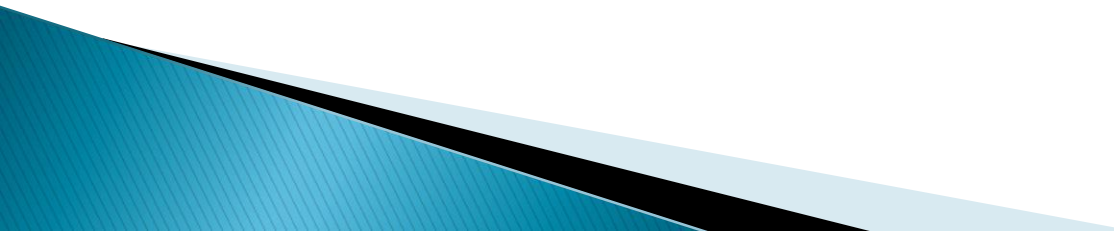


TEAMING AND JOINT VENTURES



▶ Teaming:

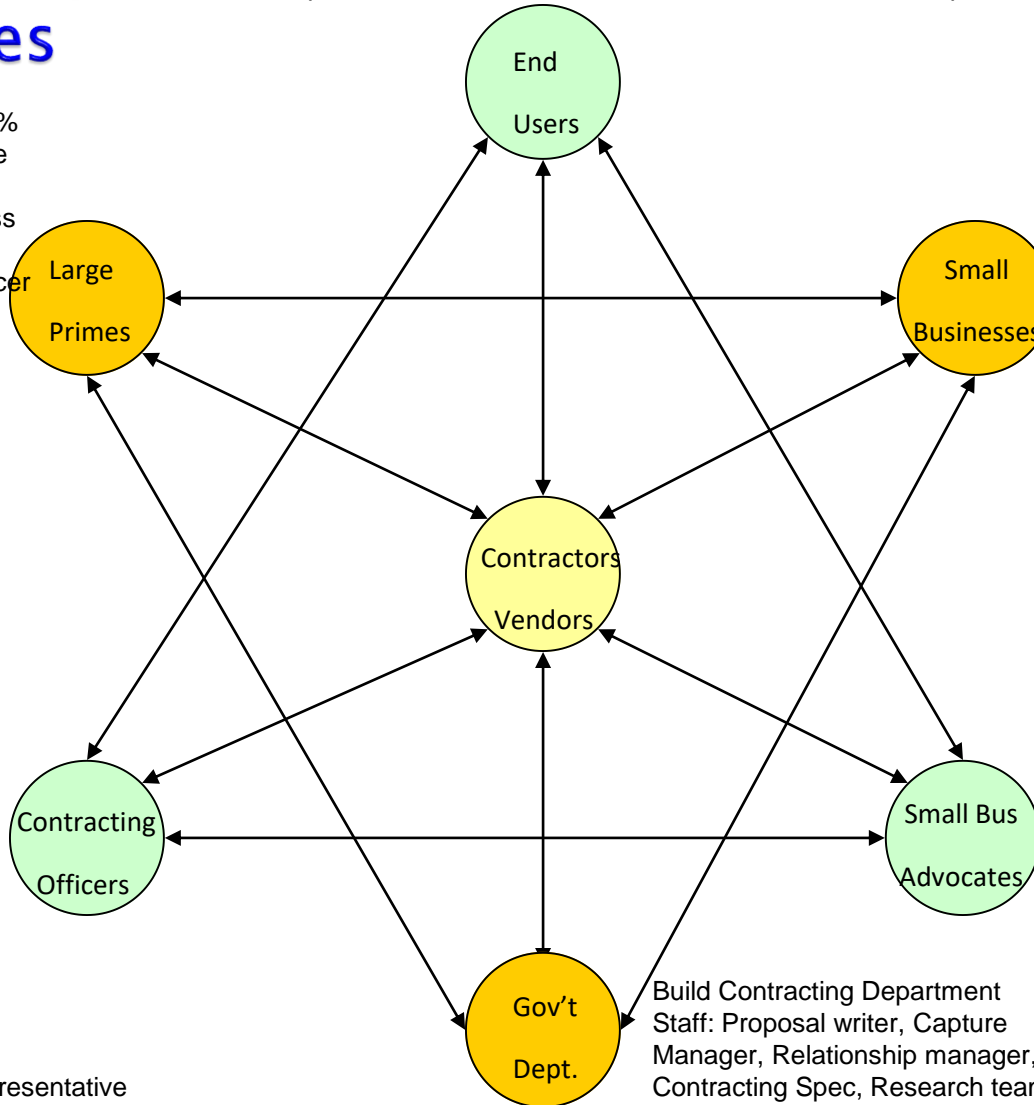
- ▶ Two or more companies coming together to pursue and fulfill a government project
 - ▶ Each company keeps their separate identity
 - ▶ The companies enter into a formal teaming agreement (a form a partnership agreement recognized by the government for the purpose of the project at hand)
 - ▶ One company has to be the prime and other companies are subcontractors
- 

