SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245–AE95

Small Business Size Standards; Travel Agencies

AGENCY: Small Business Administration (SBA).

ACTION: Proposed rule.

SUMMARY: The Small Business Administration (SBA) proposes to increase the size standard for Travel Agencies (North American Industry Classification System (NAICS) code 561510) to $3 million from $1 million. This action will better define the size of businesses in this industry that the SBA believes should be eligible for Federal small business assistance programs. This proposed rule is published in conjunction with an interim final rule elsewhere in this issue of the **Federal Register** which makes the size standard change effective the date of its publication for purposes of SBA's Economic Injury Disaster Loan (EIDL) program as a result of the September 11, 2001 attacks in New York and Arlington, Virginia.

DATES: Comments must be submitted on or before April 15, 2002.

ADDRESSES: Send comments to Gary M. Jackson, Assistant Administrator for Size Standards, 409 3rd Street, SW., Mail Code 6530, Washington, DC 20416; or via-email to *SIZESTANDARDS@sba.gov*. Upon request, SBA will make all public comments available.

FOR FURTHER INFORMATION CONTACT: Diane Heal, Office of Size Standards, (202) 205–6618.

SUPPLEMENTARY INFORMATION: This proposed rule covers all small business programs. SBA is publishing a separate interim final rule elsewhere in this issue of the **Federal Register** addressing the Travel Agencies size standard for purposes of economic injury disaster loan (EIDL) assistance attributed to the September 11 terrorist attacks.

SBA has received requests from firms and trade associations in the travel industry to increase the $1 million size standard for Travel Agencies. These organizations believe that this action is warranted in light of the specialized equipment and systems required on Federal and corporate travel services contracts and the consolidated and regional approach by Federal agencies and large commercial clients in the performance of these contracts. They believe that the Federal government and corporate client travel markets have changed. These clients require specific equipment and systems, and have requirements on a regional or national basis. These requirements have raised the costs of doing business in this industry to the point that the pool of eligible small businesses performing government and corporate client travel services has seriously declined. Federal agencies also express concern regarding this trend. Specifically, agencies are concerned that the pool of eligible small businesses with the ability to perform these contracts will result in fewer contracts with small travel agencies.

SBA agrees that recent changes in the Travel Agencies industry warrant a review of the size standard. Below is a discussion of the SBA's size standards methodology and the analysis leading to the proposal to increase the size standard for Travel Agencies under NAICS code 561510 to $3 million.

Size Standards Methodology: Congress grants SBA discretion to establish detailed size standards. The Agency's Standard Operating Procedure (SOP) 90 01 3, ''Size Determination Program'' (available on SBA's Web site at *http://www.sba.gov/library/soproom.html*) sets out four categories for establishing and evaluating size standards: (1) The structure of the industry and its various economic characteristics, (2) SBA program objectives and the impact of different size standards on these programs, (3) whether a size standard successfully excludes those businesses which are dominant in the industry, and (4) other factors if applicable. Other factors may come to the attention of SBA during the public comment period or from SBA's own research on the industry. No formula or weighting has been adopted so that the factors may be evaluated in the context of a specific industry. Below is a discussion of SBA's analysis of the economic characteristics of an industry, the impact of a size standard on SBA programs, and the evaluation of whether a firm at or below a size standard could be considered dominant in the industry under review.

Industry Analysis: The Small Business Act requires that size standards vary by industry to the extent necessary to reflect differing industry characteristics (Section 3(a)(3)). SBA has in place two ''base or anchor size standards'' that apply to most industries—500 employees for manufacturing industries and $6 million for nonmanufacturing industries. SBA established 500 employees as the anchor size standard for the manufacturing industries at SBA's inception in 1953 and shortly thereafter established a $1 million size standard for the nonmanufacturing industries. The receipts-based anchor size standard for the nonmanufacturing industries has been periodically adjusted for inflation so that, currently, the anchor size standard for the nonmanufacturing industries is $6 million. Anchor size standards are presumed to be appropriate for an industry unless its characteristics indicate that larger firms have a much greater significance within that industry than for the ''typical industry.''

The current size standard for Travel Agencies under NAICS code 561510 is $1 million, which is lower than the $6 million nonmanufacturing anchor. This size standard excludes funds received in trust for an unaffiliated third party, such as bookings or sales subject to commissions. The commissions received are included as revenue. In its review, SBA used the nonmanufacturing anchor for comparability purposes.

