

Small Business Programs

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Taft Stettinius & Hollister LLP

Erin R. Davis, MPA, Esq.

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Small Biz Set-Aside Programs: Roadmap

- SBA's Socioeconomic Programs
 - 8(a)
 - HUBZone
 - WOSB
 - EDWOSB
 - SDVOSB
 - Interaction with VOSB
- U.S. Government Small Business Goals
- Influence award decisions

Polling Question #1

1. Which role describes you:
 - a) Government
 - b) Large Contractor / Nonprofit / University
 - c) Small Business
 - d) I don't know yet

Polling Question #2

2. my comfort with the FAR the SBA Regulations (13 CFR 121 – 126) is:
- a) I know them well
 - b) I know where to look
 - c) I am still unsure what it all means
 - d) I am in the early learning phase

SBA Socioeconomic or Set-Aside Programs

- This program requires agencies to limit competition on certain contracts to qualified small businesses so that small firms do not have to compete with large ones for the same contracts.
- However, because the law requires the Government to buy at competitive prices, contracts are set aside when two small businesses are expected to submit offers to ensure adequate competition.
- SBA establishes size standards that determine a firm's eligibility to offer on set-asides.
- These standards are established on an industry-by-industry basis, using dollar volume of sales or number of employees, to determine eligibility.
- **Small Disadvantaged Business Program** – For the purpose of improving and stimulating this small business segment, federal agencies must establish a realistic Department-wide goal for the award of contracts to small business concerns owned and controlled by socially and economically disadvantaged individuals.

8(a) Business Development Program

- The 8(a) Program promotes increased use of small businesses owned and controlled by socially and economically disadvantaged individuals certified under the SBA Section 8(a) Program.
- Section 8(a) of the Small Business Act, as amended, authorizes SBA to contract for goods and services with Federal agencies.
 - SBA then subcontracts actual performance of the work to socially and economically disadvantaged small businesses which have been certified by SBA as eligible to receive these contracts.
 - The major advantage of this program is that it provides Government contracts on a noncompetitive basis to socially and economically disadvantaged small businesses. SBA also offers managerial, technical, and financial support to participating firms.
- Sole Source 8(a) vs Competitive 8(a)
- Note: applications to the 8(a) program are currently in a period of flux. (more in a moment)

8(a) Business Development Program

- The purpose of the 8(a) Program is to:
 - Foster business ownership by individuals who are socially and economically disadvantaged.
 - Promote the competitive viability of these firms by providing contract, technical, and management assistance.
 - Expand acquisition opportunities for these firms.
- 8(a) certification lasts for a maximum of nine years.
 - *10 years for businesses active during the pandemic
 - The first four years are considered a development stage and the last five years are considered a transitional stage.
 - Continuation in the program is dependent on staying in compliance with program requirements.

8(a) Business Development Program

- To be eligible for the 8(a) Program, a business must meet the following eligibility criteria:
 - Be a small business
 - Not have previously participated in the 8(a) program
 - Be at least 51% owned and controlled by U.S. citizens who are socially and economically disadvantaged
 - Day-to-day operations
 - Have a personal net worth of \$850 thousand or less, adjusted gross income of \$400 thousand or less, and assets totaling \$6.5 million or less
 - Demonstrate good character
 - Demonstrate the potential for success such as having been in business for two years

8(a) Business Development Program

- **13 C.F.R. § 124.103 Who is socially disadvantaged?**

(a) **General.** Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias within American society because of their identities as members of groups and without regard to their individual qualities. The social disadvantage must stem from circumstances beyond their control.

(b) **Members of designated groups.**

(1) There is a rebuttable presumption that the following individuals are socially disadvantaged: Black Americans; Hispanic Americans; Native Americans (Alaska Natives, Native Hawaiians, or enrolled members of a Federally or State recognized Indian Tribe); Asian Pacific Americans (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China (including Hong Kong), Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Fiji, Tonga, Kiribati, Tuvalu, or Nauru); Subcontinent Asian Americans (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands or Nepal); and members of other groups designated from time to time by SBA according to procedures set forth at paragraph (d) of this section. Being born in a country does not, by itself, suffice to make the birth country an individual's country of origin for purposes of being included within a designated group.

(2) An individual must demonstrate that he or she has held himself or herself out, and is currently identified by others, as a member of a designated group if SBA requires it.