▶ **Joint Venture (JV):**

- ▶ Two or more companies coming together to pursue and fulfill a government project
 - ▶ The companies form a new LLC or corporation for the specific purpose of fulfilling the contracts won
 - ▶ Example: Company A & Company B forming a new company called AB, LLC. The new company acts as the prime.
- 

Relationship Triangles

Government Agencies
 Agency is the Customer with a need
 Program managers, buyers, procurement departments, etc
 Limited contracting authority-typical <\$25K
 Example: CDC, HHS, DOD, GSA, State, Cities, Local Municipalities, etc



Teaming Alliances with certified companies: WOSB, SDVOSB, 8a, HUBZone, Section 3, VOSB, WBE, DBE, MBE, etc.

Similar industries, goals, ethics, vision, mission, etc.

About 70% of all contracts require collaboration/teaming, subs, etc
 It's about Co-opetition
 Cooperating with your competitors

SBS = Small Bus. Specialist

SADBUS = Small and Disadvantaged Bus. Utilization Specialist

OSDBU = Office of Small Disadvantaged Bus. Utilization

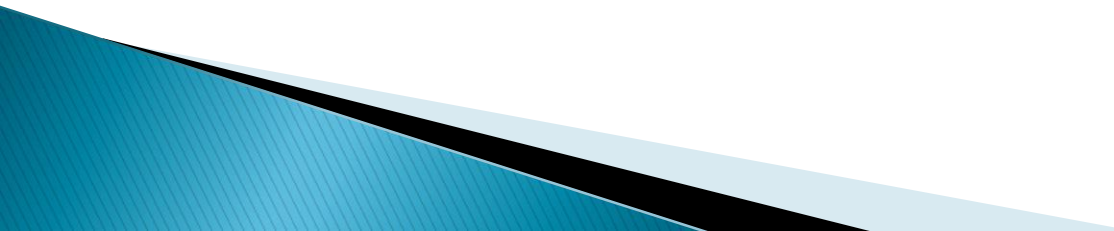
SBA B.O.S. = Bus Opportunity Specialist (8a Program)

CO = Contracting Officer
 KO = Contracting Officer
 PCO = Procurement C.O.
 TCO = Termination C.O.
 ACO = Administrative C.O.
 C.S. = Contracting Specialist
 COR = Contracting Officer Representative
 COTR = C.O. Technical Representative
 FPO = Federal Project Officer

GSA = General Service Administration
 DLA = Defense Logistics Agency

Build Contracting Department Staff: Proposal writer, Capture Manager, Relationship manager, Contracting Spec, Research team, Cost estimator/CPA, Admin.
 Hire former KO
 Invest in Consulting firm
 Utilize GCA Coaching Program

Strategic Positioning

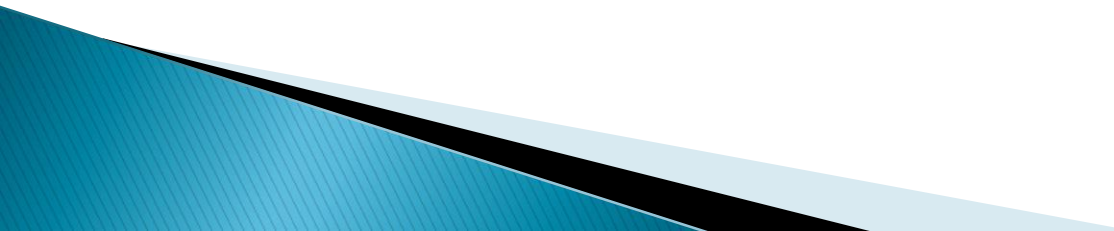
- ▶ Use of carefully structured teaming agreements for subcontracts, joint ventures and strategic alliances can allow companies, especially small businesses, to expand their documented capabilities and the pursuit of projects well beyond their normal capabilities.
- 

Strategic Alliances


These are relationships between two or more parties to pursue a set of agreed upon goals or to meet a critical need while remaining independent. Formation usually progresses in stages similar to these:

- ▶ Networking & Target Opportunities
 - ▶ Identification
 - ▶ Strategy Development
 - ▶ Partner Assessment
 - ▶ Agreed Assignment of Roles & Responsibilities
 - ▶ Contract Negotiation
 - ▶ Alliances in Operation
 - ▶ Termination of Alliances
- 