When evaluating a size standard, the characteristics of the specific industry under review are compared to the characteristics of a group of industries, referred to as a comparison group. A comparison group is a large number of industries grouped together to represent the typical industry. It can be comprised of all industries, all manufacturing industries, all industries with receipt-based size standards, or some other logical grouping. If the characteristics of a specific industry are similar to the average characteristics of the comparison group, then the anchor size standard is considered appropriate for the industry. If the specific industry's characteristics are significantly different from the characteristics of the comparison group, a size standard higher or, in rare cases, lower than the anchor size standard may be considered appropriate. The larger the differences between the specific industry's characteristics and the comparison group, the larger the difference between the appropriate industry size standard and the anchor size standard. Only when all or most of the industry characteristics are significantly smaller than the average characteristics of the comparison group, or other industry considerations strongly suggest the anchor size standard would be an unreasonably high size standard for the industry under review, will SBA adopt a size standard below the anchor size standard.

In 13 CFR 121.102 (a) and (b), evaluation factors are listed which are the primary factors describing the structural characteristics of an industry—average firm size, distribution of firms by size, start-up costs, and industry competition. The analysis also examines the possible impact of a size standard revision on SBA's programs. The SBA generally considers these five factors to be the most important evaluation factors in establishing or revising a size standard for an industry. However, it will also consider and evaluate other information that it believes relevant to the decision on a size standard as the situation warrants for a particular industry. Public comments submitted on proposed size standards are also an important source of additional information that SBA closely reviews before making a final decision on a size standard. Below is a brief description of each of the five evaluation factors.

1. *Average firm size* is simply total industry receipts (or number of employees) divided by the number of firms in the industry. If the average firm size of an industry were significantly higher than the average firm size of a comparison industry group, this fact would be viewed as supporting a size standard higher than the anchor size standard. Conversely, if the industry's average firm size is similar to or significantly lower than that of the comparison industry group, it would be a basis to adopt the anchor size standard or, in rare cases a lower size standard.

2. *The distribution of firms by size* examines the proportion of industry receipts, employment, or other economic activity accounted for by firms of different sizes in an industry. If the preponderance of an industry's economic activity is by smaller firms, this tends to support adopting the anchor size standard. The opposite is the case for an industry in which the distribution of firms indicates that economic activity is concentrated among the largest firms in an industry. In this rule, the SBA is comparing the size of firm within an industry to the size of firm in the comparison group at which predetermined percentages of total industry receipts are cumulatively generated by firm at that size and smaller. For example, for Travel Agencies, firms of $2.2 million in receipts and less generate 50% of total industry receipts. This contrasts with the comparison group (composed of industries with the nonmanufacturing anchor size standard of $6 million) in which firms of $5.8 million or less in receipts generated 50% of total industry receipts. Viewed in isolation, this significantly lower figure for the Travel Agencies suggests a size standard at or below the $6 million nonmanufacturing anchor size standard. Other size distribution comparisons in the industry analysis include 40%, 60%, and 70%, as well as the 50% comparison discussed above.

3. *Start-up costs* affect a firm's initial size because entrants into an industry must have sufficient capital to start and maintain a viable business. To the extent that firms entering into an industry have greater financial requirements than firms do in other industries, SBA is justified in considering a higher size standard. SBA collected start-up costs data from trade organizations. In addition, SBA is using a proxy measure to assess the financial burden for entry-level firms. SBA is using nonpayroll costs per establishment as a proxy measure for start-up costs. This is derived by first calculating the percent of receipts in an industry that are either retained or expended on costs other than payroll costs. (The figure comprising the numerator of this percentage is mostly composed of capitalization costs, overhead costs, materials costs, and the costs of goods sold or inventoried.) This percentage is then applied to average establishment receipts to arrive at nonpayroll costs per establishment (an establishment is a business entity operating at a single location). An industry with a significantly higher level of nonpayroll costs per establishment than that of the comparison group is likely to have higher start-up costs that would tend to support a size standard higher than the anchor size standard. Conversely, if the industry showed significantly lower nonpayroll costs per establishment when compared to the comparison group, the anchor size standard would be considered the appropriate size standard.

4. *Industry competition* is assessed by measuring the proportion or share of industry receipts obtained by firms that are among the largest firms in an industry. In this proposed rule, SBA compared the proportion of industry receipts generated by the four largest firms in the industry—generally referred to as the ''four-firm concentration ratio''—with the average four-firm concentration ratio for industries in the comparison groups. If a significant proportion of economic activity within the industry is concentrated among a few relatively large producers, SBA tends to set a size standard relatively higher than the anchor size standard to assist firms in a broader size range compete with firms that are larger and more dominant in the industry. In general, however, SBA does not consider this to be an important factor in assessing a size standard if the four-firm concentration ratio falls below 40% for an industry under review.

