

Warner Robins Air Logistics Center



The Small Business Program at WR-ALC

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Office of Small Business
Programs**



Overview



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➤ Objective

- To provide an overview of the Small Business Program, with a discussion of goals, the role of the SB Office, DoD set-aside programs, and recent GAO/Court Decisions.
 - Why a Small Business Program?
 - What is a Small Business?
 - Air Force Small Business Program
 - Role of the Small Business Office
 - DoD Set-Aside Programs
 - WR-ALC SB Program Performance
 - Recent GAO Rulings and Court Cases



Why a Small Business Program?



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➤ Small Business Program Developed by Law

- Ensure “Fair Proportion” of Federal Acquisitions are placed with small business concerns
- Protection of vital resources that promote and advance our national economy, industrial base, and technology
 - Serves the National Interest & Strengthens National Defense

➤ It's Not Just About the Law

- SB sector is vital in maintaining economic growth and development

➤ Small Business Administration (SBA) and Agency SB Offices Created to Carry Out Policy Directives



Small Business Legislation



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The Government should aid, counsel, assist, and protect, insofar as possible, the interests of small business concerns to... ensure that a fair proportion of the total purchases... Be placed with small business enterprises..."

1947 - Armed Services Procurement Act

1953 - Small Business Act

1978 - Amendment to Small Business Act (PL 95-507)

1987 - Defense Authorization Act (PL 99-661)

1988 – Business Opportunity Development Reform Act (PL 100-656)

1994 – Federal Acquisition Streamlining Act (PL 103-555)



1997 - Small Business Reauthorization Act (PL 105-135)

1999 – Veterans Entrepreneurship & Small Business Development Act (PL 106-50)

2000 – Small Business Reauthorization Act of 2000 (PL 106-554)

2003 – Veterans Entrepreneurship & Benefits Improvement Act (PL 108-183)



Small Business Facts



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- Small businesses create 2 out of every 3 new jobs
- Small businesses employ 51% of the private workforce and 41% of high tech workers (Scientists, Engineers, and Computer Specialists)
- Small businesses are responsible for 47% of all U.S. sales
- Small businesses produce 2-1/2 times as many innovations per employee as large firms



REF: SBA Office of Advocacy



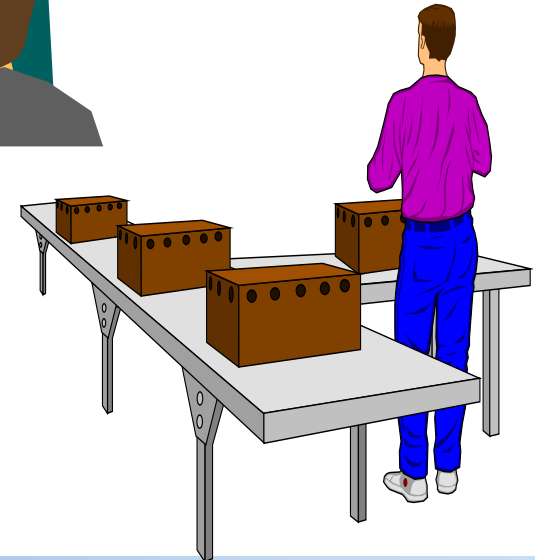
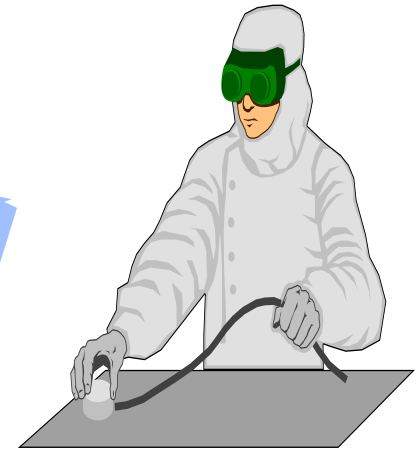
What is a Small Business?