(3) The presumption of social disadvantage may be overcome with credible evidence to the contrary. Individuals possessing or knowing of such evidence should submit the information in writing to the Associate Administrator for Business Development (AA/BD) for consideration.

8(a) Business Development Program

- **13 C.F.R. § 124.103 Who is socially disadvantaged?** (con'd)

(c) ***Individuals not members of designated groups.***

(1) An individual who is not a member of one of the groups presumed to be socially disadvantaged in paragraph (b)(1) of this section must establish individual social disadvantage by a preponderance of the evidence. Such individual should present corroborating evidence to support his or her claim(s) of social disadvantage where readily available.

(d) ***Socially disadvantaged group inclusion -***

(1) ***General.*** Representatives of an identifiable group whose members believe that the group has suffered chronic racial or ethnic prejudice or cultural bias may petition SBA to be included as a presumptively socially disadvantaged group under paragraph (b)(1) of this section. Upon presentation of substantial evidence that members of the group have been subjected to racial or ethnic prejudice or cultural bias because of their identity as group members and without regard to their individual qualities, SBA will publish a notice in the Federal Register that it has received and is considering such a request, and that it will consider public comments.

(2) ***Standards to be applied.*** In determining whether a group has made an adequate showing that it has suffered chronic racial or ethnic prejudice or cultural bias for the purposes of this section, SBA must determine that:

- (i) The group has suffered prejudice, bias, or discriminatory practices;
- (ii) Those conditions have resulted in economic deprivation for the group of the type which Congress has found exists for the groups named in the Small Business Act; and
- (iii) Those conditions have produced impediments in the business world for members of the group over which they have no control and which are not common to small business owners generally.

8(a) Program – Current Status

- SBA is posting status reports and updates (22 Nov 2023):
<https://www.sba.gov/federal-contracting/contracting-assistance-programs/8a-business-development-program/updates-8a-business-development-program>
- On July 19, 2023, the U.S. District Court for the Eastern District of Tennessee issued a ruling in *Ultima Servs. Corp. V. Dep’t of Ag.* affecting the 8(a) Business Development program.
 - Prior to this ruling, individual Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, and Subcontinent Asian Americans applying for the program could establish that they were socially disadvantaged by demonstrating that they held themselves out as a member of one of those designated groups.
 - This practice has been known as using a “rebuttable presumption of social disadvantage” or “presumption of social disadvantage.”
- While most 8(a) firms established their 8(a) program eligibility through a presumption of social disadvantage, other 8(a) firms were admitted to the 8(a) program because the qualifying individual owner established social disadvantage by a preponderance of the evidence (i.e. submitted a narrative as part of the original application).
- In this ruling, the Court barred SBA from using the presumption of social disadvantage to administer the 8(a) Program.
- Applications were closed July – Sept 2023, and are re-opened effective Sept 29, 2023.
 - Requires a Social Disadvantage Narrative

