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Government Contracts: Small Business Concerns

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This Practice Note examines small business contracting with the federal government. It provides an overview of the Small Business Administration (SBA)'s contracting program and examines the qualification requirements for small business concerns (SBCs) under the Small Business Act. This Note includes a discussion of the advantages of set-aside contracts and sole source contracts, requirements for large businesses, small business subcontracting, bid protests, and compliance matters.

The Small Business Administration (SBA) works with federal agencies to meet the federal government's goal to award 23% of federal government prime contracts to small business concerns. The SBA also administers several programs to promote contract awards to certain types of small businesses and to assist federal agencies in meeting statutory small business contracting goals. Collectively, these programs provide several advantages to small business concerns in federal government contracting. Large business concerns are also encouraged to subcontract with small business concerns and, in some circumstances, must set small business subcontracting goals and periodically report to the federal government on the achievement of these goals.

The Small Business Administration Contracting Program

To foster the participation of small business concerns in government contracting, Congress authorized several programs promulgated under the Small Business Act (15 U.S.C. §§ 631-657u). The SBA oversees these programs and issues regulations implementing them.

Requirements Under the Small Business Act

The Small Business Act requires federal agencies to:

- Foster the participation of small business concerns as prime contractors, subcontractors, and suppliers.
- Take all reasonable steps to eliminate obstacles to the participation of small businesses in government contracting.
- Avoid bundling contracting requirements that inhibit small business participation in procurements as prime contractors.

What Is a Small Business Concern?

Under the Small Business Act, a small business concern (SBC) is defined as a business that is "independently owned and operated and which is not dominant in its field of operation" (15 U.S.C. § 632(a)(1)). The Act further provides that the SBA may specify additional standards, including the number of employees, dollar value of business, net worth, net income, or a combination of these, to determine whether a concern qualifies as a SBC (15 U.S.C. § 632(a)(2)(A) and (B)).

The SBA regulations further clarify that a "business concern" or "concern" is an entity:

- That is for-profit.
- With a place of business located in the US.
- Which operates primarily within the US or contributes significantly to the US economy by paying taxes or using American products, materials, or labor (13 C.F.R. § 121.105(a)(1)).

Under SBA regulations and the Federal Acquisition Regulation (FAR), to qualify as a SBC, a business cannot exceed the small business size standard for the relevant procurement action (13 C.F.R. § 121.101(a)).

The SBA established two types of size standards based on:

- **The number of employees.** Number of employees is a measure of the average employment provided by the company based on the number of persons employed on a full-time, part-time, temporary, or other basis, plus the average number of employees of all domestic and foreign affiliates, during each pay period of the preceding 24 months (13 C.F.R. § 121.106).

- **Annual receipts.** This is the average annual gross revenue of the business , plus the average gross revenue of all domestic and foreign affiliates, for the last five completed fiscal years. Companies that have been in business for **less than five** years must calculate their annual receipts by:
  - taking the total gross revenue since the start of the business;
  - dividing by the number of weeks in business (count a fraction of a week as a week); and
  - multiplying by 52.

  (13 C.F.R. § 121.104).

For detailed descriptions of what is included in the annual receipts calculation see the SBA regulations (13 C.F.R. § 121.104).

The SBA assigned a size standard to each North American Industry Classification System (NAICS) code based on either number of employees or annual receipts. A company's products and services may fall under multiple NAICS codes. Manufacturing industries typically have NAICS codes with employee-based size standards (for example, 500, 750, or 1,000 employees). Service industries, including construction, have NAICS codes with annual receipt-based size standards based on annual receipts (for example, $7.5 million). SBA's list of NAICS codes and corresponding size standards is available on the SBA website. For more information, see Box, NAICS Codes.

Affiliation Rules

The size of a small business concern is determined by adding the average annual receipts and number of employees for the entity itself and all of its domestic and foreign affiliates. Concerns and entities are affiliates of one another when either:

- One entity controls or has the power to control the other.
- A third party or parties controls or has the power to control both entities (the control need not actually be exercised to qualify if the power to control exists).

(13 C.F.R. § 121.103.)

The following factors are considered when determining whether another entity qualifies as an affiliate:

- Common ownership (for example, control through stock ownership, stock options, voting trusts).
- Common management (for example, interlocking management, common facilities).
- Previous relationships with or ties to another concern, referred to as the "newly organized concern" factor.
- Contractual relationships (for example, joint venture agreements, franchise, and license agreements).