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**Who are they?
What do they do?**



People First...Mission Always



Small Business Concern - Definition



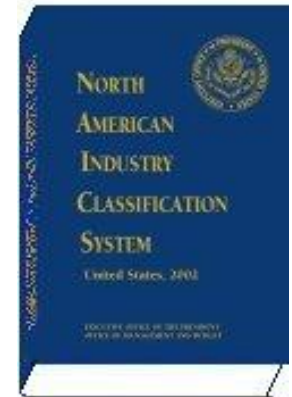
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➤ Small Business Concern?

- Independently owned and operated
- Not dominant in field of operation in which it is bidding on government contracts
- Qualify under size standards established by SBA

➤ Application of Size Standard

- Classify product/service by North American Industry Classification System (NAICS) codes
- Identify corresponding size standard
 - Supplies: Number of Employees
 - Services: Preceding 3 years average annual receipts
- PCO determines appropriate NAICS code
(SB only recommends) [REF: 13 CFR 121; FAR 19.001, 19.101, 19.102, and 19.303](#)





Who is Small?

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REQUIREMENT	NAICS CODE	SIZE STANDARD
Aircraft Airframe Part	336413	1000 Employees
Aircraft Radar Part	334511	750 Employees
Engineering Services	541330	\$27.0 Million
Janitorial Services	561720	\$16.5 Million

➤ Websites

- **NAICS:** <http://www.census.gov/epcd/www/naics.html>
- **Size Standards:** <http://www.sba.gov/contractingopportunities/officials/size/GC-SMALL-BUS-SIZE-STANDARDS.html>

(Click on *Table of Small Business Size Standards*, which is in PDF format)

