

Candace: Welcome and thank you for joining today's live SBA web conference. Before we begin, please ensure you're in the WebEx event and have opened the chat panel by using the associated icons located at the bottom of your screen. You are welcome to submit written questions during the presentation and these will be addressed during Q&A. To submit a question, select all panelists from the drop down menu in the chat panel and to your question in the message box provided and hit enter to send. Note that this conference is being recorded and that all audio connections are muted at this time. If you require technical assistance, please send a chat to the event producer. With that, I'll turn the conference over to Valerie Coleman. Please go ahead.

Valerie Coleman: Thank you Candace. Hello everyone and welcome to our March edition of our first Wednesday on Certificate of Competency or our CoC program. If you are wondering why you are not hearing Chris's voice as he normally is our wonderful host, Chris and his wife welcomed a new baby boy in to their family last week. So while we say we're missing him, we're glad that he's home and they have a healthy baby boy now and he will be back next month. And we also have Charles is on the phone to be able to take your questions at the end.

Valerie Coleman: As Candice said, my name is Valerie Coleman. I'm the program manager for the Prime Contracts program with the office of government contracting and I have oversight over the first Wednesday program and I will be your host today. I'm not as good as Chris, but hopefully we will get through all of this.

Valerie Coleman: So the first thing we want to talk about and I'm on slide four is we will do our presentation and then we'll have about 15 minutes for questions and you'll be able to type those in and Charles will be giving out the questions at the end and our speaker will be glad to answer them. If we do not get to your question at the end or after the webinar is over, you have a question. You can always send it to our inbox, which is [SBA learning@sba.gov](mailto:SBAlearning@sba.gov) all one word, SBAlearning, SBA and then L-E-A-R-N-I-N-G at [sba.gov](http://sba.gov).

Valerie Coleman: If you have any technical problems, please contact Candace, who's our moderator with the note, or call her at (301) 250-7202 we know that some of you have firewalls and other things that won't allow you to look at a computer screen and see the PowerPoint, so as we're going through it we will be giving the page numbers so those that are looking at just the hard copies, we'll be able to keep track of where we are in the presentation. We also have additional training that is at SBAs learning center website and we have given you the address at the bottom of slide four if you're interested in additional training.

Valerie Coleman: One of the great things that we have going on with the first Wednesday is our association with the procurement technical assistance centers. We all work in government contracting, very close with the [P Tax 00:03:14] sending a lot of small business clients over there. And the great thing about their services is because the tax dollars, our tax dollars are paying for it. All of their services are free. So it's a wonderful resource for small business owners, not only in federal work, but city and state and county work also.

Valerie Coleman: The other thing great about the P Tax is they have agreed to post our first Wednesday's on ... We show the link on page five where that link is, I get a lot of emails in the inbox and I manage the inbox of I missed the last presentation and I want to get credit for it. Where can I find it? And so this is being recorded and within a couple of weeks after the end of the webinar, it is posted at the app tech web address that you see. Also we give you the web address for the P Tax is so you can find your local one and also give up those resources on the local ones small businesses that you deal with.

Valerie Coleman: On to page six is our calendar and you will notice we are on webinar number six. And so our next one will be on April 1st and we go all the way down to August the 5th. We do not hold a webinar in September because we know how busy the end of the fiscal year is. There may be some changes to this, some shifting of some of the programs. I've gotten a lot of emails about the women owned small business certification program and how that's going to operate and we hope that the July timeframe is going to be a good one. We're trying to time it up when we think that everything's going to be coming out. So look for that special webinar on July the 1st.

Valerie Coleman: We are on slide seven. We know that you want to get a COP for attending this webinar and I will show you the slide in just a second, but I on slide seven, it gives you the directions on how to do this. And let me go ahead and showed you this slide on slide eight. So you'll see where it says this certificate is awarded to, insert your name here. All you do is copy this and download the certificate. Or you can type in your name and do a print of just this slide and it will be printed off. And then you can put it into whatever system that you have to get your one COP.

