

Carla:

Hello and welcome to today's live SBA web conference. Please note that all participant lines will be muted for the duration of the event. You're welcome to submit written questions during the presentation and Valerie Coleman will repeat the questions that come in for the benefit of the entire group. To send a note, please select the participant's 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, 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 ATT CES 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 Kaiser:

Thank you Carla. Hello everyone and welcome to the March 1st Wednesday webinar. The SBA First Wednesday Virtual Learning series was developed by SBA's office of government contracting area four to provide small business program training to federal buying activity personnel with an interest in procurement, both contracting and technical personnel. The program audience has grown to include several hundred participants each month. Many outside of SBA's area four footprint, including SBA staff and our valuable resource partners like procurement technical assistance centers and small business development centers.

This year we're concentrating on getting headquarter level speakers and hope discussion provides information you can use in the performance of your job in the federal procurement process or assisting small business concerns.

I'm Jan Kaiser and I work as a procurement center representative in Chicago, Illinois. Additionally, Valerie Coleman, the SBA prime contract program manager, will be reading your questions submitted during the program for our speaker to address towards the end of today's discussion.

Let's discuss how today's webinar works. If you're having technical problems and can hear my voice but cannot login to the AT&T portion of the webinar, as Carla mentioned earlier, call the AT&T Connect Support desk at 1-888-796-6118. If you did not get that, the telephone numbers for the AT&T Connect Support desk are 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 and follow along with the PowerPoints that accompany the invitation for today. That's why we'll periodically announce the page numbers. Also, for more SBA small business program training you can visit the SBA Learning Center at www.sba.gov.

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The Association of Procurement Technical Assistance Centers post a website where they post First Wednesday programming, we're on slide four by the way. Their website is provided here on slide four. We have also provided a link to how PTACs partner with federal agencies. To learn more about PTACs and where the closest one to you is located, view the link on this slide. Partnering with a PTAC for an industry day, sharing [inaudible 00:03:51] and RFI notices or referring small business concerns to a PTAC are just a couple of reasons the PTACs are such useful resource for acquisition personnel.

Please note that for the remainder of the 2017 season, we've returned to a start time of 9:30 AM central. For a temporary time trial change in December, January, and February, we appreciate the willingness of our invited speakers to accommodate our request to change their speaking time or reschedule to a later date. Thank you also, Carla, out AT&T facilitator for working with us to set up and conduct the trial. Our topic next month will be government subcontracting compliance. This is a topic that a number of folks will want to listen in to. Our subcontracting compliance is a topic we often get questions about. We will, as usual, be accepting questions at the end of that program so be thinking about why you would like to ask.

We're still looking for feedback. We've got until March 31, 2017. I know we've been talking about this for a while since we only get together once a month, we wanted to remind you of the opportunity to express your thoughts about the time for the first Wednesday program to be held and topics to be covered in next year's First Wednesday program. The Survey Monkey link may not work for some agencies but we still want your opinion. If SurveyMonkey is a prohibited site for you, please send us an email to sbalearning@sba.gov.

Today's discussion is one continuous learning point. This is kind of how this works. You're gonna fill in your name on the certificate that's provided on slide eight. Fill in your name and print the certificate from the PowerPoint to request credit for today's session. SBA does not track CLPs or communicate with your training program regarding your CLP achievements. It's up to you to go through your agency's process using this certificate to provide evidence of your training today.

On slide nine we just want to talk a little bit about something that we've talked about in previous discussions last year. Do not recommend fee for service .com firms for SAM registration. This past month we've been contacted about several [inaudible 00:06:21] or [inaudible 00:06:26] posted by different agencies. These agencies are referring small business concerns to get registered in SAM using a .com service. Additionally, these announcements are instructing firms to complete and provide evidence of their ORCA, or Online Representation and Certifications Application. ORCA has become a part of spam, so this language should always be advised. Please revise any templates that you're using and share with others that SAM registration is free and done on the SAM website at

www.sam.gov. Please do not endorse a private company to perform SAM registration for a fee.

So we're on slide 10. We're gonna begin today's presentation with the speaker directing me to change the page as we go along. As the presentation progresses, there may be some delay as the slide changes on your screen. This is just one of those remote location webinar type of issues. Mariana Pardo is the director of the SBA HUBZone program and Alison Mueller is an attorney advisor regarding consummate law. Ladies, we're very pleased you agreed to meet with us and talk about the HUBZone program today.