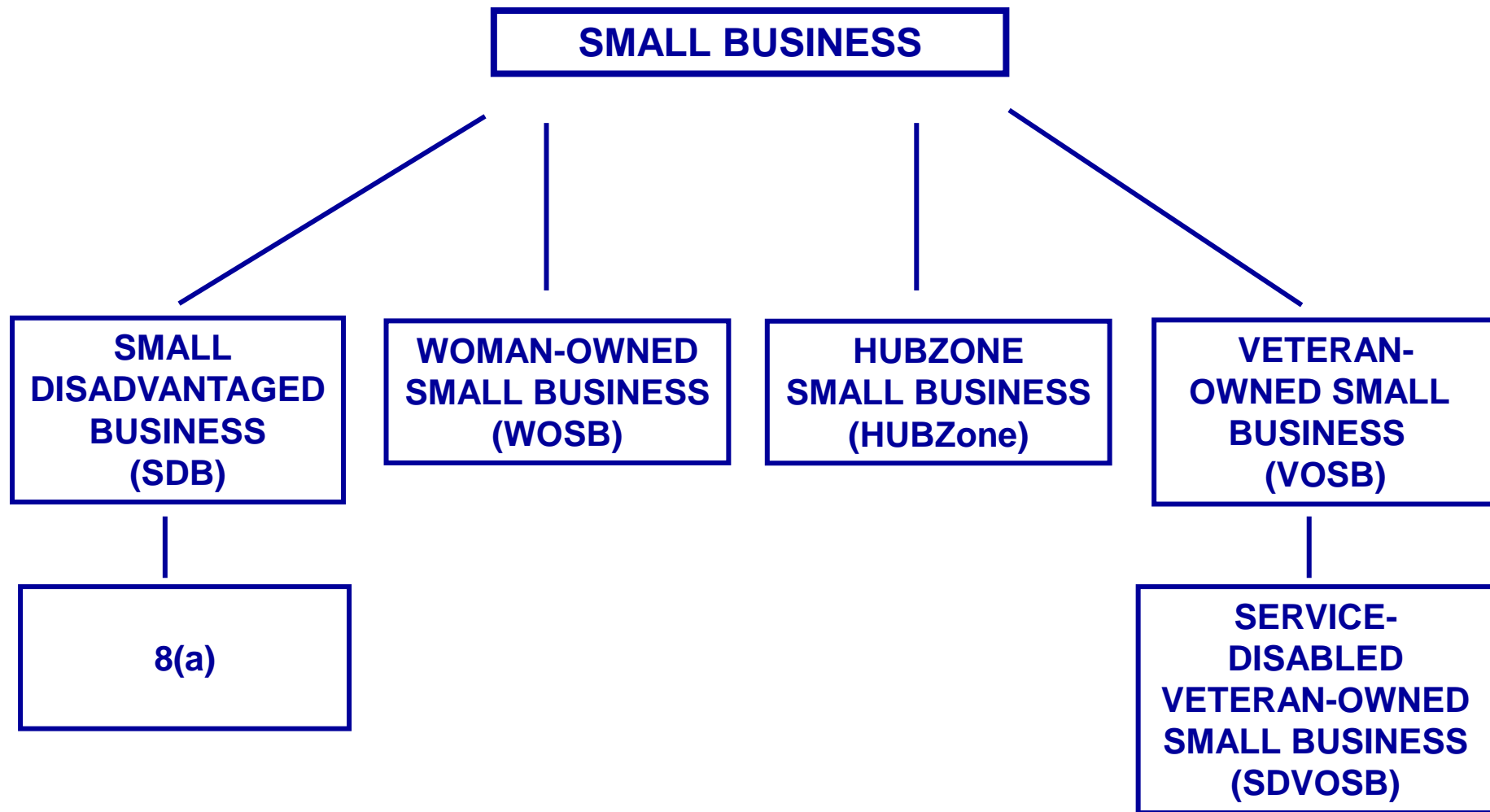
REF: 19.102



Small Business – Who is Included?



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REF: FAR 2.101; 19.001, 19.8, 19.13 and 19.14



SB & SBA Structure



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COMMANDER

**OFFICE OF SMALL BUSINESS
PROGRAMS**
(SB)



**SMALL BUSINESS
ADMINISTRATION**

**SBA Procurement
Center Representatives**
(SBA/PCR)



Role of the Small Business Office



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➤ **Maximize SB Participation**

- Review acquisitions, make set-aside recommendations, and provide sources
- Attend Program Reviews/Acquisition Strategy Panels
- Publicize SB Program

➤ **Counsel Contractors**

- Advise what the Center's needs are
- Coordinate inquiries/guidance requests
- Interface with acquisition counterparts

➤ **Evaluate Subcontracting Plans**

REF: AFI 64-201; FAR 19.7; DFARS 219.201



Role of the Small Business Office



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- **Manage Outreach Program**
 - Federal procurement conferences
- **Track SB Goal Progress for Commander**
 - Center small business plan
- **Maintain Education Program**
 - Awareness & training sessions
 - Advise & assist PCOs/buyers on SB matters
- **Conduct Market Research**
 - Sources Sought Synopsis
 - Database queries (Dynamic SB Search)



REF: AFR 64-201; DFARS 219.201; FAR 10



Role of the Small Business Office



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➤ Interface with Procurement Technical Assistance Centers (PTAC) and Small Business Development Centers, as needed

- Procurement Technical Assistance Centers

– <http://www.dla.mil/db/procurem.html>

- Small Business Development Centers

– <http://www.sba.gov/sbdc/sbdcnear.html>





WR-ALC Small Business Program Performance



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TREND DATA FY06 - 08

	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>
Small Business Base	\$3.69 B	\$4.30 B	\$4.33 B
<u>Goal Category</u>			
SB	\$ 818 M / 22%	\$922 M / 21%	\$839 M / 19%
SDB	\$190 M / 5.1%	\$224 M / 5.2%	\$259 M / 6.0%
WOSB	\$ 87 M / 2.4%	\$118 M / 2.7%	\$129 M / 3.0%
HUBZone SB	\$ 76 M / 2.1%	\$120 M / 2.8%	\$117 M / 2.7%
SDVOSB	\$10.5 M / 0.3%	\$10.3 M / 0.24%	\$17.6 M / 0.41%

***Winner of SAF SB Program Excellence Award:
FY02, FY03, FY05, and FY07***



WR-ALC Small Business Program Performance



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FY09 PERFORMANCE (As of 30 Jun 09)

