Moderator: Hello and welcome to today's live SBA web conference. Please note that all participant lines will be muted for the duration of this event. You are welcome to submit written questions during the presentation, and Deborah Crumity will repeat the questions that come in for the benefit of the entire group. To send a note, please select the participants menu at the top of your screen, and opt to send note to all presenters.

If you are logged in using the web-based application, please use the Notes function on the lower right-hand side of your screen and address your note to all moderators. In addition, to adjust the presentation view on your screen, on the participant application, click on the "fit to whiteboard" icon located on the lower left hand section of your screen. If you are connected via the web-based application, you can adjust the presentation view by simultaneously clicking the control and the plus or minus button on your keyboard. If you require technical assistance, please send a note to the ATTCES operator, or call our help desk at 888-796-6118.

I would now like to formally begin today's conference and turn the call over to Jan Kaiser. Jan, please go ahead.

Jan: Thank you, Carla. Hello everyone and welcome to today's First Wednesday webinar. Today's topic is contract bundling. This has been a major initiative in the last few years, along with consolidation and we are very pleased to have this as a topic. The SBA First Wednesday Virtual Learning series was developed by SBA's Office of Government Contracting in Area 4, to provide small business program training to federal buying activity personnel with an interest in procurement. So, contracting and technical staff.

The program audience has grown to include several hundred participants each month, with several thousand on the email invitation list, many outside of SBA's Area 4 footprint, to include SBA staff and our valuable resource partners, like, Procurement Technical Assistance Centers and Small Business Development Centers, as well as multiple agencies.

This program series concentrates on getting SBA subject matter experts to help these sessions provide information you can use in the performance of your job in the federal procurement process or in directly assisting small business concerns.

My name is Jan Kaiser and I work as a federal procurement representative, or PCR, in Chicago, Illinois. Additionally, with me today is Deborah Crumity, and she is a SBA PCR assigned to the Rock Island Arsenal in Rock Island, Illinois. And she will be reading questions submitted during the program for our speakers to address towards the end of today's session.

Just a little bit about how today's program is going to work. We will address questions that we received during the program at the end of our speaker's presentation, as I said. And, once again, if you're having technical problems, and you can hear my voice, but you can't log into the AT&T connect support application which is the online portion of the webinar, call the AT&T connect support desk at 1-888-796-6118. And if you didn't get that, the telephone number for the AT&T connect support desk is on the email invitation for today's program and on slide three of the PowerPoint slide deck that accompanied the SBA email notifying you of today's training.

Otherwise, just keep listening in and follow along with the PowerPoint that accompanied the invitation for today. This is why we will periodically announce page numbers. So for SBA small business program training, if you would like more SBA training, you can visit the SBA Learning Center at SBA's website at www.sba.gov.

So the Association of Technical Procurement Assistance Centers hosts a website where they post today's program, which will be recorded. So they post First Wednesday programming on their website as provided here on slide four. PTACs are a great resource and partnering with a PTAC for an industry day, sharing (?) notices and sharing (?) and referring small business concerns to a PTAC are just a couple of reasons that PTACs are such a useful resource for acquisition personnel.

This is a slide that will show you that our next topic is SBA's 8(a) development program or 8(a) program. When we conducted the survey earlier this year, we received several suggested topics regarding this particular subject and, as usual, we will be accepting questions at the end of that program. So be thinking about what you would like to ask or know about, for the 8(a) business development program next month on August 2.

Just a note – we will be sending the slides out for next month in the week of July 24, which will be a little later than usual, but the slides will be coming out with the invitation for the August 2 session. Please don't hesitate to suggest a topic for inclusion in our program as we are putting the FY18 programs together. Currently, we are thinking about that.

So one more thing before we get onto our topic for today. Everybody needs to know about today's PowerPoint containing the certificate that you are going to download once you fill in your name. And so today's program is worth one continuous learning point. This slide seven, is the certificate for today, where you are going to insert your name in that red highlighted area. You print that up yourself and upload that into your system or show it to whoever it is that you need to show the proof of your training in order to receive your CLP. SBA doesn't track those CLPs. We do not upload into your system. This is all self-serve.