(13 C.F.R. § 121.103(a)(2).)

Additionally, a joint venture can qualify as small for government procurement purposes if each partner to the joint venture qualifies individually as small under the size standard corresponding to the NAICS code assigned in the solicitation. There are exceptions to this rule for small businesses with government-approved mentor-protégé agreements.

The SBA regulations provide additional detailed guidance regarding what factors may cause entities to be affiliated for size purposes. These regulations should be closely reviewed when calculating the average number of employees and annual receipts for size purposes in the System for Award Management (SAM) and representations and certifications submitted to the government and higher-tiered contractors.

Types of Small Business Concerns

Several SBA programs aim to create federal contracting opportunities for specific types of SBCs. For a business to qualify for one of the small business categories below, the concern must first qualify as an SBC.

8(a) Business Development Program

The 8(a) Business Development Program is an SBA program for SBCs:

- Unconditionally owned and operated by one or more socially and economically disadvantaged individuals who are:
  - of good character; and
  - citizens of and residing in the US.
- That demonstrate potential for success.

Socially disadvantaged individuals are those "who have been subjected to racial or ethnic prejudice or cultural bias within American society because of their identities as members of groups and without regard to their individual qualities" (13 C.F.R. § 124.103(a)). There is a rebuttable presumption that the following individuals are socially disadvantaged:

- Black Americans.
- Hispanic Americans.
- Native Americans.
- Asian-Pacific Americans.
- Subcontinent Asian Americans.

(13 C.F.R. § 124.103(b)(1).)

Individuals may also qualify as socially disadvantaged based on demonstrating that the business has at least one distinguishing feature that has contributed to social disadvantage (13 C.F.R. § 124.103(c)).

Economically disadvantaged individuals are "socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially disadvantaged" (13 C.F.R. § 124.104). For 8(a) eligibility, the entity must be at least 51% unconditionally and directly owned by one or more socially disadvantaged individuals whose:

- Personal net worth is less than $850,000.
- Adjusted gross income average for the preceding three years is $400,000 or less.

  (13 C.F.R. § 124.104(c).)

There are two stages to participation in the 8(a) program:

- **The developmental stage.** This stage is designed to help 8(a) certified firms overcome their economic disadvantage by providing business development assistance, including sole source and competitive contract support, financial assistance, training, and certain technology and supplies. This stage has a maximum term of four years.
- **The transitional stage.** This stage is designed to help participants overcome any enduring elements of economic disadvantage and to help participants graduate from the program. This stage has a maximum term of five years.

Participation in the program can run for a maximum term of nine years, unless ended earlier due to early graduation or SBA termination (13 C.F.R. §§ 124.404).

To qualify as an 8(a) SBC, the concern must be certified by the SBA based on the criteria specified in 13 C.F.R. Section 124.101-112. An 8(a) SBC qualifies for sole source and set-aside procurements. The federal government has a statutory goal to award five percent of prime contracts and subcontracts to Small Disadvantaged Businesses (SDBs).

Veteran-Owned Small Business (VOSB)

VOSBs are SBCs that are at least 51% owned by one or more veterans and for which the management and daily business operations are controlled by one or more veterans (13 C.F.R. § 125.12). Except for contracts with the Department of Veterans Affairs (VA), VOSB concerns self-certify their status as a VOSB.

Service-Disabled Veteran-Owned Small Business (SDVOSB) Program

The SDVOSB Program is for SBCs that are at least 51% unconditionally and directly owned by one or more service-disabled veterans and for which the management and daily business operations are controlled by one or more service-disabled veterans (or if the service-disabled veteran has a permanent and severe disability, the spouse or permanent caregiver of that veteran) (13 C.F.R. § 125.12; 48 C.F.R. § 2.101). Except for contracts with the VA, SDVOSB concerns self-certify their status as a SDVOSB. The federal government has a statutory goal to award 3% of prime contracts and subcontracts to SDVOSBs. SDVOSBs benefit from sole source and set-aside procurements.

Women-Owned Small Business (WOSB) Program

The federal government has a statutory goal to award 5% of prime contracts and subcontracts to WOSBs. The WOSB Program requires that the SBC be at least 51% directly and unconditionally owned by and its management and daily business operations controlled by one or more women that are citizens of the US (13 C.F.R. § 127.200; 48 C.F.R. § 2.101).

