

May 12, 2011

**BY ELECTRONIC MAIL**

Mr. Khem R. Sharma,  
Chief, Size Standards Division  
Small Business Administration  
409 3<sup>rd</sup> street SW  
Washington, DC 204216

**RE:** Revision of SBA Size Standards: Professional, Scientific and  
Technical Services; 76 Federal Register 14323, March 16, 2011

Dear Mr. Sharma:

The Office of Advocacy submits this comment letter to the United States Small Business Administration (SBA) in response to the above-referenced notice of proposed rulemaking.

**I. The Office of Advocacy**

Advocacy was established pursuant to Pub. L. 94-305 to represent the views of small entities before federal agencies and Congress. Advocacy is an independent office within the U.S. Small Business Administration (SBA), so the views expressed by Advocacy do not necessarily reflect the views of the SBA or the Administration. The Regulatory Flexibility Act (RFA),<sup>1</sup> as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA),<sup>2</sup> gives small entities a voice in the rulemaking process. For all rules that are expected to have a significant economic impact on a substantial number of small entities, federal agencies are required by the RFA to assess the impact of the proposed rule on small business and to consider less burdensome alternatives.

The Small Business Jobs Act of 2010 requires agencies to give every appropriate consideration to comments provided by Advocacy.<sup>3</sup> The agency must include, in any explanation or discussion accompanying the final rule's publication in the Federal Register, the agency's response to these

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<sup>1</sup> 5 U.S.C. § 601 et seq.

<sup>2</sup> Pub. L. 104-121, Title II, 110 Stat. 857 (1996) (codified in various sections of 5 U.S.C. § 601 et seq.).

<sup>3</sup> Small Business Jobs Act of 2010 (PL 111-240) § 1601.

written comments submitted by Advocacy on the proposed rule, unless the agency certifies that the public interest is not served by doing so.<sup>4</sup>

## **II. Area of Concern**

a. Under the current size standard rule, more than 90 percent of all Architecture and Engineering (A&E) companies are designated as small businesses. If the proposed rule were to be adopted, this number would increase to 98 percent. As such, the current stakeholders are being asked to support a proposed rule that would in essence expand the competitive market place. This expansion would include A&E companies that have annual net revenues in a range of \$5 million to \$19 million. This range is well above the current net maximum revenue of \$4.5 million. Thus this expansion would incorporate much larger A&E companies in a field that is already competitively saturated at 90 percent.

b. The proposed size standard revision would increase the current standard for A&E Services from its current level of \$4.5 million to \$19.5 million. This is an increase of 400 percent from the current level. It is clear from the current public debate that this is an exceptionally high increase of the size standards for this industry. This debate has included a hearing on May 5, 2011 by the Small Business Committee of the United States House of Representatives. It is unclear as to what the new standard should be. Thus more time should be allotted to the public to comment on this very important area of concern.

## **III. Recommendations**

a. Because the stakeholders need more time to evaluate and to formulate formal comments, Advocacy would recommend an additional 45 days for public comments.

b. The goal of the proposed regulation is to increase small business size standards for 35 industries and one sub-industry in North American Industry Classification System (NAICS) Sector 54, Professional, Scientific and Technical Services and one industry in NAICS Sector 81, Other Services. A&E Services is just one area that SBA is proposing to change. Advocacy would recommend that if there are no other areas that require further comment then SBA should move forward with finalizing the rule for those uncontroverted size standards while providing another review of the A&E standard.

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<sup>4</sup> Id.

If you have any questions regarding this letter, please do not hesitate to contact me or Assistant Chief Counsel Major L. Clark, III in my office at (202) 205-7150.

Sincerely,

/s/

Winslow Sargeant, Ph.D  
Chief Counsel for Advocacy

/s/

Major L. Clark, III  
Assistant Chief Counsel for Procurement

cc: The Honorable Cass Sunstein, Administrator, Office of Information and Regulatory Affairs