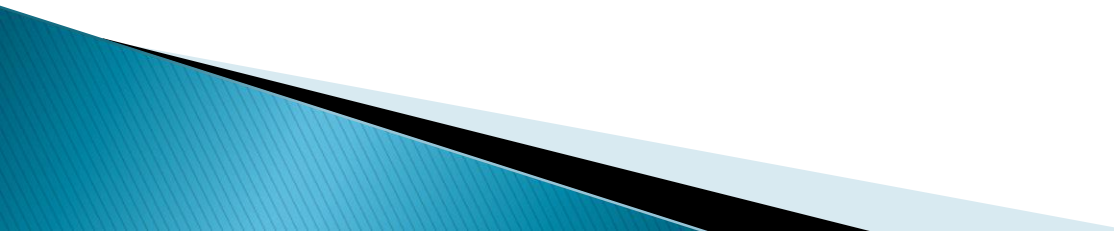
Evaluating Strategic Fit

- ▶ If all is going well with current business, why change?
 - ▶ Are our core competencies compatible with targeted market?
 - ▶ Do we have verifiable positive past performance?
 - ▶ Do we have the critical operational resources?
 - ▶ Is our firm adequately capitalized and do we have access to outside financial resources as necessary?
 - ▶ What are our constraints?
 - ▶ What can others offer to improve our competitive positioning?
 - ▶ Do we have the right people and communicative abilities needed to definitize our agreements verbally and formally in writing?
 - ▶ Have we considered our needs for legal guidance and assistance?
- 

Teaming Agreements

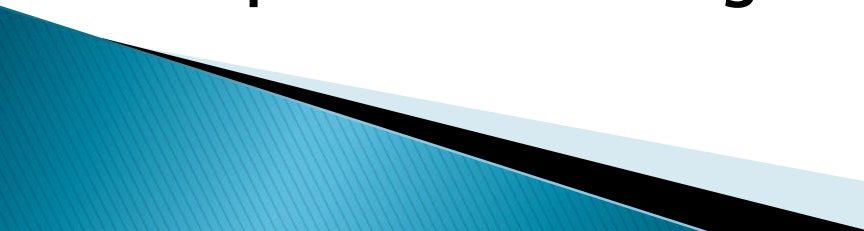
- ▶ Teaming Agreements in general happen when parties enter into arrangement in which:
 - ▶ Two or more companies form a partnership or joint venture to act as a potential prime* contractor; or
 - ▶ A potential prime* contractor agrees with one or more other companies to have them act as its subcontractors under a specified commercial or government contract or acquisition program.
 - ▶ *Or a higher tier subcontractor
- 

Preliminary Teaming Agreements

- ▶ Critical issues may include:
 - ▶ Confidentiality
 - ▶ Exclusivity
 - ▶ Good-faith negotiations
 - ▶ Withdrawal from the team
 - ▶ Document ownership
 - ▶ Financial Responsibilities
 - ▶ Post-Award Responsibilities
- 

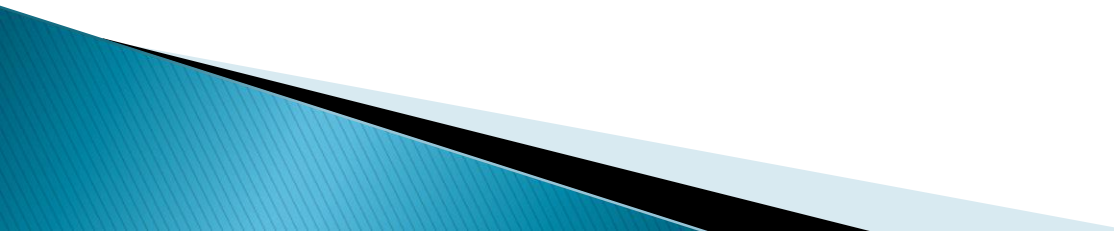
Teaming Agreements

Formalizes the relationship between the team members and normally should address:

- ▶ Proposal preparation & submittal responsibilities
 - ▶ Purpose, Requirement(s) Pursuing or Solicitation(s)
 - ▶ SOW/Delivery tasks identified upon contract award
 - ▶ Protection of team members' proprietary information
 - ▶ Adhering to terms and conditions
 - ▶ Responsibilities for daily management afteraward
 - ▶ Obligations to negotiate in good faith after award
 - ▶ Exclusivity protections for all parties to ensure no team members will act as both team members and competitors utilizing other firms on the same target(s)
- 

Choosing a Partner

Some things to look for when choosing a teaming partner:


- Clarity of Communication & Commitment
 - Proposal skills
 - Positive client standing
 - Complimentary not competitive
 - Business acumen & ethics
 - Due diligence evaluation – **“Trust, but Verify”**
 - Strengthens our presentation to Client
 - Adds capabilities to deliver on time within budget
- 

Joint Venture (JV)

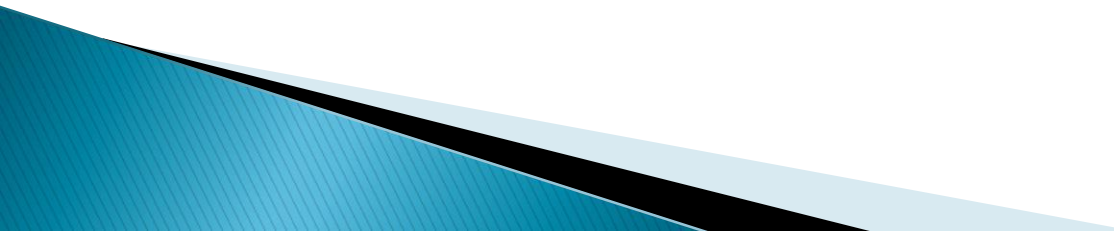
“An agreement between an eligible 8(a) participant and one or more other business concerns to establish a new entity solely for the purpose of performing no more than three contracts over a two year period.”

