may include the firm’s internal management procedures governing SDB status representation or certification, the clarity or ambiguity of the representation or certification requirement, and the efforts made to correct an incorrect or invalid representation or certification in a timely manner. An individual or firm may not be held liable where government personnel have erroneously identified a concern as a SDB without any representation or certification having been made by the concern and where such identification is made without the knowledge of the individual or firm.

(e) Penalties for Misrepresentation.

(1) Suspension or debarment. The SBA suspension and debarment official or the agency suspension and debarment official may suspend or debar a person or concern for misrepresenting a firm’s status as a SDB pursuant to the procedures set forth in 48 CFR subpart 9.4.

(2) Civil Penalties. Persons or concerns are subject to severe penalties under the False Claims Act, 31 U.S.C. 3729–3733, and under the Program Fraud Civil Remedies Act, 331 U.S.C. 3801–3812, and any other applicable laws.

(3) Criminal Penalties. Persons or concerns are subject to criminal penalties for knowingly misrepresenting the SDB status of a concern in connection with procurement programs pursuant to section 16(d) of the Small Business Act, 15 U.S.C. 645(d), as amended, 18 U.S.C. 1001, 18 U.S.C. 287, and any other applicable laws. Persons or concerns are subject to criminal penalties for knowingly making false statements or misrepresentations to SBA for the purpose of influencing any actions of SBA pursuant to section 16(a) of the Small Business Act, 15 U.S.C. 645(a), as amended, including failure to correct “continuing representations” that are no longer true.

§ 124.1016 What must a concern do in order to be identified as a SDB in any Federal procurement database?

(a) In order to be identified as a SDB in the System for Award Management (SAM) database (or any successor thereto), a concern must certify its SDB status in connection with specific eligibility requirements at least annually.

(b) If a firm identified as a SDB in SAM fails to certify its status within one year of a status certification, the firm will not be listed as a SDB in SAM, unless and until the firm re-certifies its SDB status.

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