

SBA is reviewing the Facilities Support Services industry's size standard because of concerns regarding the application of the size standard to Federal procurement, this proposed rule gives more consideration to the pattern of Federal contract awards than to the level of financial assistance to small businesses to assess whether its size standard should be revised. SBA provides a relatively small amount of financial assistance to Facilities Support Services firms. In fiscal years 2000 and 2001, an average of 19 loans for \$4.5 million were guaranteed to firms in the Facilities Support Services industry. Most of these loans were to firms with less than \$2 million in receipts. It's unlikely that an increase to the size standard will have a significant impact on the amount of new loans in SBA's financial programs or will crowd-out other small businesses from obtaining SBA guaranteed loans. Consequently, this factor is not part of the assessment of the size standard.

In the case of Federal procurements to Facilities Support Service firms, the share of Federal contracts awarded to small businesses supports an increase to the current size standard. Small Facilities Support Service firms account for 30.5 percent of total industry receipts but have received only 12 percent of the dollar value of Federal contracts awarded during fiscal years 1999 to 2001. Moreover, two-thirds of small business awards are made through programs reserved for small businesses or 8(a) firms. This disproportional share of Federal contract dollars relative to industry receipts generated by small Facilities Support Service firms indicates that contract requirements make it difficult for smaller firms to perform on Federal Facilities Support Services contracts. An increase to the size standard would be beneficial to small businesses in this industry by allowing them to grow in size to better perform the contract requirements.

Overview: Based on the analysis of each evaluation factor, SBA is proposing a \$30 million size standard for Facilities Support Services. Two evaluation factors support a size standard of \$29 million or higher, one factor supports a size standard within the range of SBA's higher-level size standards (\$21 to \$29 million), and one factor supports an intermediate range size standard between \$6 million and \$21 million. The assessment of small business participation in Federal procurements supports a size standard higher than the current Base Maintenance size standard of \$23 million. The low amount of participation of small businesses in Federal government procurement is of

special concern and suggests that contract requirements may indeed influence the size of Facilities Support Services firms that can perform the requirements of Federal contracts. The SBA believes that a size standard of \$30 million, significantly higher than the current size standard of \$23 million, is well supported by the analysis of industry data and will help small businesses in this industry compete for Federal contracts without including businesses that are so large that they could harm the ability of much smaller-sized small businesses to compete successfully for Federal contracts.

Dominant in Field of Operation: Section 3(a) of the Small Business Act defines a small concern as one that is (1) independently owned and operated, (2) not dominant in its field of operation and (3) within detailed definitions or size standards established by the SBA Administrator. The SBA considers as part of its evaluation of a size standard whether a business concern at or below a proposed size standard would be considered dominant in its field of operation. This assessment generally considers the market share of firms at the proposed or final size standard or other factors that may show whether a firm can exercise a major controlling influence on a national basis in which significant numbers of business concerns are engaged.

The SBA has determined that no firm at or below the proposed size standard for the Facilities Support Services industry would be of a sufficient size to dominate its field of operation. The largest firm at the proposed size standard level generates less than 0.4 percent of total industry receipts. This level of market share effectively precludes any ability for a firm at or below the proposed size standard to exert a controlling effect on this industry.

Alternative Size Standards: SBA considered an alternative size standard \$35 million. As the industry evaluation showed, some of the factors might support a size standard at this level, but other factors supported a size standard within the range of its highest size standards (\$21 million to \$29 million). The industry data also show that firms earning \$35 million in receipts tend to have more establishments than firms between \$10 million to \$30 million in size. This finding suggests that firms with \$35 million in receipts have developed competitive capabilities that enable them to successfully expand operations.

SBA welcomes public comments on its proposed \$30 million size standard for the Facilities Support Services

industry. Comments on alternatives to the proposal, including the option of retaining the current size standards at \$6 million and \$23 million discussed above, should present the reasons that would make them preferable to the proposed size standard.

Compliance With Executive Orders 12866, 12988, and 13132, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

The Office of Management and Budget (OMB) has determined that this rule is a "significant" regulatory action for purposes of Executive Order 12866 because size standards determine which businesses are eligible for Federal small business programs. This is not a major rule under the Congressional Review Act, 5 U.S.C. 800. For the purpose of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA has determined that this rule would not impose new reporting or record keeping requirements. For purposes of Executive Order 13132, SBA has determined that this rule does not have any federalism implications warranting the preparation of a Federalism Assessment. For purposes of Executive Order 12988, SBA has determined that this rule is drafted, to the extent practicable, in accordance with the standards set forth in that order. Our Regulatory Impact Analysis follows.

Regulatory Impact Analysis

1. Need for This Regulatory Action

SBA is chartered to aid and assist small businesses through a variety of financial, procurement, business development, and advocacy programs. To effectively assist the intended beneficiaries of these programs, SBA must establish distinct definitions of which businesses are deemed small businesses. The Small Business Act (15 U.S.C. 632(a)) delegates to the SBA Administrator the responsibility for establishing small business definitions. The Act also requires that small business definitions vary to reflect industry differences. The supplementary information to this proposed rule explains the approach SBA follows when analyzing a size standard for a particular industry. Based on that analysis, SBA believes that a change in the Facilities Support Services size standard is needed to better reflect small businesses in this industry.