So we're going to begin today's program on slide nine. There may be some delay in the slide changes on your screen. This is just one of those remote location webinar issues. Mr. Michael McLaughlin is the Assistant Director of the Office of Policy and Research at the SBA. I have heard Mike speak at a panel at the DOD Small Business Training Week, and the room was packed. So, Mike, we're pleased that you could fit us into your schedule and meet with us today. I will turn the program over to you.

Michael: Thanks, Jan. Thank you for inviting me to participate today. As Jan mentioned, this was a topic at the DOD-SBA conference in early April, and I haven't really changed the slides a lot since then. And I have retained a number of scenarios that DOD developed for the use of their personnel, which is near the end of the presentation. I have added a few slides at the very end. I am hoping that we have a chance to get to those. Where I enumerate some of the things that give you some authority in this area. Which then might provide opportunities for us to more favorably influence the production of contract bundling to our universe. So, with that said, let's go on to the next slide.

This is generally what the discussion topics are going to be about. It provides a listing of some general references on the topic. Some definitions. I want to talk about pre-award acquisition requirements because most of this is addressed in the FAR as acquisition planning. We will also take a look at some post-award requirements, including our requirements to provide a congressional report on this subject area. And then what follows are some scenarios, recommended best practices, and as I mentioned, some select PCR responsibilities that give you some authority in this area.

Slide 10. Those are the references that I mentioned. They are there for your future reference, if you want it in more detail. And if we could go to slide 11 – what I want to talk about here is a pie. The universe of consolidation is a rather broad universe, and it actually would, in some cases, not prohibit small businesses from participating or make it difficult for them to participate.

Bundling is just a small piece. But bundling is always consolidation, but not all consolidation is bundling.

So, to go on to the next slide, this is the definition of consolidation. When you solicit a single contract, including Multiple Award Contracts to satisfy two or more requirements for supplies or services that are valued in excess of $2 million and have been provided to, or performed for the Federal Agency, under two or more separate contracts that were lower in cost, than the contracts for which offers were solicited. Or to satisfy the requirements of a Federal Agency for construction projects to be performed at two or more discrete sites.

So when we talk about the second qualifier there, it's mentioning the number of sites, not necessarily a dollar value. Please go on to slide number 13.

Here, we talk about bundling. And bundling, again, is when you have two or more requirements for supplies or services previously provided or performed by a small business under separate smaller contracts into a solicitation for a single contract, again, including Multiple Award Contracts – that is likely to be unsuitable. That's the term. It's likely to be unsuitable for award to a small business concern. And the reason that it has been couched in that term, is this discussion is really taking place during the acquisition planning. So you don't know if it is going to be unsuitable, but it is likely to be unsuitable for award to a small business concern. So let's go on to slide 14.

There are thresholds that are identified and this is significant for our discussion today. It's considered substantial bundling if it's $2.5 million or more. That's for most agencies. A slightly higher level for DOD, NASA, GSA and Department of Energy. For DOD it's considered substantial bundling if it's estimated to be $8 million or more. For NASA, GSA, and the Department of Energy the threshold is $6 million or more. We now go to slide 15.

This is a FAR reference. So, during the acquisition planning phase, the agency head is responsible for ensuring that the acquisition planners to the maximum extent practicable are going to structure contract requirements to facilitate competition by and among small business concerns and will avoid unnecessary and unjustified consolidation or bundling.

So the agency head has that responsibility and to execute that responsibility, I would imagine that they would have to have some local procedures on how to go about doing that. We now go to slide 16, for those following along at home.

