



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE

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WASHINGTON, DC 20301-3000

JUL 21 2010

MEMORANDUM FOR COMMANDER, UNITED STATES SPECIAL OPERATIONS
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION
COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(ACQUISITION & LOGISTICS MANAGEMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING)
DIRECTORS, DEFENSE AGENCIES
DIRECTORS, DOD FIELD ACTIVITIES

SUBJECT: Correctly Identifying Size Status of Contractors

This memorandum is to re-iterate the process for correctly determining the size status of contractors for contract awards in accordance with Federal Acquisition Regulation (FAR) requirements and supporting federal-wide electronic systems. Please ensure these procedures are disseminated throughout your procurement workforce.

FAR Subpart 19.303, Determining North American Industry Classification System (NAICS) Codes and Size Standards, instructs contracting officers that they must determine the appropriate NAICS code and related small business size standard and include them in solicitations above the micro-purchase threshold. Solicitations and synopses posted via Federal Business Opportunities (FBO) must clearly identify the appropriate NAICS code. FAR provision 52.204-8, Annual Representations and Certifications, which is required in most solicitations, must include the NAICS code and size standard when included in solicitations. When the solicitation is for commercial items, the NAICS code and size standard must be present on the Standard Form 1449 in accordance with FAR provision 52.212-1, Instruction to Offer – Commercial Items. If FAR provisions 52.204-8 or 52.212-1 are not included in solicitations, contracting officers must ensure that the NAICS code and size standard are included in FAR provision 52.219-1, Small Business Program Representations, when that provision is required to be included in solicitations.

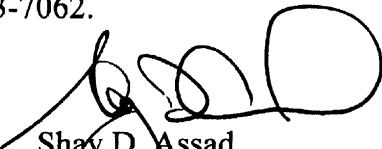
In preparing to make contract award, contracting officers must review a vendor's completed provisions in the Online Representations and Certifications Application (ORCA) database (<https://orca.bpn.gov>) to determine the small business size status relating to the appropriate NAICS code of a vendor when FAR provision 52.204-8 or 52.212-3, Offeror Representations and Certifications – Commercial Items, is included in the contract. If these provisions are not included, then contracting officers must review the offerors' responses to 52.219-1 in their proposal to determine the size status on associated awards.

Upon contract award, contracting officers must identify the predominant NAICS code from the solicitation and the size of the successful offeror when submitting their contract action report to the Federal Procurement Data System (FPDS). The contracting officer shall indicate either 'Small Business' or 'Other than Small Business' in the Contracting Officer's Determination of Business Size data field in accordance with the offeror's response to the applicable provision described above. If none of the above provisions are included in the solicitation, there is no mechanism to determine the size status, and the vendor must be considered 'Other than Small Business.'

Additionally, be reminded that FAR clause 52.219-28, Post-Award Small Business Program Re-representation, shall be included in solicitations and contracts exceeding the micro-purchase threshold when the contract will be performed in the United States or its outlying areas. This clause requires contractors identified as small businesses at contract award to re-represent their size status to the contracting officer upon novations, mergers or acquisitions that do not require novations, and on any contracts prior to extending performance into a sixth year or any subsequent option period. If the contractor indicates during re-representation that their size status has changed, the contracting officer must issue a modification to indicate such and report it to FPDS within 30 days after notification. From that point forward, subsequent actions under that contract will be identified with the new size status.

Please note that none of these instructions indicate that the contracting officer shall consult the Central Contractor Registration (CCR) database to determine small business size. While the Small Business Administration (SBA) does indicate at CCR if it has certified the registrant as an 8(a) program participant or HUBZone vendor; the small business designation that the SBA provides per registrant's listed NAICS code should only be used for market research activities. ORCA is the official authoritative source of the vendor's certifications regarding size at contract award.

Thank you for your assistance in ensuring the correct identification of size status for contractors related to contract awards. Future improvements within the federal Integrated Acquisition Environment (IAE), in which CCR, ORCA, FBO, and FPDS all reside, are planned to more seamlessly integrate these applications and associated processes. FAR cases will be opened, as necessary, to capture these process improvements. Any questions regarding the use of the IAE systems discussed herein may be directed to Lisa Romney, lisa.romney@osd.mil, 703-602-8007. Any questions regarding general socio-economic procurement policy should be directed to Linda Heartley, linda.heartley@osd.mil, 703-693-7062.



Shay D. Assad
Director, Defense Procurement
and Acquisition Policy

cc:
Director, OSD Office of Small Business Programs