The WOSB Program distinguishes between WOSBs and Economically Disadvantaged WOSBs (EDWOSBs). WOSBs and EDWOSBs qualify for certain set-aside contracts and sole source awards in industries designated by SBA as substantially underrepresented as well as for procurements at or below the simplified acquisition threshold (13 C.F.R. §§ 127.100-127.701).

WOSBs seeking to pursue WOSB or EDWOSB set-aside or sole source contracts must apply for a formal SBA-issued certification at beta.Certify.sba.gov. WOSBs may also continue to use an SBA-approved Third Party Certifier (TPC) and upload proof of certification. A list of SBA-approved TPCs is available on the SBA's website.

Historically Underutilized Business Zone (HUBZone) Program

The HUBZone Empowerment Contracting Program provides contracting preferences to SBCs that are located in an SBA-designated HUBZone and that have at least 35% of their employees living in a HUBZone. To qualify as a HUBZone SBC, contractors must be certified by the SBA. (13 C.F.R. §§ 126.100-126.900.) HUBZone certified SBCs qualify for certain sole source and set-aside programs. The federal government has a statutory goal to award 3% of prime contracts to HUBZone certified SBCs.

Advantages Provided to Small Business Concerns

Small Business Set-Aside Contracts

The FAR requires Contracting Officers to set aside acquisitions more than $250,000 for SBCs when there is a reasonable expectation that:

- At least two offers from responsible SBCs are to be obtained.
- Award is to be made at fair market prices.

(FAR 19.502-2(b).)

Contracting Officers must set aside a portion of an acquisition (except for construction) for SBCs when a total set-aside is not appropriate and the contract requirement is severable into two or more economic production runs or reasonable lots (FAR 19.502-3(a)(1)-(2)). For a partial set-aside, the awardee must be able to satisfy the set-aside portion at a fair market price and the Contracting Officer needs to anticipate a response from one (or more) SBCs with the technical competence and productive capacity (FAR 19.502-3(a)(3)).

Partial set-asides:

- May not be made under an acquisition subject to simplified acquisition procedures.
- Generally may not be made where there is a reasonable expectation that only two concerns (one large and one small) with the requisite capability will respond to the solicitation.

(FAR 19.502-3(a)(4)-(5).)

SBC sole-source set-aside contracts and the set-aside portion of partial set-aside contacts include FAR clause 52.219-14, Limitation on Subcontracting. An SBC itself must perform itself, or have a similarly situated entity perform, a certain percentage of the set-aside contract or set-aside portion of a partial set-aside contract (FAR 52.219-14). A "similarly situated entity" is defined as a first-tier subcontractor (including an independent contractor) that has the same small business program status as that required from the set-aside contract and is considered a SBC under the NAICS code the prime contractor assigned to the subcontract. Specifically, the SBC has the following limitations on subcontracting:

- **Services (except construction).** The SBC may not pay more than 50% of the amount paid by the government to subcontractors that are not similarly situated entities; if the contract includes both services and supplies, the 50% limitation applies only to the service portion of the contract (FAR 52.219-14(e)(1)).
- **Supplies (other than procurement from a non-manufacturer of those supplies).** The SBC may not pay more than 50% of the amount paid by the government, excluding the cost of materials, to subcontractors that are not similarly situated entities; if the contract includes both services and supplies, the 50% limitation applies only to the supply portion of the contract (FAR 52.219-14(e)(2)).
- **General construction.** The SBC may not pay more than 85% of the amount paid by the government, excluding the cost of materials, to subcontractors that are not similarly situated entities (FAR 52.219-14(e)(3)).
- **Construction by special trade contractors.** The SBC may not pay more than 75% of the amount paid by the government, excluding the cost of materials, to subcontractors that are not similarly situated entities (FAR 52.219-14(e)(4)).

(FAR 52.219-14.)

There are also special rules that apply to joint ventures, SBA-approved mentor-protégé joint ventures, and 8(a) joint ventures. (FAR 52.219-14(g)).

Sole Source Contracts

There are several sole source development opportunities under the SDB, HUBZone, SDVOSB, and WOSB programs.

SDB Sole Source Contracts

Participants in the 8(a) program can receive competitive set-aside contracts up to a ceiling of $7 million for manufacturing NAICS codes and $4.5 million for all other acquisitions if there is a reasonable expectation that at least two eligible and responsible 8(a) participants will submit offers and the award can be made at a fair market price (FAR 19.805-1(a)). An acquisition that exceeds this competitive threshold may still be accepted for sole source award if there is no reasonable expectation that at least two eligible and responsible 8(a) firms are submitting offers at fair market price or the sole source is for a concern owned by an Indian tribe or an Alaska Native Corporation (FAR 19.805-1(b)(1)-(2)).