FAR 7.104(d). The planner coordinates acquisition plan strategy with the small business specialist for acquisitions meeting the threshold for substantial bundling. So again, we're talking about the $8 million, the $6 million and the $2.5 million threshold. The small business specialist notifies the agency Office of – the name varies, but it's the Small Business Disadvantaged Utilization – if bundling is unnecessary or unjustified or the bundled or consolidated requirement is not identified as such.

So that's a stumble-on type requirement. But if the small business specialist locally determines it's not, they are going to notify the OSDBU. And the OSDBU should be reaching out to the SBA representative if they are unable to get this changed. I would imagine they would want to do that just as a courtesy as well.

FAR 7.105(b). The acquisition plan must consider the impact of consolidation and bundling for the acquisition, and if bundled, they must identify incumbent contractors and contractors affected. Going on to slide 17.

This reference is to FAR 7.107-2(a). The agency shall not consolidate contract requirements with an estimated value exceeding 2 million dollars, unless the agency – and this elaborates on the resources – but it's a requirement. Market research should be identifying alternatives to that strategy. They have to make a written determination. That's important because it's documentation and our PCR's have access to contract documentation. So they must make a written determination signed by the senior procurement executive and coordinated with by the Office of Small and Disadvantaged Business Utilization that the consolidation is necessary and justified. And they must identify any negative impact on small business concerns. And they must include steps to include small business concerns in the acquisition. We go on to slide 18.

7.107-2(b). The market research. And this elaborates on what it must demonstrate. It needs to identify the benefits of the acquisition strategy and they must substantially exceed the benefits of each of the possible alternative contracting approaches. And generally, that's going to be 10% or more. And there is going to be some more detail provided, but in one case, if it's over $94 million, it's going to be 9.4 million or 5%, whichever is greater. So there is a substantial threshold for identifying substantial benefits.

7.107-2 (c). I should mention that my office is next to the Amtrak train tracks so you are going to hear those horns in the background, but this is a training event, so I request that you put up with it a little bit.

So 107-2 (c), the benefits can include cost savings or price reductions. And, regardless of whether it's quantifiable in dollar amounts. They need to identify this in their justification. The benefits can include quality improvements, such as savings of time, or improve and enhance performance or efficiency; reduction and acquisition cycle time; better terms and conditions; or any other benefit. They do need to quantify this. If we can go to slide number 19.

In FAR 7.107-2 (d), the quantifiable benefits that individually or combined lead to benefits equivalent to 10% savings. If the award value is $94 million, or less. And if the award value is greater than $94 million, either 9.4 million or 5% of the award value, whichever is greater. Non-quantifiable benefits – they must be identified and quantified to the extent feasible. Administrative cost savings alone are considered to be substantial alone, if they are at least 10% of the award value.

FAR 7.107-3 (a). The market research must demonstrate that the agency would obtain measurably substantial benefits as compared to meeting its agency's requirements through separate smaller contracts or orders. So that's a level of documentation. It must clearly – it can't just say probably. It needs to demonstrate that.

FAR 7.107-3 (b). They have to quantify the specific benefits through the market research and other techniques.

FAR 7.107-3 (c). It elaborates again that the cost savings/price reductions can be quality improvements, reduction in acquisition cycle times, better terms and conditions, or whatever. We now go to slide 21.

FAR 7.107-3 (d). It has to be quantifiable, measurable, substantial benefits that individually or combined lead to benefits equivalent to – and this is consolidation or bundling, this is the same standard. 10% or the greater of 9.4 million or 5% of the award value, whichever is greater. And if they are claiming administrative savings, they have to be able to quantify that and it has to be at least 10%. Slide number 22.

FAR 7.107-4 (b). When the strategy involves substantial bundling, and we have identified the threshold for substantial bundling is $2.5 million, $6 million, or $8 million, depending on the activity – the acquisition strategy must additionally identify the specific benefits to be derived from the bundling. They have to include an assessment of the specific impediments to participation by small businesses, and they have to specify actions designed to maximize small business participation as contractors, including provisions that encourage small business teaming. They must specify – please go to slide 23.