CAPACITY


“The overall ability of a business to meet the quality, quantity and time requirements of the contract.”



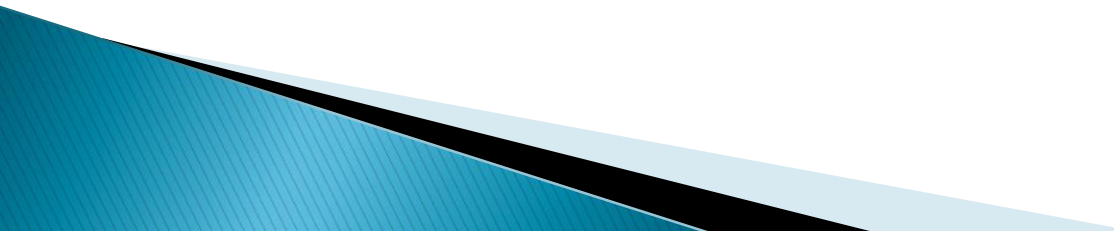
WHEN PERMITTED

- ▶ **8(a) firm lacks the capacity to perform the contract independently**
 - ▶ **Joint Venture (JV) arrangement is fair and equitable**
 - ▶ **JV will be of substantial benefit to the 8(a) firm**
 - ▶ **8(a) firm brings something of value to the JV other than 8(a) certification**
- 

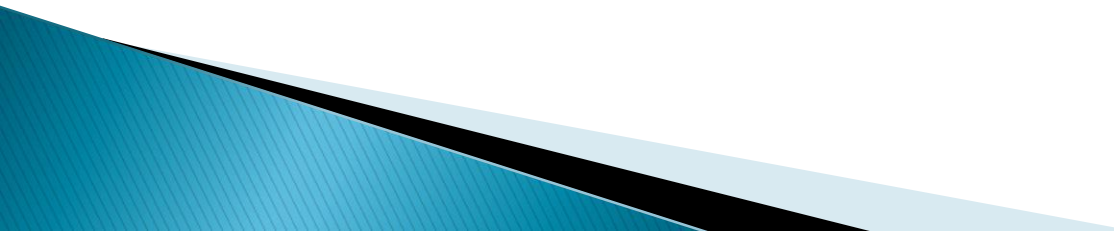
AREAS OF CAPACITY

- ▶ Adequate bonding
 - ▶ Adequate financing
 - ▶ Technical expertise
 - ▶ Experience in similar requirements
 - ▶ Access to specialized/required equipment
 - ▶ Access to appropriate facilities
 - ▶ Appropriate management
 - ▶ Adequate Labor
- 

SIZE STANDARD REQUIREMENTS

- ▶ Size Counts:
 - Small Business Set-Asides and 8(a) Procurements
 - ▶ JV must meet applicable size standard of the solicitation
 - ▶ A large business cannot be a JV participant on a Small Business or 8(a) Procurement
 - One exception: 8(a) Mentor Protégé Program
- 

SIZE STANDARD REQUIREMENTS

- ▶ Each concern must be small for the procurement
 - ▶ The size of at least one 8(a) participant to the JV must be less than one half the size standard of the size standard for the applicable NAICS code for the procurement; and
 - ▶ Revenue based size standard – procurement must exceed half the size standard for the applicable NAICS Code; or
 - ▶ Employee based size standard – procurement exceeds \$10.0 Million
- 

SIZE STANDARD REQUIREMENTS

Joint Venture = Affiliation

- ▶ 13 CFR 121.103(h)(2) In joint ventures, the joint venture partners are affiliated with regards to that procurement, and the revenue/employees will be combined to determine size, unless....

Joint Venture Exception to Affiliation Rule

13 CFR 121.103(h)(3) and 13 CFR 124.513(b):

- ▶ JV partners will not be found affiliated if:
 - Each concern is small, provided that at least one 8(a) Participant to the joint venture is less than one half the size standard of the applicable NAICS code; and
 - (1) The procurement is a bundled procurement; or
 - (2) The procurement is not a bundled procurement, and
 - (a) Revenue based size standard: the dollar value of the procurement, including options, exceeds half the size standard of the applicable NAICS Code
 - (b) Employee based size standard: dollar value of the procurement, including options, exceeds \$10 M