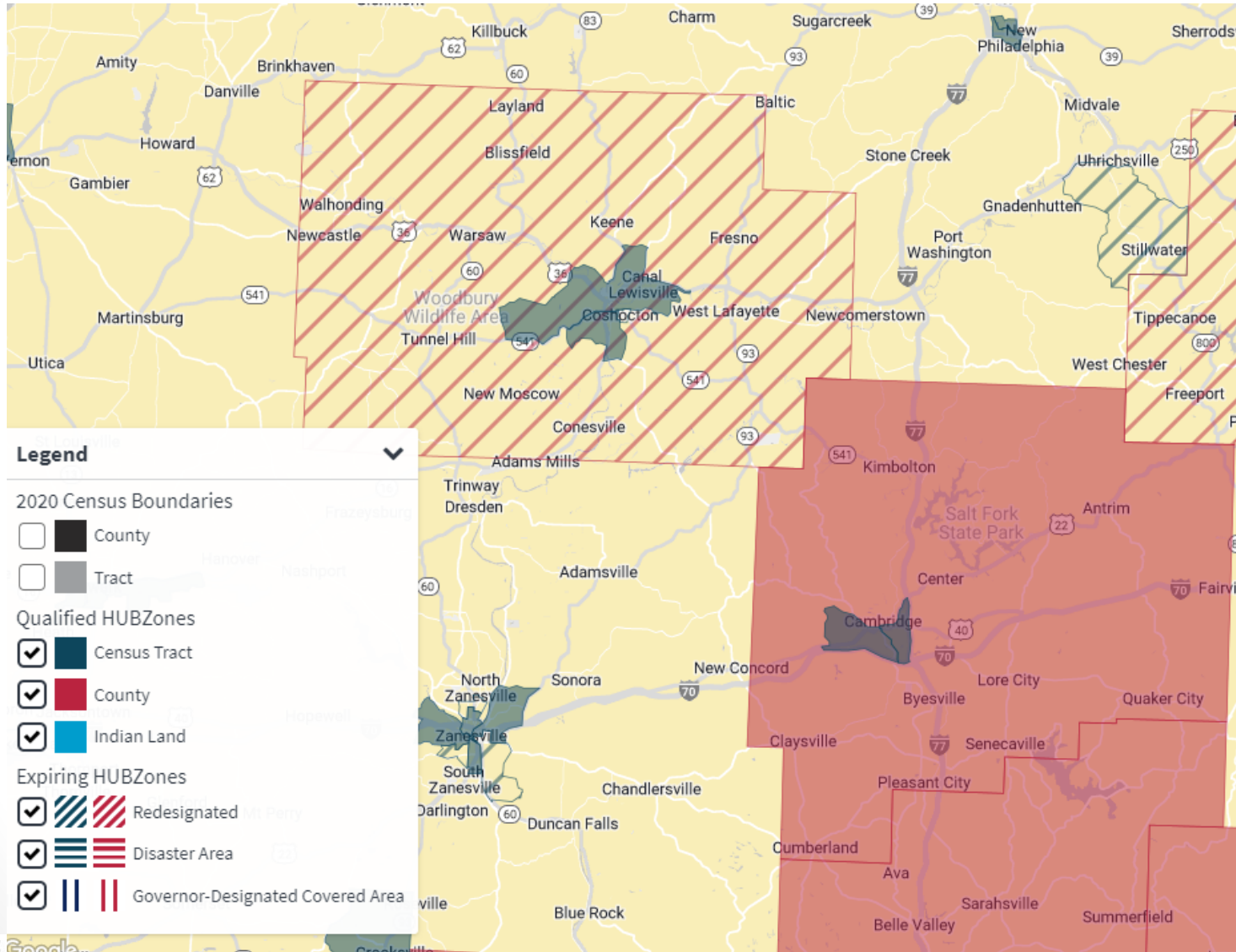
HUBZone Program

- Historically Underutilized Business Zone (“HUBZone”) Program
- A "HUBZone" is an area that is located in one or more of the following:
 - a qualified census tract (as defined in section 42(d)(5)(C)(i)(I) of the Internal Revenue Code of 1986);
 - a qualified "non-metropolitan county" (as defined in section 143(k)(2)(B) of the Internal Revenue Code of 1986) with a median household income of less than 80 percent of the State median household income or with an unemployment rate of not less than 140 percent of the statewide average, based on US Department of Labor recent data; or
 - lands within the boundaries of federally recognized Indian reservations.
- To qualify as a HubZone business, a small business must meet all of the following criteria to qualify for the HUBZone program:
 - it **must** be located in a "historically underutilized business zone" or HUBZone.
 - it **must** be owned and controlled by one or more US Citizens, and
 - at least 35% of its employees **must** reside in a HUBZone.

HUBZone Program

- The SBA regulates and implements the HUBZone program, and:
 - determines which businesses are eligible to receive HUBZone contracts,
 - maintains a listing of qualified HUBZone small businesses that Federal agencies can use to locate vendors,
 - adjudicates protests of eligibility to receive HUBZone contracts, and
 - reports to the Congress on the program's impact on employment and investment in HUBZone areas.
- **The HUBZone map is changing on July 1, 2023.**
 - <https://preview-maps.certify.sba.gov/hubzone/map#center=44.722800,-103.249700&zoom=4>
 - Some redesignated areas will be reclassified in 2026.

