



Construction Industry Round Table

May 20, 2011

Khem R. Sharma, PhD,
Chief, Size Standards Division,
US Small Business Administration
409 Third Street, SW., Mail Code 6530,
Washington, DC 20416.
<http://www.regulations.gov>

RE: Suspend the Proposed Size Standard Revision for Professional, Scientific and Technical Services [76 Fed Reg 14323 (3/13/2011)]

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Mark A. Casso, Esq.
President, CIRT
8115 Old Dominion Drive, Suite 210
McLean, VA 22102
Ph: 202.466.6777
Fax: 703-992-8393
Email: mcasso@cirt.org
Website : www.cirt.org

Dear Sir:

On behalf of the Construction Industry Round Table (CIRT),* we would like to urge that a proposed size standard revision for professional, scientific, and technical services that would negatively affect the A/E/C industry be *suspended*. Short of suspension, CIRT supports the request made by fellow design and construction organizations that the proposed rule's comment period be extended to September 30, 2011.

CIRT believes the Small Business Administration (SBA) should suspend the proposal until further data and justifications can be provided that warrant such a drastic change (some 400%) to the current size standard for professional services. Specifically, the SBA would be well served to take into consideration the impact such a change will have on the *entire* design/ construction community – as well as other industry segments that may suffer unintended collateral damage to their nascent small business elements.

DISCUSSION

CIRT believes that a suspension of this rule change is warranted for the following specific reasons:

1. As noted above, the proposed *new* size standard is more than 4 times larger than the current standard (from \$4.5M annual revenue to \$19M) for engineering and other professional services. There is no evidence or findings as to how or why the SBA arrived at such a dramatic increase. [The Guide to Size Standards, published in 2009, offers no basis for this dramatic increase].
2. Even the government's own data indicate that the A/E/C community is overwhelmingly dominated by small businesses (which fall within the current \$4.5M size standard) with no evidence that this has changed.
3. If anything, the recent recession has, in fact, caused revenues and employees to decline in the industry given the reduction in overall spending in this segment of the economy. [Down by over 30% from its highs according to Department of Commerce statistics, with an accompanying increase in unemployment and/or underemployment].
4. The size standard was significantly *reduced* in the 1980s from \$7.5M to \$4.5M because it was generally agreed and accepted that the small business policy was to assist *truly small* firms, especially on federal contracts, both as primes and sub-contractors. [At that time, \$7.5M was an industry measure for middle size firms – thus, truly small firms had difficulty competing under that policy]. The proposed *increase* to \$19M (a firm with 100 to 150 employees) is counter-intuitive and counter-productive given it returns the A/E/C industry to pre-\$4.5M dollar size standard days when *truly small* firms will not be competitive against much larger professional organizations *deemed small by rulemaking*.

5. Repeal of the Small Business Competitiveness Demonstration Program (CompDemo) in the Small Business Jobs Act of 2010, exacerbates the damage and negative impact the proposed rule change will likely have on the *full* spectrum of firms in the professional services industry. [Simply stated, with repeal of CompDemo we are concerned that agencies and contracting officers will automatically apply the “rule of two” setting aside nearly all A/E/C contracts to small firms – to the virtual exclusion of the larger firms that are left].
6. The unintended consequences of the proposed size standard change and demise of CompDemo will be the “*artificial justification*” to over-use set asides in the A/E/C community to the detriment and harm of other industry small businesses. [This happens most often with agencies that have difficulty meeting their small business goals because they have enormous systems contracts with few providers (DOD, NASA, DOD). So the agencies over use set asides in the industry categories easiest to justify the action: i.e, like professional service or A/E/C].
7. Displacement in the market place is likely if overuse of set asides occurs as expected by this policy change – resulting in smaller firms being asked (and required) to manage larger complex projects they *may not* have the experience and/or capacity to adequately handle. As a result, it *may* require them to then subcontract to firms larger than themselves creating the phenomenon whereby small firms are attempting to manage the activities of much larger firms -- which not a good model for the federal market projects.

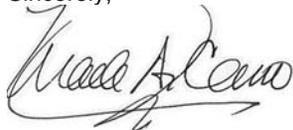
CONCLUSION:

The proposed increase in the size standards for professional services is excessive and not justified by industry or SBA analysis. Furthermore, the unintended negative consequences and market displaces that such a rule change will unleash not only on A/E/C but other industry groups are unwarranted and unnecessary.

Moreover, with the repeal of CompDemo, more and larger contracts will likely be set aside for small business under the “Rule of Two,” rather than to open competition based on qualifications and experience – thus, already stressing the A/E/C market place and putting in motion displacements of firms. None of which is necessarily good for the quality of services or the taxpayers.

Therefore, CIRT strongly urges the SBA to suspend further steps with respect to the proposed rule on changing the size standard for A/E/C services.

Sincerely,



Mark A. Casso, Esq.
President, CIRT

** The Construction Industry Round Table (CIRT) strives to create one voice to meet the interest and needs of the design and construction community. CIRT supports its members by actively representing the industry on public policy issues, by improving the image and presence of its leading members, and by providing a forum for enhancing and/or developing strong management approaches in an ever changing environment through networking and peer interaction.*

The Round Table is composed of approximately 100 CEOs from the leading architectural, engineering, and construction firms in the United States. Together these firms deliver on billions of dollars of public and private sector infrastructure projects that enhance the quality of life of all Americans while directly employing nearly half-million Americans.