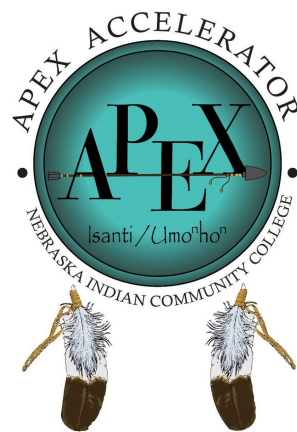


NEWSLETTER

April 2025



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TIP OF THE MONTH

Avoiding Common Misconceptions About Calculating Small Business Status

Qualifying as a small business for purposes of federal government contracting requires a contractor to compare its average annual receipts or average employee count to the [size standard](#) associated with a particular North American Industry Classification System (NAICS) code. For contractors in the construction and service industries, which generally use receipts-based size standards, there are two common misconceptions about which dollars count toward the contractor’s average annual receipts. Let’s take a closer look.

First, contractors sometimes believe that revenues generated under one NAICS code only apply to a company's size under that NAICS code.

For example, a company might assume that if it is awarded a contract under NAICS code 236220 (Commercial and Institutional Building Construction), the revenues generated under that contract only apply to the company's size status for that single NAICS code. If the company bids on a contract under another NAICS code, like 238140 (Masonry Contractors), the assumption is that the revenues generated under the first contract don't count toward the company's small business size for the second.

Second, contractors sometimes believe that only revenues generated by government contracts count toward the contractor’s small business status. For example, a contractor with \$15 million in commercial sales and \$20 million in government sales might believe that only the \$20 million counts.

The U.S. Small Business Administration’s size regulations, however, do not exclude revenues generated in other NAICS codes or under commercial contracts. In fact, [SBA's regulations](#) start with the presumption that "all revenue in whatever form received or accrued from whatever source" counts toward a company's small business size status

under receipts-based NAICS codes. While there are exceptions, they are quite limited, such as allowing a travel agent to exclude revenue collected on behalf of another entity, like an airline or hotel.

These assumptions also make little practical sense in terms of ensuring that only genuinely small businesses are eligible for federal small business contracting preferences. If contractors could exclude receipts based on the NAICS code in which they were generated or based on the non-governmental nature of the customer, it would open the door for large businesses—even multi-billion dollar multinational corporations—to qualify as “small” in certain circumstances. That, of course, is not a result the SBA wants.

The bottom line is that when it comes to counting average annual receipts, most revenue counts toward a contractor’s small business status. There are no exceptions based on what NAICS code the revenue was generated under or whether the customer was non-governmental. Contractors who are uncertain about whether some of their revenues may be excludable should review the SBA’s regulation at [13 C.F.R. 121.104](#).

NICC APEX ACCELERATOR NEWS YOU CAN USE

The End of the Line for Transmutation Agreements in 8(a) Program

The application for certification in the U.S. Small Business Administration’s 8(a) Business Development Program can be complex, but one piece of the application just got easier. Moving forward, the SBA will no longer require married applicants living in so-called “community property” states (which include California, Texas, and several others) to provide documentation showing that the applicant’s spouse has transferred or relinquished his or her community property rights to the company.

This portion of the application created an additional burden on applicants residing in community property states, some of whom had to hire lawyers to draft contracts, called transmutation agreements, to meet the SBA’s requirement. In eliminating this requirement, the SBA said that it wanted to better align the 8(a) Program regulations with the regulations governing SBA’s other contracting programs. [Click here to read more about the change](#).

Are you interested in learning about the 8(a) Program or starting your 8(a) application? Your APEX Accelerator can help! Contact your APEX counselor today to schedule an appointment.

GOVOLOGY WEBINARS

*Please use the new code **52NICC20** when registering for Govology webinars.*



Simple Access to SBA Surety Bonds

Date: April 1, 2025
Time: 1:00 p.m. EDT
Presenter: Peter Gibbs, Foundation Surety & Insurance Solutions, LLC

[Click Here to Learn More](#)



Boost Your B2G Margins: Winning Strategies for Small Business Resellers

Date: April 10, 2025

Time: 1:00 p.m. EDT

Presenter: Rich Earnest, Earnest Consulting Group

[Click Here to Learn More](#)



How to Effectively Take Advantage of Your 8(a), WOSB, VOSB, SDVOSB, and HUBZone Certifications to Win Government Contracts

Date: April 15, 2025

Time: 1:00 p.m. EDT

Presenter: Joshua Frank, RSM Federal

[Click Here to Learn More](#)