HUBZone Program



HUBZone Program

- The map is updated every 5 years, next on **July 1, 2028**.
- Currently, to apply for certification as a HUBZone entity, the SBA requires submission of materials through a dedicated portal. The SBA responds via email with any follow-up requests.
 - Be careful to watch email and spam filters.
- To maintain eligibility, HUBZone small businesses re-certify annually and provide reports to the SBA.
- Every three years, HUBZone small businesses undergo a program examination – full desk audit, which may include a site visit.
- Need to check status in SAM.gov and DSBS
- Unlike 8(a) there is no limit on years of participation in the HUBZone program.
- May rely on similarly situated entities and their certifications in SAM.gov

WOSB Program

- **Woman-Owned Small Business Program –**
- To help provide a level playing field for women business owners, the government limits competition for certain contracts to businesses that participate in the Women-Owned Small Business (WOSB) Federal Contract program.
- Specifically, the need to aid and stimulate women's business enterprises directs acquisition officials to take appropriate action to facilitate, preserve, and strengthen women's business enterprises and to ensure full participation by women in the free enterprise system.
 - increase Federal prime contracts with women-owned small businesses.
- Appropriate action includes the award of prime contracts and subcontracts and counseling of women-owned businesses.
- "Women-owned small businesses" means small business concerns that are:
 - at least 51 percent owned, controlled, and operated by women who are United States citizens.

WOSB Program

- **WOSB Program** – is no longer self-certified. Now requires either the SBA or a third party certifier to evaluate and certify that a company is qualified as a WOSB.
 - The SBA has a free online program: [WOSB.Certify.sba.gov](https://www.sba.gov/wosb-certify)
 - The SBA also recognizes certain third party certifying companies.
 - [El Paso Hispanic Chamber of Commerce](#)
 - [National Women Business Owners Corporation](#)
 - [U.S. Women's Chamber of Commerce](#)
 - [Women's Business Enterprise National Council](#)
- Process takes 90 days – from receipt of a complete application package

EDWOSB Program

- Some WOSBs are also Economically Disadvantaged WOSB, or EDWOSBs
- To qualify as an EDWOSB within the program, a business must:
 - Meet all the requirements of the WOSB Federal Contract program
 - Be owned and controlled by one or more women, each with a personal net worth less than \$850,000
 - note that funds invested in an official retirement account are excluded from the assessment of an economically disadvantaged individual's personal net worth in both programs.
 - Be owned and controlled by one or more women, each with \$450,000 or less in adjusted gross income averaged over the previous three years
 - Be owned and controlled by one or more women, each \$6.5 million or less in personal assets
- Economic disadvantage standards have been aligned between the 8(a) Business Development program and the WOSB Federal Contract program.
 - 8(a) firms interested in pursuing EDWOSB certification may provide their most recent annual review letter (or acceptance letter, if in their first year) through applying at [WOSB.Certify.sba.gov](https://www.wosb.certify.sba.gov).
- SBA also allows participation from firms certified by the U.S. Department of Veterans Affairs Center for Verification and Evaluations (CVE), provided they meet all eligibility requirements. Firms must provide their CVE certificate and supporting documentation

EDWOSB Program

- There contracts are for goods and services in specific industries (identified via NAICS code) where WOSBs are underrepresented. Some contracts are restricted further to economically disadvantaged women-owned small businesses (EDWOSBs). SBA maintains a list of those eligible industries and their NAICS codes.
- Of the 759 eligible industries, 646 are designated for limited competition among all WOSB Program participants, and 113 are eligible for competition among only SBA-certified EDWOSBs.
- <https://www.sba.gov/document/support-eligible-naics-women-owned-small-business-federal-contracting-program>

NAICS Code	NAICS U.S. Industry Title	Set-aside
111110	Soybean Farming	WOSB
111120	Oilseed (except Soybean) Farming	WOSB
111130	Dry Pea and Bean Farming	WOSB
111140	Wheat Farming	WOSB
111150	Corn Farming	WOSB
111160	Rice Farming	WOSB
111191	Oilseed and Grain Combination Farming	WOSB
111199	All Other Grain Farming	WOSB
111411	Mushroom Production	EDWOSB
111419	Other Food Crops Grown Under Cover	EDWOSB
111421	Nursery and Tree Production	EDWOSB
111422	Floriculture Production	EDWOSB