Valerie Coleman: SBA does not keep track of your COPs. A lot of people have sent the certificates to us and we send them back saying we don't do any of that. You submit them through whatever system that you do have. And so we want to make sure that you get your COP. So if you have any problems with that, send us an email at [sbalearning@sba.gov](mailto:sbalearning@sba.gov) and we'll make sure that you get a copy of that. And so again, there's a copy of slide eight so that you can see that. So you will get one COP for completion of the CoC program webinar.

Valerie Coleman: We're very pleased today to have Mia Fagley, who's an industrial specialist in area five of SBA's office of government contracting within SBA. And Mia, she graciously accepted our invitation. Chris always says that and I love that. So she graciously accepted our invitation and at this point I'm going to turn it over to Mia to do our presentation on CoC. Mia.

Mia Fagley: Hello everybody. I hope everyone's having a wonderful day. Next slide. Go ahead and go to the next slide. So, Certificate of Competency, the reason why we're all here today. First and foremost, I'd like to clarify that this is not in fact an actual certificate or a certification. To be honest with you, it's much more of an appeal process for small businesses, for competitive bids.

Mia Fagley: Whenever a small business is an apparent successful offer, if they are deemed to be non-responsible, per regulation they have the ability to submit a certificate of competency so that SBA is an independent third party reviewing the documents and information from both the referring contracting office as well as the small business. And we will review whether or not we agree with the contracting officer's initial determination or if the small business has provided information to overturn that initial finding. You can go to the next slide.

Mia Fagley: CoCs apply for almost all contracts. However, each time we do a Certificate of Competency, it's only going to be specific for the solicitation or contract that they are referring it for. Another thing I'd like to point out that's not written on this slide is that we will not do Certificate of Competencies specifically to 8A sole source contracts. Reason being is that firm was selected by that contracting office and it was not done through a competitive means. And therefore if they have any concerns, they should go back to the business opportunity specialist, which they've offered that to, to have further discussions. And if they still have concerns, they can select another 8A firm. So our CoC would not necessarily be applicable in that situation.

Mia Fagley: We only do one referral at a time unless it's a multiple word contract. And as I mentioned previously, the results are only going to be applicable to that specific solicitation. Next slide, which is 13. One thing to mention that we get questions from contracting officers frequently is what is the likelihood of it being overturned or not overturned? Statistically speaking, historically, almost every year of the referrals that we receive, only about 50% of the small businesses will actually apply. And of those 50%, only about 50% will actually have a CoC issued. So the issuance rate is about 25% historically speaking nationally.

Mia Fagley: Next slide. Here's some basic information that you would need to know regarding the regulations that oversee the CoC program. First and foremost, the business has to be small. And so one of the first things that we will review is their size as well as do they meet the criteria for that particular program. So let's say for instance, if it's a service disabled veteran owned small business set aside, we would need to confirm that they in fact meet that certification, especially when it comes to joint ventures.

Mia Fagley: If a business decides not to pursue a CoC, it does not negatively impact that small business. It's not recorded anywhere. It's not in your C pars anything like that. It's a business decision that they just make regarding that particular solicitation. If SBA, while doing the review, find other areas of responsibility that we find not acceptable, we can also decline the CoC for other reasons outside of the initial referral. And the key thing is on top of being a small business is there has to be a determination of non-responsibility, which is different than responsiveness.

Mia Fagley: Next slide, 13. First and foremost it's really important to understand the difference between responsiveness and responsibility. I've mentioned a CoC, you have to be found non-responsible. So the areas in which the contracting

officer would first make this determination would be in areas like, financial capacity or resources. If they were able to comply with delivery schedules, charts, any other business commitments, if they have a satisfactory past performance record, for integrity cases it's very different. If you have an integrity case definitely just reach out to the industrial specialist that oversees that firm because it is in depth and very different and very complex, which we could spend a whole another hour just on integrity cases.

