



U.S. Small Business
Administration



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Joint Ventures & Teaming

Hosts

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Welcome to “SBA Virtual Learning 2021”

1. Questions answered during the final 10 minutes.
2. Technical problems: Contact your IT admin who manages Teams settings for your organization.
3. Captioning available for this presentation.
4. We cover the “**SBA Quick Reference**” as time allows.
5. For more SBA training visit the SBA Learning Center website <https://www.sba.gov/tools/sba-learning-center/search/training>

Procurement Technical Assistance Centers (APTAC)

Procurement Technical Assistance Centers are a vital resource partner.

- Contracting officer resources: “How PTACs partner with federal agencies”: <http://www.aptac-us.org/federal-partners/>
- Find your nearest Procurement Technical Assistance Center at <http://www.aptac-us.org>
- Past Learning Series Recordings: [SBA Webinar Library for Contracting Officers | APTAC \(aptac-us.org\)](#)

Small Business Administration YouTube Page

SBA YouTube page posts past “First Wednesday” programming at links below.

- November 4, 2020 – 8(a) Program: <https://youtu.be/QCXwMCFLB94>
- December 2, 2020 – SBIR/STTR: <https://youtu.be/uR-LkHLSnn8>
- January 6, 2021 – Surety Bonding: <https://youtu.be/3AmFc9syThA>
- February 3, 2021 – Size & Affiliation: <https://youtu.be/tga9GCvKeKw>
- March 3, 2021 – WOSB Program: https://youtu.be/-fX_RbXl2UU
- April 7, 2021 – Consolidation/Bundling: <https://youtu.be/VAi7USREwaE>
- May 5, 2021 – Certificate of Competency: <https://youtu.be/HTEsJvyjLkw>
- June 2, 2021 – Regulatory Updates: <https://youtu.be/WUES4vgrDkw>
- July 7, 2021 – Subcontracting Program: <https://youtu.be/38hwrBqbeFM>

FIRST WEDNESDAY VIRTUAL LEARNING SERIES
FY 2021 SCHEDULE
1:00 to 2:00 PM Central Time

| FY 2021 | Date | Topic |
|---------|------------------|---|
| 1 | October 7, 2020 | 8(a) Program |
| 2 | November 4, 2020 | 8(a) Program Updates |
| 3 | December 2, 2020 | SBIR/STTR Program |
| 4 | January 6, 2021 | Surety Bonds |
| 5 | February 3, 2021 | Size and Affiliation |
| 6 | March 3, 2021 | Women-Owned Small Business (WOSB) Program |
| 7 | April 7, 2021 | Consolidation/Bundling |
| 8 | May 5, 2021 | Certificate Of Competency (COC) |
| 9 | June 2, 2021 | Legislature and Regulatory Updates |
| 10 | July 7, 2021 | Subcontracting Program |
| 11 | August 4, 2021 | Joint Ventures and Teaming |

The program schedule is for information only and is subject to change.

One Continuous Learning Point

- Self-service: Using the PowerPoint that was sent with your invitation for this training event, fill in your name on the certificate slide and save. Download the certificate and print for your records. You submit your request for training credit IAW your agency policy, i.e. FAITAS.
- If you listen in groups and you want all attendees to be included on the future mailing list, send email addresses of participants in an excel document to sbalearning@sba.gov.

“SBA 1st Wednesday Virtual Learning 2021”

This Certificate is awarded to

Insert Your Name Here

For completion of

Joint Ventures and Teaming

This training seminar may be credited towards “Continuous Learning Points” as described in OFPP Policy Letter 05-01. Recommendation of One CLP.



Pamela J. Beavers
Director, Area IV
SBA Office of Government Contracting

8/04/2021

DATE

Today's Speaker(s)

Valerie Coleman
Program Manager (Prime Contracting)
Office of Government Contracting
U.S. Small Business Administration

Mark Hagedorn
Attorney Advisor (Procurement Law)
Office of General Counsel
U.S. Small Business Administration



Understanding the Complexities of Joint Ventures

Valerie Coleman
Program Manager, Prime Contracts Program

Mark Hagedorn
Attorney Advisor

Topics

- 1. Introduction: Teaming in the FAR and the SBA definition of a joint venture**
- 2. Size standards, affiliation, and exceptions**
- 3. Limitations on subcontracting and ostensible subcontracting**
- 4. Joint ventures and types of small business**
- 5. Mentor protégé**
- 6. What next?**

Policy of the Government

Working together helps small business to compete in unrestricted competition and set-asides

The policy is to place a fair proportion of its acquisitions with:

Small business

Small disadvantaged business [SDB/8(a)]

HUBZone small business

Women owned small business (WOSB)

Veteran owned small business (VOSB)

Service disabled veteran owned small business (SDVOSB)

What's a fair proportion?

| | |
|-----------------------------|------------|
| Small Business | 23% |
| SDB [including 8(a)] | 5% |
| WOSB | 5% |
| HUBZone | 3% |
| SDVOSB | 3% |

(There is no statutory goal for VOSB)

Contract “Teaming” Agreement

Only two types:

Two or more companies form a partnership or joint venture to act as a potential prime contractor; or

A potential prime contractor agrees with one or more other companies to have them act as its subcontractors under a specified government contract or acquisition program.

Applies to “other than small” business (large) and small business

Why JV?

