

**MULTI-ASSOCIATION RECOMMENDATIONS
TO THE
SECTION 1423 ACQUISITION ADVISORY PANEL'S
SMALL BUSINESS WORKING GROUP**

Recommendation: Make a one-time increase to the net worth limitation defined in FAR 52.219.22(b)(1)(B) and 13 CFR 124.104 (c)(2) for small disadvantaged business owners seeking certification for federal contracts and then periodically index this limitation for inflation. In addition, exclude retirement savings contained in either an IRA or 401k from the calculation of personal net worth.

Discussion: A significant issue facing small disadvantaged business seeking qualification for federal contracting is the personal net worth limitation for certification as a small disadvantaged business. The third-party certification process for Small Disadvantaged Business was originally established in 1995 and relies on the personal net worth limitation of SBA's 8(a) program for determining eligibility. This cap has been set at \$750,000 from inception. In addition, the calculation of personal net worth includes the owner's retirement savings made through IRAs and 401k's.

This cap on personal net worth is considerably understated today. In today's federal procurement marketplace, \$750,000 is far too low, particularly when small business owners often must pledge their personal assets as collateral to purchase capital equipment and obtain credit to meaningfully compete for federal work. In addition, only small disadvantaged business owners competing in the federal marketplace are penalized from accumulating funds for their retirement through traditional savings methods.

We recommend that SBA be directed to immediately update the net worth limitation for small disadvantaged businesses seeking certification qualification. Further, a small disadvantaged business owner's retirement savings contained in either an IRA or 401K should be excluded from the personal net worth calculation.

After this one-time adjustment, SBA should be directed to periodically (such as every three years) adjust the net worth limitation based on inflation and the impact of business realities in the federal contracting marketplace.

While we believe it is appropriate to simultaneously address the same personal net worth standard applied to eligibility for SBA's 8(a) business development program, we recognize that there may be other considerations to be taken into account and therefore do not include that program in this recommendation.

Multi-Association Recommendations to the
Section 1423 Acquisition Advisory Panel's
Small Business Working Group

Recommendation:

Terminate the current SBA third-party certification process for small disadvantaged businesses who are seeking or performing subcontracts only under federal prime contracts and reinstate the requirement for self-certification for subcontracts to the same extent that exists for all other small business classifications.

Discussion: Currently, small disadvantaged businesses seeking to do business in the federal marketplace are the only class of small business required to submit to third-party certification of qualification. Currently, SBA's affirmative certification is also required for firms seeking qualification as either an 8(a) or a HubZone firm. This third-party certification requirement was established in 1995 in response to Supreme Court decisions and Department of Justice concerns about providing federal benefits predicated on a race-based system. However, the federal rules have been inappropriately expanded to apply to small disadvantaged businesses performing only as subcontractors on federal contracts when there are no federal "benefits" that flow from that business relationship.

In lieu of the affirmative third-party certification of status, small disadvantaged businesses should be permitted to make a good faith self-certification of their eligibility status for subcontracts in the same manner as all other small businesses are able to make.