Mia Fagley: If they have accounting in place for controls, technical skills, staff, personnel, all of those things. But the key thing to keep in mind when we're looking at these areas of responsibility is it doesn't necessarily have to be in place today, but do they have the ability to obtain them? Also it's very important that your solicitation is specific because if you state that, let's say for instance you have to have a certain security clearance but you state by the time of award, that can give them a lot of extra time to get that certification. So they may not necessarily be non-responsible at that point in time. Versus if you stated must have this certification or clearance in place at the time of bid, then that would be something called responsiveness, which leads me to my next slide. 14.

Mia Fagley: Technically speaking only bids can be classified as non-responsive. However, in RFPs and RFQs if they find that the offer is unacceptable, the result is the same. And the way that if you want to look at situations like that is, is it a situation that their offer or proposal fails to conform to the material terms and conditions of the solicitation, then they would be unacceptable/nonresponsive and you would dismiss that particular offer, same results.

Mia Fagley: Also in some situations where they'll do multiple levels of evaluation in terms of a pass-fail, that actually is technically a responsibility issue. And one thing that the CoC program has requested is in situations where that is the case, to do all of the areas of evaluation before submitting a CoC. Otherwise you'll be limited to just the one area and we will not do multiple CoCs on the same firm for the same solicitation. So would actually benefit the procuring activity to wait so they know all the areas that they may be have been found non-responsible.

Mia Fagley: Next slide. I've mentioned responsiveness or unacceptability are basically the same thing. It's just different types of procurements. But an example of that would be is if it was late, that's non-responsive. If they didn't provide specific required licenses and certifications as mentioned, it's going to be very specific to what exactly the solicitation states. So it's very important that you're clear on when you're writing your solicitations.

Mia Fagley: Also, a bond if they do not provide the required bond and it's listed in the solicitation. However, in situations where there's like minor infractions, they have to be provided an opportunity to rectify that, but doesn't mean they get to change their proposal, that just means if they forgot to sign it possibly or required financial documentation, they should be afforded the opportunity to submit that. As I mentioned, offer some proposals technically cannot be deemed non-responsive, but if it fails to conform to the material term and

condition as the solicitation and is found to be unacceptable. Or you can use the word unawardable, then it would be basis for dismissing the offer.

Mia Fagley: Next slide. So we're on 16, you're following along. When you're referring CoC to the SBA, first and foremost, as I mentioned, you want to ensure that they're small. And secondly, your determination of responsibility is key. The more specific, more evidence that you provide, the better. Please don't just check a box and say that they were found non-responsible for financial. What areas of financial? Was it they didn't have a line of credit? They're working capital's too low? You want to be specific so that we as an independent third party can accurately review from both perspectives of whether or not this is an accurate determination.

Mia Fagley: Next slide. One thing for contracting officers that we haven't provided previously is it's really important that all of these items that are listed for requirements for referral package is much of it as you can provide, you should provide. Reason being is we're going to look at every aspect of this thoroughly from your perspective before we look at it from the small businesses perspective when they are trying to appeal your decision. So it's really important that you provide all contact information including email address.

Mia Fagley: A lot of CoCs are trying to transition to an electronic version. So it's very important that email addresses and contact information is provided. Please try to make sure it's up to date and accurate, as mentioned, you're going to want to put your determination of responsibility what their total price was, solicitation, the next code. I'm not going to read them off to you because you can do that on your own, but it's very important that you include all of the elements of the solicitation. So that if there have been any amendments or anything like that, we can review them when we're reviewing the application from the small business as well.

Mia Fagley: Next slide. As I mentioned earlier, integrity cases are very different, specific to have this business harmed the government and in what fashion and are they convicted of a crime? Are they currently being investigated by the department of justice? Any kind of indictment, those would be areas that you could submit for integrity cases, but you would need to provide a very long, lengthy explanation and also documentation to support and substantiate this allegation. And we do look for extensive documentation, it can't just be a rumor, but if you have further questions on that, you're welcome to reach out to your industrial specialists that oversees your area as well.

