

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515-6515

MEMORANDUM

TO: Members of the Committee on Small Business

FROM: Committee Majority Staff

DATE: February 2, 2024

RE: Full Committee Hearing Titled: “Under the Microscope: Reviewing the SBA’s Small Business Size Standards”

On **Tuesday, February 6, 2024, at 10:00 AM ET**, the Committee on Small Business will hold a hearing titled “**Under the Microscope: Reviewing the SBA’s Small Business Size Standards.**” The meeting will convene in room 2360 of the Rayburn House Office Building. The purpose of this hearing is to examine the challenges facing small business contractors including changes to the SBA’s size standards.

I. Witnesses

- **Mr. Jay V. Lambke**, President, Government Acquisitions, Inc.
- **Mr. Brad Moore**, CEO, Sterling Computers
- **Mr. Andrew V. Christ**, COO, Compass Constructors
- **Ms. Erin Allen**, President, Contemporaries, Inc.

II. Background

The Small Business Act of 1953 authorized the U.S. Small Business Administration (SBA) to establish specific small business size standards.¹ Small business size standards determine what the government considers a small business, opening access to set-aside government contracts and other resources, such as SBA lending programs.² The SBA’s size standards vary by industry and are generally based on the average number of employees or the average annual receipts that a business has.³ To classify businesses in an industry, the government uses the North American Industry Classification System (NAICS) to group together businesses that use similar processes

¹ The Small Business Act of 1953, Pub. L. No. 83-163, § 202, 67 Stat 232 (2022).

² *Size Standards*, SBA (last visited Jan. 23, 2024), <https://www.sba.gov/federal-contracting/contracting-guide/size-standards>

³ U.S. SMALL BUS. ADMIN., SBA’S SIZE STANDARDS METHODOLOGY, 1 (Dec. 2023).

to produce goods or services.⁴ Then, the SBA determines the maximum size standard is for a business in that NAICS code in order for a business to be considered small.⁵ Businesses' NAICS codes determine which small size standards they must adhere to.⁶ Incorrect NAICS code groupings or size standards can have a detrimental effect on small businesses, potentially limiting their ability to compete against much larger firms.

The 2010 Small Business Jobs Act requires the SBA to reassess small business size standards industry-by-industry every five years.⁷ The SBA executes this review on a rolling basis where at least one-third of all size standards are reviewed every 18-months.⁸ The SBA has begun the third review and released its proposed size standards methodology for public comments.⁹ The methodology explains what calculations and factors the SBA takes into account as it considers changes to industry size standards.¹⁰ When the SBA reexamines size standards, small businesses pay close attention, given that losing small status could jeopardize a company's business model. The ability for small businesses to compete in the federal marketplace can be prohibited by agency size standard decisions.

When small businesses are no longer considered small, they lose valuable access to government resources and opportunities. They must then compete with large firms, without the assistance of small business specific opportunities, such as set-aside government contracts. In addition, firms that should be classified as small businesses but do not fit in the SBA's definition can find it difficult to remain in business.

Just the act of complying with federal rules and regulations can be disproportionately burdensome on small businesses.¹¹ Small businesses may find it necessary to hire staff simply to help them comply with federal regulations. These "compliance officers" count towards a firm's employee count, potentially jeopardizing their small status.

III. Conclusion

Determining what a small business is has a major impact on the success and access of American entrepreneurs. A small business' opportunity for growth can be directly impacted by the SBA's size standards.

⁴ *SIC and NAICS Codes*, DEP'T. OF REV. OF WASH. STATE, (last visited Feb. 1, 2024), <https://dor.wa.gov/about/statistics-reports/sic-and-naics-codes>.

⁵ *Id.*

⁶ *Id.*

⁷ *Size Standards*, SBA (last visited Jan. 23, 2024), <https://www.sba.gov/federal-contracting/contracting-guide/size-standards>; Small Business Size Regulations, 13 C.F.R. § 121.104 (2023).

⁸ The Small Business Jobs Act of 2010, Pub. L. No. 111-240, § 1344, 124 Stat. 2545 (2023).

⁹ U.S. SMALL BUS. ADMIN., SBA'S SIZE STANDARDS METHODOLOGY (Dec. 2023).

¹⁰ *Size Standards*, SBA (last visited Jan. 23, 2024), <https://www.sba.gov/federal-contracting/contracting-guide/size-standards>.

¹¹ NAT'L ASS'N OF MFRS., THE COST OF FEDERAL REGULATIONS TO THE U.S. ECONOMY, MANUFACTURING AND SMALL BUSINESS, 4 (OCT. 2023).