DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

11 JAN 1999

Office of the Under Secretary

MEMORANDUM FOR ALMAJCOM-FOA-DRU (DIRECTORS OF CONTRACTING)

FROM: SAF/AQC
1060 Air Force Pentagon
Washington, DC 20330-1060

SAF/SB (Rm 5E271)
1060 Air Force Pentagon
Washington, DC 20330-1060

SUBJECT: Small Business Set-asides Under "Joint Ventures and Teaming Relationships"

Recently, the Small Business Administration (SBA) revised their regulations on size standards (13 CFR 121) to exclude certain joint venture and teaming arrangements from SBA's affiliation rules. This change should increase the potential pool of small businesses available to compete for particular procurements and encourage contracting officers to consider small business contractors more closely before establishing an acquisition strategy.

Further, where a joint venture or teaming arrangement qualifies as a small business concern under the revised regulation, the Limitations on Subcontracting clause (FAR 52.219-14) shall apply to the cooperative effort of the team and not its individual members.

In view of negative trends in small business awards over the past several years, it is crucial to recognize that this final rule (see extracts attached) increases the potential for small business set-asides as well as contract awards under the 8(a) program. Air Force activities must take full advantage of this increased pool of firms to achieve our small business goals, endorsed by the Chief of Staff and Secretary of the Air Force.

Frank J. Anderson Jr.
FRANK J. ANDERSON, JR., Brig Gen, USAF
Deputy Assistant Secretary (Contracting)
Assistant Secretary (Acquisition)

ANTHONY J. DELUCA
Director
Office of Small and Disadvantaged Business Utilization

Attachment:
Final Rule (Extracts)

cc:
MAJCOM Directors of Small Business

FINAL RULE EXTRACTS

[Federal Register: June 30, 1998 (Volume 63, Number 125)]
[Rules and Regulations]
[Page 35726-35767]
From the Federal Register Online via GPO Access [wais.access.gpo.gov]
[DOCID:fr30jn98-23]

SMALL BUSINESS ADMINISTRATION
13 CFR Parts 121, 124, and 134
Small Business Size Regulations; 8(a) Business Development/Small Disadvantaged Business Status Determinations; Rules of Procedure Governing Cases Before the Office of Hearings and Appeals
AGENCY: Small Business Administration.
ACTION: Final rule.

Page 35726--"Underlining" emphasis added

The revisions to 13 CFR part 121 apply with respect to all solicitations issued on or after June 30, 1998.

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In addition to the changes to 13 CFR part 124, the final rule also makes changes to SBA's size regulations (part 121) to permit size protests and appeals of Standard Industrial Classification (SIC) code designations in connection with 8(a) competitive procurements, and to exclude certain joint venture arrangements from SBA's affiliation rules. These changes should increase the potential pool of small businesses available to compete for particular procurements and should encourage contracting officers to consider small business contractors more closely before determining a procurement strategy.

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The changes that exclude certain joint venture and teaming arrangements from SBA's affiliation rules and the 8(a) mentor/protege program are designed to enable small businesses to effectively compete for contracts that were previously too large for a single small business to perform as a prime contractor. By allowing small businesses to form joint venture and teaming relationships without regard to affiliation, they can be considered responsible contractors for ``bundled'' and other large contracts which exceed the capability of any of the individual small businesses to perform as prime contractors.

Likewise, 8(a) Participants will be able to submit offers for and be considered responsible businesses for larger contracts than they would be able to obtain individually without the newly established mentor/ protege program. Expanding the number and dollar amount of contracts available for award through the 8(a) BD program may result in a shift of dollars to small business.

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Sec. 121.103 What is affiliation?

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(f) * * *

(2) Except as provided in paragraph (f)(3) of this section, concerns submitting offers on a particular procurement or property sale as joint venturers are affiliated with each other with regard to the performance of that contract.

(3) Exclusion from affiliation. (i) A joint venture or teaming arrangement of two or more business concerns may submit an offer as a small business for a non-8(a) Federal procurement without regard to affiliation under paragraph (f) of this section so long as each concern is small under the size standard corresponding to the SIC code assigned to the contract, provided:

(A) For a procurement having a revenue-based size standard, the procurement exceeds half the size standard corresponding to the SIC code assigned to the contract; or

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(B) For a procurement having an employee-based size standard, the procurement exceeds $10 million.

(ii) A joint venture or teaming arrangement of at least one 8(a) Participant and one or more other business concerns may submit an offer for a competitive 8(a) procurement without regard to affiliation under paragraph (f) of this section so long as the requirements of 13 CFR 124.513(b)(1) are met.

(iii) Two firms approved by SBA to be a mentor and protege under 13 CFR 124.520 may joint venture as a small business for any Federal Government procurement, provided the protege qualifies as small for the size standard corresponding to the SIC code assigned to the procurement and, for purposes of 8(a) sole source requirements, has not reached the dollar limit set forth in 13 CFR 124.519.

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