

Rules and Regulations

Federal Register

Vol. 88, No. 137

Wednesday, July 19, 2023

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3565

[Docket No. RHS–23–MFH–0008]

Loan Guarantees Under the Section 538 Guaranteed Rural Rental Housing Program

AGENCY: Rural Housing Service, USDA.

ACTION: Notification and updates to previous rule document; correction.

SUMMARY: The Rural Housing Service (RHS or Agency), a Rural Development (RD) agency of the United States Department of Agriculture (USDA), is correcting a rule document that published in the **Federal Register** on April 28, 2023, entitled, “Loan Guarantees Under the Section 538 Guaranteed Rural Rental Housing Program.” The purpose of the notification was to announce updates in the process of submitting complete applications, updating the names and contact information for key personnel and changes in priority scoring. The purpose of this notification is to correct inadvertent errors that were previously published in the rule document on April 28, 2023, in the **Federal Register**.

DATES: The effective date of the correction is July 19, 2023.

FOR FURTHER INFORMATION CONTACT:

Jonathan Bell, Director, Processing and Report Review Branches, Production and Preservation Division, Multifamily housing Programs, Rural Development, United States Department of Agriculture, via email: MFHprocessing1@usda.gov or telephone: (254) 742–9764. This number is not toll-free. Hearing or speech impaired persons may access that number by calling the Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of April 28, 2023, in FR Doc. 2023–08952 (88 FR 26221), make the following corrections:

(1) On page 26223 in the first column, under Section III, insert the following language after the first paragraph:

System for Award Management and Unique Entity Identifier.

(a) At the time of application, each applicant must have an active registration in the System for Award Management (SAM) before submitting its application in accordance with 2 CFR part 25. To register in SAM, entities will be required to obtain a Unique Entity Identifier (UEI). Instructions for obtaining the UEI are available at <https://sam.gov/content/entity-registration>.

(b) Applicants must maintain an active SAM registration, with current, accurate and complete information, at all times during which it has an active Federal award or an application under consideration by a Federal awarding agency.

(c) Applicant must ensure they complete the Financial Assistance General Representations and Certifications in SAM.

(d) Applicants must provide a valid UEI in its application, unless determined exempt under 2 CFR 25.110.

(e) The Agency will not make an award until the applicant has complied with all SAM requirements including providing the UEI. If an applicant has not fully complied with the requirements by the time the Agency is ready to make an award, the Agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant.

(2) On page 26223 in the third column, correct the last paragraph to read as follows:

In compliance with Agency guidance to determine the lender’s (participants) eligibility, the Agency is responsible for screening lenders in the Do Not Pay Portal for the following: (1) Credit Alert System (CAIVRS); (2) System for Award Management Entity Registration Records (SAMENT); (3) System for Award Management Exclusion Records-Restricted (SAM-EXCL-RES) and (4) Treasury Offset Program Debt Check (DBCK). If the lender is a non-profit, the Agency will also screen for Internal

Revenue Service (IRS) Automatic Revocation of Exemption List (ARL). Screening will take place when the lender submits a complete application to the Agency. At the time of application, each applicant must have an active registration in the System for Award (SAM) before submitting its application in accordance with 2 CFR 25.200. To register in SAM, entities will be required to create a Unique Entity Identifier (UEI). Instructions for obtaining the UEI are available at <https://sam.gov/content/entity-registration>. Further information regarding SAM registration and the UEI can be found in this notice.

(3) On page 26224 in the first column, correct the first paragraph to read as follows:

Also, as part of the complete application package, the lender must provide a list of all the lender’s principals (in accordance with the definition below) in the organization. This information will be used to screen the lender’s principals in the Do Not Pay Portal for SAM-EXCL-RES at the application stage.

(4) On page 26225 in the first column, correct the second paragraph to read:

i. In accordance with 2 CFR 180.300, the lender must verify and provide documentation to the Agency that the borrowing entity and the borrowing entity’s principals; and the borrower’s management agent and the management agent’s principals are not excluded or disqualified by:

A. Checking SAM Exclusions (<https://sam.gov>); or

B. Collecting a certification; or

C. Adding a clause or condition to the covered transaction.

(5) On page 26225 in the second column, delete the fifth bullet under (2) that reads:

“The lender must provide to the Agency a certification from the borrower that the borrower is not under any State or Federal order suspending or debaring participation in State or Federal loan programs and that the borrower is not delinquent on any nontax obligation to the United States.”

(6) On page 26226 in the third column, correct the first bullet to read as follows:

□ In accordance with 2 CFR 180.300, the lender must verify and provide documentation to the Agency that the property management entity and the

property management entity's principals are not excluded or disqualified by:

- a. Checking SAM Exclusions (<https://sam.gov>); or
- b. Collecting a certification; or
- c. Adding a clause or condition to the covered transaction.

(7) On page 26227, in the second column, in the fourth complete paragraph, revise the first line to add "3" after *Priority* and before the emdash to be consistent with numbering sequence.

Cathy Glover,

Acting Administrator, Rural Housing Service.

[FR Doc. 2023-15202 Filed 7-18-23; 8:45 am]

BILLING CODE 3410-XV-P

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 121, 124, and 127

RIN 3245-AH93

Small Business Size Standards: Adjustment of Monetary-Based Size Standards, Disadvantage Thresholds, and 8(a) Eligibility Thresholds for Inflation

AGENCY: U.S. Small Business Administration.

ACTION: Final rule.