5. *Competition for Federal procurements and SBA Financial Assistance.* SBA also evaluates the possible impact of a size standard on its programs to determine whether small businesses defined under the existing size standard are receiving a reasonable level of assistance. This assessment most often focuses on the proportion or share of Federal contract dollars awarded to small businesses in the industry in question. In general, the lower the share of Federal contract dollars awarded to small businesses in an industry which receives significant Federal procurement revenues, the greater the justification for a size standard higher than the existing one.

As another factor to evaluate the impact of a proposed size standard on SBA programs, the volume of guaranteed loans within an industry and the size of firms obtaining those loans is assessed to determine whether the current size standard may restrict the level of financial assistance to firms in that industry. If small businesses receive ample assistance through these programs, or if the financial assistance is provided mainly to small businesses much lower than the size standard, a change to the size standard (especially, if it is already above the anchor size standard) may not be appropriate.

Evaluation of Industry Size Standard: The two tables below show the characteristics for Travel Agencies activities and of a comparison group. The primary comparison group is comprised of all industries with a $6 million receipt-based size standard (referred to as the nonmanufacturing anchor group). Since SBA's size standards analysis is assessing whether the Travel Agencies size standards should be higher as compared to the nonmanufacturing anchor size standard, this is the most logical set of industries to group together for the industry analysis. SBA examined economic data on these industries from the 1997 Economic Census prepared under contract by the U. S. Bureau of the Census. SBA also examined Federal contract award data for fiscal years 1998–2000 from the U. S. General Services Administration's (GSA) Federal Procurement Data Center, and GSA's award data and information on its Travel Management Centers.

Industry Structure Consideration: Table 1 below examines the size distribution of Travel Agencies. For this factor, SBA is evaluating the size of firms that account for predetermined percentages of total industry receipts (40%, 50%, 60%, and 70%). The table shows firms up to a specific size that, along with smaller firms, account for a specific percentage of total industry receipts. For example, Travel Agencies with $900 thousand or less in receipts obtained 40% of total industry receipts. Within the nonmanufacturing anchor group, firms of $3.2 million or less in receipts obtained 40% of total industry receipts in the average industry.

TABLE 1.—SIZE DISTRIBUTIONS OF FIRMS OF TRAVEL AGENCIES

[Data in millions of dollars]

Category	Size of firm at 40%	Size of firm at 50%	Size of firm at 60%	Size of firm at 70%
Travel Agencies	$0.9	$2.2	$5.8	$27.1
Nonmanufacturing Anchor Group	3.2	5.8	11.9	28.0

These data show the prevalence of much smaller businesses in the Travel Agencies industry than for businesses in the nonmanufacturer anchor comparison group. Travel agencies accounting for between 40% to 60% of industry revenues are one-fourth to one-half of the size of businesses in the nonmanufacturing anchor group that capture a similar proportion of industry revenues. However, large firms at the 70% level are equivalent in size to those in the nonmanufacturer anchor group, which reflects the influence of large corporations offering travel services. The distribution of travel agencies revenues by size of business in relation to the nonmanufacturer anchor group indicate a size standard below the $6 million anchor size standard is appropriate. Also, that a size standard between $2 million to $3 million would represent a reasonable size standard for the Travel Agencies industry since these businesses capture approximately half of industry activity.

Table 2 lists the other three evaluation factors for Travel Agencies and the comparison groups. These include comparisons of average firm size, the measurement of start-up costs as measured by nonpayroll receipts per establishment, and the four-firm concentration ratio.

TABLE 2.—INDUSTRY CHARACTERISTICS OF TRAVEL AGENCIES

Category	Average firm size		Non payroll receipts per establish-ment (million $)	Four firm concentra-tion ratio (in percent)
	Receipts (millions)	Employees		
Travel Agencies	$0.44	8.1	$0.188	16.3
Nonmanufacturing Anchor Group	0.95	10.6	0.562	14.4

For Travel Agencies, the average firm size in receipts is lower than the nonmanufacturing anchor group's size. However, the average number of employees is about the same as the nonmanufacturer anchor group size. Based on this factor, a size standard of $2.5 to $3.5 million, or approximately half the nonmanufacturer anchor size standard, is supportable.