Mia Fagley: Next slide. This is slide ... It should be 20, but for some reason it says 18. All referrals have to go to, per regulation, it has to go to the area office. However, like myself, I'm in area of five, but I do not work out of the Fort Worth Dallas office. I work out of Colorado. And so for the sake of time and keeping things orderly, I do recommend that you reach out to the industrial specialist that oversees the area in which the small business is located that you have found to be non-responsible. Reason being, I would hate for you to delay your contract

any further than it already will be just because it was sent to the wrong office. So be sure to reach out to the correct industrial specialists to ask questions of whether or not they are accepting electronic applications or referrals or if they're still doing hard copy as well.

Mia Fagley: Next slide. It says slide 22. So I'm not sure how these slides are misnumbered but they are. One thing I'd like to be clear is while a CoC has to place a procurement on hold for 15 business days, six of those is to provide time for the applicant or the small business to submit the information and documentation that is required for them on their submittal. I only have a blip bit of everything that's required, but on the checklist that we submit to the small business, there are 11 line items and item 11 has items A through H.

Mia Fagley: So there are a lot of items that are required from a small business may have a very short time to gather that information for their application. And so please keep in mind that we realize that an award may be delayed, but we also need to provide the small business enough time also that's regulation required in order to submit their application so they can provide a proper appeal for themselves. Form 1531 is the CoC application and that we also require them to fill out a form 355 so that we can a process whether or not they are in fact small because that is one of the requirements. We also ask for a extensive amount of financial information, cashflows as well as information requiring equipment and technical capacity. So we do look at it in its entirety and extensively.

Mia Fagley: Next slide. As I mentioned just a few minutes ago, per regulation there's a period of 15 working days in order for a CoC to be processed fully. However, while I do not have the authority to grant an extension, I will request extensions on behalf of the small business if they request it. In the end, the contracting does have the authority to make the determination if they have the ability to grant an extension. So depending on when funds will run out budgetary restraints and need to award, the contracting office will decide whether or not they can grant that.

Mia Fagley: We cannot expedite referrals. Reason being is per regulation we have to allow a minimum of 15 business days to process the CoC. Whenever possible, if we do happen to get information quickly if we can get it done quicker, we will, but we just can't guarantee any kind of expedition. As I mentioned at the very beginning, if a business decides to declined to provide an application, it will close the case, and the contracting officer can award to the next in line, but it will not negatively reflect that small business for declining to submit a CoC.

Mia Fagley: Next slide. It says 21 for the slide number. So there's only two options really. And it's probably pretty obvious. You can either issue a COC or you can decline a CoC. And when we issue a CoC, what it really means is we feel that the small business is in fact responsible and has provided enough documentation to overturn the contracting officer's initial determination. If SBA decides to decline the CoC, the contracting officer will go to the next apparent awardee. And by the way, the small business does not have the authority to protest or appeal the

decision. Reason being is this is already an appeal to a decision that was already made. And so if it's been declined, we're agreeing with the contracting officer's initial determination. However, if SBA declines a CoC, the contracting officers still have the ability to award to that small business and a direct award if they feel they are now in fact responsible.

Mia Fagley: Next slide. If SBA decides to issue a CoC and the contracting officer feels that we have made an error, they do have the authority to request SBA to suspend the case so that they can either go back, review in detail SBA's decision and how we came to that determination. They can request to look at the documentation and they could also ask for an appeal to SBA headquarters if they deem that we have made a grave error.

Mia Fagley: Next slide. These are your appeal options. It's determined by the size and dollar value of the particular contract. So anything below that you cannot appeal, which is slightly contradictory since that is above a \$100,000 now. But up to \$25 million, you do have the ability to appeal the CoC to headquarters. And of course, anything above.

