



Instant Impact Legislative Update for Week Ending March 5, 2010

1) SBA Proposes Long Awaited Women's Procurement Program

After many years of waiting for an acceptable women's procurement program, the SBA has finally proposed a program that promises to work. The program would give federal agencies the ability to restrict competition to women owned firms in 83 industry categories. This is necessary because the federal government has never met its goal of contracting with women owned firms of 5%. To date, only 3.4% of all federal contracts are awarded to women owned companies.

The federal government classifies industries based on the North American Industry Classification System (NAICS) codes. To find your industry NAICS code, please [click here](#). Of the 83 NAICS codes eligible for the program, 43 of those NAICS codes require companies to also be economically disadvantaged. The SBA will use the same criteria for eligibility as its 8(a) program. For the remaining 38 NAICS codes, additional economic disadvantage will not have to be proven. A woman owned company is considered to be 51% owned and managed by a woman/women. Women can self certify their woman-owned status or submit a third party certification. When the program is finalized, contracting officers will be able to restrict competition for bids in the 83 NAICS code categories to women owned firms only. The size of the contracts that will be eligible for this program are up to \$5 million for manufacturing and \$3 million for all other industries.

When determining "economic disadvantage", the SBA will examine both the woman's net worth, and assets owned in the woman's name. A woman is **presumed** to be "economically disadvantaged" if the total asset of the woman owner does not exceed \$3 million dollars, or if the woman owner's average personal income does not exceed \$200,000 for two consecutive years. In regards to the woman's net worth, the presumption of lack of economic disadvantage can be overcome if the woman can demonstrate that the income was unusual, and unlikely to occur again.

WIPP has long advocated for a women's procurement program, and is encouraged by the announcement of the proposed rule. We will be submitting formal comments to the SBA and encourage you to do the same. The comment period is open until May 2.

[Click here](#) to read WIPP's press release.

[Click here](#) to read SBA's press release.

[Click here](#) to read the text of the proposed rule.

2) SBA Announces Proposed Rule for Small Business, Small Disadvantaged Business, and HUBZone

On the heels of the recently announced proposed rule on women's procurement, the SBA has also announced proposed rules regarding small business, small disadvantaged business, HUBZone, and Service-Disabled Veteran-Owned Protest and Appeal Regulations. The proposed rule would make the following changes:

- initial and appeal eligibility decisions on the procurement in question
- increase the amount of time that SBA has to render formal size determinations

- require that SBA's Office of Hearings and Appeals (OHA) issue a size appeal decision within 60 calendar days of the close of the record, if possible
- increase the amount of time that SBA has to file North American Industry Classification System (NAICS) code appeals
- alter the NAICS code appeal procedures to comply with a Federal Court decision
- clarify that contracting officers must reflect final agency eligibility decisions in federal procurement databases and goaling statistics
- clarify how a contracting officer assigns a NAICS code and size standard to a multiple award procurement
- make other changes to size status protest and appeal rules.

WIPP is in the process of analyzing the proposed rules, and is interested in your thoughts. WIPP will be submitting comments, and also encourages you to send in your own individual comments. All comments are due March 31, 2010.

[Click here](#) to read the proposed rules.

3) Senate Committee Passes Small Business Contracting Bill

The Senate Committee on Small Business and Entrepreneurship reported out the Small Business Contracting Revitalization Act of 2010 (S.2989). The legislation was sponsored by Sens. Mary Landrieu (D-LA), Olympia Snowe (R-ME) and Jeanne Shaheen (D-NH).

The bill's purpose is to increase small business participation in Federal contracting by making improvements to the contracting process.

The bill makes improvements in four areas:

1. Contract bundling:
 - the bill would require senior acquisition officials to demonstrate a need for a bundled contract
 - it would improve oversight of bundling regulations compliance at SBA, and
 - it would create a Teaming Center, to provide technical assistance to small businesses interested in bidding on large contracts in joint ventures or on teams.
2. Subcontracting:
 - the bill would provide new guidelines for reviewing subcontractor participation in prime contracts, and
 - it would provide new oversight to ensure small businesses receive timely payment upon completion of their work on a prime contract.
3. The acquisition process:
 - the bill would authorize small business set-asides in multiple-award, multi-agency contracts.
4. Small business size and status integrity:
 - the bill would require small businesses to certify their size status annually,
 - it would require new training for acquisition personnel on small business size standards,
 - it would require the SBA to conduct a review every 5 years on size standards and gives the SBA authority to update size standards accordingly, and
 - it would direct the GAO to conduct a study on the effectiveness of the mentor-protégé program.

During the mark up, four amendments were accepted, including two from Sen. Benjamin Cardin (D-MD); the first amendment removed the Department of Defense's exemption from new contract consolidation requirements and the second amendment reaffirmed Congress' support for competitive enterprise, whereby the Federal Government shall rely on commercial sources for Federal Government needs, and shall avoid any activity that provides a product or service that could be more effectively procured from a non-governmental source. The other 2 amendments were technical in nature.

[Click here](#) to read the letter to Sen. Landrieu.

[Click here](#) to read the letter to Sen. Snowe.

[Click here](#) to read the text of S.2989.

4) SBA Continues Waiving Fees for Small Business Borrowers

President Obama signed into law the Temporary Extension Act of 2010 (H.R.4691). The law resumes SBA 7(a) and 504 lending that was funded using TARP funds. The program increased the SBA guarantee on 7(a) loans to 90 percent, and waived borrower fees on most 7(a) and 504 loans. Initially, funding for these programs were exhausted on November 23. An additional \$125 million was provided in December, and was exhausted in late February.

Lending is expected to resume on March, 10, and will continue on through March 28. Loan applications from borrowers in the SBA's Recovery Loan Queue will be funded first, followed by new loan applications. The SBA estimates that additional funding will support \$1.8 billion in small business lending.

[Click here](#) to read the Office of Advocacy press release.

[Click here](#) to read the text of the H.R.4691.