Nonpayroll receipts per establishment, a measure of capital requirements to enter an industry, comparatively, are much lower (a three-to-one ratio) for Travel Agencies as those of the nonmanufacturer anchor group. These data do not support a basis for a higher size standard. However, SBA collected additional information on start up cost from the Society of Government Travel Professionals (SGTP). SBA's research has found that for travel agencies involved in arranging travel services for large corporate clients and the Federal Government, start-up costs are higher as compared with the firms leisure travel services. Corporate clients and the Federal government require firms to have dedicated equipment, secure lines, and access to two or more airline ticketing reservation services. The Federal Government and the corporate world insist on seamless travel management and back-end systems. Firms must be able to link to corporate and Federal travel systems that links customer, travel agent, billing systems, credit card reconciliation systems, provide 24 hour and seven days a week service centers; train government and contractor personnel; and provide quality control and inspection plans. Start-up costs for these requirements amount up to $160,000 to $200,000 on an average contract of approximately $8.5 million in travel bookings. These clients also require that travel agencies prepare periodic reports on their travel activities. This reporting responsibility requires travel agencies to utilize management information systems to monitor their clients and represents a service activity beyond the arrangement of travel and related accommodations. Therefore, higher start-up costs associated with serving Federal and corporate clients support an increase in the size standard for the Travel Agencies industry of at least twice the current size standard. SBA welcomes public comment on start-up costs for Travel Agencies, in particular, how these costs are relevant to corporate and Federal government contracts. Comments supporting these costs should include information and costs associated with what type of specialized equipment, bonding, management information systems, security and training requirements are needed for corporate and Federal government clients, along with any other relevant requirements and information.

The Travel Agencies four-firm concentration ratio, however, is relatively low, indicating that the industry is not dominated by large businesses. This factor does not support a basis for a higher size standard for Travel Agencies.

SBA Program Considerations: SBA also reviews its size standards in relationship to its programs. This proposed rule gives more consideration to the pattern of Federal contract awards than to the level of financial assistance to small businesses to assess whether its size standard should be revised.

In fiscal year 2000, 45 loans for $4.5 million were guaranteed to Travel Agencies, with 78% of these loans going to firms with less than $545,000 in receipts. It's unlikely that an increase to the size standard will have much impact on the financial programs and, consequently, this factor is not part of the assessment of the size standard.

The Federal government spends approximately $7 billion on official travel per year. In addition, the Department of Defense awards contracts for leisure travel services, which are worth $5 billion per year (as reported to the House of Representatives, Small Business Committee on November 4, 1999 by the Society of Travel Agents in Government (STAG)). Federal Procurement Data System (FPDS) statistics for the fiscal years 1998 through 2000 show that awards to small businesses averaged less than 1% of the total dollars awarded for Travel Agencies Services. For Fiscal Year 2000, $206,000 out of $25 million was reportedly awarded to small businesses. However, Federal travel services are procured mostly through the General Services Administration's (GSA) Travel Management Centers (TMCs) and the Defense Travel System. Awards made through these contract vehicles are on a transaction fee basis and all travel costs that are purchased with a government credit card, are not recorded in the FPDS. In fiscal year 2002, the Department of Defense (DoD) hopes to set aside six of its 24 contracts to small business. Currently, GSA has awarded contracts to 49 firms for TMCs of which 20 firms are small businesses. Out of the 20 firms, 17 have task orders. GSA also provided SBA with its estimate for the fiscal year 2001 tickets, sales, revenues, and fees received by its TMCs.

TABLE 3.—GSA TMC SMALL BUSINESS CONTRACTOR'S SALES REVENUE

	Number of Tickets	Sales ($)	Commissions	Transaction fees	Total revenue
Total TMCs	1,292,917	$518,966,320	$24,423,055	$12,630,279	$33,647,038
Percent of total to small business TMCs	3.8	3.5	3.4	6.7	3.5

These statistics reveal that small business, despite the fact that they are awarded 41% of the number of contracts, receive very little of the ticket orders, commissions, fees, and revenues. These statistics also support the Federal contracting officers concerns that the pool of small businesses capable of submitting viable proposals for their travel service contracts is dwindling because of the sophistication and significant investments required of these firms. New procurements for travel management services require firms provide automation of the travel arrangements process through the use of on-line booking products; 24 hour and seven days a week service centers; interfaces with an agency's finance system; complex travel management information systems; secure or dedicated lines that meet privacy and security requirements; training for government and contractor personnel; compliance costs; and quality control and inspection plans. As mentioned earlier, the SGTP estimates these start-up costs to be $200,000 on an average contract of $8.5 million in travel bookings.

The FPDS statistics, plus other contract factors such as large start-up costs to implement a Federal travel service contract and the declining pool of small businesses submitting proposals suggest that a size standard significantly higher than $1 million may be appropriate for Travel Agencies.

