

## INSTRUCTIONS

**DEFINITIONS.** For the purpose of Government procurement, the following definitions relating to the size, ownership, and type of business shall apply.

a. "Concern" means any business entity organized for profit (even if its ownership is in the hands of a nonprofit entity) with a place of business located in the United States and which makes a significant contribution to the U.S. economy through payment of taxes and/or use of American products, material and/or labor, etc. "Concern" includes but is not limited to an individual, partnership, corporation, joint venture, association, or cooperative. For the purpose of making affiliation findings, any business entity, whether organized for profit or not, and any foreign business entity, i.e., any entity located outside the United States, shall be included.

b. "Small business concern" means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is competing for Government contracts, and qualified as a small business under the criteria and size standards in 13 Code of Federal Regulations (CFR) Part 121. (See item 11A)

c. "Affiliates" means that business concerns are affiliates of each other if, directly or indirectly, either one concern controls or has the power to control the other, or a third party controls or has the power to control both. In determining whether affiliations exist, consideration is given to all appropriate factors including common ownership, common management, and contractual relationships; provided, that restraints imposed by a franchise agreement are not considered in determining whether the franchiser controls or has the power to control the franchisee, if the franchisee has the right to profit from its effort, commensurate with ownership, and bears the risk of loss or failure. Any business entity may be found to be an affiliate, whether or not it is organized for profit or located inside the United States. (See items 8 and 11A.)

d. "Number of employees" is a measure of the average employment of a business concern and means its average employment, including the employees of its domestic and foreign affiliates, based on the number of persons employed on a full-time, part-time, temporary, or other basis during each of the pay periods of the preceding 12 months. If a business has not been in existence for 12 months, "number of employees" means the average employment of such concern and its affiliates during the period that such concern has been in existence based on the number of persons employed during each of the pay periods of the period that such concern has been in business. (See item 11B)

e. "Small disadvantaged business concern" means a small business concern that is at least 51 percent unconditionally owned by one or more individuals who are both socially and economically disadvantaged, or a publicly owned business that has at least 51 percent of the stock unconditionally owned by one or more socially and economically disadvantaged individuals and that has its management and daily business controlled by one or more such individuals. (See item 12)

f. "Women-owned small business concern" means a small business concern that is at least 51 percent owned by one or more women who are U.S. citizens and who also control and operate the business. (See item 12)

g. "Manufacturer" means a concern that owns, operates, or maintains a factory or establishment that produces on the premises the materials, supplies, articles or equipment of the general character of those listed in Item 10. (See item 13)

h. "Service establishment" means a concern that owns, operates, or maintains any type of business which is principally engaged in the furnishing of nonpersonal services, such as (but not limited to) repairing, cleaning, redecorating, or rental of personal property, including the furnishing of necessary repair parts or other supplies as a part of the services performed. (See item 13)

i. "Regular dealer (Type 1)" means a concern that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment of the general character listed in Item 10, are bought, kept in stock, and sold to the public in the usual course of business. (See item 13)

j. "Regular dealer (Type 2)" For certain specific products (at present, lumber and timber products, machine tools, hay, grain, feed, or straw, raw cotton, green coffee, petroleum, agricultural liming materials, tea, raw or unmanufactured cotton linters, certain uranium products, used automatic data processing equipment, and specialty advertising products), there are alternate qualifications for regular dealers in which the dealer need not physically maintain a stock. The requirements under the alternative regulations are in 41 CFR 50-201.101(a)(2) and 50-201.604. Coal dealers are exempted from the regular dealer requirements if they meet the terms and conditions prescribed by the Secretary of Labor in 41 CFR 50-201.604(a). (See item 13)

k. "Surplus dealer" means a concern that owns, operates, or maintains a store, warehouse, or other establishment in which used or reconditioned material, former Government surplus property, or residual inventory of the general character listed in Item 10, are bought, kept in stock, and sold to the public in the usual course of business. (See item 13)