JVs maintain competition from small business and it is an investment in the economy through small business participation

Benefits of JVs to the Small Business

- **Gain new capacity and expertise**
- **Combine capabilities and past performance of JV and its underlying members**
- **Increase bidding power and bonding capacity**
- **Share risk**
- **Short time frame**

Risks

- **Finding the right joint venturers**
 - www.SAM.gov/
 - Existing relationship
 - New relationship
- **Creating a relationship**
 - Imbalance in the level of expertise, investment or assets
- **Not having the JV agreement in writing**
 - Objectives are not clear

SBA Definition of a Joint Venture (13 CFR 121.103(h))

- **An association of individuals and/or concerns with interests in any degree or proportion by way of contract**
- **Intending to engage in and carry out business ventures for joint profit over a two year period from that date of its first award or novation,**
- **Who combine efforts, property, money, skill or knowledge, and**
- **Is not on a continuing or permanent basis**

And,

Consists only of small businesses (exception MPP)

Self-certifies that it is “small”

Is subject to the regulations as they govern small business – just like any other small business

Is reviewed by the contracting officer, not SBA

What is a small business?

- **Organized for profit**
- **Place of business in the U.S., operates primarily in the U.S., or makes a significant contribution to the U.S. economy (taxes, use of American products/labor)**
- **Does not exceed the small business revenue OR employee size standard for the procurement**
- **Each North American Industrial Classification System (NAICS) code has a small business size standard (wholesale and retail NAICS are not used in government procurements).**

13 CFR 121.105

NAICS Codes and Size Standards

| NAICS | Description | Revenue (M) | # employees |
|--------|---|-------------|-------------|
| 236210 | Industrial Building Construction | \$39.5 | |
| 236220 | Commercial and Institutional Building Construction | \$39.5 | |
| 237310 | Highway, Street, and Bridge Construction | \$39.5 | |
| 315240 | Women's and Girls' Cut and Sew Blouse and Shirt Mfg | | 750 |
| 323111 | Commercial Printing | | 500 |
| 336212 | Truck Trailer Manufacturing | | 1000 |
| 337211 | Wood Office Furniture Manufacturing | | 1000 |
| 484110 | General Freight Trucking, Local | \$30.0 | |
| 492110 | Couriers and Express Delivery Services | | 1500 |
| 493110 | General Warehousing and Storage | \$30.0 | |
| 531110 | Lessors of Residential Buildings and Dwellings | \$30.0 | |
| 541511 | Custom Computer Programming Services | \$30.0 | |
| 541611 | Admin Management and General MGMT Consulting Svcs | \$16.5 | |
| 541620 | Environmental Consulting Services | \$16.5 | |

Size must include affiliates

What is an affiliate?

- **When one controls or has the power to control another**
 - Common ownership
 - Common control
 - Common management
 - Identity of Interest (family members, common investments, economically dependent through contractual relationships)
 - A Newly organized concern
 - Joint Ventures, including ostensible subcontractors

13 CFR 121.103

Average Annual Receipts

Use Federal Tax Returns
Cost of Goods Sold plus Total Income
Average of last three completed fiscal years



13 CFR 121.104

Number of Employees

- **Count all individuals employed on a full-time, part-time, or other basis. This includes employees obtained from a temporary employee agency, professional employee organization or leasing concern.**
- **Numbers of employees for each of the pay periods for the preceding completed 12 calendar months (running average).**
- **Payroll records/IRS Form 941**

Two Types of Affiliation

➤ **General Affiliation**

- On-going basis
- Common ownership, common control, economic dependence, etc.
- Applies to the company in all business transactions

➤ **For a specific procurement**

- Joint venture
- Applies only to the contract at hand

Affiliation

13 CFR 121.103

- **Power to control**
- **Common managers**
- **Identical business interests**
- **Common stockholders**
- **Ownership of multiple businesses**
- **Contractual relationships**
- **JV arrangements**

Ostensible subcontractor

A subcontractor that performs primary and vital requirements or a subcontractor upon which the prime contractor is unusually reliant.

Risk Factors

- **Division of work**
- **Incumbency**
- **Management**
- **Proposal terminology**
- **Proposal preparation**
- **Terms of the teaming agreement**
- **Relative experience and expertise**
- **Location of the parties**
- **Transferred employees**
- **Bonding, financing and equipment**
- **Profit sharing**

Limitations on subcontracting (13 CFR 125.6)

Services – 50% of personnel costs

Supplies – 50% of cost of mfg, excluding materials

General Construction – 85% of cost of contract with own employees, excluding materials

Special Trade Construction – 75% of cost of contract with own employees, excluding materials

What should be in a JV Agreement?

- **A provision setting forth the purpose of the JV**
- **A provision designating someone as the Managing Venturer**
- **A provision stating the distribution of profits/losses**
- **A provision providing for the establishment of a special bank account**
- **A provision itemizing all major equipment, facilities, and other resources to be furnished by each party to the joint venture, with a detailed schedule of cost or value each**

More Parts of a JV

- **A provision specifying the responsibilities of parties**
- **A provision obligating all parties to the joint venture**
- **A provision designating that accounting and other administration records relating to the JV shall be kept in the office of the managing venturer**
- **A provision requiring the final original records be retained by the managing venturer upon completion of the contract performed by the joint venture**

Still More...

- **A provision for handling substitution or addition of co-venturers**
- **A provision for handling disputes**
- **A provision for handling the termination of the JV**

Questions???