They must specify actions designed to maximize small business participation as subcontractors at any tier under the contract or order. They have to include a specific determination that the anticipated benefits of the proposed bundle contract or order to justify its use and identify alternative strategies to reduce or minimize the scope of the bundling and the rationale for not choosing those alternatives identified. Go on to slide 24.

I put together a quick matrix and I'm leaning forward on one of the initial notifications to the SBA PCR. Because I believe that a PCR can request that, and I would encourage that, that be done. But I'm going to speak to this in some more detail.

But this identifies some of the players involved here. You have the incumbent small business concern – it's supposed to receive notification 30 days prior to a solicitation going out that contains bundling or impacts that small business incumbent contractor. The SBA PCR, you should be engaging. You should have that in your grievance with the procurement activity. Since the notification to the incumbent small business concern contains your contact information or your office's contact information, that you would like to at least be copied.

And that's where I put that 30 day notification on the initial bundling. It doesn't appear elsewhere for the initial bundling notification, but you're getting it indirectly through the incumbent small business, so it would be quicker if you were included as a cc in the initial notification to the small business.

And for a follow-on requirement, the SBA PCR is formally provided with notification 30 days prior to the full solicitation going out. The procurement activity, if they are contemplating bundling, they need to be able to post that on FBO. And they need to annually, if they are going to continue to do this, they need to list and rationale 30 days – they need to post that 30 days within the period that they have accomplished verification and validation of the requirement. And the small business Specialist needs to be notified during the planning phase when the threshold for substantial bundling has been met. If we could go on to the next slide.

FAR 7.107-5 (a). The notification provided to affected incumbent small business concerns at least 30 days before the release of the solicitation – and they are going to provide to the small business concern the name and POC information of the applicable SBA PCR or the SBA area office of Government contracting. And that's where I feel that the PCRs should say – don't just give my name to the small business. So that you have the maximum opportunity to engage and influence the outcome. And they do need to document this, this is part of the formal contract file documentation. And that's available to the PCR. So if you haven't been contacted, and you are unaware of this, you should be able to go to that contract file and see if that notification responsibility was accomplished. Go to slide 26.

FAR 7.107-5 (b). Notification is provided to the public. The agency must publish it on its website with its rationale for which the agency solicited offers or issued an award. And within 30 days of the agencies certification of contract data in FPDS, they need to publish that. The agency is encouraged to provide notification of the rationale for any bundled requirement to the government point of entry prior to issuance of the solicitation. So this is an area where Congress really wants to discourage bundling and it wants a lot of public visibility of this. Go to slide 27.

FAR 7.107-5 (c). The notification is provided to SBA for follow-on bundled or consolidated requirements. And the CEO has to notify the PCR within 30 days before the release of the solicitation. They have to identify in there all of the things that we spoke of earlier. The amount of savings and benefits achieved under prior consolidation or bundling. So if they entered into the initial bundled contract and said that they were going to save $9.4 million a year, they should be able to articulate that in a follow-on notification, to see if they are on track for achieving that. And whether the savings and benefits will continue to be realized if the contract remains consolidated or bundled.

If you are in the conversation and they can identify savings or benefits, it's going to be difficult for them to articulate whether or not they're going to be realized if it remains consolidated or bundled. So I think that's a very good time to decide whether or not it's in the government's best interest to continue. And whether such savings and benefits would be greater if the procurement requirements were divided into separate solicitation suitable for award to small business concerns. And whether any requirements have been added or deleted from the consolidated or bundled requirement. Go to slide 28.

FAR 7.107-5 (d). The agency must publish government-wide policy regarding contract bundling, including the solicitation of teaming and joint ventures on the agency's website. So that should be available for your review as well.

FAR 7.107-6. In solicitations for multiple award contracts above the substantial bundling threshold of the agency, the CEO must insert the FAR costs – 52.207-6, which is solicitation of offers from small business concerns, and small business teaming arrangements or joint ventures. And one of the nuances of joint ventures – if small business concerns enter into joint ventures with other small business concerns for the purpose of proposing on a bundled contract, the rules of affiliation are suspended. It does not impact their eligibility to compete for other work. So that's a significant accommodation there. Go to slide 29.

