business size and status integrity
2. Highlights
 - Presumption of loss equal to contract value
 - Deemed certifications
 - Signature requirement
 - Annual recertification requirement
3. Became effective on August 27, 2013
4. Amended regulations at 13 CFR 121, 124, 125, 126 and 127

Presumption of Loss

- Presumption of loss to U.S. based on *total contract value* if OTSB sought and received award by misrepresentation.
- 13 CFR 121.108(a), 121.411(d), 124.521(a), 124.1015(a), 125.29(a), 126.900(a), and 127.700(a)

Deemed Certifications

- *Affirmative, Willful and Intentional* Certifications
 - Proposal or bid submission for contracts/subcontracts reserved, set aside, or classified as intended for SB award
 - Proposal or bid submission which encourages agencies to classify bid/proposal as SB award
 - Registration on Federal electronic database for SB award consideration

- 13 CFR 121.108(b), 121.411(e), 124.521(b), 124.1015(b), 125.29(b), 126.900(b), and 127.700(b)

Signature Requirement

- Authorized official *must sign* small business size and status certification page.
- 13 CFR 121.108(c), 121.411(f), 124.521(c), 124.1015(c), 125.29(c), 126.900(c) and 127.700(c)

Limitation of Liability

- “Unintentional errors, technical malfunctions and other similar situations” are *not* considered willful misrepresentations.
- Primes acting in good faith should not be held liable for misrepresentations made by subcontractors.
- Penalties for misrepresentation: Suspension or debarment; civil and criminal penalties
- 13 CFR 121.108(d)&(e), 121.411(g)&(h), 124.521(d), 124.1015(d)&(e), 125.29(d)&(e), 126.900(d)&(e) and 127.700(d)&(e)

Annual Recertification Requirement

- A business concern must certify its size *annually* in order to be identified as small in SAM.
- 13 CFR 121.109(a) and (b)

Questions/Comments?

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