Mariana Pardo:

Thank you. Thank you so much for having us. If you could ... Thank you. We are on slide 11 and we're gonna stay there for a minute because I wanted to start, I wanted to begin today by sharing the story of a small business in Wyoming. This helps us illustrate the impact that you all have in the likes of those who reside in our country's poorest areas. Back in 1984 a small engineering and environmental consulting firm started by a geologist and a chemist opened it's doors in an impoverished, non-metropolitan county, Albany County in Wyoming. The primary [inaudible 00:08:20] was and is environmental remediation services with a sight standard of 750 employees. In 2011, Trihydro receives it's HUBZone certification. And so result of their certification, the company has been awarded over 9.7 million dollars in prime contracts and they have been able to provide dozens of local job opportunities. Greater benefits for their employees, extend the company's capabilities, and provide greater value to their community and its members.

In 2014, they actually celebrated their 30th anniversary. The business has grown from a two person firm based in Laramie, Wyoming to a team of nearly 400 employees and 15 office locations with additional staff resources in 25 states and projects around the planet. Now it is important to mention that the 9.7 million dollars of HUBZone awards represents for the firm about 10% of their revenues. As Keith Marcott, senior vice president, states, "Trihydro understands that because of our status of a HUBZone Certified Small Business, our company has been granted unique opportunities for growth and our success provides us great ability to give back to the economically disadvantaged area that we live in. We have formed partnerships and agreements with multiple local entities that provide innovative benefits to both the community and to our company for the long term success of each. For example, in 2007 we secured a business ready community grant to build additional office space needed to support continued growth at our headquarters in Laramie. Our lease payments made to the city of Laramie for the new building are allocated to a segregated fund that recycles money back into the community to promote economic development, usually in the form of low interest or no interest loans for no and/or small businesses."

This company combats unemployment and retains talent in Wyoming by actively seeking qualified graduates of the University of Wyoming to fill it's open positions. The University of Wyoming is the only four year university in the state

and is therefore an integral piece in informing and fostering Wyoming's educated workforce. As of December 2013, Trihydro employed 103 people that held degrees from the University of Wyoming, representing over one quarter of the company's total workforce. In the years to come Trihydro will outgrow it's small business standard of 750 employees and will no longer benefit from the HUBZone program contracting opportunities. They're already planning ahead to mentor a small business, perhaps to have some fun, that could benefit from their experience as a federal contractor.

I hope that you keep this story in mind. It's one of many that you learn today or refresh your understanding of the contracting with HUBZone Certified firms. Let's go to the next slide please, slide number 12.

This is what we're gonna be covering today. A brief overview, then we're going to go into set-asides and sole source. We're going to look into the set aside of orders. We're going to cover the price evaluation preference when dealing in full and open competition and then we're gonna be closing with limitations on subcontracting and the non-manufacturer rule. Let's go to slide 13 please.

So this is the overview, let's go to the next one. It's important to mention that the HUBZone program is administered by SBA and what that means is that a firm must apply for certification. It's not a self-certification like a woman-owned small business for example or [inaudible 00:12:40] small business. They must apply for certification. SBA receives the application with the term and compliance and the moment we approve the firm, their profile in the dynamic small business system is refreshed to indicate that the company is certified. The last bullet to emphasize, only the firms in the list in the dynamic small business system, only those firms that their profile show that they're HUBZone certified are eligible for contracting preferences and awards. Let's move on to slide 15.

The HUBZone contracts include those awards made to HUBZone firms through sole source awards, 100% HUBZone set aside awards and partial set asides. Full and open competition, where the price evaluation preference is applied. Reserves for HUBZones. HUBZone firms under a multiple award contract and also orders set aside for HUBZone small business concerns against a multiple award contract, where the multiple award contract was awarded in full and open competition. Let's move on to the next slide, 16.

The status ... Sorry, 16 please. Thank you. When a firm submits an initial offer, they're certifying to the agency, to the contracting officer, that they are appearing in the dynamic small business search, the SBA list. What is important when you are processing, when you are looking at your proposals, it's important to look at that list to verify that the proposals that you have received are from HUBZone firms, especially in a set aside obviously. And then when you're about to award, you have to double check that list obviously. They're also certifying to the contracting officer that there's been no material change in the circumstances that could affect their eligibility since the time that they were

certified. They're also certifying that they're small under the NAICS code assigned for the procurement and that they will attempt to maintain the 35% residency requirement during the performance of the HUBZone contract. Let's go to slide 17.

So to be eligible for a HUBZone contract, the firm must be compliant. They must be a HUBZone firm both at time of offer, at the time they submit the initial offer, and at the time of award. Now the second bullet I have to alert you that it's changed. The joint ventures, they used to be [inaudible 00:15:50]. In order for a joint venture to be considered a HUBZone joint venture, all the members had to be HUBZone certified but that changed last year in June of last year or thereabout. Now, that's opened up tremendous amount of opportunity because the HUBZone joint venture can be formed by a HUBZone firm and members that are not HUBZone certified as long as the HUBZone firm has the majority control of the joint venture. Another change that took place is that in order to determine the size for the joint venture, we are looking at the size for each member of the joint venture whereas before we would aggregate.

