



Considerations for Business Strategies

- Small Business Teaming Arrangements
- Size Determination
- Similarly Situated Entities
- Limitations on Subcontracting

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Small Business Teaming Arrangements

Let's Discuss The Two Types Defined by FAR

- Prime/Sub
- Joint Ventures



Small Business Teaming Arrangements

Prime/Sub

- A small business offeror agrees with one or more other small business concerns to have them act as its subcontractors under a specified Government contract.



Small Business Teaming Arrangements

Joint Ventures

- A joint venture is an association of individuals and/or concerns that consorts to carry out a business venture for joint profit.
- Generally a JV is small if
 - Both members of the JV are small or
 - If a MPJV, the protege is small and the concerns have received an exception to affiliation pursuant to 13 CFR 121.103(h)(3)(ii) or (iii).



Size Determination

- Size determined at time of proposal which includes price
- If a revised cost proposal is submitted, then as of the date of submittal of the revised cost proposal



Size Determination

Areas of Caution -

https://www.sba.gov/sites/default/files/articles/affiliation_verification_03.pdf

- Affiliation – See 13 CFR 121
 - Generally, affiliation exists when one business controls or has the power to control another or when a third party (or parties) controls or has the power to control both businesses. Control may arise through ownership, management, or other relationships or interactions between the parties.



Size Determination

Areas of Caution

- Ostensible Subcontractor
 - (a) is not similarly situated with the prime
 - (b) that performs or will perform primary and vital requirements of a contract or
 - (c) upon which the concern (prime contractor) is unusually reliant
- Ostensible Subcontractor and Prime Contractor
 - Considered as a Joint Venture
 - Size will be determined based on aggregated size against a NAICS Code/Size Standard



Similarly Situated Entities

- National Defense Authorization Act of 2013
 - Under a small business set-aside or socioeconomic program set-aside or sole source authority,
 - Similarly Situated Entity subcontractor is a small business concern subcontractor that is a participant of the same SBA program that qualified the prime contractor as an eligible offeror and awardee of the contract



Limitations on Subcontracting

- Services
 - Prime Contractor will not pay more than 50% of the amount paid by the government to it, to firms that are not similarly situated.
 - Any work that a similarly situated subcontractor further subcontracts will count towards the 50% subcontract amount that cannot be exceeded
- (No longer considers just the amount for direct labor)



Limitations on Subcontracting

- Deems work done by similarly situated entities not to be subcontracted work for purposes of complying with the limitations on subcontracting requirement.



Quote of the Day!

“Even if you are on the right track,
You’ll get run over if you just sit
there.”

- Will Rogers