



December 2018

Stay Smaller Longer: SBA’s Runway Extension Act Changes the Calculation of Size Status from Three to Five Years

Jacob Barclay, Senior Consultant | DHG Government Contracting

On December 17, 2018, the President signed into law the Small Business Extension Act of 2018 ([the “Act”](#)). According to the House Committee on Small Business [Report](#), the purpose of the Act is to “help advanced-small contractors successfully navigate the middle market as they reach the upper limits of their small size standard.” The Act changes the current “runway” for calculating the average revenue to determine the size of a small business from the average of the past three years to the average of the past five years. Congress stated that the intent of this change is to prevent rapid-growth of small businesses that experience spikes in revenue from prematurely “graduating” from their small size standard.

To calculate the size of a small business, the Small Business Administration (SBA) is authorized to consider number of employees, average annual receipts, net worth, other elements or any combination of these factors. The most common methodologies compare the average annual receipts or the average number of employees to the size standards determined by the North American Industry Classification System (NAICS). The Act simply changes [Section 3\(a\)\(2\)\(C\)\(ii\)\(II\)](#) as follows: “the size of a business concern providing services on the basis of the annual average gross receipts of the business concern over a period of not less than {3 years} 5 years.”

The stated goal of the Act is to allow small businesses at all levels more time to grow and develop their competitiveness and infrastructure before entering into the open marketplace. This is highlighted by the House Committee:

“The upper limit of the SBA’s small business size standard for Information Technology (IT) companies is \$27.5 million. An IT company that barely surpasses that amount, for example at \$28 million, or even significantly surpassing that amount at \$200 million, are considered “other-than-small” and therefore required to compete against each other and the dominant IT contractors; the Boeing and Lockheed’s of the world.”

When implemented, the change should mitigate the hurdle for advanced-small businesses by providing more time to mature and develop in additional areas. Newly-graduated businesses face inevitable challenges, such as no longer qualifying for set-aside awards and being ineligible for SBA assistance. The House Committee identified a few barriers, such as the fact that larger mid-size firms have stronger, more robust and specialized teams dedicated to business development, proposal development, protests, legal teams and other specializations. Additionally, growth out of the small size category triggers compliance with “other-than-small” requirements. For example, other-than-small businesses must develop detailed subcontracting plans and face potential Cost Accounting Standards coverage, while small businesses are exempt. There are many advantages to lengthening the time period for a business to continue qualifying as a small size status.

As with every change, there are potential downsides. The advantages of the longer runway only work when the company is experiencing growth. If a company’s revenues are declining, the opposite effect will occur. For example, what if an other-than-small contractor’s business revenues in 2014 were \$200 million, and in subsequent years the company realized a significant decrease in revenue in 2015, 2016 and 2017? Prior to the Act, this contractor would be qualified as a small business based on the historical three-year average. However, by stretching the “runway” to five years, the contractor has two more years of other-than-small classification.

The Small Business Administration (SBA) released a notice on December 21st, 2018 to answer many inquiries pertaining to the effective date of the Act – that is, whether a business can report their size status today based on the average of five years. The Act does not describe a process or period for implementation, however, it does require that the new size standard be approved by the Administrator through a rulemaking process. This SBA notice states, “The change made by the Runway Extension Act is not presently effective and is therefore not applicable to present contracts, offers, or bids until implemented through the standard rulemaking process.” Hopefully, procurement officials will provide guidance or issue Class Deviations to current requirements contained in Part 19 of the Federal Acquisition Regulation. Until this occurs, ask questions in response to requests for proposal to see how the contracting officer may interpret the new law, and do everything possible to take advantage and continue the benefits provided by Congress.

DHG’s Government Contracting Practice will continue to monitor for any additional changes relating to the SBA Runway Extension Act of 2018. Please feel free to reach out directly to a team member if you need assistance calculating your size status or have any additional SBA questions or concerns.

Jacob Barclay

Senior Consultant, DHG Government Contracting
govcon@dhg.com

Bill Walter

Director, DHG Government Contracting
govcon@dhg.com