

Federal Acquisition Regulation

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AUTHORITY: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

SOURCE: 48 FR 42240, Sept. 19, 1983, unless otherwise noted.

19.000 Scope of part.

(a) This part implements the acquisition-related sections of the Small Business Act (15 U.S.C. 631, *et seq.*), applicable sections of the Armed Services Procurement Act (10 U.S.C. 2302, *et seq.*), the Federal Property and Administrative Services Act (41 U.S.C. 252), section 7102 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103-355), 10 U.S.C. 2323, and Executive Order 12138, May 18, 1979. It covers—

(1) The determination that a concern is eligible for participation in the programs identified in this part;

(2) The respective roles of executive agencies and the Small Business Administration (SBA) in implementing the programs;

(3) Setting acquisitions aside for exclusive competitive participation by small business, HUBZone small business, and service-disabled veteran-owned small business concerns;

(4) The certificate of competency program;

(5) The subcontracting assistance program;

(6) The 8(a) program, under which agencies contract with the SBA for goods or services to be furnished under

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a subcontract by a small disadvantaged business concern;

(7) The use of women-owned small business concerns;

(8) The use of a price evaluation adjustment for small disadvantaged business concerns, and the use of a price evaluation preference for HUBZone small business concerns;

(9) The Small Disadvantaged Business Participation Program;

(10) [Reserved]

(11) The use of veteran-owned small business concerns; and

(12) Sole source awards to HUBZone small business and service-disabled veteran-owned small business concerns.

(b) This part, except for subpart 19.6, applies only in the United States or its outlying areas. Subpart 19.6 applies worldwide.

[48 FR 42240, Sept. 19, 1983, as amended at 59 FR 64785, Dec. 15, 1994; 59 FR 67036, Dec. 28, 1994; 63 FR 35721, June 30, 1998; 63 FR 36122, July 1, 1998; 63 FR 70268, Dec. 18, 1998; 64 FR 10536, Mar. 4, 1999; 65 FR 60544, Oct. 11, 2000; 68 FR 28081, May 22, 2003; 69 FR 25276, May 5, 2004; 71 FR 220, Jan. 3, 2006]

19.001 Definitions.

As used in this part—

Concern means any business entity organized for profit (even if its ownership is in the hands of a nonprofit entity) with a place of business located in the United States or its outlying areas and that makes a significant contribution to the U.S. economy through payment of taxes and/or use of American products, material and/or labor, etc. “Concern” includes but is not limited to an individual, partnership, corporation, joint venture, association, or cooperative. For the purpose of making affiliation findings (see 19.101), include any business entity, whether organized for profit or not, and any foreign business entity, *i.e.*, any entity located outside the United States and its outlying areas.

Fair market price means a price based on reasonable costs under normal competitive conditions and not on lowest possible cost (see 19.202-6).

Industry means all concerns primarily engaged in similar lines of activity, as listed and described in the North American Industry Classification system (NAICS) manual (available

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via the Internet at <http://www.census.gov/epcd/www/naics.html>).

Nonmanufacturer rule means that a contractor under a small business set-aside or 8(a) contract shall be a small business under the applicable size standard and shall provide either its own produce or that of another domestic small business manufacturing or processing concern (see 13 CFR 121.406).

Small business concern means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on government contracts, and qualified as a small business under the criteria and size standards in 13 CFR part 121 (see 19.102). Such a concern is *not dominant in its field of operation* when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

[51 FR 2650, Jan. 17, 1986, as amended at 52 FR 38189, Oct. 14, 1987; 54 FR 25062, June 12, 1989; 55 FR 3881, Feb. 5, 1990; 57 FR 60580, Dec. 21, 1992; 60 FR 48260, Sept. 18, 1995; 61 FR 67410, Dec. 20, 1996; 62 FR 236, Jan. 2, 1997; 62 FR 44820, 44822, Aug. 22, 1997; 63 FR 36122, July 1, 1998; 63 FR 70268, Dec. 18, 1998; 63 FR 71723, Dec. 29, 1998; 64 FR 10536, Mar. 4, 1999; 64 FR 36223, July 2, 1999; 65 FR 46056, July 26, 2000; 65 FR 60544, Oct. 11, 2000; 66 FR 2129, Jan. 10, 2001; 68 FR 28081, May 22, 2003; 71 FR 221, Jan. 3, 2006]

Subpart 19.1—Size Standards

19.101 Explanation of terms.

As used in this subpart—

Affiliates. Business concerns are affiliates of each other if, directly or indirectly, either one controls or has the power to control the other, or another concern controls or has the power to control both. In determining whether affiliation exists, consideration is