

# OHA Guidelines for Size Determinations

## I. General Rules for Size Determinations

### A. Affiliation

1. Regulatory Exceptions to Affiliation Coverage (Tribes, Mentor-Protégé)
  - E.D. Etnyre & Co., SIZ-4596 (2003) (Tribal; partly overturned by 2004 regulations)
  - Agbayani Construction Corporation, KIRA, Inc., Madison Services, Inc., SIZ-4538 (2003) (M-P)
  - Uniband, Inc., SIZ-4251 (1997) (Tribal)
  - Valenzuela Engineering, Inc. and Curry Contracting Co., Inc., SIZ-4151 (1996) (ANC)
2. Affiliation through Ownership
  - a. One owner with 50% or more stock, or single large block
    - Alaska Aerospace Development Corporation, SIZ-4616 (2004)
    - RetroBox, Ltd., SIZ-4614 (2004)
    - U.S. Grounds Maintenance, Inc., SIZ-4601 (2003)
    - Concepts in Staffing, Inc., SIZ-4547 (2003)
    - Rochester Hospitality Company, SIZ-4495 (2002)
    - Pyburn & Odom, Inc., SIZ-4485 (2002)
    - Cellegy Pharmaceuticals, Inc., SIZ-4439 (2001)
    - Glades Pharmaceuticals, SIZ-4438 (2001)
    - ETS Analytical Services, Inc., SIZ-4157 (1996)
    - IMDT, Inc., SIZ-4121 (1995)
  - b. Two or more owners with less than 50% or large minority blocks
    - Alon U.S.A., LP., SIZ-4453 (2001)
    - Bend Research, Inc., SIZ-4369 (1999)(remanded)
    - Procedyne Corp., SIZ-4354 (1999)
3. Other General Principles of Affiliation
  - . Negative Control by Shareholder
    - Sterling Foods, Ltd., SIZ-4556 (2003)(Board of Directors)
    - Regent Mfg., Inc., SIZ-4533 (2003) (Board of Directors)
    - Jensco Marine, Inc., SIZ-4330 (1998)(Board of Directors)
    - National Welders Supply Co., Inc., SIZ-4315 (1998)
  - a. Non-exercise of Power to Control
    - Bend Research, Inc., SIZ-4369 (1999)
4. Indirect Ownership Through a Third Party
  - Jensco Marine, Inc., SIZ-4330 (1998)
5. The Present Effect Rule
  - Diversa Corporation, SIZ-4672 (2004)
  - PCCI, Inc., SIZ - 4531 (2003)
  - Bend Research, Inc., SIZ-4369 (1999)
  - First International Bank, f/k/a First National Bank of New England, SIZ-4366 (1999)
  - GeoSyntec Consultants, SIZ-4277 (1997)
6. Common Management
  - Hunot Retardant Company, SIZ-4629 (2004)
  - ETI Professionals, Inc., SIZ-4603 (2004)
7. Identity of Interest
  - . Family Members
    - U.S. Grounds Maintenance, Inc., SIZ-4601 (2003)
    - Incobrasa Industries, Ltd., SIZ-4557 (2003)
    - Osirus, Inc., SIZ-4546 (2003)
    - B.L. Harbert International LLC, SIZ-4525 (2002)
    - American Armored Car, Ltd. and Prima Check Cashing, Inc., SIZ-4507 (2002)
    - Morgan Construction Enterprises, Inc., SIZ-4503 (2002)
    - OCR Services, Inc., SIZ-4502 (2002)
    - Priority One Services, Inc., SIZ-4479 (2002)
    - General Maintenance Engineering, Inc., SIZ-4405 (2000)