So let's say that the standard for the procurement, let's say that it is 750 employees. Right now you have a joint venture form by a HUBZone firm that owns the joint venture 51% and a woman small business concern. The HUBZone firm has 600 employees, the woman small business has 200 employees, the joint venture will still be considered small because we're looking at the size of each joint venture member. Let's go to slide 18 please.

I wanted to go over how the profiles look when a company is certified, not certified, or has been certified before because sometimes it's a little bit of confusion. This is basically the dynamic small business search. Let's go to 19. In this particular slide, slide 19 and it's gonna come up ... Let's go on to the next one because sometimes it's easier to look at the picture. So this slide here kind of in the middle of the page of this particular firm shows that in the HUBZone certification field, it shows that it's certified because there is a check mark under yes and it shows the date that it was certified. What is important to note is that agencies do not need to ask the companies for a copy of their re-certification letter or a copy of their certification letter. By seeing that the firm here in the dynamic small business search shows as certified and it shows the date, that is sufficient proof for you to go ahead and consider this firm as a HUBZone certified firm. Obviously the data that DSBS contains is auto-populated to the SAM profile of the firm and that would appear there but in here you would be checking also this site and you will be presented with the data that was initially certified.

Again, if a firm provides you with copies of their certification or copies of their re-certification, that is fine however do not use those as confirmation that the firm is certified because the firm could have been de-certified within the last week or so. So it is very important that you consult this database. Let's go to slide 22, present another example.

This is an example of a firm that is no longer certified. It was certified back in 2000 ... Oops, let's go back please. This is an example of a firm that was certified previously and the way that you know that it was certified previously because it has a certification date, nonetheless it says no. Sometime this year, probably in the next couple of months or so, this is going to be amended a little bit to provide clarity. You will see 'no' for example if a firm was certified before and instead of just having the certification date, it's gonna show the period that the firm was most recently certified, okay? So that's gonna be a little bit of an enhancement that it's gonna provide a little bit more clarity for the agencies. Okay, let's move on to the last example on this one.

This is an example of a firm that was never HUBZone certified, particularly it's that the certification date is not applicable. The [inaudible 00:20:44] was never certified, okay? And this of course again is very relevant when you are reviewing the offers and when you're selecting the [inaudible 00:20:55] you must make sure that you do your due diligence and follow the [inaudible 00:20:58] by checking the dynamic small business search. Okay, let's go to slide 23.

So the relationship among all the small businesses. HUBZone is part of the small business socioeconomic group. It's a program within the small business socioeconomic, which includes 8(a), service-disabled veteran-owned, and women-owned small businesses and there's no order of preference among these small business socioeconomic programs. In determining which one you're gonna use, at the minimum you need to take a look at where your agency isn't fulfilling the small business goals as it pertains to socioeconomic and also perform market research. Let's move on to slide 24 please.

So parity, HUBZones and parity. Below at the simplified acquisition threshold, 3,500 to 150,000, the acquisition is automatically reserved exclusively for small businesses. So the contracting officer may award as a small business set-aside or as any of the other socioeconomic categories, HUBZone 8(a), service disabled veteran owned, or woman owned small business. Above 150,000 basically if the contracting officer is expecting to receive offers from two responsible small businesses and they're expecting the award will be made at a fair price, they must set it aside. That's what we call the rule of two. They must set aside for small businesses before awarding as small business aside. But they have to consider first the socioeconomic. The contracting officer must first consider awarding as either HUBZone, 8(a), service disabled veteran owned, or woman owned small business. Now the exception obviously is that if it's been accepted by SBA under the 8(a) program or it's a company that is an 8(a) program doing this work, it must remain in the 8(a) program unless SBA agrees to its release. Let's move on to the next slide please.

Now we're moving a little bit deeper with HUBZone set asides and sole source awards and I'm gonna move and ask my colleague Ali Mueller to continue. Thank you.

Alison Mueller:

Hi everyone, thank you. We can go to the next slide. So here we're talking about the HUBZone set aside procedures and below the simplified acquisition threshold a contracting officer may award via HUBZone set-aside. We just saw that on that recent slide where we were talking about parity. So below the simplified acquisition threshold the award must be made to some kind of small business and you can choose as the contracting officer to award it as a HUBZone set-aside in order to fulfill that requirement. Above the simplified acquisition threshold, that's where the rule of two kicks in and if the rule of two is met, then the contracting officer shall consider a HUBZone set-aside before considering a HUBZone sole source award or before considering a small business set-aside. Again, that's the rule where if we're looking at a contract above the simplified acquisition threshold, then the socioeconomic programs take precedence over a straight small business set-aside.

