



# Teaming

## Joint Ventures and Subcontracting

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# Topics

- **Why is teaming important?**
- **What are the common teaming arrangements?**
- **How is the size of a team determined?**



# Today's Contracting Environment

- **Solicitations are becoming more complex and comprehensive**
  - Requirements are becoming more “sophisticated” as requiring activities become more familiar with working with contractors
- **Requirements are being consolidated and/or bundled**
  - Two or more requirements that may have been done under separate contracts are now issued as a single solicitation that might not be suitable for a single small business.
    - Reduces administration costs
    - Eliminates possible conflict between similar contracts/contractors
- **Competition is increasing**



# Advantages of Teaming

- **Forming teams leverages resources to meet complex requirements**
  - Partners provide complimentary skills or capabilities
  - Partners with similar skills may provide expanded geographic coverage
  - Partners with similar skills may just bring more resources to satisfy a large requirement
- **Teaming can help a company grow**
  - Mentor-Protégé programs
  - Informal learning from partners
  - Ability to take advantage of large/complex opportunities



# Teaming Agreements

- **Contractor teaming arrangement means an arrangement in which two or more companies form a partnership or joint venture to act as a potential prime contractor; or**
- **A potential prime contractor agrees with one or more other companies to have them act as its subcontractors under a specified contract or acquisition**





# Size

- **SBA's size standards define whether a business entity is "small" and eligible for Government Small Business Programs. (reference Title 13 CFR 121.101)**
- **Size standards have been established for types of economic activity or industry, generally under the North American Industry Classification System (NAICS).**
- **The size standard appropriate to a specific solicitation is dependent on the NAICS code assigned to that solicitation.**



# Size

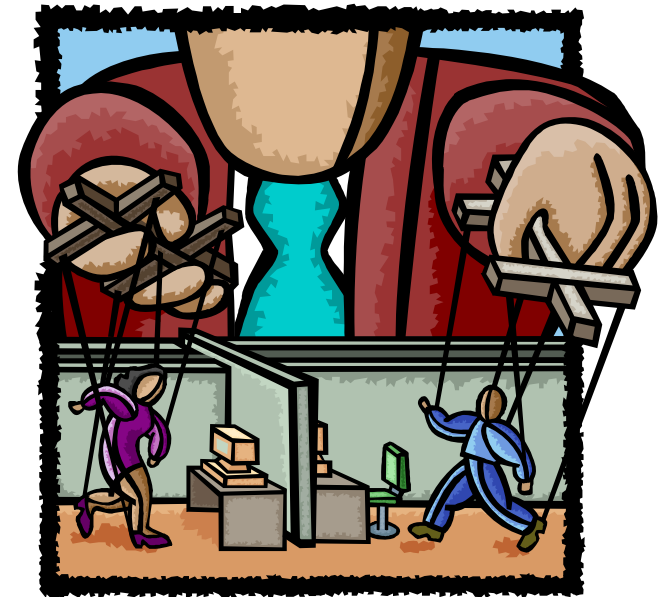
- **Size standards are generally**
  - Revenue based for construction and services
    - Average total revenue for three previous fiscal years; must be below size standard to be determined a small business
  - Employee based for manufacturing
    - Average total employees for each pay period during the previous 12 months; must be below size standard to be determined a small business
- **Calculations include data from affiliates**

13 CFR § 121.104 and 13 CFR § 121.106



# Affiliation

- **General Principles – Concerns and entities are affiliated to each other when one controls or has the power to control the other, or a third party or parties has the power to control both.**
  - Stock ownership
  - Stock options
  - Identity of interest
  - Newly organized concern
  - Joint Ventures
  - Franchise Agreement





# Joint Ventures

## SIZE:

- A Joint Venture (JV) between a protégé and an approved mentor under the SBA Mentor Protégé Program will be deemed a small business.
- A JV of two or more small businesses is considered a small business under the size standard of the NAICS code assigned to the solicitation.

PROVIDED...



# Joint Ventures

## PROVIDED:

- The procurement qualifies as a “bundled” requirement
- The Procurement is other than a “bundled” requirement and:
  - The procurement, with a revenue based size standard assigned, exceeds half the size standard of the corresponding NAICS code
  - The procurement, with an employee based size standard, exceeds \$10 million



# Limitations On Subcontracting

- **For general construction, the prime contractor will perform at least 15% of the cost of the contract with its own employees (not including the cost of materials)**
- **For construction by a special trade contractor, the prime contractor will perform at least 25% of the cost of the contract with its own employees (not including the cost of materials)**
- **For services, the prime contractor will perform at least 50% of the cost of the contract incurred for personnel with its own employees.**



# Ostensible Subcontractor Rule

- **Ostensible (adj):** seeming to be true or genuine, but open to doubt; presented as true, or appearing to be true, but usually hiding a different motive or meaning.  
*(Encarta Dictionary: English (North America))*
- **The Prime Contractor and Subcontractor roles appear to be reversed.**
  - The Prime Contractor appears to be working in a role subordinate to the Subcontractor





# Ostensible Subcontractor Rule

- **A subcontractor that performs primary and vital requirements of a contract, or the prime contractor is unusually reliant on the subcontractor.**
  - Subcontractor provides critical skills, facilities or equipment without which successful contract performance is impossible
  - Subcontractor provides critical financing to prime contractor
- **This relationship will be treated as a joint venture and therefore will be affiliated for size determination purposes.**



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