Overview: Based on the analysis of each evaluation factor, SBA is proposing a $3 million size standard. Four out of the five factors support an increase to the $3 million size standard for Travel Agencies. Two factors support a size standard approximately half of the nonmanufacturer anchor size standard—average firm size and distribution of travel agencies. Two factors support an increase at least twice the current $1 million. Start-up costs, especially for those firms that have corporate and Federal clients, have higher costs due to client requirements than for travel agencies offering primarily leisure travel. Travel agencies providing services to corporate and government clients tend to be larger in size than travel agencies offering leisure travel in order to finance needed investment in the equipment and personnel. Procurement statistics, increasingly sophisticated procurement requirements, and higher contract start-up costs have lead to the decline in the pool of viable small businesses that have the ability to compete on travel service contracts, as evidenced by the extremely low small business percentages for tickets, sales, commissions, fees, and total revenues. A size standard at least twice the nonmanufacturer size standard will increase the pool of small businesses that can meet the government's requirements.

Dominant in Field of Operation: Section 3(a) of the Small Business Act defines a small concern as one that is (1) independently owned and operated, (2) not dominant in its field of operation and (3) within detailed definitions or size standards established by the SBA Administrator. SBA considers as part of its evaluation of a size standard whether a business concern at or below a proposed size standard would be considered dominant in its field of operation. This assessment generally considers the market share of firms at the proposed or final size standard or other factors that may show whether a firm can exercise a major controlling influence on a national basis in which significant numbers of business concerns are engaged.

The SBA has determined that no firm at or below the proposed size standards for Travel Agencies would be of a sufficient size to dominate its field of operation. For Travel Agencies, a firm $3 million in size would generate an estimated .01% of the total industry receipts. This level of market share effectively precludes any ability for a firm at or below the proposed size standard to exert a controlling effect on these industries.

Alternative Size Standards: SBA considered doubling the Travel Agencies size standard from $1 million to $2 million, but believed that this level would not fully capture the small business segment of the Travel Agencies industry. A survey of Travel Agencies showed that those with $1 million and less in revenues have declined by more than one-third while Travel Agencies with more than $2 million have almost doubled. This fact indicates that Travel Agencies have needed to expand their operations to remain competitive. In addition, SBA is very concerned about the capabilities of smaller Travel Agencies to satisfy the requirements of government and corporate clients. The initial capital resources and recurring costs to obtain and maintain travel systems and to provide other travel related services also suggest a size standard greater than $2 million. These trends are reflected in the analysis of Travel Agencies' industry data. Two factors, distribution for receipts by firm size and average firm size, supported size standards of at least $2 million and as high as $3 million to $3.5 million. These considerations, along with the uncertainties with regard to compensation for travel services and the expanding use of internet technology for travel reservations, convinced SBA that a size standard higher than $2 million should be considered.

SBA also contemplated as an alternative size standard adopting the $6 million anchor size standard to the Travel Agencies industry. As discussed in the description of SBA's size standards methodology, SBA applies the $6 million anchor size standard to the nonmanufacturing industries unless the industry's characteristics are significantly different from the typical nonmanufacturing industry. The analysis of the various industry factors shows that the characteristics Travel Agencies are significantly below those of the nonmanufacturing anchor group industries. Thus, a size standard below the anchor size standard is appropriate for this industry. As discussed above, SBA believes the characteristics of Travel Agencies support a size standard higher than the $1 million but lower than anchor the nonmanufacturing size standard.

SBA welcomes public comments on its proposed size standard for the Travel Agencies industry. Comments supporting an alternative to the proposal, including the option of retaining the size standard at $1 million, should explain why the alternative would be preferable to the proposed size standard, how it would impact current small businesses, and how it would effectively assist small businesses. SBA also welcomes comments and additional information on start-up costs of travel agencies serving corporate and government clients.

Compliance With Executive Orders 12866, 12988, and 13132, the Paperwork Reduction Act (44 U.S.C. Ch. 35) and the Regulatory Flexibility Act (5 U.S.C. 601–612).

The Office of Management and Budget (OMB) has determined that the proposed rule is a ''significant'' regulatory action for purposes of Executive Order 12866. Size standards determine which businesses are eligible for Federal small business programs. This is not a major rule under the Congressional Review Act, 5 U.S.C. 800.

Regulatory Impact Analysis

i. Is There a Need for the Regulatory Action?

SBA is chartered to aid and assist small businesses through a variety of financial, procurement, business development, and advocacy programs. To effectively assist intended beneficiaries of these programs, SBA must establish distinct definitions of which businesses are deemed small businesses. The Small Business Act (15 U.S.C. 632(a)) delegates to the SBA Administrator the responsibility for establishing small business definitions. It also requires that small business definitions vary to reflect industry differences. The preamble of this rule explains the approach SBA follows when analyzing a size standard for a particular industry. Based on that analysis, SBA believes that a revision to the current size standard for Travel Agencies is needed to better define small businesses in this industry.

ii. What Are the Potential Benefits and Costs of This Regulatory Action?