SDVOSB Program

- **Service-Disabled Veteran Owned Small Business Program** –
- Public Law 106-50 established a contracting goal for Federal agencies to award 3% of prime contracts to service-disabled veteran-owned small businesses (SDVOSBs). In addition, large Prime Contractors have SDVOSB subcontracting goals.
- To maximize opportunities for veteran-owned small businesses in Federal contracting programs:
 - Reserve contracts exclusively for service-disabled veteran businesses;
 - Encourage and facilitating participation by service-disabled veteran businesses in competitions for award of Agency contracts;
 - Encourage Agency contractors to subcontract with service-disabled veteran businesses and actively monitoring and evaluating Agency contractors' efforts to do so;
 - Train Agency personnel on applicable law and policies relating to participation of service-disabled veteran businesses in Federal contracting;
 - Disseminate information to service-disabled veteran businesses that would assist these businesses in participating in awards of Agency contracts; and
 - Hold special outreach sessions for service-disabled veteran businesses.

SDVOSB Program

- To qualify for the SDVOSB program, a business must be a small business by SBA size standards, and it must be owned and controlled by one or more service-disabled veterans (0 - 100% disability rating).
 - Be considered a small business, as defined by [the size standard](#) corresponding to any NAICS code listed in the business's SAM profile.
 - Have no less than 51% of the business owned and controlled by one or more veterans.
 - For certification as a SDVOSB, have no less than 51% of the business owned and controlled by one or more veterans rated as service-disabled by the VA.
 - For those veterans who are permanently and totally disabled and unable to manage the daily business operations of their business, their business may still qualify if their spouse or appointed, permanent caregiver is assisting in that management.
- In certain instances, surviving spouses may assume the deceased spouse's status and continue the business with the SDVOSB/VOSB certification

SDVOSB Program – Certification changes

- SBA’s new Veteran Small Business Certification program implements changes from the National Defense Authorization Act for Fiscal Year 2021 (NDAA 2021) which transferred the certification function from the Department of Veterans Affairs (VA) to SBA as of January 1, 2023.
 - The transfer provided veterans with a central support point for their small business certification needs, rather than needing both the VA and SBA
- Firms verified by the VA as of January 1, 2023, are automatically granted certification by SBA for the remainder of the firm’s eligibility period.
 - SBA intends to grant a one-time, one-year extension of certification to current VOSBs and SDVOSBs verified by the VA as of the transfer date on January 1, 2023. This additional year will be added to the existing eligibility period of a current participant.
 - New applicants certified by SBA after January 1, 2023, will receive the standard three-year certification period.
- The NDAA 2021 grants a one-year grace period for self-certified SDVOSBs until January 1, 2024. During the grace period, self-certified businesses have one year to file an application for SDVOSB certification and may continue to rely on their self-certification to compete for non-VA SDVOSB set-aside contracts.
 - Self-certified SDVOSBs that apply before January 1, 2024, will maintain their eligibility through the expiration of the grace period until SBA issues a final eligibility decision.
 - VOSBs and SDVOSBs seeking sole-source and set-aside opportunities with the VA must be certified – there is no grace period.

VOSB Program

- VOSB, as opposed to SDVOSB, is relevant in three primary places:
 - Certified veteran-owned small businesses (VOSBs) have additional opportunities to pursue sole-source and set-aside contracts at the U.S. Department of Veterans Affairs (VA) under the VA's Vets First program.
 - **Meaning, a VOSB need have a Service Disability to accompany it status as veteran owned and small business**
 - Large companies may be required to complete a small business subcontracting plan IAW FAR 52.219-14.
 - SBSP track VOSBs not SDVOSBs.
 - SDVOSB count as VOSBs.
 - VOSBs are eligible to access the federally owned personal property no longer in use through the General Services Administration's (GSA) Federal Surplus Personal Property Donation Program.
 - To be used in the normal conduct of business activities (i.e. to run the VOSB)
 - May not resell or use for personal or non-business reasons.

U.S. Government Small Business Goals

- The SBA is responsible for ensuring the government-wide goal for participation of small businesses is established annually at the statutory levels, and that the reporting agencies' achievements are relative to the goals.
 - The SBA negotiates with 24 federal agencies to establish individual agency goals that, in the aggregate, constitute government-wide goals.
 - In addition, the SBA negotiates a small business subcontracting goal based on recent achievement levels.
 - The SBA establishes the government-wide and agency socio-economic category goals at their statutory levels.
- With limited exceptions, agencies receive goaling credit for the life of a contract, including task orders, and options, for contracts awarded to eligible concerns. (13 CFR 121.404 (g), 13 CFR 121.601(h) and Small Business Act -§8. (a) (1)(C)(ii)). The exemptions address long-term contracts and mergers and acquisitions.
- Non-appropriated funds, acquisitions with a statutorily mandated source (i.e. Federal Prison Industries or Ability One, and acquisitions on behalf of foreign governments are excluded from the small business goaling base.