These are my concerns. I have been doing reports for FY14, 15, and 16. There seems to be a focus on the part of the agencies on the initial justification for substantial bundling. And, again, for the Department of Defense that was $8 million. For most agencies, it's $2.5 million. And NASA, GSA, and the Department of Energy are $6 million. So there's a review process in place as part of the acquisition planning process. And that seems to be where a substantial amount of the attention is focused. Not so much on the follow-on contract effort.

So that's something that I would encourage people to engage in their procurement activities on – to see if they are actually continuing to monitor this. If they are exercising options after having determined that it is still in the government's best interests and they are able to quantify actual savings, rather than estimated savings.

Another concern that I have is the visibility of the contract file documentation to support continued bundling. PCRs and others have access to that specific contract file documentation. And if they asked to see it, they should be provided with that. If it doesn't exist, I think that actually is something that could be covered in the briefing to the agency head, or part of a continuing dialogue with procurement officials about – you know, they are not really doing the full job, if they're only doing – if all activities and determinations and levels of review end with the initial award.

There also seems to be a lack of definition for cost savings realized by bundling the contract requirements over the life of the contract. And there's a lack of definition for projections of continued cost savings. When I ask the question, it seems to be a challenge to identify continued cost savings. Slide number 30.

One of the things of concern is also compliance with the contracting agencies small business subcontracting plan. The total dollar value awarded to small business concerns as subcontractors versus their prior status as prime contractors.

So if they can't compete as prime contractors, it would be good to know that they are still receiving some work as subcontractors, as small businesses. And that helps mitigate the impact to the small business community. So I'm concerned about whether or not that plan is being adhered to. Also, the impact of bundling contract on small business concerns that are unable to compete as primes and industries for the small business concerns. Slide number 31.

A trend from the data that is being provided by the agencies – there are only 12 bundled contracts being reported in all of FY16. I don't know if that's a good number. But, by statute, we accept the information that is provided by the procurement activity. If there's improvement needed, and improving the accuracy of that, I solicit your help in helping to identify those and have them reported in FPDS. We are looking at an improved ability within FPDS. We had a development that took place earlier this year, in February where the reporting for consolidated and bundling of contracts was limited to DOD and it had rather an arcane number of characteristics that DOD was trying to collect for reasons other than consolidating and bundling.

Now it's very explicit and it has been expanded to all agencies to require them to report consolidated and bundling awards and there are some very specific criteria to identify whether it's consolidated or bundled. And I've made reference to the link there, if you are interested in the specifics, the specific set of changes. How it's reported in FPDS and the relevant FAR case that caused the change to take place in FPDS-NG. Slide number 32.

There's a FAR case moving forward at this time – 2017-008. And these actually implement statute. These are the three latest responsibilities that have been assigned to the Office of Small Disadvantaged Business Utilization. They have to conduct annual reviews of consolidated/bundled documentation. So if you become engaged in this area yourself, and you see a problem with that, you will have the opportunity to raise that to the attention of the OSDBU who are themselves responsible for conducting annual reviews.

There is a requirement for increased collaboration with Procurement Center Representatives. And there's a requirement for the OSDBU to assign small business technical advisors to pair and assist PCRs where they are assigned. And these have to be full-time, qualified, trained individuals that are familiar with the requirements. Slide number 33.

There's an annual assessment reporting to the agency head, and SBA. So the annual assessment reporting provides – identifies, that there has been a fair share of opportunities. That the adequacy of consolidated/bundled documentation and justification is sufficient, and that agencies have taken mitigating actions. So these are positive trends and requirements and documentation. Slide number 34.

There is a requirement for SBA to collect the information. And that's where the requirement appears. And it requires us to report a contract bundling. And the first element that we report is the number of displaced small business concerns by NAICS code. Go to slide number 35.