- Gallagher Transfer & Storage Co., Inc., SIZ-4295 (1998)
    - Lajas Industries, Inc., SIZ-4285 (1998)
    - Griffin Services, Inc., SIZ-4135 (1996)
    - Agrigold Juice Products, SIZ-4136 (1996)
    - Hampton Roads Leasing, Inc., SIZ-4165 (1996)
  - a. Common Investments
    - ETI Professionals, Inc., SIZ-4603 (2004)
    - U.S. Grounds Maintenance, Inc., SIZ-4601 (2003)
    - American Armored Car, Ltd. and Prima Check Cashing, Inc., SIZ-4507 (2002)
    - Priority One Services, Inc., SIZ-4479 (2002)
    - Bend Research, Inc., SIZ-4369 (1999)
    - Agrigold Juice Products, SIZ-4136 (1996)
    - Griffin Services, Inc., SIZ-4135 (1996)
  - b. Economic Dependence (Contractual or other Relationships)
    - PCCI, Inc., SIZ-4531 (2003) (not found)
    - J & R Logging, SIZ-4426 (2001)
    - O'Donnell Construction Company, SIZ-4125 (1995) (not found)
    - MBA International, SIZ-4115 (1995)
8. The Newly Organized Concern Rule
- . As Independent Basis for Affiliation
    - CorTrans Logistics, LLC and Central Delivery Service, SIZ-4691 (2005)
    - Field Support Services, Inc., SIZ-4176 (1996)
    - MBA International, SIZ-4115 (1995)
  - a. As a Factor in the Totality of the Circumstances
    - Tiger Enterprises, Inc., SIZ-4647 (2004)
    - Marine Tech, L.L.C., SIZ-4635 (2004)
    - B.L. Harbert International LLC, SIZ-4525 (2002)
    - Pointe Precision, LLC, SIZ-4466 (2001)
    - American Guard Services, SIZ-4397 (2000)
    - Lyons Security Service, Inc., SIZ-4264 (1997)
9. Joint Venture Affiliation
- . Affiliated Joint Venturers
    - American Guard Services, SIZ-4397 (2000)
  - a. Bundling Exception
    - FFTF Restoration Company, LLC, SIZ-4684 (2005)
  - b. Participant Exception
  - c. Mentor-Protégé Exception
    - Tidewater, Incorporated, SIZ-4681 (2005)
    - Osirus, Inc., SIZ-4546 (2003)
    - Madison Services, Inc., SIZ-4538 (2003)
10. The Ostensible Subcontractor Rule
- Anadarko Industries, LLC, SIZ-4708 (2005)
  - CorTrans Logistics, LLC and Central Delivery Service, SIZ-4691 (2005)
  - ePerience, Inc., SIZ-4668 (2004)
  - Greenleaf Construction Company, Inc., SIZ-4663 (2004)
  - Tiger Enterprises, Inc., SIZ-4647 (2004)
  - ATA Staffing Services, SIZ-4613 (2004)
  - Leonardo Technologies, Inc., SIZ-4597 (2003)
  - SecTek, Inc., SIZ-4558 (2003)
  - Osirus, Inc., SIZ-4546 (2003)
  - General Maintenance Engineering, Inc., SIZ-4405 (2000)
  - American Guard Services, SIZ-4397 (2000)
  - KIRA, Incorporated, SIZ-4360 (1999)
  - InfoTech Enterprises, SIZ-4346 (1999)
  - Valenzuela Eng, Inc. & Curry Contracting Co., Inc., SIZ-4151 (1996)
11. Franchise and License Agreements
- Ravinia Travel, Inc. d/d/a CEM Travel Services, SIZ-4699 (2005)
  - CorTrans Logistics, LLC and Central Delivery Service, SIZ-4691 (2005)
  - ETI Professionals, Inc., SIZ-4603 (2004)