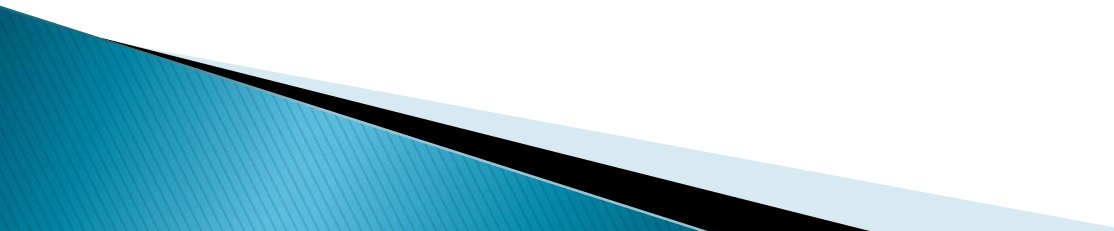
Joint Venture Exception to Affiliation Rule

Mentor Protégé Program Exceptions

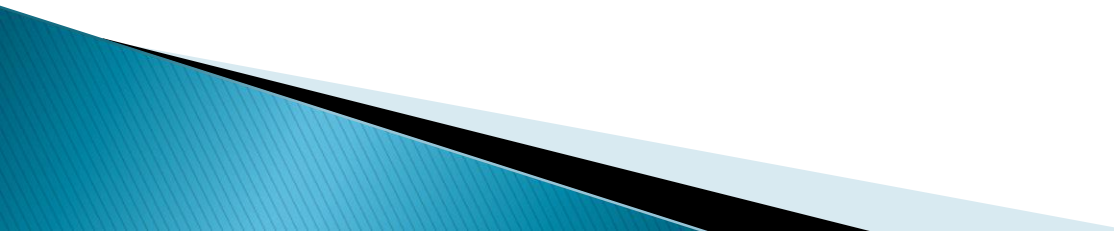
13 CFR 121.103(h)(3)(iii) and 124.513(b)(3):

- ▶ Approved mentor protégé firms under 13 CFR 124.520 may JV as small, provided:
 - the protégé qualifies as small for the procurement; and
 - if an 8(a) sole source procurement, protégé has not met the dollar limit
 - Revenue based NAICS – Five times size standard or \$100,000,000 whichever is less
 - Employee based NAICS – \$100,000,000

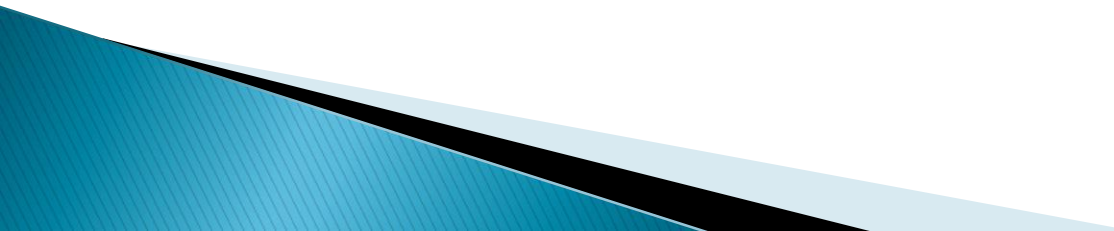
JOINT VENTURE LIMITATIONS

- ▶ **Joint venture entity can receive no more than three awards over a two year period.**
 - ▶ **A contractor and its ostensible subcontractor are treated as joint venturers, and therefore affiliates, for size determination purposes.**
- 

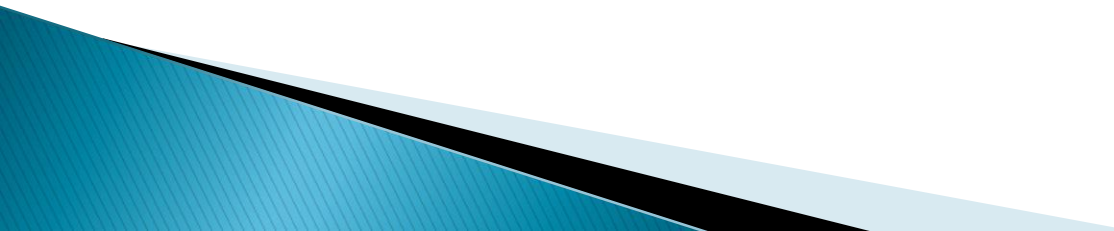
OSTENSIBLE SUBCONTRACTOR CONSIDERATIONS

- ▶ Perform vital requirements of a contract
 - ▶ Prime contractor is unusually reliant
 - ▶ Contract management
 - ▶ Technical responsibilities
 - ▶ Percentage of subcontracted work
 - ▶ Bonding assistance
 - ▶ Incumbent contractor
- 

