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SBA Expands Definition of Small Business

By: W. Lee Dobbins

To be eligible to qualify for certain government programs such as SBA loans or government contracting opportunities, your business must qualify under the SBA's definition of a "small business." The U.S. Small Business Administration has recently expanded that definition, increasing the size of a qualifying business in a number of categories.

To qualify as a small business under the SBA's definition, the business must be organized for profit; have a place of business in the U.S.; operate primarily within the U.S. or make a significant contribution to the U.S. economy through payment of taxes or use of U.S. products, materials or labor; be independently owned and operated; and not be dominant in its field on a national basis. The business may be a sole proprietorship, partnership, corporation, limited liability company or any other legal form. The business must also meet the SBA's business size standards, which state how large a business may be in order to remain classified as a small business.

The business size standards limit the number of employees and the gross revenue that a business may have in order to still be considered a small business. The SBA maintains a Table of Small Business Size Standards (available on the SBA website at <http://www.sba.gov/content/table-small-business-size-standards>), which lists size standards for every private sector industry, using the North American Industry Classification System (NAICS) to identify the industries. For each NAICS category, the SBA size standard is stated either in number of employees over the past 12 months or average annual receipts over the past three years (including subsidiaries and affiliates). For determining the number of employees, the SBA counts all individuals employed on a full-time, part-time or other basis (including leased employees and employees obtained from a temporary agency). To determine average annual receipts, “receipts” means “total income” (or in the case of a sole proprietorship, “gross income”) plus “cost of goods sold” as these terms are defined by the IRS (less net capital gains or losses, taxes paid or transactions between affiliates, if excluded from gross income on the entity’s tax returns). If the business is owned by an affiliate, or owns an affiliate, then the number of employees or the average annual receipts also includes the employees and receipts of the affiliates.

The SBA published new guidelines last month, raising the size standards across a number of industries in order to enable more companies to retain their small business designation and give the federal government a broader choice when selecting small businesses for contracts. If you have questions regarding applying for an SBA loan, or other ways that these changes may affect your business, please contact Dean Mead attorney, W. Lee Dobbins, at ldobbins@deanmead.com.

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