Description of activities with respect to previously bundled contracts during the preceding year – the number in total dollar value, the justification, the cost savings realized and projections for continued cost savings. Slide number 36.

Compliance for these bundled contracts. There is compliance with the contracting agency's small business subcontracting plan, including the total dollar value of awarded two small business concerns as subcontractors and the total dollar value previously awarded to small business concerns as prime contractors. And the impact of bundling contract requirements on small business concerns that were unable to compete as prime contractors and industries of those small business concerns. Slide number 37.

These are actually some examples. I'll provide those just for your review. These were provided by DOD. I don't disagree with the examples. Go to the next slide.

In this scenario we talk about three small businesses with contract values of 500K, 400K, and $1 million. Is this consolidation and bundling? As defined by the Small Business Act?

In this scenario, they can correctly conclude that it is not. Because it doesn't meet the $2 million threshold. And they draw the conclusion that it doesn't make it unsuitable for small business, probably because of the dollar value that is involved. Next slide please.

Scenario two. Here you have a consolidation of requirements. If you read the text, there, though the small businesses submitted a capability statement, it was awarded to a single large business, and does this constitute consolidation and bundling? Go to the next slide please.

And they acknowledge that this constitutes bundling, and they actually provide a reference there for a case, Sigmatech, Inc. Next slide please.

This is a checklist that DOD uses. You may want to share this. Next slide please.

Again, a checklist that DOD provides to their people. Next slide please.

So we could take questions here, but I would like to skip ahead a little bit. I provided some additional charts at the back end – go one more slide. Oh, I am sorry. These are some notes that I made for myself. I'll review them, really quickly.

A procurement representative is authorized to review any bundled or consolidated solicitation for contract. They have access to procurement records and other data of a procurement center that are at the level of such clearance. So they should be able to take a look at the documentation that is in the file. So if you are looking at bundled and consolidated requirements and you are not seeing the documentation about the savings, you are not seeing the determinations that say why it is worthwhile to continue – that's something that you can make an issue of.

A PCR is authorized to review any bundled or consolidated solicitation or contract, both for the initial review and continuing reviews for follow-on requirements. And that's something that you can actually assert or make explicit in your agreement with the procurement activity. And because you have access to procurement records, this is something that you can leverage to make sure that you receive the initial notification – a copy of the initial notification to an incumbent small business concern.

You should be able to see the rationale, whether the rationale for bundling is formally published. You can look for documents of actual cost savings and benefits for the contract that provides a justification for continuing to do so. You can take a look at whether or not the mitigating efforts for subcontracting – the agency's requirement for a subcontracting plan, whether or not the vendor has actually done that. You can take a look at whether or not the contract has a requirement for liquidated damages for noncompliance with the subcontracting plan. And you can get notice 30 days prior to follow-on requirement for actual continued savings where alternatives were considered and what changes were made to the requirement.

Also another opportunity is the annual briefing and report. You can take this information and you can present this to the head of the procurement center.

So those are my thoughts on the topic. If there are any questions or comments, I am available to address those.

Deborah: Michael, this is Deborah. Your presentation was awesome. The only question that we have is a question for the presentation, if you could provide access to that. No other questions regarding the presentation itself.

Michael: Now, I did provide a link, the URL to the OPPL webpage. And that will contain copies of the last three years reports to Congress on bundling. So if people want to go in there and take a look at what has been acknowledged to be bundling, there's only 12 contracts being reported currently as bundling. So if they happen to be a contract of your activity, that may be something that you want to access.

Deborah: Actually, we had a question that just came in. The question is – if an agency had one solicitation for multiple items as one, but that could result in separate awards for each item, does that mean it's bundled? I don't quite understand the question.