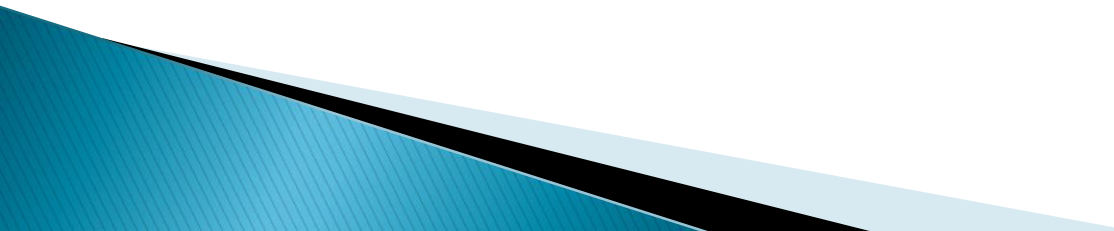
JV Summary Contents Requirements

- ▶ Purpose
 - ▶ 8(a) firm as managing venturer
 - ▶ 51% of net profits to 8(a) firm if separate legal entity (if not, profits commensurate with work performed)
 - ▶ Special bank account
 - ▶ Itemization of resources
 - ▶ Commitment to ensure performance
- 


Summary Contents Requirements

- ▶ Quarterly financial statements
 - ▶ Project-end financial statements
 - ▶ Performance of work
 - ▶ Responsibilities of parties
 - ▶ Ways parties to JV will ensure 8(a) partners will meet 40% performance requirement
- 

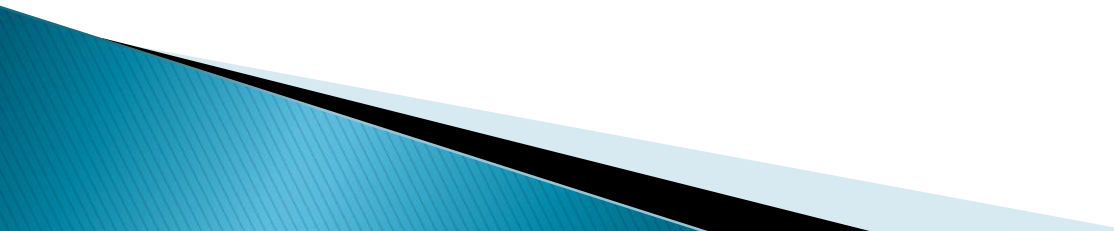
Summary Contents Requirements

- ▶ SBA must approve amendments in advance
 - ▶ SBA may inspect records
 - ▶ Maintenance of accounting and administrative records by 8(a) firm
 - ▶ Employee of 8(a) firm as project manager
- 

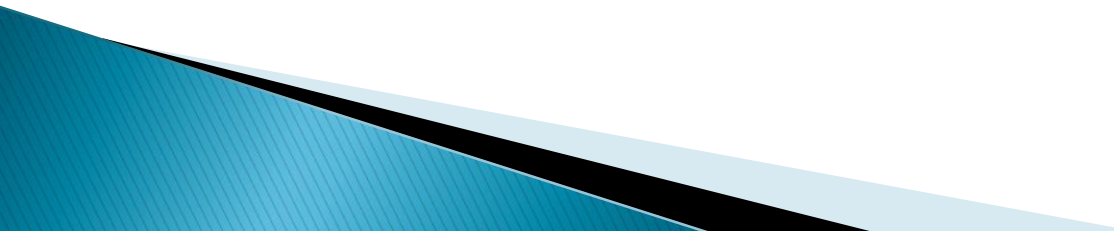
Substantive Changes

- ▶ Limited to three awards over two years
 - ▶ Clarifies partners can form second JV
 - ▶ May or may not be a separate legal entity
 - ▶ JV is unpopulated (pass through to partners)
 - ▶ 8(a) firm must perform at least 40% of the work done by the joint venture
 - ▶ Must be more than administrative or ministerial functions
- 

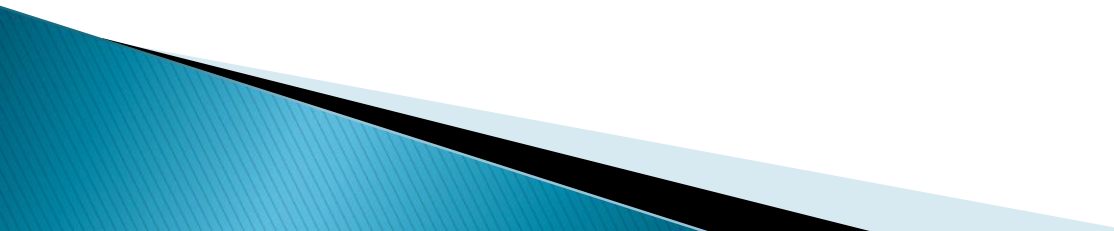
Substantive Changes

- ▶ 8(a) firm must demonstrate it will gain from performance of the contract
 - ▶ Must show how performance will assist in its business development
 - ▶ Non-8(a) JV partner or affiliates may not act as a subcontractor without AA/BD approval
- 