Mia Fagley: Next slide. So slide 24, which the CoC decisions that no precedent. As I mentioned, each one of these CoCs are separate and individual. It's going to be specific to that firm for that particular solicitation. So if they get declined on a CoC and we receive another referral for a different contract, that doesn't set any kind of precedent. Everybody's situations change. In some cases if a CoC is actually in fact issued, but then we receive another CoC, their financial position may change because now they've been awarded a different contract. So each one is going to be specific to the time solicitation and the firm at that particular time.

Mia Fagley: Next slide. As we mentioned, this isn't going to be 100% of everything you'll ever need to know with CoC. I will say there are rules and regulations and standard operating procedures that we follow, but a lot of cases, these referrals are very subjective ... Not subjective, it's very relative at the moment. Sometimes situations will occur that are different than anything we've ever run into before. So if you'd like to read up more on CoCs, you can look that up at 13 CFR 125.5 and we've actually just recently updated our SOP 60.04 and it's in the process of being approved right now.

Mia Fagley: Next slide. Here's something really important, contact information for each of the area offices with regards to Certificate of Competency. These are going to be the individuals I highly recommend before even submitting a referral to reach out and contact them so that you can discuss the particular situation of whether or not a CoC is actually even applicable. Where to send it to, should it be in hard copy or electronic copy and steps to take from there. I do know that in area six, Marina Laverty, has retired and I didn't have time to update the slide. But the new contact individual for area six is Aaron Para. That's A-A-R-O-N P-A-R-A. And his phone number is (818) 552-3297. I'll repeat that. (818) 552-

3297 and you can reach him via email at [aaron.para@sba.gov](mailto:aaron.para@sba.gov). Next slide and we are open for questions.

Valerie Coleman: Okay. Charles, I know I saw some questions coming in. Do you want to go ahead and start with those?

Charles: Yes. So the first question is do you in the CoC office ever make referrals to the SBA size determination division? For example, suppose the CO finds the small business non-responsible and violating the limitations on subcontracting, will you and the size office jointly work the case?

Mia Fagley: Okay. That's kind of two different questions. So limitations of subcontracting is not necessarily size concern, that's more a performance concern. So that would be an area of responsibility that the CoC division would review. However, if we run into a situation where we receive a referral and through and "Small business applies" and upon reviewing the documentation that they've provided, we have concerns of whether or not they are in fact small, we will actually suspend the case, the CoC case and then internally refer that to a formal size determination. So in that situation, it's no longer in the CoC program hands, it's now in the size hands and they will do their own review, which is another 15 working days to do a determination of whether or not they are in fact small. Based on the outcome of that particular review will determine how we proceed.

Mia Fagley: So if they are found to be other than small, there will be no more CoC because they are not eligible for a COC. If they are found to be small, then we will continue with the CoC process, review all the documentation information and proceed. And just a heads up, I failed to mention this earlier. Contracting officers sometimes ask me why does it take 15 days? The timeline is the first five to six days is just to allow the small business an opportunity to submit their application. Days six through 15 an industrial specialist will do review regarding their technical capacity in all of the other areas, and then there's a separate individual who review the financial documentation and information, create a financial review and report. Then we have a committee meeting, we review all the documentation as a group, we vote and then come to a final conclusion and a formal letter and determination is provided.

Mia Fagley: So that is why it takes 15 business days. It can be delayed depending on whether or not a formal size determination it needs to be made or in some situations, as I mentioned, if it is a set aside procurement and we have concerns of whether or not they actually meet the eligibility of that particular program, it will be suspended in a formal review or protest of whether or not that small business actually meets the eligibility requirement for that program will then be done.

Charles: Okay, so the next ... Oh, I'm sorry. Are you finished?

Mia Fagley: Yes, I'm finished.

Charles: Okay. All right. So the next question is, so is SBA not yet permitting a CO referral package be submitted electronically?

Mia Fagley: It depends. Not all of the area offices have been equipped with the infrastructure to be able to accept them electronically, so that is why it's important to reach out to the industrial specialist to find out which format they can currently accept.