- Garvin Enterprises, Inc. d/b/a Lloyd Staffing, SIZ-4544 (2003)
    - John T. McSweeney d/b/a John McSweeney Agency, SIZ-4492 (2002)
  - 12. Totality of the Circumstances
    - Marine Tech, L.L.C., SIZ-4635 (2004)
    - ArmorShield, LLC, SIZ-4598 (2003)
    - Kansas City LLC d/b/a Best Harvest Bakeries, SIZ-4574 (2003)
    - B.L. Harbert International LLC, SIZ-4525 (2002)
    - Pointe Precision, LLC, SIZ-4466 (2001)
    - A.M. Kinney Associates, SIZ-4401 (2000)
    - L&B Reporting, Inc. dba Lucas, Briandi & Associates, SIZ-4386 (1999)
    - Procedyne Corp., SIZ-4354 (1999)
    - Inland Dredging Company, LLC, SIZ-4350 (1999)
    - Frontier Applied Sciences, Inc., SIZ-4316 (1998)
    - National Welders Supply Co., Inc., SIZ-4315 (1998)
    - Field Support Services, Inc., SIZ-4176 (1996)
  - 13. Other General Principles of Affiliation
    - Horizon Consulting, Inc., SIZ-4658 (2004) (old relationships)
    - Corporate Research Services, Inc., SIZ-4646 (2004) (with nonprofit)
    - U.S. Grounds Maintenance, Inc., SIZ-4601 (2003) (harmless error)
    - ArmorShield, LLC, SIZ-4598 (2003) (right of first refusal)
    - United Metal Receptacle Corporation, SIZ-4155 (1996) (sales agreement)
    - Data Monitor Systems, Inc., SIZ-4150 (1996) (not affiliated)
- B. Annual Receipts Size Standard
1. Definition of "Receipts" and Exclusions from Receipts
    - SDS National, LLC, SIZ-4676 (2004)
    - RetroBox, Ltd., SIZ-4614 (2004)
    - Cash Realty of NY, Inc., SIZ-4569 (2003)
    - Community Research Associates, Inc., SIZ-4554 (2003)
    - Communicar, Inc., SIZ-4551 (2003)
    - Ben Fitzgerald Real Estate Services, L.L.C. d/b/a Rosemark, SIZ-4542 (2003)
    - Uniband Enterprises, SIZ-4529 (2003) (implied JV theory)
    - Morgan Construction Enterprises, Inc., SIZ-4503 (2002)
    - Allan Baker, Inc. d/b/a Korrect Optical, SIZ-4486 (2002)
    - Military Construction Corporation, SIZ-4456 (2001)
    - Phillips National, Inc., SIZ-4332 (1998)
    - Uniband, Inc., SIZ-4326 (1998)
    - First Preston Management, Inc., SIZ-4297 (1998)
    - Mid-Columbia Engineering, Inc., SIZ-4134 (1996)
    - Heritage Reporting Corporation, SIZ-4131 (1995) (settlement of a claim)
  2. Federal Income Tax Return and Other Documentation
    - SDS National, LLC, SIZ-4676 (2004)
    - Reiner, Reiner & Bendett, P.C., SIZ-4607 (2004)
    - Reiner, Reiner & Bendett, P.C., SIZ-4587 (2003)
    - Community Research Associates, Inc., SIZ-4554 (2003) (partially overturned in 4607)
    - Pacific Marine Yacht Charters, LLC, SIZ-4537 (2003) (partially overturned by 2004 reg.)
    - Rochester Hospitality Company, SIZ-4495 (2002)
    - Military Construction Corporation, SIZ-4456 (2001)
    - Carriage Abstract, Inc., SIZ-4430 (2001)
    - Phillips National, Inc., SIZ-4332 (1998)
    - TROY Systems, Inc., SIZ-4296 (1998)
  3. Applicable Period of Measurement
    - Brook Range Contract Service, SIZ-4652 (2004)
    - Cabrini Medical Center, SIZ-4610 (2004)
    - Computer Management Services, Inc., SIZ-4543 (2003) (short year)
    - Pacific Marine Yacht Charters, LLC, SIZ-4537 (2003) (less than 3 years)
    - Triple P Services, Inc., SIZ-4480 (2002)
    - USA Asbestos Removal Co., Inc., SIZ-4382 (1999)