U.S. Government Small Business Goals

- <https://www.sba.gov/document/support-agency-contracting-goals>

Small Business Category	Small Business Procurement Goals
Small Business Concerns	Not less than 23% of the total value of all prime contract awards for each fiscal year.
SDBs	Not less than 12% of the total value of prime contract and not less than 5% subcontract awards for each fiscal year.
WOSBs	Not less than 5% of the total value of all prime contract and subcontract awards for each fiscal year.
SDVOSB	Not less than 3% of the total value of all prime contract and subcontract awards for each fiscal year.
HUBZone	Not less than 3% of the total value of all prime contract and subcontract awards for each fiscal year.

U.S. Government Small Business Goals

- <https://www.sba.gov/document/support-agency-contracting-goals>

Small Business Procurement - FY2023 Small Business Goals - as of 12/15/2022

FUNDING DEPARTMENT NAME	Prime Contract Small Business Goals	Prime Small Disadvantaged Business Goal	Prime Service-Disabled Veteran-Owned Small Business Goal	Prime Women Owned Small Business Goal	Prime HUBZone Small Business	Subcontract Small Business Goals	Subcontract Small Disadvantaged Business Goal	Subcontract Service-Disabled Veteran-Owned Small Business Goal	Subcontract Women Owned Small Business Goal	Subcontract HUBZone Small Business Goal
DEPT OF DEFENSE (9700)	22.43%	10.57%	3.00%	5.00%	3.00%	30.00%	5.00%	3.00%	5.00%	3.00%
ENERGY, DEPARTMENT OF (8900)	5%/17%	7.00%	3.00%	5.00%	3.00%	49.00%	5.00%	3.00%	5.00%	3.00%
HEALTH AND HUMAN SERVICES, DEPARTMENT OF (7500)	22.00%	13.08%	3.00%	5.00%	3.00%	32.00%	5.00%	3.00%	5.00%	3.00%
VETERANS AFFAIRS, DEPARTMENT OF (3600)	27.00%	11.10%	3.00%	5.00%	3.00%	17.20%	5.00%	3.00%	5.00%	3.00%
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (8000)	16.87%	8.90%	3.00%	5.00%	3.00%	34.20%	5.00%	3.00%	5.00%	3.00%
HOMELAND SECURITY, DEPARTMENT OF (7000)	35.50%	17.90%	3.00%	5.00%	3.00%	43.00%	5.00%	3.00%	5.00%	3.00%
GENERAL SERVICES ADMINISTRATION (4700)	33.00%	21.90%	3.00%	5.00%	3.00%	21.00%	5.00%	3.00%	5.00%	3.00%
AGRICULTURE, DEPARTMENT OF (1200)	55.00%	22.40%	3.00%	5.00%	3.00%	21.00%	5.00%	3.00%	5.00%	3.00%
JUSTICE, DEPARTMENT OF (1500)	33.00%	15.90%	3.00%	5.00%	3.00%	38.00%	5.00%	3.00%	5.00%	3.00%
INTERIOR, DEPARTMENT OF THE (1400)	49.37%	30.50%	3.00%	5.00%	3.00%	43.80%	5.00%	3.00%	5.00%	3.00%
STATE, DEPARTMENT OF (1900)	25.50%	21.00%	3.00%	5.00%	3.00%	38.00%	5.00%	3.00%	5.00%	3.00%
COMMERCE, DEPARTMENT OF (1300)	39.00%	20.90%	3.00%	5.00%	3.00%	30.00%	5.00%	3.00%	5.00%	3.00%
TREASURY, DEPARTMENT OF THE (2000)	40.00%	12.00%	3.00%	5.00%	3.00%	20.00%	5.00%	3.00%	5.00%	3.00%
TRANSPORTATION, DEPARTMENT OF (6900)	33.40%	21.00%	3.00%	5.00%	3.00%	43.00%	5.00%	3.00%	5.00%	3.00%
OFFICE OF PERSONNEL MANAGEMENT (2400)	50.00%	31.80%	3.00%	5.00%	3.00%	25.00%	5.00%	3.00%	5.00%	3.00%
LABOR, DEPARTMENT OF (1600)	37.85%	28.90%	3.00%	5.00%	3.00%	60.00%	5.00%	3.00%	5.00%	3.00%
ENVIRONMENTAL PROTECTION AGENCY (6800)	44.70%	17.80%	3.00%	5.00%	3.00%	56.50%	5.00%	3.00%	5.00%	3.00%
EDUCATION, DEPARTMENT OF (9100)	14.50%	9.15%	3.00%	5.00%	3.00%	37.00%	5.00%	3.00%	5.00%	3.00%
HOUSING AND URBAN DEVELOPMENT, DEPARTMENT OF (8600)	20.00%	18.90%	3.00%	5.00%	3.00%	28.00%	5.00%	3.00%	5.00%	3.00%
SOCIAL SECURITY ADMINISTRATION (2800)	26.00%	10.20%	3.00%	5.00%	3.00%	50.00%	5.00%	3.00%	5.00%	3.00%
AGENCY FOR INTERNATIONAL DEVELOPMENT (7200)	13.25%	8.30%	3.00%	5.00%	3.00%	14.50%	5.00%	3.00%	5.00%	3.00%
NATIONAL SCIENCE FOUNDATION (4900)	23.68%	12.60%	3.00%	5.00%	3.00%	25.00%	5.00%	3.00%	5.00%	3.00%
NUCLEAR REGULATORY COMMISSION (3100)	41.00%	27.90%	3.00%	5.00%	3.00%	40.00%	5.00%	3.00%	5.00%	3.00%
SMALL BUSINESS ADMINISTRATION (7300)	68.00%	60.00%	3.00%	5.00%	3.00%	39.00%	5.00%	3.00%	5.00%	3.00%