Mia Fagley: I also highly recommend before you ever send anything, whether it be email or by mail, pick up the phone and have a conversation because a lot of times a CoC may not even be applicable and then you've just wasted postage and a lot of paper.

Charles: Okay. The next question is on about page 15, slide referring to responsiveness, it's cited far apart 14, which is seal bidding. If we are procuring under far apart 15, would far apart 14 be applicable?

Mia Fagley: Okay. As I mentioned, responsiveness is only technically utilized for bits. So in situations where you are doing a RFQ or an RFP, per definition we can't date responsiveness. However, you're going to utilize the verbiage of did it fail to conform to the requirements of the solicitation? If it is a no, then they are unacceptable and the same outcome will be as it was, if it were responsiveness.

Charles: Okay. Next question. A small business can also make its own self-referral to the CoC office, correct?

Mia Fagley: No, only a contracting officer has the ability with the determination of non-responsibility to initiate a CoC.

Charles: Okay. Next question is, if the agency declines to accept an extension past the 15 days that is afforded to the SBA, is it equivalent to a type of deemed denial?

Mia Fagley: No. The CoC, as I mentioned, is that appeal forced and forthright and we're already delaying award. It's kind of like if they could, they would, but sometimes they just can't. Because if funding is expiring and they have to have it awarded by a specific date, they just don't have the ability to grant any additional extensions.

Mia Fagley: And I will say, let's say out of 10, if I request 10 extensions, I'd say seven of them will grant them, historically speaking. But you're not guaranteed that. So as much as you can, you should try to provide it within the timeframe that is granted to you.

Charles: Okay, thank you. Next question, would it be fair to say that violation of the limitations of subcontracting may be some basis that contributes to a binding by the SBA affirming the CO's decision of non-responsibility?

Mia Fagley: I'm a little confused on that question. Are they asking if the referral was submitted for limitations of subcontracting, that would be an area we would review. We always review limitations of subcontracting and it's based on information that they've listed in terms of here's the total contract value, here's the dollar amount we plan on self-performing and this is the dollar amount we're planning on subcontracting. We'll try to do a comparison to what they've submitted in their proposal. It shouldn't change. It should be the same. But I've noticed in a lot of situations they don't necessarily clarify it that specifically in their proposal. And so this gives them the opportunity to fill it out specifically by percentage and dollar amount. So I'm a little confused with that question. So if that person could follow up with the clarifying if I answered that or not if I misunderstood the question.

Charles: Okay. We'll move to the next question and then that question can be submitted further to the email address for questions. And the next question would be page 23, the contract base valued between 100,000 and 25 million. Half of the 100,000 increased to 250,000.

Mia Fagley: Yes, it's the simplified acquisition threshold.

Charles: Okay. If a contractor gets a CoC then is the award made to SBA as the prime with the contractor as the sub?

Mia Fagley: No. It is per regulation. If a CoC is issued they have to award that small business. We are not involved other than following up with that small business. We do follow up with the contracting officer as well to ensure successful performance. If they aren't successfully performing, that's a whole separate conversation. But no, SBA is not the prime, that small business is still the prime. But there are things in place to ensure successful performance.

Charles: Great. Okay, thank you. Next question. When making set aside determinations firms are eliminated after RFI or sources saw, do they have regress?

Mia Fagley: Do they have, I'm sorry, what?

Charles: It says regress.

Mia Fagley: I don't understand the question.

Charles: Okay. When making set aside determinations, firms are eliminated after RFI. Okay. So I'm taking it that this is talking about the market research portion where the firm is eliminated as far as making the determination to set it aside. They're saying that the firm is eliminated during the RFI and sources thoughts stage. So do they have any recourse to take-

Mia Fagley: No.

Charles: ... if they've been eliminated during that stage?