- Armrest Security Patrol, Inc., SIZ-4371 (1999)
    - TROY Systems, Inc., SIZ-4296 (1998)
- 4. Calculation of Affiliate's Receipts
  - Crown Moving & Storage, SIZ-4722 (2005)
  - U.S. Grounds Maintenance, Inc., SIZ-4601 (2003) (general)
  - IMDT, Inc., SIZ-4121 (1995)
- II. Special Rules for Government Procurement
  - LBM, Inc., SIZ-4693 (2005) (size standard change)
  - Tidewater, Incorporated, SIZ-4681 (2005) (effective date of new regulation)
  - Comark Government and Education Sales, Inc., SIZ-4666 (2004) (use of old regulation)
  - MBI Corporation, SIZ-4356 (1999) (use of new reg. before it is effective)
  - GASL, Inc., SIZ-4191 (1996)
- F. Special Situations
  - Department of the Air Force, SIZ-4720 (2005) (IDIQ-task order level)
  - Client Network Services, Inc., SIZ-4702 (2005) (8 (a))
  - Client Network Services, Inc., SIZ-4686 (2005) (8 (a))
  - The MIL Corporation, SIZ-4641 (2004) (MAS-order level)
  - Advanced Management Technology, Inc., SIZ-4638 (2004) (MAS-order level)
  - Vistronix, Inc. and Department of Justice, SIZ-4585 (2003) (MAS-order level)
  - Jason Associates Corporation, SIZ-4489 (2002) (MAS-order level)
  - SETA Corporation, SIZ-4477 (2002) (BPA)
- G. Nonmanufacturer Rule and Manufacturer (End Item)
  - Comark Government and Education Sales, Inc., SIZ-4666 (2004)
  - Virtual Media Integration, SIZ-4447 (2001)
  - Nordic Sensor Technologies, SIZ-4373 (1999)
  - Abrasive Warehouse & Equipment Co., SIZ-4314 (1998) (dicta)
  - Columbian Rope Company, SIZ-4117 (1995)
  - RG Software Systems, Inc., SIZ-4113 (1995)
  - Innovative Technology, Inc., SIZ-4103 (1995)
- III. Area Office Procedures for Size Determinations
  - . Protest Timeliness
    - 0. The 5-Day Rule
      - Eagle Home Medical Corp., SIZ-4701 (2005) (not untimely)
      - Systems Resource Management, Inc., SIZ-4640 (2004) (IDIQ-order level)
      - The Refinishing Touch, SIZ-4615 (2004) (not untimely)
      - SDS International, Inc., SIZ-4541 (2003) (GAO-ordered re-evaluation)
      - Aerospace Engineering and Support, Inc., SIZ-4519 (2002)
      - Advanced Technologies and Laboratories International, Inc., SIZ-4484 (2002)
      - Xcavators, Inc., SIZ-4446 (2001)
      - Aquasis Services, Inc., SIZ-4444 (2001) (sealed bid)
      - Symtech Corporation, Inc., SIZ-4406 (2000)
      - American Medical Equipment Company, SIZ-4328 (1998)
    - 1. Contracting Officer Protest
      - Fire-Trol Holdings, L.L.C., SIZ-4633 (2004)
      - Hunot Retardant Company, SIZ-4629 (2004)
      - Ramtech Software Solutions, Inc., SIZ-4562 (2003)
      - Tiger Enterprises, Inc., SIZ-4524 (2002)
      - Alon U.S.A., LP., SIZ-4453 (2001)
      - Pointe Precision, LLC, SIZ-4434 (2001)
      - Empire Home Medical, Inc., SIZ-4291 (1998)
    - 2. SBA Protest
      - Diversa Corporation, SIZ-4672 (2004)
      - Regent Mfg., Inc., SIZ-4533 (2003)
    - 3. Premature Protest
      - Department of the Air Force, SIZ-4720 (2005) (IDIQ-task order level)
      - Innovative Communications Alliance, LLC, SIZ-4573 (2003)
      - The Barbosa Group Incorporated d/b/a Executive Security, SIZ-4565 (2003)
      - BuTech Pressure Systems, SIZ-4433 (2001)
    - 4. Multiple Award Schedule Contract - (Including Federal Supply Schedule)
      - Sioux Steam Cleaner Corporation, SIZ-4632 (2004) (contract level)

- Sioux Steam Cleaner Corporation, SIZ-4631 (2004) (contract level)
- Jason Associates Corporation, SIZ-4489 (2002) (task order level)
- TeKontrol, Inc., SIZ-4520 (2002)
- Vistronix Inc., SIZ-4550 (2003) (task order level)

**A. Protest Specificity**

- Carriage Abstract, Inc., SIZ-4430 (2001) (timely vs. late protest)
- 1. Particular Procurement
  - Creative Recycling Systems, Inc., SIZ-4716 (2005)
  - IQ Solutions and SAMHA, HHS, SIZ-4711 (2005)
  - Diversa Corporation, SIZ-4672 (2004) (SBIR)
  - Adventure World Travel, Inc., SIZ-4246 (1997)
  - Operations Technologies, Inc., SIZ-4258 (1997)
- 2. Allegations
  - Shaney Construction Company, Inc., SIZ-4706 (2005)
  - Fedserv Industries, Inc., SIZ-4705 (2005)
  - Premier Water & Energy Technology, Inc., SIZ-4697 (2005)
  - Business Travel Advisors, Inc., SIZ-4664 (2004)
  - Gate Engineering Corporation, SIZ-4655 (2004)
  - DJs Ground Maintenance Company, Inc., SIZ-4634 (2004)
  - Sioux Steam Cleaner Corporation, SIZ-4632 (2004)
  - Crawford Logging Company, SIZ-4604 (2004)
  - Millennium Data Systems, SIZ-4571 (2003)
  - Stuard & Associates, Inc., SIZ-4566 (2003)
  - SDS International, Inc., SIZ-4541 (2003)
  - Defense Logistics Agency, SIZ-4535 (2003)
  - Cottrell Contracting Corporation, SIZ-4532 (2003)
  - Aerospace Engineering and Support, Inc., SIZ-4519 (2002)
  - OCR Services, Inc., SIZ-4502 (2002)
  - Allan Baker, Inc. d/b/a Korrect Optical, SIZ-4486 (2002)
  - Advanced Technologies and Laboratories International, Inc., SIZ-4484 (2002)
  - L. Washington & Associates, Inc., SIZ-4463 (2001)
  - Newman & Company, Inc., SIZ-4461 (2001)
  - TekStar, Inc., SIZ-4457 (2001)
  - James P. Kruger & Associates, Inc., SIZ-4445 (2001)
  - Strand Hunt Construction, Inc., SIZ-4435 (2001)
  - Dove Mailing, Inc., SIZ-4415 (2000)
  - McDevitt Mechanical Contractors, Inc., SIZ-4413 (2000)
  - Jones Technologies Enterprises, Inc., SIZ-4402 (2000)
  - Cal Electro Inc., SIZ-4394 (2000)
  - USA Asbestos Removal Co., Inc., SIZ-4382 (1999)
  - Williamson Metal Works, SIZ-4353 (1999)
  - C.C. Borden Construction, Inc., SIZ-4342 (1999)
  - Grot Incorporated, SIZ-4333 (1998)
  - American Medical Equipment Company, SIZ-4328 (1998)
  - Dawkins/CSI Construction Co., L.P., SIZ-4321 (1998)