The most significant benefit to businesses obtaining small business status as a result of this rule is eligibility for Federal small business assistance programs. Under this rule, 723 additional firms may obtain small business status and become eligible for these programs. These include SBA's financial assistance programs and Federal procurement preference programs for small businesses, 8(a) firms, small disadvantaged businesses, small businesses located in Historically Underutilized Business Zones (HUBZone), as well as those awarded through full and open competition after application of the HUBZone or small disadvantaged business price evaluation adjustment. Other Federal agencies use SBA size standards for a variety of regulatory and program purposes. SBA does not have information on each of these uses to evaluate the impact of size standards changes. In researching the Travel Agencies industry, SBA contacted representatives of the GSA and the DoD. These two agencies account for the largest proportion of Federal contracting for travel services. However, in cases where SBA size standards are not appropriate, an agency may establish its own size standards with the approval of the SBA Administrator (see 13 CFR 121.801). Through the assistance of these programs, small businesses may benefit by becoming more knowledgeable, stable, and competitive businesses.

The benefits of a size standard increase to a more appropriate level would affect three groups. First, businesses that benefit by gaining small business status from the proposed size standards and use small business assistance programs. Second, growing small businesses that may exceed the current size standards in the near future and who will retain small business status from the proposed size standards. Third, Federal agencies that award contracts under procurement programs that require small business status.

Newly defined small businesses would benefit from the SBA's 7(a) Guaranteed Loan Program. SBA estimates that approximately $450,000 in new Federal loan guarantees could be made to these newly defined small businesses. This represents 10% of the $4.5 million in loans that were guaranteed by the SBA under this financial program to Travel Agencies in FY 2000. Because of the size of the loan guarantees, most loans are made to small businesses well below the size standard. Thus increasing the size standard will likely result in only a small increase in small business guaranteed loans to Travel Agencies, and the $450,000 estimated figure may overstate the actual impact.

The newly defined small businesses would also benefit from SBA's economic injury disaster loan program. Since this program is contingent upon the occurrence and severity of a disaster, no meaningful estimate of benefits can be projected.

SBA estimates that firms gaining small business status could potentially obtain Federal contracts worth $347 million in sales out of approximately $9 billion in total Federal travel expenditures under the small business set-aside program, the 8(a), Small Disadvantaged Business, and HUBZone programs, or unrestricted contracts. Since most of these travel dollars will pass through to airlines, hotels, and automobile rental companies, SBA estimates actual revenues to Travel Agencies will range between $25 million and $42 million (7% to 12% of the estimated $347 million in sales). This also represents approximately $36 million of additional Federal contracts that may be awarded to businesses becoming newly designated small businesses. These estimates reflect a 10% increase in the awards to small businesses that the Federal government expends for travel services.

Federal agencies may benefit from the higher size standards if the newly defined and expanding small businesses compete for more set-aside procurements. The larger base of small businesses would likely increase competition and would lower the prices on set-aside procurements. A large base of small businesses may create an incentive for Federal agencies to set aside more procurements creating greater opportunities for all small businesses. Small business opportunities will be enhanced in open procurements as they gain experience in Federal contracting through the set-aside and other small business procurement preference programs. Large businesses with small business subcontracting goals may also benefit from a larger pool of small businesses by enabling them to better achieve their subcontracting goals and at lower prices. No estimate of cost savings from these contracting decisions can be made since data are not available to directly measure price or competitive trends on Federal contracts.

To the extent that 732 additional firms become active in Government programs, this may entail some additional administrative costs to the Federal government associated with additional bidders for Federal small business SBA's procurement programs, additional firms seeking SBA guaranteed lending programs, and additional firms eligible for enrollment in SBA's PRO-Net data base program. Among businesses in this group seeking SBA assistance, there will be some additional costs associated with compliance and verification associated with certification of small business status and protests of small business status. These costs are likely to generate minimal incremental costs since mechanisms are currently in place to handle these administrative requirements.

The costs to the Federal government may be higher on some Federal contracts. With greater number of businesses defined as small, Federal agencies may choose to set-aside more contracts for competition among small businesses rather than using full and open competition. The movement from unrestricted to set-aside is likely to result in competition among fewer bidders for a contract. Also, higher costs may result if additional full and open contracts are awarded to HUBZone and SDB businesses as a result of a price evaluation preference. The additional costs associated with fewer bidders, however, are likely to be minor since, as a matter of policy, procurements may be set-aside for small businesses or reserved for the 8(a), HUBZone Programs only if awards are expected to be made at fair and reasonable prices.