In order to award via a HUBZone set-aside if that's what you've decided to do or that's what you're looking to do, you have to have a reasonable expectation that offers will be received from at least two HUBZone firms. Again, that's the rule of two, and you have to be sure that award will be made at a fair market price. Next slide please.

This is if you've decided to do a set-aside. In the event you only receive one acceptable offer from a HUBZone firm, the rules say that you should go ahead and make award to that firm. If, however, you've decided to do a HUBZone set-aside and you end up not receiving any acceptable offers from HUBZone firms, in that case you should withdraw the set-aside and re-procure most likely as a small business set-aside a regular small business set-aside unless for some reason you don't think that that will result in any offers either, especially if the rule of two isn't met for small businesses. Next slide please.

Here we're talking about HUBZone sole source awards and the rules say that a contracting officer can award a sole source contract to a HUBZone firm, again, before considering a small business set-aside if the contracting officer doesn't expect to receive offers from at least two HUBZone small businesses. In other words, if you expect to receive only one offer from a HUBZone firm, that's one of the requirements to do a HUBZone sole source contract. For those of you that are familiar, or perhaps more familiar with the 8(a) program, that's a big difference between how a HUBZone sole source award requirement is met versus an 8(a) sole source. So for HUBZone, you can't just decide to do a sole source award. You have to be sure that [inaudible 00:26:50] one or you're likely to only receive one offer.

An additional requirement is that the acquisition must be greater than the simplified acquisition threshold. On the other end of the spectrum the anticipated price of the contract, including options, cannot exceed certain thresholds and you should always, this red box, reminds you to check for FAR inflation changes. The current numbers should be right right now. So currently [inaudible 00:27:19] HUBZone sole source award the contract has to be valued

at seven million or less for a manufacturing procurement or four million for all other requirements. There's a lower threshold for when you can do a HUBZone sole source award.

As we mentioned also previously the requirement can't be currently performed by an 8(a) participant or accepted as an 8(a) requirement unless it's been requested and approved by SBA. In order to do a HUBZone sole source award the HUBZone prospective awardee needs to have been determined to be responsible and then once again award must be made at a fair and reasonable price. Then this very last bullet points out that SBA has the right to appeal a contracting officer's decision not to make a HUBZone sole source award. Next slide please.

Next we're gonna talk about the set aside of orders for HUBZone firms. Next slide. The big difference for set-aside of orders compared to regular, so to speak, HUBZone set-asides is that in general the rules specify that this is discretionary. We'll get to that a little bit more but the FAR provides, we've included the FAR citations showing where you can set-aside orders for HUBZone firms and this first citation specifies that when you're setting aside orders for HUBZone small business concerns or any other small business concerns, the specific small business program eligibility requirements in part 19 apply. Part 19 of the FAR in large part is, well it's the FAR implementation of the SBA rules, which are found in parts 121, 124, 125, 126, and 127.

FAR part eight specifies also that when setting aside orders and BPAs against the GSA schedule specifically, once again the part 19 rules apply and what this mean is, for example, the HUBZone joint venture requirements would apply if you've decided to do a set-aside of an order for HUBZone firms or for example the HUBZone limitations on subcontracting would apply. Next slide.

Next we're gonna talk about the HUBZone price evaluation preference and we often get a lot of questions on these, so please feel free to ask. This is a hot topic generally, so I've added an extra example which hopefully will help. Next slide please.

Jan Kaiser:

Slide 33.

Alison Mueller:

Thank you. So the HUBZone price evaluation preference should only be used in acquisitions that were conducted using full and open competition. The preference shall not be used where price was not a selection factor, will not be a selection factor. Common example is for architecture and engineering contracts and the preference should not be used where all fair and reasonable offers are accepted and here the common example is when you're awarding a multiple award schedule contract. Next slide please.

How do you apply the HUBZone price evaluation preference? So once again it should be only applied in full and open competition. It should also only be

applied when the lowest, responsive, responsible offeror is a large business. So anytime the prospective awardee is not a large business, you're not gonna be looking up the HUBZone price evaluation preference. Where you have found a full and open competition and the lowest bidder is a large business, in order to apply the PEP you do so by adding a factor of 10% to the other offers which include the following. You apply a factor of 10% to that low bidder that's a large business, the first bullet up there. You deposit a factor of 10% to offers from HUBZone firms that have, for some reason, waived to the price evaluation preference. We sometimes get questions about why they would ever do that. The main reason a HUBZone firm might waive the preference is if they don't think they can meet their limitations on subcontracting, which would otherwise apply if they received the benefit of the PEP or the non-manufacture role.

And then finally the PEP would be applied, the 10% would be applied to offers from small business concerns that are not the apparent successful offeror. And then this last note reminds us you would apply PEP first before doing your best value analysis. You look at the change in price and then you would do your best value analysis. Next slide.

