



SMALL BUSINESS ADMINISTRATION

13 CFR Part 121 and 127

RIN 3245-AG94

Consolidation of Mentor-Protégé Programs and Other Government Contracting Amendments; Correction

AGENCY: U.S. Small Business Administration.

ACTION: Correcting amendments.

SUMMARY: The U.S. Small Business Administration (SBA) is correcting regulations published in the *Federal Register* on October 16, 2020. The rule merged the 8(a) Business Development (BD) Mentor-Protégé Program and the All Small Mentor-Protégé Program to eliminate confusion and remove unnecessary duplication of functions within SBA. This document is making several technical corrections to the regulations.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Mark Hagedorn, U.S. Small Business Administration, Office of General Counsel, 409 Third Street SW, Washington, DC 20416; (202) 205-7625; mark.hagedorn@sba.gov.

SUPPLEMENTARY INFORMATION: SBA published a final rule revising the regulations pertaining to the 8(a) BD and size programs in order to further reduce unnecessary or excessive burdens on small businesses and to eliminate confusion or more clearly delineate SBA's intent in certain regulations. (85 FR 66146). This is the third set of corrections. The first set of corrections was published in the *Federal Register* on November 16, 2020. (85 FR 72916). The second set of corrections was published in the Federal Register on January 14, 2021. This document augments those corrections.

In the final rule, SBA amended § 121.103(h) to revise and clarify the requirements for joint ventures. In doing so, the sub-paragraphs in this section were reorganized. The language about ostensible subcontractors moved from § 121.103(h)(4) to § 121.103(h)(2). This document removes references to § 121.103(h)(4) and replaces them with references to § 121.103(h)(2) in the introductory text to § 121.103(h), in paragraph § 121.404(d), and in paragraph § 127.504(g).

List of Subjects

13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Individuals with disabilities, Loan programs—business, Small businesses.

13 CFR Part 127

Government contracts, Reporting and recordkeeping requirements, Small businesses.

Accordingly, 13 CFR parts 121 and 127 are corrected by making the following correcting amendments:

PART 121—SMALL BUSINESS SIZE REGULATIONS

1. The authority citation for part 121 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 636(a)(36), 662, and 694a(9); Pub. L. 116-136, Section 1114.

2. In § 121.103 amend paragraph (h) introductory text by revising the second-to-last sentence to read as follows:

§ 121.103 How does SBA determine affiliation?

* * * * *

(h) * * * SBA may also determine that the relationship between a prime contractor and its subcontractor is a joint venture pursuant to paragraph (h)(2). * * *

3. Amend § 121.404 by revising paragraph (d) to read as follows:

§ 121.404 When is the size status of a business concern determined?

* * * * *

(d) Nonmanufacturer rule, ostensible subcontractor rule, and joint venture

agreements. Compliance with the nonmanufacturer rule set forth in §121.406(b)(1), the ostensible subcontractor rule set forth in §121.103(h)(2), and the joint venture agreement requirements in §124.513(c) and (d), §125.8(b) and (c), §125.18(b)(2) and (3), §126.616(c) and (d), or §127.506(c) and (d) of this chapter, as appropriate, is determined as of the date of the final proposal revision for negotiated acquisitions and final bid for sealed bidding.

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PART 127—WOMEN-OWNED SMALL BUSINESS FEDERAL CONTRACT PROGRAM

4. The authority citation for part 127 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 637(m), 644 and 657r.

5. Amend § 127.504 by revising the second sentence of paragraph (g)(1) to read as follows:

§ 127.504 What requirements must an EDWOSB or WOSB meet to be eligible for an EDWOSB or WOSB requirement?

* * * * *

(g) * * *

(1) * * * When the subcontractor is other than small or alleged to be other than small for the size standard assigned to the procurement, this issue may be grounds for a size protest, as described at § 121.103(h)(2) of this chapter.

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John W. Klein,
Acting Associate Administrator,
Government Contracting and Business Development.

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