How to Obtain and Keep a Facility Security Clearance

Date: April 22, 2025

Time: 1:00 p.m. EDT

Presenter: Andrew Hair, Masser Technologies

[Click Here to Learn More](#)



SBIR & STTR Compliance Requirements

Date: April 24, 2025

Time: 1:00 p.m. EDT

Presenter: Jeff Cuskey, CPCM, CFCM, CSCM, GOVCON Consulting & Expert Witness Services

[Click Here to Learn More](#)



Leveraging the Freedom of Information Act (FOIA) for Competitive Advantage in Government Contracting

Date: April 29, 2025

Time: 1:00 p.m. EDT

Presenter: Patrick Kelly, PK Consulting Services

[Click Here to Learn More](#)

RECOMMENDED READINGS

SBA Issues “Day One” Memo – With a Particular Emphasis on Rooting out Fraud

The SBA has a new Administrator, former Senator and businesswoman Kelly Loeffler. Administrator Loeffler began her term by issuing a [“Day One” memorandum outlining the agency’s priorities](#), where rooting out fraud in SBA programs plays a major role.

A Contractor’s Guide to Successfully Navigating Non-Payment, Suspensions/Stop-Work Orders, Terminations for Convenience, Tariff-Related Impacts, and Other Issues Arising from Recent Executive Orders and DOGE Initiatives

The Trump Administration’s Executive Orders and efficiency initiatives have impacted many federal contractors, including through terminations for convenience, suspensions of work, and stop-work orders. [This article provides practical suggestions](#) for contractors

navigating these issues.

Confusion About the Nonmanufacturer Rule: When Does It Apply?

The SBA's so-called "[nonmanufacturer rule \(NMR\)](#)" provides an exception to the ordinary limitations on subcontracting, essentially allowing a small business to sell products manufactured by another entity when certain conditions are met. The "NMR" can be confusing, however, even when it comes to the essential question of when the rule applies. [This article sheds light on this subject](#) by examining a recent SBA Office of Hearings and Appeals decision.

CMMC & FOCI RESOURCES AND NEWS

This section highlights items of special interest and importance to the Department of Defense Office of Small Business Programs (DOD OSBP). Please take a moment to visit the sites listed below for additional information. We also suggest that you read the latest edition of the [DOD's Small Business Digest](#) (*log into LinkedIn to access this resource*) if you want to do business with the DOD.

Cybersecurity Maturity Model Certification (CMMC)/Cybersecurity Compliance Resources

[DOD CMMC Resource Page](#) – Resources to assist government contractors with understanding and complying with CMMC/cybersecurity requirements.

[Project Spectrum](#) – Project Spectrum is working with APEX Accelerators to assist small businesses in achieving compliance with CMMC/cybersecurity requirements.

Foreign Ownership, Control, and Influence (FOCI) Resources

[FOCI Frequently Asked Questions](#) – FOCI is a status or situation in which a contractor with access to classified information has some foreign investment or association with foreign interest. Learn more about the federal government's requirements relating to FOCI.

<https://business.defense.gov/> – The official website of DOD OSBP. It contains additional information, news, events, and other items for those interested in doing business (or currently engaged) with the DOD.

FAR Council Proposes Compliance with NIST SP 800-171 for Non-Defense Contractors

The FAR Council has issued a proposed rule to implement the Controlled Unclassified Information (CUI) Program as it relates to federal contracts. As proposed, the rule will apply to all contracts at or below the simplified acquisition threshold (currently \$250,000 for most acquisitions), except contracts solely for the acquisition of commercially available off-the-shelf (COTS) items. [Read more about the proposal here.](#)

An Un[waiver]ing Commitment to CMMC: The Department of Defense Issues Guidance for Determining Assessment Levels

Marking the first significant CMMC developments under the new administration, the [Department of Defense has published guidance](#) that previews what to expect once CMMC is finalized. These developments "suggest that the current administration intends to pick up where it left off, having first introduced the CMMC program during President Trump's first term."

FY2025 NDAA: Congressional Efforts to Bolster U.S. Resilience Against Chinese Tech and Influence

The 2025 National Defense Authorization Act "sustains Congress's continued focus on countering China's expanding influence and enhancing U.S. resilience in an era of great power competition." [Read more about the changes here.](#)

White House Increases Scrutiny on Foreign Investors: Why FOCI Is a Concern for International Businesses

The Trump Administration’s “America First Investment Policy” and concerns about investments by “foreign adversaries” have [brought FOCI to the forefront](#).

***About Nebraska Indian Community College
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(Coverage Area: Santee Sioux Indian Reservation)

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This APEX Accelerator (formerly known as PTAC) is funded in part through a cooperative agreement with the Department of Defense.

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