***Small Business Base: 5,919 actions @ \$3.34 Billion**

<u>GOAL CATEGORY</u>	<u>AWARD ACTIONS</u>	<u>DOLLARS</u>
Small Business (SB)	2,584	\$ 375.9 M
Small Disadvantaged (SDB)	844	\$ 127.0 M
Woman-Owned (WOSB)	495	\$ 72.9 M
HUBZone	507	\$ 56.5 M
Service-Disabled Vet (SDVOSB)	117	\$ 11.0 M

***SB base consists of total obligations to large business and small business, excluding FMS awards, JWOD nonprofit institution awards, UNICOR awards, and for work performed outside the U.S.**



Locating Opportunities



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➤ Federal Business Opportunities Website

- <https://www.fedbizopps.gov>



➤ WR-ALC Office of Small Business Programs Website

- <http://www.robins.af.mil/library/smbus.asp>

– *Click on Business Opportunities*

- Long Range Acquisition Estimate (LRAE)
- Requirements Projection on the Web (RPOW)
- Recurring O&M Services Contracts >\$100,000





Marketing



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- **Call, write, or visit the Small Business Office**
- **Provide data on your firm that can be forwarded to SB Liaisons for dissemination (e-mail preferable)**
 - Clear description as to what your firm does/provides
 - List of clients, including work performed for them, dollar value, performance period, and point of contact with phone number
- **Ensure your profile in CCR Dynamic SB Search (www.ccr.gov) is current, complete, and accurate**
- **Pursue opportunities in *FedBizOpps***
- **Follow up**
 - The only difference between not working and networking is the letter “e.”



GAO Decisions



Warner Robins Air Logistics Center

International Program Group, Inc. (IPG)

GAO B-400278; B-400308

Background...

- **On May 21, 2008, the contracting agency for Camp Pendleton received a requisition for additional training, valued at \$159,780**
- **Due to the short time constraints the CO considered an SDVOSB set-aside**
- **After market research the CO determined only one SDVOSB was interested in competing for the contract. He therefore issued a sole-source award to that SDVOSB**
- **IPG, a HUBZone small business, was an incumbent contractor providing support services to Camp Pendleton. IPG filed a protest**



GAO Decisions



Warner Robins Air Logistics Center

International Program Group, Inc. (IPG)

GAO B-400278; B-400308

Background...

- **A second requisition for training (\$250,000) was received by the same contracting agency**
- **After considering an 8(a), HUBZone, and SDVOSB set-asides, the CO chose an SDVOSB set-aside, since her agency's parent activity had made the least progress in obtaining its SDVOSB goal**
- **IPG filed a second protest against this decision**
- **IPG argued that the agency was required to set aside both procurements for HUBZones**



GAO Decisions



Warner Robins Air Logistics Center

International Program Group, Inc. (IPG)

GAO B-400278; B-400308

GAO's Decision:

- **GAO sustained IPG's protests**



GAO Decisions



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- Rationale:
- Section 31 (2) (B) of the Small Business Act (HUBZone) states that "a contract opportunity **shall** be awarded pursuant to this section on the basis of competition restricted to qualified HUBZone small business concerns if the contracting officer has a reasonable expectation that not less than 2 qualified HUBZone small business concerns will submit offers and that the award can be made at a fair market price..."
- Section 36(b) of the Small Business Act (SDVOSB) states that "...a contracting officer **may** award contracts on the basis of competition restricted to small business concerns owned and controlled by service-disabled veterans if the contracting officer has a reasonable expectation that not less than two small business concerns owned and controlled by service-disabled veterans will submit offers and that the award can be made at a fair market price"
- The use of the term "shall" at § 31 (2) (B) of the Small Business Act commands in unequivocal terms that a contract opportunity be designated as a HUBZone set-aside; whereas the "may" used at § 36(b) of the Small Business Act's is a discretionary term.