Substantive Changes

- ▶ JV must demonstrate 8(a) firm controls the JV
 - ▶ 8(a) firm must own at least 50% of the JV (51% if separate legal entity)
 - ▶ 8(a) firm must receive profits commensurate with work performed (51% if legal entity)
- 


Substantive Changes

- ▶ Once a JV is approved by SBA for one contract, a second or third 8(a) contract may be awarded to that JV with an SBA approved addendum to the JV.
 - ▶ Addendums must be approved prior to award of successive 8(a) contracts
- 

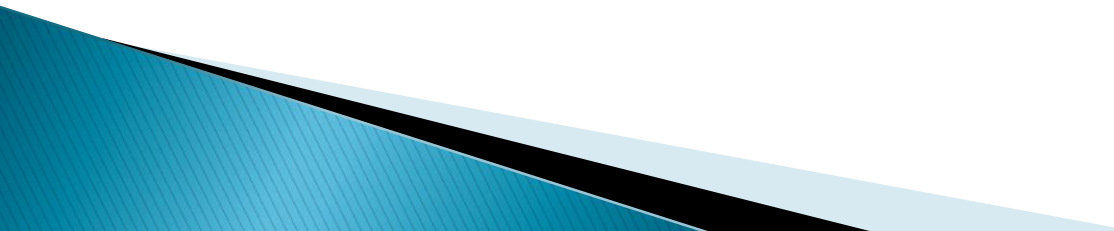
Substantive Changes

- ▶ 8(a) firm must submit performance of work reports.
 - ▶ With annual update, 8(a) firm must explain how performance of work requirements are being met for each 8(a) contract during that year.
 - ▶ At contract completion, must submit report explaining how performance of work requirements were met.
- 


UNPOPULATED JOINT VENTURES

- ▶ May or may not be separate legal entity
 - ▶ 8(a) firm Managing Venturer
 - ▶ 8(a) firm must perform 40% of the work performed by the JV
 - ▶ Project manager employed by 8(a) firm responsible for performance of the contract
 - ▶ 8(a) firm receive profits commensurate with work performed
 - ▶ JV partners demonstrate how performance requirements will be met
- 

UNPOPULATED JOINT VENTURES

- ▶ All work done by non-8(a) JV partner and affiliates will be counted
 - ▶ If non-8(a) partner seeks to do more work
 - Must be done through the JV
 - 8(a) firm must perform additional work to meet 40% performance requirement
- 

General Requirements for Submitting and Obtaining SBA Approval


- ▶ 20 working days before bid date or 20 working days prior to award
 - ▶ 8(a) participant managing partner or lead venturer
 - ▶ Approved by SBA prior to contract award
 - ▶ Prior approval by SBA on amendments, modifications, extensions, addendums
- 

General Requirements for Submitting and Obtaining SBA Approval

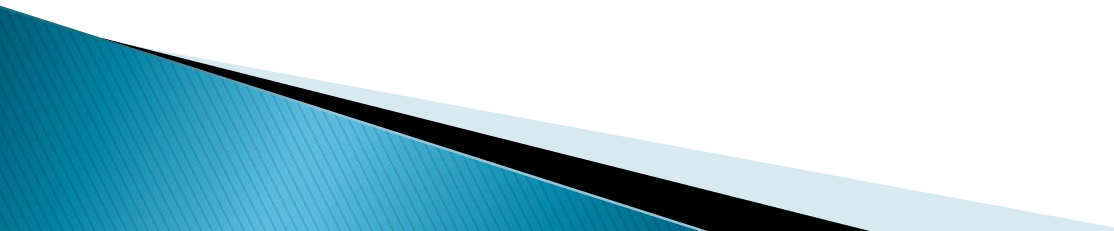
- ▶ **Letter from 8(a) participant contents requirements:**
 - What 8(a) participant lacks in capacity/capability
 - Specific benefits 8(a) firm will gain
 - How benefits will affect the 8(a) firm
 - What resources 8(a) firm brings to the JV
- ▶ **Supplemental information required**
 - Checklist

Supplemental Information Required

A. The Joint Venture applicants must submit the following general identifying information:

- ▶ The name of the Joint Venture (the new entity);
 - ▶ The EIN of the Joint Venture;
 - ▶ The business credit report (formerly the DUNS) number of the Joint Venture;
 - ▶ The names of the firms participating in the Joint Venture;
 - ▶ Verification the Joint Venture entity is registered in SAM and SBSS/DSBS;
- 

Supplemental Information Required

- ▶ For each firm involved in the Joint Venture, submit:
 - ▶ The primary industry of the firm;
 - ▶ The current capabilities of the firm;
 - ▶ A brief description of the history of the firm;
 - ▶ SBA Form 355 (Application for Small Business Size Determination); and
 - ▶ SBA Form 1623 (Certification Regarding Debarment, Suspension and other Responsibility Matters).
- 