The SBA may not accept for negotiation a sole source 8(a) contract that exceeds $25 million unless the requesting agency has completed a justification under the requirements of FAR 6.303 (FAR 19.808-1(a)). Sole source 8(a) contracts may not be awarded if the price of the contract exceeds the fair market price (FAR 19.806(b)).

HUBZone Sole Source Contracts

As a general rule, contracting officers must first consider HUBZone set-asides before considering HUBZone sole source awards (FAR 19.1305(a)(3)). Contracting officers must also consider a contract award to a HUBZone SBC on a sole source basis before considering a small business set-aside in instances where each of the following circumstances are met and none of the exclusions at FAR 19.1304 apply:

- The contracting officer does not have a reasonable expectation that offers are to be received from two or more HUBZone small business concerns.
- The anticipated price of the contract, including options, cannot exceed:
  - $7.5 million for contract with a manufacturing NAICS code; or
  - $4.5 million for a contract with all other NAICS codes.
- The requirement is not currently being performed by an 8(a) participant under the provisions of or has been accepted as a requirement by SBA under FAR 19.8.
- The HUBZone small business concern has been determined to be a responsible contractor regarding performance.
- Award can be made at a fair and reasonable price.

(FAR 19.1306.)

SDVOSB Sole Source Contracts

As a general rule, contracting officers must first consider SDVOSB set-asides before considering SDVOSB sole source awards (FAR 19.1405(a)(3)). Contracting officers must consider a contract award to a SDVOSB on a sole source basis before considering a small business set-aside in instances where each of the following circumstances are met and none of the exclusions of FAR 19.1404 apply:

- The contracting officer does not have a reasonable expectation that offers are to be received from two or more SDVOSBs.
- The anticipated award price of the contract, including options, does not exceed either:
  - $7 million for a requirement within the NAICS codes for manufacturing; or
  - $4 million for a requirement within any other NAICS code.
- The requirement is not currently being performed by an 8(a) participant under the provisions of Subpart 19.8 or has been accepted as a requirement by SBA under Subpart 19.8.
- The SDVOSB concern has been determined to be a responsible contractor regarding performance.
- Award can be made at a fair and reasonable price.

(FAR 19.1406.)

WOSB Sole Source Contracts

Contracting officers must first consider a contract award to a certified EDWOSB or a WOSB on a sole source basis before considering a small business set-aside in instances where each of the following circumstances are met and none of the exclusions at FAR 19.1504 apply:

- The acquisition is assigned a NAICS code in which SBA has determined that WOSB concerns are underrepresented in federal procurement.
- The contracting officer does not have a reasonable expectation that offers are to be received from two or more WOSBs (including EDWOSB) concerns.
- The anticipated award price of the contract, including options, cannot exceed:
  - $7 million for a requirement within the NAICS codes for manufacturing; or
  - $4.5 million for a requirement within any other NAICS codes.
- The EDWOSB concern or WOSB concern has been determined to be a responsible contractor regarding performance.
- The award can be made at a fair and reasonable price.

(FAR 19.1506.)

Small Business Innovation Research (SBIR) Program

The SBIR Program is a research and development program that facilitates opportunities for US-owned and controlled businesses with 500 or fewer employees to propose new concepts to federal agencies. The SBIR Program issues over $3 billion in awards per year.

Unlike the other SBA programs, however, each agency that participates in the SBIR Program runs its own program.

The three phases of the program are:

- **Phase I, Startup Phase.** The startup phase:
  - establishes the technical merit, feasibility, and commercial potential of the proposed R&D efforts; and
  - typically issues awards up to $250,000 for six months.
- **Phase II**, **Expansion Phase.** The expansion phase:
  - expands on Phase I work;
  - provides funding based on Phase I results and merit and potential of work; and
  - typically issues awards of up to $750,000 for 2 years (but can issue awards up to $1.9 million without seeking a waiver).
- **Phase III**, **Technological Support Phase.** In the technological support phase, the relevant agency helps move the innovative product from a laboratory to the marketplace. The SBIR Program does not fund Phase III.

(15 U.S.C. § 638.)