Our first example for how to apply the price evaluation preference. In this example on the left we start with the original offers that we've received. In this example the HUBZone firm, a HUBZone certified small business, submitted an offer of \$113. Then we had a small business that submitted an offer of \$103 and a large business that submitted an offer of \$100. Here the price evaluation preference applies. We're assuming we're in full and open competition and the large business appears to be the lowest bidder. If we apply 10% to each of those offers, other than the HUBZone firm, the HUBZone firm remains at 113. The small business if you're looking at the FAR rules versus SBA rules, it can be a little confusing 'cause the description on how to apply the PEP differs slightly. So I've tried to include both with this demonstration.

Here you see that the small business, when you add 10%, their offer goes up to \$113.3. Another way of thinking about it if it is easier for you to think about this way is realistically when you're in a price evaluation scenario, all you care about is that large business that's the lowest offeror and any HUBZone firms that were offerors. If a small business was second in line, third in line, anywhere in there, they kind of drop out. You can apply the 10% to see how they continue to not be the lowest bidder but if it's easier to just look at the large business that was originally the low bidder and the HUBZone firm, that makes sense to do that anyway.

In this case after we've applied the 10% price evaluation preference, we see that the large business is still the lowest bidder at 110 versus the HUBZone business which has a bid of 113. In this example the PEP does not benefit the HUBZone small business, so you would continue to award to the large business. At the very bottom of the slide we have noted that after PEP is applied the price is

equal, then you should award to the HUBZone firm and that's in the SBA rules. Next slide please.

Here's our next example and in this example the HUBZone firm submitted an offer of \$100. The small business \$97 and the large business \$95. We apply 10% to the large business and the small business and we see that at the end the HUBZone firm is the lowest bidder at \$100. In this example the PEP does benefit the HUBZone firm. Once again I've grayed out the small business' offer as well as applying the 10% to it to demonstrate that you're really not looking at their offer 'cause since they weren't the lowest to begin with, we know that after applying 10% to their bid, they're still not gonna be the lowest but [inaudible 00:35:37] for you to see it written out. Next slide.

In this last example we see that it was a full and open competition and in this case there was a small business that was the lowest offer. In this case since the lowest bidder was not a large business but it was a small business, you would not apply the price evaluation preference. The price evaluation preference is not meant to hurt other small businesses in order to benefit a HUBZone firm. That's why the rules say it's only applied if the lowest bidder is a large business. And again ask questions at the end if you have them about this. We've tried to make it more and more clear but it's kind of a complicated rule. Next slide.

Okay we're gonna talk about the limitations on subcontracting and the non-manufacturer rule. Next slide. The limitations on subcontracting. The good news here is that these rules have recently changed. We included the citation to the final rule that was published last year and become effective in June of last year. Mariana mentioned that the joint venture rules changed also. We can send that. We'll update the slides with that citation so that you have that information as well. Under the new rule a HUBZone small business prime contractor may subcontract part of a HUBZone contract as long as the requirements in this chart are met. For a services contract, for example, as long as it's not a construction contract. The HUBZone prime contractor can spend no more than 50% of the value of the prime contract on subcontractors that are not HUBZone firms.

The rule is if you've kind of heard it in conversation, this is often called the similarly situated entities rule. In this case contractors that are also HUBZone firms are referred to as similarly situated entities. If you're talking about a small business set-aside and looking at the limitations on subcontracting, then other small businesses would be considered similarly situated entities and in any case the similarly situated entities are the work that subcontractors to those don't count towards maximum of 50% that you can spend on subcontracting in general. Here I won't walk through all of them but for different types of contracts that the amount that can be subcontracted varies. Next slide.

Here we're talking about the non-manufacturer rule. Once again in the same rule that updated the rules for the limitations on subcontracting, that final rule also amended our HUBZone non manufacture rule and both cases the HUBZone

rules are now consistent with the rules that are applied to all of SBA's other socioeconomic programs, so that should make things easier for contracting personnel because if you know the limitations on subcontracting rules for one type of small business, then you know it for all of them. Same thing for non-manufacturing rules. If you know the new rule for one, you know all of them. For HUBZone purposes, it used to be that to qualify as a non-manufacturer, the work done by the actual manufacturer of the product had to be a HUBZone firm. Now the case is in order for a HUBZone firm to submit an offer as a non-manufacturer, then it just has to provide the products of another small business and it has to be a small business and the work has to be done in the US, so it's a domestic small business.

