



SMALL BUSINESS ADMINISTRATION

Class Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice of Intent to Waive the Nonmanufacturer Rule for recreational and gymnastic equipment consisting of manufactured kettlebells, rubber machine balls, Olympic weight plates, stretch bands, and spring collars under North American Industry Classification System Code (NAICS) 339920 and Product Service Code (PSC) 7830.

This class waiver would exclude apparel and footwear.

SUMMARY: The U.S. Small Business Administration (SBA) is considering granting a request for a class waiver of the Nonmanufacturer Rule (NMR) manufactured kettlebells, rubber machine balls, Olympic weight plates, stretch bands, and spring collars under NAICS code 339920/PSC 7830. This industry comprises establishments primarily engaged in manufacturing sporting and athletic goods (except apparel and footwear) and the PSC is for Recreational and Gymnastic Equipment.

According to the class waiver request, no small business manufacturer can supply the identified products to the Federal government. If granted, the class waiver would allow otherwise qualified regular dealers to supply the waived item(s), regardless of the business size of the manufacturer, on a Federal contract set aside for small business, service-disabled veteran-owned small business (SDVOSB), women-owned small business (WOSB), economically disadvantaged women-owned small business (EDWOSB), historically underutilized business zones (HUBZone), or participants in the SBA's 8(a) Business Development (BD) program.

DATES: Comments and source information must be submitted by [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit comments and source information via the Federal Rulemaking Portal at <https://www.regulations.gov>. If you wish to submit confidential business information (CBI) as defined in the User Notice at <https://www.regulations.gov>, please submit the information to Carol Hulme, Program Analyst, Office of Government Contracting, U.S. Small Business Administration, 409 Third Street SW, 8th Floor, Washington, DC 20416. Highlight the information that you consider to be CBI, and explain why you believe this information should be held confidential. SBA will review the information and make a final determination as to whether the information will be published.

FOR FURTHER INFORMATION CONTACT: Carol Hulme, Program Analyst, by telephone at 202-205-6347; or by email at Carol-Ann.Hulme@sba.gov.

SUPPLEMENTARY INFORMATION: Sections 8(a)(17) and 46 of the Small Business Act (Act), 15 U.S.C. 637(a)(17) and 657s, and SBA's implementing regulations, found at 13 CFR §121.406, require that recipients of Federal supply contracts (except those valued between \$3,500 and \$250,000) set aside for small business, SDVOSB, WOSB, EDWOSB, HUBZone, BD program participants, provide the product of a small business manufacturer or processor if the recipient of the set-aside is not the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule (NMR). 13 CFR 121.406(b). Sections 8(a)(17)(B)(iv)(II) and 46(a)(4)(B) of the Act authorize SBA to waive the NMR for a

“class of products” for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA’s regulations at 13 CFR 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or been awarded a contract to supply the class of products within the last 24 months.

The SBA defines “class of products” based on a combination of 1) the six-digit NAICS code, 2) the four-digit PSC, and 3) a description of the class of products.

The SBA invites the public to comment on this pending request to waive the NMR for the following items: manufactured kettlebells, rubber machine balls, Olympic weight plates, stretch bands, and spring collars. The public may comment or provide source information on any small business manufacturers of this class of products that are available to participate in the Federal market. The public comment period will run for 30 days after the date of publication in the Federal Register.

More information on the NMR and class waivers can be found at <https://www.sba.gov/contracting/contracting-officials/non-manufacturer-rule/non-manufacturer-waivers>.

David Loines,
Director, Office of Government Contracting.

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