The proposed size standard may have distributional effects among large and small businesses. Although the actual outcome of the gains and loses among small and large businesses cannot be estimated with certainty, several trends are likely to emerge. First, a transfer of some Federal contracts to small businesses from large businesses. Large businesses may have fewer Federal contract opportunities as Federal agencies decide to set-aside more Federal procurements for small businesses. Also, some Federal contracts may be awarded to HUZone or small disadvantaged businesses instead of large businesses since those two categories of small business are eligible for price evaluation adjustment for contracts competed on a full and open basis. Similarly, currently defined small businesses may obtain fewer Federal contacts due to the increased competition from more businesses defined as small. This transfer may be offset by a greater number of Federal procurements set-aside for all small businesses. The number of newly defined and expanding small businesses that were willing and able to sell to the Federal Government would limit the potential transfer of contracts away from large and currently defined small businesses. The potential distributional impacts of these transfers may not be estimated with any degree of precision since the data on the size of business receiving a Federal contract are limited to identifying small or other-than-small businesses.

The revision to current size standards for Travel Agencies is consistent with SBA's statutory mandate to assist small businesses. This regulatory action promotes the Administration's objectives. One of SBA's goals in support of the Administration's objectives is to help individual small businesses succeed through fair and equitable access to capital and credit, government contracts, and management and technical assistance. Reviewing and modifying size standards when appropriate ensures that intended beneficiaries have access to small business programs designed to assist them. Size standards do not interfere with state, local, and tribal governments in the exercise of their government functions. In a few cases, State and local governments have voluntarily adopted SBA's size standards for their programs to eliminate the need to establish an administrative mechanism for developing their own size standards.

Initial Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act (RFA), this rule may have a significant impact on a substantial number of small entities. As described above in the Regulatory Impact Analysis, this rule may impact small entities in two ways. First, small businesses in the Travel Agencies industry competing for Federal Government procurements reserved for small business, and small disadvantaged businesses and HUBZone businesses eligible for price adjustment, may face greater competition from newly eligible small businesses. Second, additional Federal procurements for Travel Agencies may be set-aside for small business as the pool of eligible small businesses expands.

The proposed size standard may affect small businesses participating in programs of other agencies that use SBA size standards. As a practical matter, SBA cannot estimate the impact of a size standard change on each and every Federal program that uses its size standards. For this particular proposed rule, SBA did consult with GSA and DoD regarding a possible increase to the Travel Agencies size standard. In cases where an SBA's size standard is not appropriate, the Small Business Act and SBA's regulations allow Federal agencies to develop different size standards with the approval of the SBA Administrator (13 CFR 121.902). For purposes of a regulatory flexibility analysis, agencies must consult with SBA's Office of Advocacy when developing different size standards for their programs.

Immediately below, SBA sets forth an initial regulatory flexibility analysis (IRFA) of this proposed rule addressing the following questions: (1) What is the need for and objective of the rule, (2) what is SBA's description and estimate of the number of small entities to which the rule will apply, (3) what is the projected reporting, record keeping, and other compliance requirements of the rule, (4) what are the relevant Federal rules which may duplicate, overlap or conflict with the proposed rule, and (5) what alternatives will allow the Agency to accomplish its regulatory objectives while minimizing the impact on small entities?

(1) What Is the Need for and Objective of the Rule?

The revision to the size standards NAICS code 561510 more appropriately defines the size of businesses in these industries that SBA believes should be eligible for Federal small business assistance programs. A review of the latest available industry data supports a change to the size standard.

(2) What is SBA's Description and Estimate of the Number of Small Entities to Which the Rule Will Apply?

Within the Travel Agencies industry, 21,496 out of 22,687 businesses are small. Only a small proportion of businesses in this industry utilizes SBA programs. In SBA's PRO-Net (a SBA database of small businesses interested in contracting with the Federal Government) 166 Travel Agencies are currently registered. In fiscal year 2000, 54 small business Travel Agencies received 7(a) or 504 guaranteed loans. Thus, the likely impact of this rule would be limited to 732 small businesses, based on the U.S. Census Bureau's special tabulation of the 1997 Economic Census for SBA's Office of Size Standards. The following table shows these data for the Travel Agencies Industry.