Also, a native saying for HUBZone is that a contracting officer may request a waiver of the non-manufacturer rule for HUBZone contract. It used to be that there was no waiver for HUBZone but you can now request waivers, which is an improvement for the HUBZone program. It should make it easier to use. And then the last bullet on this slide points out that for HUBZone contracts at or below 25,000, a HUBZone small business may supply the end item of any domestic manufacturer. It doesn't have to be a small business and that's to say the same is true for the other programs. Like I said, all these rules are consistent. So for any contract at or below 25,000, the end manufacturer simply must be a domestic manufacturer. And the next slide.

So the HUBZone limitations on subcontracting and the non-manufacturer role apply to all HUBZone contracts. HUBZone contracts include HUBZone set-asides and partial set-asides, HUBZone reserves, orders that are set-asides for HUBZone firms, and awards to HUBZone firms under full and open after the HUBZone price evaluation preference is applied. The compliance period for set aside, both full or partial HUBZone set-asides, the compliance period is the base term and then each subsequent option period. However, of these noted here, a contracting officer can always require a concern to meet the limitations on subcontracting or the non-manufacturer roles for an individual order. Again, that's consistent with all the small business rules now. And then for an order set aside under full and open competition, the compliance period is the term of the order itself. And I think last slide, yeah.

We're to questions.

Valerie Coleman: All right, well we do have some questions that have come in. One is how long is a HUBZone certification good for and does SBA do a revalidation of that?

Alison Mueller: So the HUBZone certification currently lasts for three years and you have to re-certify every three years to SBA.

Valerie Coleman: Next question is how does this relate to service disabled vet preference? I thought they took preference over everyone.

Alison Mueller: That's a good question and one we receive a lot. For the veterans preference, only applies to contracts that are being issued by the department of veterans affair. Any other agency that's putting out a contract to bid, that SDVO preference does not apply. All of the programs are equal, so again the veterans program is only for VA contracts.

Valerie Coleman: Okay, and one of the questions came in about asking for the slides and I think we've put everything out there that if you did not get the slides, then you would go to sbalearning@sba.gov and they will be sent to you. I think you might've answered this. I think you did answer it but maybe a little more information. Under what circumstances would a HUBZone waive the price evaluation preference?

Alison Mueller: Yeah that is kind of confusing because it seems unlikely to happen and I haven't seen it happen often but they might waive it if they are aware that they couldn't, for that particular contract, they cannot meet the limitations on subcontracting because if the preference was applied and they were awarded the contract based on the preference, then the limitations on subcontracting apply to that contract. And if they know ahead of time they can't meet it based on their resource allocation for contracts that they're performing at the same time and they don't want to be held to that standard because they can't meet it and they think they can win without the preference, then that's when they might waive the price evaluation preference.

Valerie Coleman: Okay. Has the map on the SBA website been updated to the most recent changes?

Alison Mueller: I'm gonna defer to Mariana on that one.

Mariana Pardo: Yes, in terms of the designation we have not updated the maps with the latest qualified [inaudible 00:44:48]. That's the one that is missing. We have an Excel spreadsheet and they have some mapping landing page in the website that shows the latest [inaudible 00:45:00] but those do not yet reflect in the mapping itself. Now one thing that I want to let you all know is that by April or so we will have a new mapping that we're all gonna be using. By the time the new mapping comes live, we will have the [inaudible 00:45:23] in the mapping, okay?

Valerie Coleman: Okay. You mentioned that HUBZone can receive sole source awards at seven million and four million, respectively. Does this mean a direct award like 8(a) direct awards or do they require a justification for other than full and open competition?

Alison Mueller: Good question. There's not a separate justification requirement. The difference, though, is that for a HUBZone firm the contracting officer has to expect to receive only one HUBZone offer, again, versus in the 8(a) scenario there can be many 8(a) firms that maybe can do the work but the contract officer can pick

one to do to award a sole source contract too. That's not the case in the HUBZone contracts. In the HUBZone contracts, it's a stricter requirement for better or for worse, we would face the worst because we like the [inaudible 00:46:24] contracts going to HUBZone first but there has to be only one HUBZone contractor out there that can do the work in order to do that award and sole source contract to that contractor.

Valerie Coleman: Okay.

Mariana Pardo: This is Mariana. Let me ask my colleague, Ali. Some agencies that are doing very well in their [inaudible 00:46:47] that are either meeting or exceeding the 3%, they've incorporated a strategy so whenever they're issuing a sole source, they're limiting the sole source to have some funds to respond. If I issue, I'm sorry, [inaudible 00:47:04] I apologize. If I issue a [inaudible 00:47:08] and I only receive one firm that responds to that, would I be able to issue sole source to that firm or what other considerations do I need to have in mind for that?

Alison Mueller: That sounds like if [inaudible 00:47:28] for long enough and was clear enough, then that sounds like a good basis to do a HUBZone full source award. Of course if you had other information through your other types of market research showing that there was more firms out there that could do the work and more likely to respond, then you wouldn't be able to do a sole source award but it's a good way to at least [inaudible 00:47:52] your market research.