**B. Area Office Processing**

- 0. Requested Information Not Provided - Adverse Inference
  - Greystone Environmental Consultants, Inc., SIZ-4680 (2005)
  - Diversa Corporation, SIZ-4672 (2004)
  - ATA Staffing Services, SIZ-4613 (2004)
  - Xantrex Technology, Inc., SIZ-4592 (2003)
  - Ramtech Software Solutions, Inc., SIZ-4562 (2003)
  - Tiger Enterprises, Inc., SIZ-4540 (2003) (reversed)
  - GAL Construction, Inc., SIZ-4522 (2002)
  - TeKontrol, Inc., SIZ-4520 (2002)
  - Peerless Instrument Company, Inc., SIZ-4491 (2002)
  - Cellegy Pharmaceuticals, Inc., SIZ-4439 (2001) (affiliate)
  - Safe Workers of America, Inc., SIZ-4437 (2001) (affiliate)
  - Carriage Abstract, Inc., SIZ-4430 (2001) (affiliate)

- Access Portable Toilets, Inc., SIZ-4387 (2000)
  - Apex Group, Inc., SIZ-4300 (1998) (affiliate)
  - Donovan Travel, Inc. d/b/a Carlson Wagonlit Travel, SIZ-4270 (1997) (affiliate)
  - Quantrad Sensor, Inc., SIZ-4255 (1997) (affiliate)
  - H.J. Vetter Interiors, SIZ-4174 (1996)
  - T.B.F. Enterprises, Inc. d/b/a Budget Inns and Zeta Enterprises, Inc., SIZ-4168 (1996)
  - CDE Enterprises, Inc., SIZ-4156 (1996) (reversed)
  - Data Monitor Systems, Inc., SIZ-4150 (1996) (reversed)
  - CowSkin Prairie Oil and Gas, Inc., SIZ-4138 (1996) (reversed)
  - Oklahoma Biotechnology Corp., SIZ-4137 (1996)
  - AMP, SIZ-4128 (1995) (reversed)
  - Dal-Tex Investments, Inc., SIZ-4116 (1995)
  - MBA International, SIZ-4115 (1995)
1. Due Process Issues
    - American Office Products Distributors, Inc., SIZ-4619 (2004)
    - Sterling Foods, Ltd., SIZ-4556 (2003)
    - Cox Commercial, L.P., SIZ-4474 (2002)
    - Addison Construction & Maintenance Corp., SIZ-4418 (2000)
    - Quantrad Sensor, Inc., SIZ-4255 (1997)
    - KTA/SET Environmental, SIZ-4169 (1996)
  2. Effect of a Formal Size Determination
    - Client Network Services, Inc., SIZ-4686 (2005) (a vacated size determination)
    - Tiger Enterprises, Inc., SIZ-4540 (2003) (not appealed)
    - Uniband Enterprises, SIZ-4529 (2003)
    - B.L. Harbert International LLC, SIZ-4504 (2002) (a vacated size determination)
    - Allan Baker, Inc. d/b/a Korrect Optical, SIZ-4487 (2002) (on appeal)
    - DTH Management JV, SIZ-4379 (1999) (not appealed)
    - DTH Management JV, SIZ-4376 (1999) (affiliate's size determination)
    - Acepex Management Corporation, SIZ-4361 (1999) (not appealed)