GAO Decisions



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Mission Critical Solutions (MCS)

GAO B-401057

Background:

- **On January 13, 2009 the Army awarded a sole-source 8(a) contract to an ANC firm for an amount in excess of \$3.5M**
- **On January 22, 2009 the acquisition was protested**
- **Protester MSC is both an 8(a) and a qualified HUBZone firm and the incumbent contractor**
- **Charges that in accordance with the HUBZone statute, a HUBZone set-aside must be considered before 8(a) sole-source award**



GAO Decisions



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Mission Critical Solutions (MCS)

GAO B-401057

- **GAO SUSTAINED** the protest
- HUBZone program “shall” vs. Section 8(a) “discretion” of the contracting officer to let such a contract
- An agency must set the acquisition aside for HUBZones (if market research is positive) even where a prior contract for the requirement has been previously performed by an 8(a) contractor



Court Cases



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DynaLantic Corporation v. United States Department of Defense, United States District Court For The District of Columbia

Statutory Background...

- **The Due Process Clause of the Fifth Amendment and the Equal Protection Clause of the Fourteenth Amendment prohibit federal government from engaging in certain forms of discriminatory behavior**
- **Before the Government can employ race-based [remedial] action it must have a “compelling interest”**
- **The remedy used to address the compelling interest must be narrowly tailored**
- **Both the compelling interest and the narrow tailoring must withstand “strict scrutiny”**
- **The Government has the burden to prove that its racial classification passes strict scrutiny**



Court Cases



Warner Robins Air Logistics Center

DynaLantic Corporation v. United States Department of Defense, United States District Court For The District of Columbia

Case Background...

- **The Navy awarded contract for mobile flight simulators under 8(a) program**
- **DynaLantic, a small business, previously designed/manufactured the simulator, was unable to compete because it was not an 8(a) firm**
- **DynaLantic filed suit in the U.S. District Court**

At Issue:

- **DoD's utilization of the 8(a) program as set forth in 10 U.S.C. § 2323 (however, not the 8(a) program as a whole)**



Court Cases



Warner Robins Air Logistics Center

DynaLantic Corporation v. United States Department of Defense, United States District Court For The District of Columbia

The Outcome:

- **None yet. The Court instructed the parties to resubmit their motions for summary judgment**
- **On November 30, 2007, the parties completed additional briefings**
- **Decision by the Court on the resubmitted motions for summary judgment pending.**



Court Cases



Warner Robins Air Logistics Center

**Rothe Development Corporation v. The Department of Defense
and Department of the Air Force
United States Court of Appeals for the Federal Circuit**

The Outcome:

- **The U.S. Court of Appeals declared 10 USC 2323 to be unconstitutional**
- **The case was remanded back to the United States District Court for the Western District of Texas**
- **On February 26, 2009 the Court issued a complete injunction of the application of 10 USC 2323**
- **On March 10, 2009 the Under Secretary of Defense, AT&L issued a Memorandum calling for the immediate cessation of activities relying on 10 USC 2323**



Summary

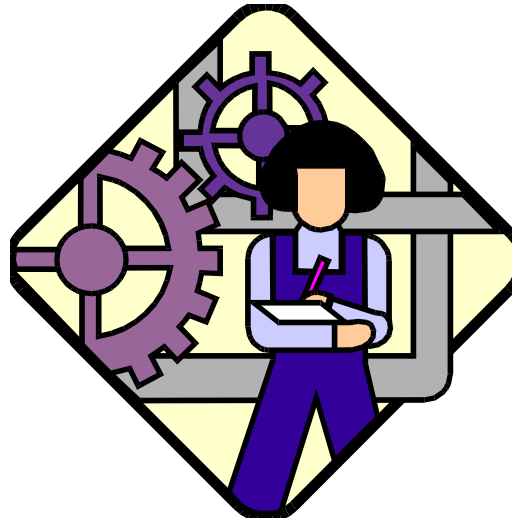


Warner Robins Air Logistics Center

➤ Small Businesses

- Create jobs
- Are leaders of innovations & technology
- Increase competition – Decrease costs

Remember, it's in the national interest!



Air Logistics Command



U.S. AIR FORCE
SMALL BUSINESS
BEYOND GOALS



www.selltoairforce.org

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BEYOND GOALS



The Small Business Program at WR-ALC



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Discussion/Questions