Valerie Coleman: Okay, is there a limited timeframe for a business to re-certify as a HUBZone?

Mariana Pardo: This is Mariana. They have to re-certify on the third year anniversary. I was just notified [inaudible 00:48:10] 60 days before that date coming up and then it provides another reminder 30 days before and they notice it's a re-certification [inaudible 00:48:23] we have on record and the email address that the firm has in the dynamic small business first. So that is important for all of you that are on the call that are counselors to continue encouraging the firms to maintain those profiles up to date because they will be receiving this notification of re-certification via the emails that we have in the dynamic small business search.

Valerie Coleman: Okay, we're getting a lot of questions folks. Are justifications required for sole source HUBZone acquisitions?

Alison Mueller: No. Once again the HUBZone sole source award doesn't require a justification as long as those requirements are met. You think there's only one potential awardee that's the HUBZone firm and the award can be made at fair market price. There's no separate justification.

Valerie Coleman: Okay, when may the contracting officer award a sole source contract for acquisitions less than the simplified acquisitions threshold?

Alison Mueller: So my understanding, and I've asked this myself, is that I don't think you can do a sole source award under the simplified acquisition threshold.

Valerie Coleman: Okay.

Alison Mueller: And I can, I'll make a note to myself to look that up again but that's my understanding.

Valerie Coleman: Okay. I know this doesn't exist but the question was asked. Does a Native American set-aside hold more weight than a HUBZone set-aside?

Alison Mueller: Nope, nope. Not right now.

Valerie Coleman: Okay. On slide 28 that dealt with HUBZone sole source awards, are these awards like the 8(a) program where the requirement must stay HUBZone once it's in the program?

Alison Mueller: No, so the once 8(a), always 8(a) rule is an 8(a) specific concept. It does not apply in the HUBZone world.

Valerie Coleman: Okay. May we use your presentation when providing training to contracting personnel?

Alison Mueller: Sure, yeah. By all means and if anyone has feedback about the slides, we're constantly working on making them more clear so we're happy to hear back.

Valerie Coleman: Okay. How would a HUBZone certified business establish a joint venture as a subcontractor?

Alison Mueller: Hmm, as a subcontractor? I mean [inaudible 00:50:50] don't get into that. Our roles don't specify how a subcontractor ... Let me see, I'll get back to you on that one because I don't want to make up something and confuse anyone but the short answer, I think, is that there aren't specific rules about how a subcontractor would joint venture but yeah I'll look into that.

Valerie Coleman: Is it accessible to utilize the SAM [inaudible 00:51:22] search record to verify HUBZone?

Alison Mueller: Sorry I'll defer to Mariana because I think she knows this better.

Mariana Pardo: Yes, before actually the statute established they have some programs required [inaudible 00:51:39] maintain the list of HUBZone certified firms and we maintain the list in the dynamic small business search, which feeds into SAM. [inaudible 00:51:50] that pertain to HUBZone actually direct the reader to really use the DSBS, the dynamic small business search. It is very little disconnect to one and the other, although we found sometimes very few times where there

is, for example, SAM may show not to be certified whereas the DSBS they are certified.

From a contracting officer, contracting specialist, I would rely on the dynamic small business search and of course if you have any questions whatsoever you're welcome to contact SBA and we will assist you.

Valerie Coleman: Okay. Is it worth it for a business that falls within a redesignated HUBZone area to apply for HUBZone status?

Alison Mueller: I mean it's gonna be a business decision. A redesignated area is only redesignated for a period of three years, so maybe not realistically. Let me let Mariana take this because this is probably her wheel house more.

Mariana Pardo: Thank you. Yes obviously the firm needs to think about that obviously, that's a very good question because if the firm knows that maybe they have another office in another part of the country, in another part of the state, and that area is already qualified but they have very few employees there and the firm sees that as they continue to grow, they're going to eventually have more influence in the other office. It's already in a qualified area and this area that is expiring will not affect their principal office and their residency requirement because it's both things right? The employee residency requirement and the principal office.

They can certainly look into all those factors and actually we do discuss that if you're interested in bringing that up, we go a little bit more deeper into this consideration during our office hours. We provide office hours to [inaudible 00:53:57] from 2:00 PM to 3:00 PM eastern standard time talking about the considerations that a firm might make when applying. They are in a redesignated area.

Valerie Coleman: All right. If the census track changes and the firm is no longer in a HUBZone, does the SBA automatically withdraw that company's certification?