How Goals Influence Set-aside Award Decisions

- The 24 participating federal agencies have a lot of pressure to meet or exceed their small business goals (goaling).
 - Every dollar paid counts
- Typically when an a procurement is set-aside for a socioeconomic category, moving out of that category is challenging.
 - SBA and FAR have a regulatory process that must be followed or it is protestable.
- Could encourage a sole source award rather than competition
- Growing trend: to see SBSP tracked closely, as Primes are working with their Small Business Subcontractors to ensure reporting (eSRS)

SBA Mentor-Protégé Programs

Mentor-Protégé Programs (MPPs)

- Two separate Mentor-Protégé Programs that are closely aligned:
- 8(a) Mentor/Protégé (13 CFR 124.520)
 - To qualify as a protégé:
 - Firms in good standing with the 8(a) BD program
 - Small under primary NAICS code OR small under a secondary NAICS code when seeking BD specific to that secondary code
 - Demonstrate to SBA how BD assistance would advance the protégé's goals and objectives as set forth in its business plan
 - Requires SBA pre-approval of both mentors and protégés
 - A mentor-protégé agreement (MPA) is required.
 - Required contents are listed at 13 CFR 124.520
 - For 8(a) set-aside contracts, an 8(a) participant's JV must be approved by the SBA prior to contract award
 - Required contents are listed at 13 CFR 124.513

Mentor-Protégé Programs – Cont'd

- SBA Mentor-Protégé Program: all businesses considered small under their primary NAICS code (13 CFR 125.9)
 - Rules built from the 8(a) BD MPP, with minor variations for 8(a) sole source awards
 - Joint venture requirements vary between 8(a) BD and All Small – most of these have been aligned, but use caution
 - Protégé qualifications:
 - Small business under primary NAICS code or relevant secondary code
 - For profit
 - A significant U.S. connection (place of business, operations, contributions)
- Other small business preference programs no longer left out:
 - Veteran & Service-Disabled Veteran Owned
 - HUBZone
 - Women-Owned
 - Economically Disadvantaged Women-Owned
- SBA Mentor-Protégés are not eligible for 8(a) unless one party to the JV is a certified 8(a)

