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Acquisition & Assistance Policy Directive (AAPD)

From the Director, Office of Acquisition & Assistance

AAPD No. 23-01

Small Disadvantaged Business Threshold

Issued: January 31, 2023

AAPDs provide information of significance to all Agency personnel and partners involved in the Acquisition and Assistance process. Information includes (but is not limited to): advance notification of changes in acquisition or assistance regulations; reminders; procedures; and general information. AAPDs may be used to implement new requirements on short notice, pending formal amendment of acquisition or assistance regulations. Each AAPD is effective as of the issuance date on its cover page unless otherwise noted elsewhere in the AAPD guidance; the directives remain in effect until the specified expiration date (if any) or M/OAA/Policy issues a rescission.

This AAPD is: New Replaces:

Category: Acquisition Assistance PSCs

This AAPD applies to: Solicitations New awards Existing awards
 Modification required

This AAPD precedes changes to:

FAR _____ AIDAR _____ CFR _____
 ADS _____ Other _____ No change to regulations

Clause/Provision: New Provision/Clause Provided Herein Available in GLAAS

Contains a deviation? No Yes: #M-OAA-DEV-FAR-23-01c

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I. Purpose

The purpose of this AAPD is to provide guidance and instructions to Contracting Officers (COs) to use a revised small disadvantaged business (SDB) threshold and associated deviated FAR clauses in applicable solicitations and contracts. Specifically, Class Deviation No. M-OAA-DEV-FAR-23-01c allows COs to use the Small Business Administration's (SBA) revised definition of SDB at 13 CFR 124.104(c)(2), which increased the net worth threshold for an individual to be eligible as an economically disadvantaged small business concern from \$750,000 to \$850,000.

The deviated FAR part 2 definition of "small disadvantaged business" and the amended text of deviated FAR clauses 52.212-3(a), 52.219-1(a), and 52.219-8(a) can be found in **Attachment 1**.

This AAPD is effective as of the issuance date on the cover page and continues in effect until rescinded or FAR rulemaking is finalized, whichever occurs first.

II. Required Actions

- *For new solicitations and contracts*, COs must insert the deviated FAR language, as applicable. The deviated FAR clauses are available in GLAAS.
- *For open solicitations*, especially those for full or partial small business set-asides, or when the solicitation contains the FAR clauses 52.212-3, 52.219-1, and 52.219-8, COs should consider issuing an amendment incorporating the deviated FAR clauses. When determining whether to amend an open solicitation, COs should consider the impact of applying the exception on the participation in, or outcome of, the procurement at both the prime and subcontractor levels.

III. Background

SBA's final rule published on November 17, 2022, at [87 FR 69118](#), adjusts monetary thresholds primarily used in the 8(a) Business Development and the Economically Disadvantaged Women-Owned Small Business (EDWOSB) programs to determine eligibility of applicants and current participants as economically disadvantaged business concerns. These monetary thresholds have not previously been adjusted for inflation. SBA's adjustment will permit small businesses to retain or reinstate their eligibility as economically disadvantaged business concerns, despite recent increases in inflation. Specifically, SBA's final rule, effective December 19, 2022, amended [13 CFR 124.104\(c\)\(2\)](#) to increase the net worth threshold that is used to determine eligibility for

SDBs from \$750,000 to \$850,000 for inflation. The FAR Council has opened FAR Case 2023-004 (“Small Disadvantaged Business Threshold”) to implement the increase in the SDB threshold in the FAR. USAID has approved a class deviation to allow the use of this threshold increase until formal rulemaking to amend the FAR is finalized.

This class deviation makes changes to the FAR definition of “small disadvantaged business concern” in the provisions and clauses listed in **Attachment 1** as follows:

*Small disadvantaged business concern, * * **

(1) * * *

(ii) Each individual claiming economic disadvantage has a net worth not exceeding ~~\$750,000~~**[the threshold at 13 CFR 124.104(c)(2)]** after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2);

IV. Point of Contact

COs may direct their questions about this AAPD to the [Ask M/OAA Policy](#) Google Group.

V. Attachments

Attachment 1: Deviated FAR Language

Attachment 1: Deviated FAR Language

2.101 Definitions.

(Deviation No. M-OAA-DEV-FAR-23-01c)

* * * * *

(b) * * *

*Small disadvantaged business concern, * * **

1. * * *

(ii) Each individual claiming economic disadvantage has a net worth not exceeding **the threshold at 13 CFR 124.104(c)(2)** after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2);

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52.212-3 Offeror Representations and Certifications - Commercial Products and Commercial Services (Dec 2022) [Deviation (Jan 2023)]

(Deviation No. M-OAA-DEV-FAR-23-01c)

* * * * *

(a) * * *

*Small disadvantaged business concern, * * **

1. * * *

(ii) Each individual claiming economic disadvantage has a net worth not exceeding **the threshold at 13 CFR 124.104(c)(2)** after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2);

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52.219-1 Small Business Program Representations (Oct 2022) [Deviation (Jan 2023)].

(Deviation No. M-OAA-DEV-FAR-23-01c)

* * * * *

(a) * * *

*Small disadvantaged business concern, * * **

1. * * *

(ii) Each individual claiming economic disadvantage has a net worth not exceeding **the threshold at 13 CFR 124.104(c)(2)** after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2);

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52.219-8 Utilization of Small Business Concerns (Oct 2022) [Deviation (Jan 2023)].
(Deviation No. M-OAA-DEV-FAR-23-01c)

* * * * *

(a) * * *

*Small disadvantaged business concern, * * **

1. * * *

(ii) Each individual claiming economic disadvantage has a net worth not exceeding **the threshold at 13 CFR 124.104(c)(2)** after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2);

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