Mariana Pardo: Okay, the regulations have a couple provisions. Obviously when a census track is no longer designated to HUBZone, it may be impacting that principal office or it may be impacting the 35% residency requirement for the employees or it may be impacting both. So our regulations require the HUBZone to inform SBA of any material change that may be impacting their eligibility. Again, when they're submitting a bid remember that the firm is saying to the contracting office that there is no material change that is impacting their eligibility. We spend a lot of time really [inaudible 00:55:07] how to manage their compliance.

In terms of immediate de-certification, no. We have to provide due process. So basically when an area expires, we obtain the funds that are being impacted by the expiration of that area and resend them notices of proposed de-certification and the firms have 30 days to respond to that notice of de-certification. Again, just because an area is expiring doesn't mean that the company's out of

compliance. They could have another location. They could have a lot of other employees in other parts of the country that are HUBZone. We're seeing that often enough.

Remember that principal office is defined as the place where the decorated number of my employees from any one place are working from. If I have multiple offices and I have one office that has the majority of the employees [inaudible 00:56:07] is in a HUBZone, then that is the principal office. It doesn't talk about headquarters. That is the unique aspect of the program because it's economic development obviously, so we want to make sure that the [inaudible 00:56:20] have the minimum number of employees there to prosper economic development around the area where the firm is located at.

Valerie Coleman: Okay. Do you have to post a pre-solicitation or a sole source HUBZone procurement on FBO?

Alison Mueller: Good question. I do not think so but once again let me get back to you on that, on the posting requirement. I don't think you do.

Valerie Coleman: Okay. If you want to award a sole source to a HUBZone, do you have to notify SBA for approval or submit a offering letter?

Alison Mueller: You don't have to submit an offering letter. Mariana is [inaudible 00:57:02].

Mariana Pardo: No can you repeat the question please to make sure that I understand?

Valerie Coleman: Okay, if you want to award a sole source to a HUBZone, do you have to notify SBA for approval or submit an offering letter?

Alison Mueller: Okay yeah sorry we got it. No, you don't have to notify SBA. You don't have to have that approval letter the way that you do with 8(a). The reason is with 8(a) program, SBA is technically the prime contract and that's why SBA is so involved in that process. The HUBZone context, the HUBZone business is the prime contractor so you can do that award and document your contract file to support it without SBA's direct involvement.

Valerie Coleman: Okay, has the FAR been updated to reflect the changes in the limitation in subcontracting that you mentioned?

Alison Mueller: I don't believe so. I'll check on the status of that and provide a more specific answer. I'm sure they're working on it, I'm just not sure how far they've gotten.

Valerie Coleman: Okay. Can we also provide SBA HUBZone liaisons with updated presentations? Can we do that to HUBZone certified firms and potential firms also? Can we show them this PowerPoint?

Alison Mueller: Yeah, of course.

Valerie Coleman: Okay. Who controls SBA compliance reviews? For example, site visits.

Alison Mueller: The site visits are conducted by SBA field personnel. Wherever the site visit needs to be conducted, there will also be a HUBZone office somewhere in the vicinity because we have offices all over the country.

Mariana Pardo: And then, this is Mariana, just elaborating. And then the program office here in Washington DC evaluates their findings. So if a firm is found that they're not in compliance, the field personnel went there, the firm is a boarded up place, then the HUBZone office here in Washington DC would issue a notice of proposed de-certification to the firm, provide the firm 30 days to respond, and we will evaluate the response of the firm and then determine whether they are in compliance or not. If the firm does not respond within the 30 days of receiving the notice, then they will be de-certified due to no response to the notice.

Valerie Coleman: Okay I'm gonna ask one real quick question because I know we're coming to the end of our time and we have some additional questions. I will get those or you can address them to sbalearning@sba.gov and we will forward them to our presenters to get an answer. But very quickly, do HUBZone firms need to re-certify status or indicate no material changes exist before a contracting officer can exercise an option year on an existing contract?

Alison Mueller: In general no unless the contracting officer, I think that the exception would be if the contracting officer requires re-certification, then ... And the business would never be re-certifying to SBA unless they were due for re-certification to SBA. If the contracting officer wants before exercising an option for that business to re-certify to the contracting officer that they are still HUBZone, then that's within their discretion to do so.

Valerie Coleman: Okay, are we at the end of our time or can we take another question?

Jan Kaiser: I believe we're at the end of our time but I believe also we've had some ... I know I've received some emails and inquiries I've seen about how to get the certificate of training for today's event and the certificate of training is one of the slides that is in the PowerPoint that was sent with the email invitation. You're not gonna be able to download your certificate from the PowerPoint that you're viewing online here. It's part of the PowerPoint with the invitation for today's event. If you need that certificate to fill in, contact us at the SBAlearning@sba.gov email address and Carla, do you have any other comments?

Carla: I do not.

Jan Kaiser: Okay, thank you. So thank you for joining today's conference. This session has now concluded and you may disconnect.