

December 3, 2014

The Honorable Sam Graves
Chairman, Committee on Small Business
U.S. House of Representatives
Washington, DC 20515

RE: Small Business Size Standards; Industries With Employee Based Size Standards Not Part of Manufacturing, Wholesale Trade, or Retail Trade, 79 FR 53646 (September 10, 2014)

Dear Mr. Chairman:

Thank you for your comments on the U.S. Small Business Administration's (SBA) recent proposed rule on employee based size standards for industries not part of Manufacturing, Wholesale Trade, or Retail Trade (79 FR 53646 (September 10, 2014)). Specifically, you are concerned with SBA's proposal to remove the Information Technology Value Added Resellers (ITVAR) exception and the Agency's compliance with the provisions added to the Small Business Act by the National Defense Authorization Act for Fiscal Year 2013 (NDAA 2013).

In accordance with the Small Business Jobs Act of 2010 (Section 1344 of Public Law No. 111-240), SBA has been updating all small business size standards on a sector by sector basis. As part of this effort, on September 10, 2014, SBA issued a proposed rule for public comment which proposed to modify employee based size standards for 30 industries and three sub-industries ("exceptions") that are not part of Manufacturing, Wholesale Trade, or Retail Trade. One of the SBA's proposed modifications was to eliminate the ITVAR exception and its associated 150-employee size standard. Under the proposed rule, if adopted, agencies would purchase information technology products in the same manner that they purchase other supplies, by using a manufacturing North American Industry Classification System (NAICS) code and the non-manufacturer size standard of 500 employees.

SBA received about 215 comments on the proposed rule, including about 170 relating to the ITVAR size standard. SBA will thoroughly review all comments in developing the final rule. SBA expects to issue a final rule in the summer of 2015.

When the NDAA 2013 was signed, SBA had already completed its review of all receipts based size standards. Thus, SBA was not able to incorporate NDAA 2013's provisions in the review of those size standards. However, to the extent permitted by the 2007 Economic Census tabulation and other available data, SBA adjusted its size standards methodology for employee based size standards in response to the NDAA

2013's requirements. Specifically, for manufacturing and other industries that have employee based size standards for which SBA published the proposed rules on September 10, 2014, SBA added an additional size standard level of 1,250 employees between 1,000 and 1,500 employees. In addition, SBA increased the number of size standards for industries in Wholesale Trade for SBA's financial assistance. Currently, all industries in Wholesale Trade have one common size standard of 100 employees for SBA loans. SBA had proposed three additional size levels, namely 150 employees, 200 employees and 250 employees and published the rule for comments (79 FR 28631 (May 19, 2014)). SBA proposed no common size standards for any industries that have employee based size standards.

As part of preparation for the next round of the size standards review as required by the Jobs Act, SBA is currently reviewing and updating its current "Size Standards Methodology" White Paper (methodology) to incorporate provisions of the NDAA 2013 to the extent possible. SBA plans to issue the updated methodology for public comments and finalize it prior to launching the next round of size standards review, possibly in the first quarter of Fiscal Year 2016. We have been advised by the U.S. Census Bureau that the special tabulation of the 2012 Economic Census will not be available until the fall of 2015.

We appreciate your continued support of SBA and the small business community in the U.S. If you or your staff have additional questions, please feel free to contact Thaddeus Inge, Assistant Administrator for Congressional and Legislative Affairs, at (202) 205-6634 or thaddeus.inge@sba.gov.

Sincerely,

John Shoraka
Associate Administrator
Government Contracting and Business Development