TRAVEL AGENCIES INDUSTRY DATA

Category	Travel agencies
Total businesses	22,687
Small businesses	21,946
Small businesses registered in PRO-Net	166
Small businesses with 7(a) loans	54

SBA estimates 732 additional businesses out of 22,687 firms in the Travel Agencies activity would be considered small as a result of this rule, if adopted. These businesses would be eligible to seek available SBA assistance provided that they meet other program requirements. Businesses becoming eligible for SBA assistance as a result of this rule, if finalized, cumulatively generate approximately $1.0 billion out of a total of $10 billion in revenues. The small business coverage in the Travel Agencies would increase by 10% of total receipts.

(3) What are the Projected Reporting, Record Keeping, and Other Compliance Requirements of the Rule and an Estimate of the Classes of Small Entities That Will Be Subject to the Requirements?

A new size standard does not impose any additional reporting, record keeping or compliance requirements on small entities. Increasing size standards expands access to SBA programs that assist small businesses, but does not impose a regulatory burden as they neither regulate nor control business behavior.

(4) What are the Relevant Federal Rules Which May Duplicate, Overlap or Conflict With the Proposed Rule?

This proposed rule overlaps other Federal rules that use SBA's size standards to define a small business. Under section 632(a)(2)(C) of the Small Business Act, unless specifically authorized by statute, Federal agencies must use SBA's size standards to define a small business. In 1995, SBA published in the **Federal Register** a list of statutory and regulatory size standards that identified the application of SBA's size standards as well as other size standards used by Federal agencies (60 FR 57988–57991, dated November 24, 1995). SBA is not aware of any Federal rule that would duplicate or conflict with establishing size standards.

SBA cannot estimate the impact of a size standard change on each and every Federal program that uses its size standards. In cases where an SBA's size standard is not appropriate, the Small Business Act and SBA's regulations allow Federal agencies to develop different size standards with the approval of the SBA Administrator (13 CFR 121.902). For purposes of a regulatory flexibility analysis, agencies must consult with SBA's Office of Advocacy when developing different size standards for their programs.

(5) What Alternatives Will Allow the Agency to Accomplish its Regulatory Objectives While Minimizing the Impact on Small Entities?

SBA considered as an alternative size standard adopting the $6 million anchor size standard to the Travel Agencies industry. As discussed in the description of SBA's size standards methodology, SBA applies the $6 million anchor size standard to the nonmanufacturing industries unless the industry's characteristics are significantly different from the typical nonmanufacturing industry. The analysis of the various industry factors show that the characteristics of Travel Agencies are significantly below those of the nonmanufacturing anchor group industries. Thus, a size standard below the anchor size standard is appropriate for this industry. As discussed, above, SBA believes the Travel Agencies characteristics support a size standard higher than the $1 million but lower than the nonmanufacturing size standard.

For the purpose of the Paperwork Reduction Act, 44 U.S.C. Ch.35, the SBA has determined that this rule would not impose new reporting or record keeping requirements, other than those required of SBA. For purposes of Executive Order 13132, the SBA has determined that this rule does not have any federalism implications warranting the preparation of a Federalism Assessment. For purposes of Executive Order 12988, the SBA has determined that this rule is drafted, to the extent practicable, in accordance with the standards set forth in that order.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Loan programs—business, Small businesses.

For reasons set forth in the preamble, SBA proposes to amend part 121 of title 13 of the Code of Federal Regulations as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

1. The authority citation of part 121 continues to read as follows:

Authority: 15 U.S.C. 632(a), 634(b)(6), 637(a), 644(c) and 662(5) and Sec. 304, Pub. L. 103–403, 108 Stat. 4175, 4188.

2. In § 121.201, the table "Small Business Size Standards by NAICS Industry", under the heading NAICS Subsector 561—Administrative and Support Services, revise the entry for 561510 to read as follows:

§ 121.201 What size standards has SBA identified by North American Industry Classification System codes?

* * * * *

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY

NAICS Codes	Description (N.E.C.=Not Elsewhere Classified)	Size standards in number of employees or million of dollars
* * *	* *	* *
	Subsector 561—Administrative and Support Services	

SMALL BUSINESS SIZE STANDARDS BY NAICS INDUSTRY—Continued

NAICS Codes	Description (N.E.C.=Not Elsewhere Classified)	Size standards in number of employees or million of dollars
* * *	* * *	*
561510	Travel Agencies	[10] $3
* * *	* * *	*

Footnotes

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10. NAICS codes 488510 (part), 531210, 541810, 561510 and 561920—As measured by total revenues, but excluding funds received in trust for an unaffiliated third party, such as bookings or sales subject to commissions. The commissions received are included as revenue.

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Dated: March 8, 2002.

Hector V. Barreto,

Administrator.

[FR Doc. 02–6195 Filed 3–14–02; 8:45 am]

BILLING CODE 8025–01–P