Small Business Technology Transfer (STTR) Program

The STTR Program is another federal research and development program that provides a portion of federal research and development efforts to small businesses for cooperative research and development. The STTR Program is built on a three-phase structure similar to that for the SBIR Program (see Small Business Innovation Research (SBIR) Program).

(15 U.S.C. § 638.)

Mentoring Programs

The SBA administers several different federal government-sponsored mentor organizations and resource programs. These include mentors, counselors, development centers, and other types of outreach programs targeting specific types of small businesses.

One of the major SBA mentoring programs is the Mentor-Protégé Program, which aims to:

- Develop strong protégé firms using business development assistance provided by a mentor.
- Help protégé firms successfully compete for federal government contracts.

The SBA issued a series of changes to the program in July 2016, transforming it from a series of programs for each constituency of small businesses to a single, all-inclusive mentor-protégé program principally modeled on the SBA's 8(a) mentor-protégé program.

Under the new program, mentors help enhance the capabilities of protégé firms by providing assistance on several fronts, including management and technical assistance, financial assistance, contracting assistance, trade education, business development assistance, and general or administrative assistance, or both (13 C.F.R. § 125.9; 81 Fed. Reg. 48558 (July 25, 2016)).

Exemption from Onerous Requirements

Small businesses are exempt from several onerous requirements for government contractors. Specifically, small businesses are exempt from:

- The Cost Accounting Standards (FAR 52.230-1).
- The requirement to put in place a Small Business Subcontracting Plan (FAR 52.219-9(a)).
- The requirement to develop and implement a business ethics awareness and compliance program and internal control system (FAR 52.203-13(c)).

Requirements for Large Businesses

Encouragement to Use SBCs

The federal government seeks to provide SBCs and specific types of SBCs with the greatest practicable opportunity to participate in federal government contracts with any federal agency. FAR clause 52.219-8, Utilization of Small Business Concerns, requires:

- Prime contractors and subcontractors to carry out this policy in awarding subcontracts "to the fullest extent consistent with efficient contract performance."
- Prime contractors to establish procedures to ensure the timely payment to SBCs under the terms of their subcontracts with SBCs.
- Prime contractors and subcontractors to cooperate in any studies or surveys as may be conducted by SBA or the awarding agency as may be necessary to determine the extent of the contractor's compliance with the clause.

(FAR 52.219-8.)

Small Business Subcontracting Program

The subcontracting assistance program requires large businesses (those that do not qualify as a small business concern) awarded prime contracts and non-commercial item subcontracts in excess of $750,000 (or $1.5 million for a contract for construction of a public facility) that offer further subcontracting opportunities to submit a small business subcontracting plan to the appropriate contracting agency (13 C.F.R. § 125.3; 48 C.F.R. § 52.219-9).

There are two types of small business subcontracting plans:

- **Commercial.** The commercial plan:
  - is the preferred plan for a contract for the sale of commercial items (see Practice Note, Government Contracts: Reduced Risk Through Commercial Item Contracting); and
  - covers the contractor's fiscal year and applies to the entire production of commercial items sold by either the entire company or a division, plant, or product line.
- **Individual.** The individual plan:
  - covers the entire contract period (including option periods);
  - applies to a specific contract;
  - has goals that are based on the contractor's planned subcontracting in support of the specific contract; and
  - allows indirect costs incurred for common or joint purposes to be allocated on a prorated basis to the contract.

Each small business subcontracting plan must include separate percentage goals for using SBCs and each category of SBCs, including:

- VOSBs (see Veteran Owned Small Business (VSOB)).
- SDVOSBs (see Service-Disabled Veteran-Owned Small Business (SDVOSB) Program).
- HUBZone small businesses (see Historically Underutilized Business Zone (HUBZone) Program).
- SDBs (including Alaska Native Corporations and Indian Tribes).
- WOSBs.

Contractors can rely on self-certifications of subcontractors for purposes of the small business subcontracting plan as long as the higher-tiered contractor does not have reason to doubt the certification provided by the subcontractor. However, contractors must verify that 8(a) SBCs and HUBZone SBCs have been certified under the SBA. Similarly, for VA contracts, VOSB and SDVOSB subcontractors must be approved by the VA before a contractor can include those entities in the subcontracting plan.