Mia Fagley: No. So CoC is basically one of the final steps you would take. So after reviewing proposals and finding a small business to be non-responsible, the determination of responsibility has to be made. At that point in time, there's been no determination of responsibility. They're only doing their market research. So no, a CoC would not apply at that point in time. It's basically when you're reviewing a proposal and it's a small business, if that company would be awardable, had it not been for the one area of responsibility, that's when you would want to submit for a CoC so that we at SBA or the independent third party, double checking basically to ensure whether or not we agree with your findings or not.

Charles: Okay. Thank you. Next question. Are CoCs issued for small businesses outside the US?

Mia Fagley: Are they just doing business outside of the US or are they a foreign entity? You'd have to be classified as a small business under US regulations, which means you are incorporated and do business here in the United States and are for-profit, owned and operated by a US citizen.

Charles: Okay. Next question. If we set aside a solicitation to small business, meaning all participants are small business, and the prospective awardee is deemed non-responsible. Are we still required to contact SBA for CoC?

Mia Fagley: Yes. Yes, you are required.

Charles: Okay. One second. I'm trying to find ... Okay. So it says, can you please confirm these two items? One, the burden of proof and burden of persuasion is on the small business to affirmatively show that the small business is capable. And two, the burden of proof is not on the contracting officer to prove.

Mia Fagley: Yes. However, let me give you an example. I get a lot of CoC for financial reasons and the contracting officer's determination of responsibility is 100% purely based on a Dun & Bradstreet. And a lot of times if there's a red flag, it's in their protocols and procedures that they automatically are found non-responsible without actually looking at any financial documentation just purely based off of a Dun & Bradstreet report.

Mia Fagley: The reason why it's important and the reason why submitting for a CoC is particularly important, situations like this is because yes, the preponderance of evidence is placed upon the small business to overturn the contracting officer's initial decision. However, if the contracting officer's initial decision is pretty weak, it's going to be pretty easy for them to do. So when you submit your referral package, you do want to have as much evidence to substantiate your determination as possible, if you truly feel that this small business is not capable.

Mia Fagley: And I would have to say the majority of those CoCs is submitted for financial based on Dun & Bradstreet are usually overturned because when you look at their actual taxes, financial statements, cash flows, a line of credit that's signed by a bank, it shows that they not only have it, but they have the ability to obtain it. So again, while the burden is placed on the small business, it is vital that the contracting officer provides substantiate evidence to support their determination as well.

Charles: Okay, great. Thank you. Okay, next question, please clarify the process for an 8A sole source award for CoC.

Mia Fagley: There is no CoC for an 8A sole source award. Reason being is in a sole source you have selected the firm to provide an offer letter. An 8A offer is you submit your offer letter to the business opportunity specialist. The business opportunity specialist will actually do a review of your offer letter. And when they do their acceptance letter, they're pretty much vetting that client then in there. And so if they've accepted it, they've put their stamp of approval on that small business to be able to perform. And so if you still have concerns after the acceptance letter, that should be a conversation that they have with that business opportunity specialist as to how they came to the determination that they are eligible or capable of performing.

Mia Fagley: But keep in mind on the forefront, the contracting officer has selected this firm. And so if you have concerns, don't select that firm or if something comes up later, have a conversation with the business opportunity specialist that you accepted that offer. And if you still are uncomfortable, then that would be the opportunity for you to withdraw your offer and request a different 8A company.

Charles: Okay. Thank you. Next question, please confirm if far apart, far 19.6 CoC is not applicable for US small businesses performing outside the US.

Mia Fagley: I don't have that in front of me right now.

Charles: Okay, no problem. So then left this question here and this is the last question. It says, so CoCs are not issued for US small businesses performing outside the US which is somewhat of the same question.

Mia Fagley: Not necessarily. It depends on the contract and if the non-manufacturing rule is in place, that's kind of a complex question and I would probably need to speak to that person directly to get more specifics as to the situations that they're asking questions about, but generally speaking, there are contracts that are performed by US companies overseas all the time. It's still a federal procurement that doesn't necessarily mean a CoC is not going to be applicable. Now, if it's a foreign entity performing that contract, then no, a CoC would not qualify because a foreign entity is not considered a small business under regulation.