Michael: I think the key thing that we want to take a look at is that no matter how they are shaped, in their acquisition planning, the activity will need some approach to do their acquisition planning. And it's bundled if the small business concerns that previously were able to participate are now unable to. And one of the things that makes them unable to participate, if they had a requirement for painting a building on one military base, and they had the same requirement on 84 military bases. And now the businesses that respond have to be able to paint all 84 bases. That might be difficult.

So you have to take a look at what impediments are being done. If they are saying that you have to have an office locally, that you have to be located within 25 miles of all of the worksites, that you are required – you know, the purchase of equipment, that is there for some requirements they didn't have to have before. But now they have combined the requirements and you have to have equipment that you can't afford. That's an impediment to the small business.

You have to take a look at how it's constructed and why it's now unsuitable, where before, small businesses were able to perform on that requirement. Now it's been combined with other requirements in a way that a small business can't responsibly bid to do it.

Deborah: Thank you, Michael, and we have another question. You mentioned in the briefing, OPPL. What is that?

Michael: That is my home office. The Office of Policy, Planning, and Liaison. I'm the Assistant Director of OPPL. One of two assistant directors. I am also the Director for the Office of Policy and Research. And what we do, we publish the rules that go into the Federal Register and then we coordinate those changes with the FAR Council. We also set the goals for prime and subcontract awards by the 24 CFO agencies. And we monitor the achievements of those goals. That's what we do.

Deborah: Thank you. The next question is – can you clarify the slide that … [unintelligible]… saves $2 million for construction, and also can you clarify what the definition of discrete site as it applies to joint base sites.

Michael: The definition of bundling basically says it's not to exceed $2 million or it was a requirement that was at more than one site. So if it's two or more sites, and now you have consolidated the requirement, the example I gave was – you needed to paint the barracks at one military base and now they consolidated that requirement. And now it's 84 military bases around the country. So the individual small businesses that could work on one site might be challenged. They can't do it at all 84 sites. Does that help?

Deborah: I believe so. We don't have a follow-on question at this time.

Michael: Yeah, the way that it is written, it doesn't state a threshold for the construction. But I would imagine that a construction project – you know, it's going to be significant. If something is going to be consolidated, it's going to be a significant dollar value.

Deborah: Thank you. Are there any more questions?

Moderator: Deborah – I just sent you one to moderators only.

Deborah: Okay. The question is – well, I don't see the question.

Michael: I think the question is to clarify the definition of a discrete site as it applies to joint base sites. Well, one of the things that has happened through base realignment is – you know, here in our own area – we have had Joint Base Andrews that is now combined with another base.

So each base was doing its own procurement at one point in time, and that through BRAC or other actions, they have combined the bases and very often they will combine the procurement offices. So it doesn't change the fact that there might have been two sites before, you know, two sites with two contracts. And now, they want to have two sites with one contract.

Well, that meets the definition of consolidation and it possibly meets the definition of bundling, depending on the impact on small businesses. So for our purposes, we're not going to deal with the definition of a joint base, discrete. We're just taking a look at what the impacts are to small businesses, and I think that, that's the key approach here.

Deborah: Okay, I do have another question. In the part of the briefing where you didn't have presentation slides. Would you be able to send those out?

Michael: Those were just notes that I made for myself. But I will send those to Jan and she can distribute those.

Deborah: Okay, the next question. Which department were the 12 reported bundled contracts? Were these all DOD?

Michael: The majority of those were DOD. GSA reported two requirements, both of which at the time that they were reported were under protest. And only one of them actually has dollars against it in FY16. And the dollars that were against it were actually DOD dollars. So I think it was an Air Force requirement.

So, almost, across the board, all the actual dollars that were obligated in FY16, both for initial and follow-on contracts, were with the Department of Defense.

Now I will share with you that there is a change that is about to be published to the FAR. At one point in time, we did not include overseas procurement in the small business goaling. That changed in FY16. So we have now included those dollars. But there was still a provision in the FAR that was a legacy of that practice. There was a provision in there that said that bundling doesn't apply overseas. And I wasn't here when that was put into the FAR, but I guess that we were indifferent to it. Because we didn't consider that in our small business goaling.