Among other requirements, the small business subcontracting plan must include:

- A statement of the total dollars planned to be subcontracted to SBCs.
- A description of the principal types of supplies and services to be subcontracted to SBCs.
- A description of the methods used to develop subcontracting goals and identify potential sources for solicitation purposes.
- Assurances that the contractor will comply with certain federal requirements related to small business contracting.

(48 C.F.R. § 19.704.)

Contractors required to have a small business subcontracting plan must verify the actual small business subcontracts awarded to different types of SBCs by submitting in the Electronic Subcontracting Reporting System the following periodic reports:

- **Individual Subcontract Reports (ISRs).** Contractors with Individual Small Business Subcontracting Plans must submit ISRs, which report on actual subcontracts awarded to SBCs and the various types of SBCs. The ISR is submitted semi-annually during contract performance and on completion of the contract (FAR 19.704(a)(10)(iv)).
- **Summary Subcontract Reports (SSRs)**. Contractors with Individual or Commercial Small Business Subcontracting Plans must report combined subcontracting data from those plans in a SSR, including data from federal government contracts that do not require subcontracting plans. The SSR is submitted annually by October 30 (FAR 19.704(a)(10)(iv)).

A contractor's failure to make good faith efforts to comply with its Small Business Subcontracting Plan can result in the assessment of liquidated damages and/or the termination for default of the contract. (FAR 52.219-16).

Bid Protests

An interested party to a procurement may protest the self-certification of a bidder as an SBC. These protests typically are first sent to the contracting officer and must include the specific reasons why the protester believes that the challenged entity does not qualify as a small business. Parties may also challenge other types of eligibility determinations, such as those for HUBZone SBCs, SDVOSBs, VOSBs, WOSBs, EDWOSBs, and 8(a) business development concerns.

The contracting officer then routes the protest to the SBA for a determination of the SBC status of the challenged firm. Parties may then appeal some types of determinations to the SBA's Office of Hearings and Appeals (OHA), an independent office of the SBA that provides a quasi-judicial appeal of certain SBA program decisions. In addition to size determinations, OHA's jurisdiction includes:

- The Contracting Officer's NAICS code designation, eligibility determinations for SDVOSBs, WOSBs, and EDWOSBs.
- 8(a) business district eligibility determinations, suspensions, and terminations.

(13 C.F.R. § 134.102.)

For more information on bid protests at the agency level, see Practice Note, Government Contracts: Agency-Level Bid Protests. For more information on the bid protest process beyond the SBA, see Practice Notes, Government Contracts: GAO Bid Protests and Government Contracts: COFC Bid Protests.

Compliance

Compliance with small business subcontracting requirements is essential for both large and small businesses. In addition to affecting a contractor's eligibility for a procurement and ability to compete for federal acquisitions, misrepresentations of size status can lead to criminal fraud charges or False Claims Act liability for entities that provide this false information. Willful misrepresentations of size status are also deemed to result in a total loss to the federal government and a contractor can be assessed damages in the amount of the total contract award, even if the contract was otherwise fully performed to contract specifications. Under 13 C.F.R. Section 121.108(b), the following actions are deemed affirmative, willful, and intentional certifications of small business size and status:

- Submission of a bid, proposal, or other offer for any type of federal grant or procurement reserved, set aside, or otherwise classified as intended for award to small business concerns.
- Submission of a bid, proposal, or other offer for any type of federal grant or procurement which in any way encourages a federal agency to classify the bid or proposal, if awarded, as an award to a small business concern.
- Registration on any federal electronic database for the purpose of being considered as a small business concern for award of any type of federal grant or procurement.

False claims liability and criminal charges can attach both to entities that misrepresent their own size and for large business that use small business shell or sham entities to obtain access to small business set-aside contracts. As a result, both large businesses and SBCs should:

- Be aware of the SBA's laws and regulations governing the Small Business Programs.
- Ensure that small business certifications are accurate, paying particular attention to the SBA's affiliation rules.

NAICS Codes

When issuing a solicitation, the federal government determines the NAICS code that applies to that procurement. When responding to a solicitation, the contractor self-certifies its size status in its representations and certifications in SAM. When entering information in SAM, the contractor must ensure it is selecting all NAICS codes applicable to its business and, in particular, the NAICS codes identified in the solicitations to which the contractor intends to respond. When entering the number of employees and annual receipts in SAM, the contractor must also identify the number of employees and annual receipts for the business **and** the average number of employees and annual receipts of all of its domestic and foreign affiliates for SAM to accurately reflect the contractor's size status.