Charles: Okay.

Valerie Coleman: Is that the last question, Charles?

Charles: There was one more, but I'm trying to read it so I can ... Okay. So I'm going to just read it the way that it's written. It says, does the small business, the CO procurement file and the documentation that led to the CO finding of non-responsibility.

Mia Fagley: No.

Charles: Okay.

Mia Fagley: No, you do not. Because all the documentation that's submitted to us is still source selection sensitive. So we can't just send them all the same information or documentation. However, when we do our initial letter, when we contact the small business, we do have to let them know that they were found non-responsible and why they were found non-responsible.

Mia Fagley: Generally speaking, it's going to be very bullet points. Let me give you an example. You have been found to be non-responsible when it comes to financial capacity, the findings were one, a negative net worth. Two, insufficient working capital. Three, current ratio below the required standards. Four, no line of credit provided. It'd be something like that. So not all the details and specifics, but enough that the small business knows what they've been found non-responsible for so that they can provide information if they can to overturn it.

Charles: Okay. Thank you. The second part to that question is, is the CO able to see the financials and tax returns of the small business?

Mia Fagley: No. Same reason if it's proprietary, we would have to ask permission for them. However, when they're doing their contract review, keep in mind they always have the ability to request further documentation information from that small business bidding.

Charles: Great. That was the last question.

Valerie Coleman: Okay. Thank you Charles. May I have one for you that I've gotten twice and since I've gotten it twice, I'm going to ask it of you so you can respond. You mentioned that SBA monitors the performance of the contract, say it's a base plus four years. Are you monitoring for the entire five years? Or are you limited to what you monitor?

Mia Fagley: So all CoCs, and I'm glad that actually came up because that's a misinterpretation. CoCs are only ever for the base year of the contract. And so when we're reviewing financials, all that, we are only ever reviewing for the base of the contract. Reason being is the contracting officer has the ability not

to renew the option. And so if you have concerns after that base year to not want to execute the option, you do not have to. Therefore when we're reviewing CoCs it is only for the base year of the contract in every aspect.

Valerie Coleman: Okay. Charles, I think we've got another question in.

Charles: We did. And that question is for the checklist of documents to submit, could you please provide the proper way to notate the pages so that it is understood what each document is?

Mia Fagley: Can you repeat that?

Charles: Okay. For the checklist of documents to submit, could you please provide the proper way to notate the pages so that it is understood what each document is?

Mia Fagley: I'm actually going to refer to have them contact the specific industrial specialist that will oversee that CoC, because what I might prefer maybe different than what they prefer in terms of how they have it broken out. I know for myself, I'm not sure which checklist they're talking about. I don't know if they're talking about the application for the small business or if they're talking about the referral package. But instead of just line item one, two, three, four, five, I would just put one and then title what it is. So like if one is cover letter, one, cover letter and then have next tab. Two, determination of non-responsibility tab. I would just have it titled out that way regardless of whatever checklist that anyone's looking at, it'll be easy to find. If that makes sense.

Charles: Absolutely. Thank you. And that was the final question.

Valerie Coleman: All right. Well, Mia, thank you so much for the presentation and the answering of the questions. Again, if anyone else has any more questions or your questions didn't get answered, or if you think of one afterwards, please send it to [sbalearning@sba.gov](mailto:sbalearning@sba.gov) and we'll be more than happy to forward it to Mia and have her respond back to you so that you will have the answer you need.

Valerie Coleman: I want to thank everyone for being on the call today and please remember that April 1st, April fool's day is our next webinar and it's on the new regulations and rules on post award subcontract performance and enhancement. So we hope that all of you will be on that call. So thank you very much from Charles and Mia and myself. Hopefully next month Chris will be back so you'll be able to hear his voice. But thank you again very much for participating and we will talk to you all next month. Thank you very much.

Candace: That concludes our conference. Thank you for using AT&T event conferencing enhanced. You may now disconnect.