Mentor-Protégé Programs – Cont'd

- Both MPPs require:
 - a second mentor-protégé relationship requires special approval
 - 13 CFR 125.6 percentage limitations on subcontracting apply
 - Small business Protégés must perform at least 40% of the substantive work performed by the JV (workshare)
 - If seeking mentor-protégé relationship under secondary NAICS code, the small business must demonstrate how the mentor-protégé relationship is a logical business progression to develop and expand their current capabilities
- Protégés have a lifetime maximum of 2 mentors.
- Applications reviewed at central, national site in DC rather than at local SBA offices.
 - Current processing time is 120 business days

Mentor-Protégé Programs – Cont'd

Don't confuse the DoD Mentor-Protégé Program (MPP) with the SBA Mentor-Protégé Program

- DoD MPP is a “pilot” in its 30+th year, re-authorized by NDAA's.
 - Extended through 30 Sept 2024
 - Focus is on tech/skill transfer, not on set-asides.
 - Pairs large federal contractors (Mentors) with small business subcontractor (Protégés).
 - Size restriction – Protégé must be less than half the size standard for its primary NAICS code
- Generally, Mentors subcontract with Protégés:
 - Mentors receive a contractual credit or reimbursement for the costs of mentoring the protégé
 - Subcontracts count toward subcontracting plan goals.
 - Unlike SBA MPPs, there is no minimum substantive work requirement for DoD Protégés (or conversely, there is no minimum work guarantee for the Protégés either).

MP Joint Venture Rules

- MP Joint Ventures:
 - An SB may enter into a Joint Venture Agreement with:
 - Another small business concern; or
 - Its “mentor”
 - 8(a) Sole Source Set Asides - Joint venture agreement must be approved by SBA prior to award
 - A separate addendum to the JV agreement must be approved by the SBA for any additional contract the JV will receive
 - For non-MPP JVs, only one of the joint venture partners must be certified, but all must be small for the JV to count as small
 - Permissible only where protégé concern lacks necessary capacity to perform on its own and agreement is fair and equitable and will be of substantial benefit to the protégé

MPP Joint Venture Rules (cont'd)

- The SB partner (protégé) must
 - manage the contract,
 - furnish the Responsible Manager,
 - manage the day-to-day operations of the JV
 - own at least 51% of the JV,
 - perform at least 40% of the work performed by the JV,
 - receive profits commensurate with the work performed
- Very specific provisions required in JV agreement (see 13 CFR 124.513(c)(1)-(12))
- JVs that are a separate legal entity may only have administrative personnel

Mentor-Protégé Joint Ventures

- **SBA Mentor-Protégé Program and Joint Venture**
 - Allows for large businesses to team with small businesses without automatically triggering affiliation
 - 13 C.F.R. 121.103
 - When you calculate the size of your business to determine if you are a small business, you must include the annual receipts and the employees of your affiliates. Affiliation is determined by the ability to control. When the ability to control exists, even if it is not exercised, affiliation exists.
 - Aggregate the headcount or revenue
 - ANY small business can form a joint venture with any mentor business demonstrating a commitment and ability to assist small businesses.
 - Note: this is a relatively recent change.
 - Prior to August 2016, Mentor-Protégé joint ventures were limited to 8(a) participants
 - In 2016, the SBA announced a new “All Small” Mentor Protégé Program, which allowed all small businesses to participate.
 - In 2020, the SBA combined the Mentor-Protégé Programs, although there are some separate rules for sole source 8(a) awards.

SBA Mentor-Protégé Joint Venture Agreement

- **PROS**

- Allows large businesses to participate in small business set-asides without a finding of affiliation
- Helps small businesses win larger projects

- **CONS**

- Additional regulations
- Non-compliance of the Mentor (as determined by the SBA) may be grounds for suspension/debarment

Polling Question #3

3. I think the _____ is most interesting way for companies to partner
- a) 8(a) Sole Source Mentor-Protégé Program
 - b) SBA Mentor-Protégé Program
 - c) Plain joint venture
 - d) Teaming/Subcontract relationship

Polling Question #4

4. Affiliation:

- a) Is a good failsafe to ensure the integrity of the SB programs
- b) Is too easy to get around
- c) Makes no sense
- d) I'm still learning and don't know yet.

Questions

Erin R. Davis, MPA, Esq.

Edavis@taftlaw.com

www.linkedin.com/in/erin-davis-a3a85659