SUMMARY: This rule finalizes, without change, the U.S. Small Business Administration's (SBA or Agency) November 17, 2022, interim provisions that adjusted monetary-based industry size standards (*i.e.*, receipts- and assets-based) for inflation. Specifically, this rule finalizes three interim final actions adopted in the November 17, 2022 rule. First, this rule finalizes an additional 13.65 percent inflation increase to the industry-based monetary small business size standards to account for the inflation that occurred since the last adjustment to size standards for inflation in 2019. Second, this rule finalizes inflation adjustments to three program-specific monetary size standards: the size standards for sales or leases of government property, the size standards for stockpile purchases, and the alternative size standard based on tangible net worth and net income for the Small Business Investment Company (SBIC) program. Third, this rule finalizes inflation adjustments to the economic disadvantage thresholds applicable to the 8(a) Business Development and Economically Disadvantaged Women-Owned Small Business programs, and the dollar limit for combined total 8(a) contracts.

DATES: This rule is effective July 19, 2023.

FOR FURTHER INFORMATION CONTACT:

Samuel Castilla, Office of Size Standards, (202) 205-6618 or sizestandards@sba.gov.

SUPPLEMENTARY INFORMATION: As explained in the SBA's "Size Standards Methodology" white paper available at www.sba.gov/size and at www.regulations.gov (Docket ID: SBA-2018-0004), SBA reviews small business size standards and makes necessary adjustments to them for three reasons: (i) changes in industry structure and Federal market conditions under the Small Business Jobs Act of 2010 (Jobs Act), Public Law 111-240, section 1344, Sep. 27, 2010; (ii) inflation in accordance with 13 CFR 121.102(c); and (iii) adoption of the latest North American Industry Classification System (NAICS) revision by the Office of Management and Budget. Updating size standards based on inflation—in addition to updating size standards based on the latest industry and Federal contracting data under the five-year rolling review—not only satisfies the Jobs Act's mandate that SBA review all size standards every five years, but also is consistent with Executive Order 13563 on improving regulation and regulatory review.

Although SBA is required to assess the impact of inflation on its monetary-based size standards *at least* once every five years (67 FR 3041; January 23, 2002) (13 CFR 121.102(c)), SBA may modify the timing of its adjustments to size standards and consider adjustments even more frequently than five-year intervals based on the prevailing economic conditions and the important policy objective of maintaining the value of size standards in inflation-adjusted terms.

Accordingly, on November 17, 2022 (87 FR 69118), SBA published a joint final rule and interim final rule (IFR) that finalized, without change, SBA's July 2019 IFR (84 FR 34261; July 18, 2019) that adjusted industry-based (*i.e.*, receipts- and assets-based) and certain program-specific monetary size standards for inflation that occurred since the previous inflation adjustment in 2014 (79 FR 33647; June 12, 2014). SBA's November 2022 rule also contained interim final provisions to increase by 13.65 percent all industry-specific monetary small business size standards, including receipts-based size standards for 496 industries and nine subindustries (*i.e.*, "exceptions" in the SBA Table of Size Standards), as well as assets-based size standards for four industries.

SBA assessed the impact of the general price increases on size standards

before the normal five-year review for inflation was due, which would have been in 2024, due to the prevailing economic conditions and the rise in the general level of prices since the last adjustment in 2019. SBA's adjustments to industry-based monetary size standards for inflation were in addition to the changes to monetary-based size standards adopted in March and June of 2022 as part of SBA's second five-year rolling review of size standards,¹ as required by section 1344 of the Jobs Act.

SBA's November 2022 rule also contained interim final provisions to adjust for inflation three program-specific receipts-based size standards. These include the size standards for sales or leases of government property which was increased from \$8 million to \$9 million in average annual receipts, the size standards for stockpile purchases which was increased from \$67.5 million to \$76.5 million in average annual receipts, and the alternative size standard based on tangible net worth and net income for the Small Business Investment Company (SBIC) program. Inflation adjustment increased tangible net worth from \$19.5 million to \$24 million and net income from \$6.5 million to \$8 million.

Besides adjustment of industry and program-based monetary size standards described above, the interim final provisions of the November 2022 rule also adjusted other monetary thresholds primarily used in the 8(a) Business Development (8(a) BD) program and the Economically Disadvantaged Women-Owned Small Business (EDWOSB) program to determine eligibility of applicants and current participants as economically disadvantaged business concerns. Specifically, SBA adjusted for inflation the following Economic disadvantage thresholds for the 8(a) BD and EDWOSB programs: Net worth from \$750,000 to \$850,000 (13 CFR 124.104(c)(2)), Income (adjusted gross income or AGI) from \$350,000 to

¹ See Small Business Size Standards: Agriculture, Forestry, Fishing and Hunting; Mining, Quarrying, and Oil and Gas Extraction; Utilities; Construction (87 FR 18607; March 31, 2022), Small Business Size Standards: Transportation and Warehousing; Information; Finance and Insurance; Real Estate and Rental and Leasing (87 FR 18627; March 31, 2022), Small Business Size Standards: Professional, Scientific and Technical Services; Management of Companies and Enterprises; Administrative and Support and Waste Management and Remediation Services (87 FR 18665; March 31, 2022), Small Business Size Standards: Education Services; Health Care and Social Assistance; Arts, Entertainment and Recreation; Accommodation and Food Services; Other Services (87 FR 18646; March 31, 2022), and Small Business Size Standards: Wholesale Trade and Retail Trade (87FR 35869; June 14, 2022).