

Federal procurements set-aside for all small businesses. The number of newly defined and expanding small businesses that are willing and able to sell to the Federal Government, however, would limit the potential transfer of contracts away from large and currently defined small businesses. The potential distributional impacts of these transfers may not be estimated with any degree of precision since the data on the size of business receiving a Federal contract are limited to identifying whether a business is small or other-than-small, without regard to the exact size of business.

The revision to current size standards for testing laboratories is consistent with the SBA's statutory mandate to assist small businesses. This regulatory action promotes the Administrator's objectives. One of the SBA's goals in support of the Administrator's objectives is to help individual small businesses succeed through fair and equitable access to capital and credit, Government contracts, and management and technical assistance. Reviewing, and modifying size standards when appropriate, ensures that intended beneficiaries have access to small business programs designed to assist them. Size standards do not interfere with State, local, and tribal governments in the exercise of their government functions. In a few cases, State and local governments have voluntarily adopted the SBA's size standards for their programs to eliminate the need to establish an administrative mechanism for developing their own size standards.

Final Regulatory Flexibility Analysis

Under the RFA, this rule may have a significant impact on a substantial number of small entities. As described in the regulatory impact analysis, this rule may impact small entities seeking SBA 7(a) Guaranteed Loans or Economic Injury Disaster Loans as well as the Federal Government's procurement preference programs.

The size standard may also affect small businesses participating in the programs of other agencies that use the SBA size standards. As a practical matter, however, the SBA cannot estimate the impact of a size standard change on each and every Federal program that uses its size standards. No comments were received that identified a program or regulation that would be adversely affected by the proposed size standard. In cases where an SBA size standard is not appropriate, the Small Business Act and the SBA's regulations allow Federal agencies to develop different size standards with the approval of the SBA Administrator (15

U.S.C. 632(a)(2)(c) and 13 CFR 121.902). If the agency is seeking to change size standards for the purposes of an RFA analysis, then the SBA's Office of Advocacy should be contacted pursuant to the RFA).

Immediately below, the SBA sets forth a final regulatory flexibility analysis (FRFA) of this rule addressing the reasons and objective of the rule; a description and estimate of small entities to which the rule will apply; the projected reporting, record keeping, and other compliance requirements of the rule; the relevant Federal rules which may duplicate, overlap or conflict with the rule; and alternatives to the final rule considered by the SBA that minimize the impact on small businesses.

(1) What is the need for and objective of this rule?

The objective of this rule is to establish an appropriate size standard for the Testing Laboratories industry. The revision to the size standard for the Testing Laboratories industry more accurately defines the size of businesses in this industry that the SBA believes should be eligible for Federal small business assistance programs. Significant changes in the industry and in the requirements of Government clients support the need for a different size standard.

(2) What significant issues were raised by the public comments in response to the Initial Regulatory Flexibility Act (IRFA)?

About a third of commentators believe that the SBA is permitting testing laboratories to be eligible that are already very successful and that do not need the additional advantage of being considered small. The SBA, however, believes that a higher size standard is necessary due to Federal contract requirements that require a high degree of competence and physical investment, a tendency for very large firms to acquire smaller testing laboratories, and the fact that small testing laboratories have been awarded Federal procurements significantly less than their overall share in the industry.

(3) What is the SBA's description and estimate of the number of small entities to which the rule will apply?

Within the Testing Laboratories industry, 3,762 out of 4,126 businesses are small under the \$6 million size standard that is presently in place. The number of small businesses will increase by 120 testing laboratories to 3,882 under a \$10 million size standard. Testing laboratories becoming newly

eligible for the SBA's assistance as a result of this rule cumulatively generate \$635 million in receipts. The amount of receipts by small testing laboratories would increase from \$2.7 billion to \$3.3 billion out of a total of \$6.4 billion in receipts. The small business coverage in this industry would increase by 9.9% of total receipts. This is based on the U.S. Census Bureau's special tabulation of the 1997 Economic Census for the SBA's Office of Size Standards, which shows industry characteristics by firm size.

(4) Will this rule impose any additional reporting or recordkeeping requirements or other compliance requirements on small businesses?

A new size standard does not impose any additional reporting, recordkeeping or other compliance requirements on small entities for the SBA's programs. A change in a size standard would not create additional costs on a business to determine whether or not it qualifies as a small business. A business needs to only examine existing information to determine its size, such as Federal tax returns, payroll records, and accounting records. Size standards determine "voluntary access" to the SBA's and other Federal programs that assist small businesses, but do not impose a regulatory burden as they neither regulate nor control business behavior. In addition, this rule does not impose any new information collection requirements from the SBA which require approval by the OMB under the Paperwork Reduction Act of 1980, U.S.C. 3501-3520.

(5) What are the steps the SBA has taken to minimize the significant economic impact on small business?

Most of the economic impact on small businesses will be positive. The most significant benefits to businesses that will obtain small business status as a result of this rule are eligibility for the SBA's financial assistance programs such as 7(a) business loans, 504 business loans, and EIDL assistance and eligibility for the Federal Government's procurement preference programs for small business, 8(a) firms, SDBs, and HUBZone small businesses. The SBA estimates that approximately \$42 million per year of additional Federal prime contracts may be awarded to businesses becoming newly designated small businesses in the Testing Laboratories industry and that approximately \$2 million in new Federal loan guarantees could be made annually to these newly defined small businesses. The projected increase of three additional loans totaling approximately \$2 million in new