But since we started to include overseas contracting in our small business goaling and base, we revisited that point, and the civilian agency council and the FAR Council have a great – we haven't published it – but they have agreed to eliminate that exemption. So the FAR previously excluded overseas contracts from the bundling definition. That's going to end very shortly.

So I believe we have some contracts that are overseas. I think that USAID and I think the Department of Agriculture has some contracts overseas that they are not reporting, because they don't meet the definition, as adjusted by the FAR. So we might see some, I would say maybe 3 to 6 additions, to this. Once that is published in the FAR.

Deborah: Thank you. I have another question. Why is it that small businesses are more likely to be impacted by bundling, yet the substantial bundling that DOD… [unintelligible]… requires coordination with the OSDBU and OSBP is higher than that applicable to consolidation … [unintelligible]…

Michael: Well, here's the thing. It's possible that – and I'm trying to look over the shoulders of Congress on this one – but they're supposed to look at ways to avoid the practice of bundling, period. They are supposed to be doing that. And looking for ways to mitigate the impact of that. So there's an additional level of review that comes into play at 2 ½ million, at 6 million, and $8 million, depending on the activity.

It's gotten to the point now, where it's catching people's attention. And we, at this point, we trust that you are making every effort to discourage this practice. But now that we are talking somewhat serious dollars, at this point, we want to have a formal review process in place. And that's where those requirements kick in. So it's an additional level of engagement and review that takes place when it becomes but they call substantial bundling. Does that help?

Deborah: I believe so. I don't have a follow-on to that question. But I do have another question. The next question is – are most of the awards for construction IDIQ contracts for a given geographic area where two or more projects requirement may occur during the term of the contract, but where the base IDIQ is awarded at zero dollars, considered a consolidated requirement under the definition of discrete sites?

Michael: The definition of consolidated and bundled, I think, is consistent. If they are issuing an IDIQ contract, or BPA, or whatever – they are not obligating any dollars with the initial award. Once they start making the award, and there are different ways of doing that. And there are ways that allow for small business participation. When they put that contract – when they are doing the planning for that contract – they have to have an estimated dollar value. They actually have – there is a requirement, a formal requirement – for them to have a ceiling price on the contract. So, if they have a multiple award contract, they have to be able to say that the ceiling on this contract is $500 million.

Once they reach that ceiling, they are generally allowed to increase it by maybe as much as 10 or 20%, depending on the activity and the level of review. But, there's an estimated value for that contract. So if the issue is, what's the dollar value, it really doesn't – it has nothing to do with the fact that the original IDIQ came out of zero. Very often it is at zero. The dollar value comes with the actual orders that are placed against it. So a consolidated requirement has more to do with the levels of participation that took place previously. Whether or not there was more than one contract being used previously. Does that help?

Deborah: Thank you Mike. I am checking to see if we have any additional questions. And, I don't see any, at this time. Are there any more questions?

Jan: I don't see any more questions, either. But I think that the questions that have been asked have been some really really good ones. I like the construction and the discrete sites. That always comes up. And the last question on the IDIQ at zero dollars – you are right Mike, there's going to be some concerns that were identified when the IDIQ was initially developed.

And those concerns that are doing – that are currently performing that work, might be considered incumbents. So, yeah, that's an interesting question that they asked in that last scenario, as well. And I appreciate the scenarios that you provided in your presentation. So, with that, I think we're done for the day. Mike, I can't thank you enough. This has been a super-hot topic and I'm so glad that you could fit us into your calendar. And remember everyone, next month – the First Wednesday program. It's going to be held on August 2. It's going to be about the 8(a) business development program, and that will be our last program for fiscal year 2017. And it's been a joy, working with all of you today so far this fiscal year. Carla?

Moderator: Thank you all for joining today's conference. This session has now concluded. And you may disconnect.

**[End of Recording]**