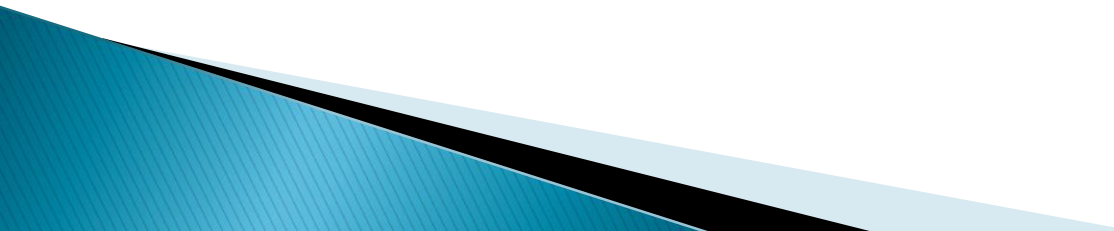
Supplemental Information Required

- ▶ The 8(a) participant(s) must demonstrate:
- ▶ What it will gain from performance of the contract; and
- ▶ How such performance will assist in its business development.

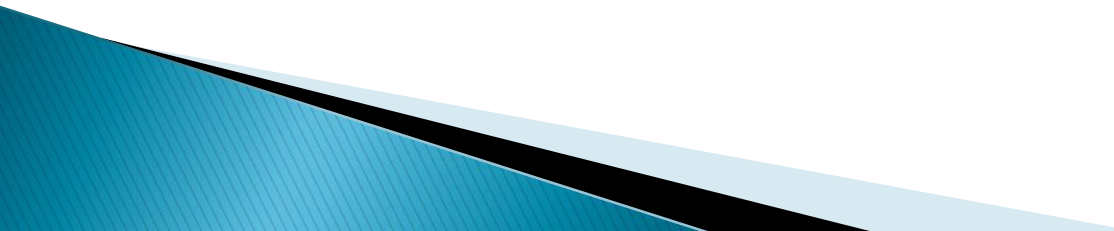
B. The Joint Venture applicants must submit a description of the project that includes:

- ▶ Customer agency;
- ▶ Size and dollar value of project;
- ▶ Type of project (general construction, janitorial, etc.);
- ▶ Expected award date for the project;

Supplemental Information Required

- ▶ Duration of project and requirements for performance;
 - ▶ Draft or final copy of bid proposal or offer;
 - ▶ An analysis (prepared by the Joint Venture participants) of the project that describes the anticipated cash flow, personnel, equipment and facility requirements;
 - ▶ A copy of the Statement of Work; and
 - ▶ The procurement's FedBizOpps synopsis.
- 

Supplemental Information Required

- ▶ **C. For non-8(a) participants, the Joint Venture applicants must submit:**
 - ▶ The number and value of contracts in the same NAICS code as that assigned to the procurement;
 - ▶ Relevant experience and professional licenses, etc.; and
 - ▶ Details of all previous Joint Ventures with 8(a) firms, including the names of all participants in those JVAs.
- 

Supplemental Information Required

D. Each 8(a) Joint Venture participant must indicate the effect the JVA and the contract award will have on their performance of existing contracts in terms of the following:

Cash flow;

- ▶ **Personnel;**
- ▶ **Equipment; and**
- ▶ **Facilities.**

Supplemental Information Required

E. The Joint Venture applicants must outline the distribution of profits for the Joint Venture and must demonstrate that the combined 8(a) participants will receive:

- ▶ If a separate legal entity, at least 51 percent of the profits earned by the Joint Venture; or
- ▶ If not a separate legal entity, profits commensurate with the work performed by the 8(a) participant.

F. The Joint Venture applicants must demonstrate that the Joint Venture meets the relevant size requirements.



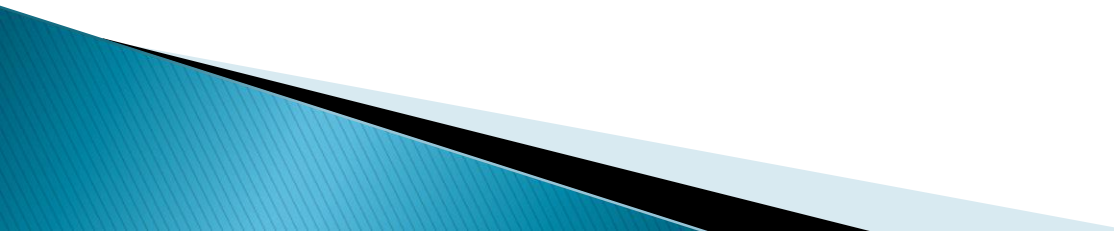
Supplemental Information Required

G. The Joint Venture applicants must analyze the percentages of work to be performed by each firm and each subcontractor. *See* 13 CFR 124.510, 124.513(d); 125.6.

- ▶ The Joint Venture applicants demonstrate that the 8(a) partner(s) to the joint venture will perform 40% of the work performed by the joint venture.

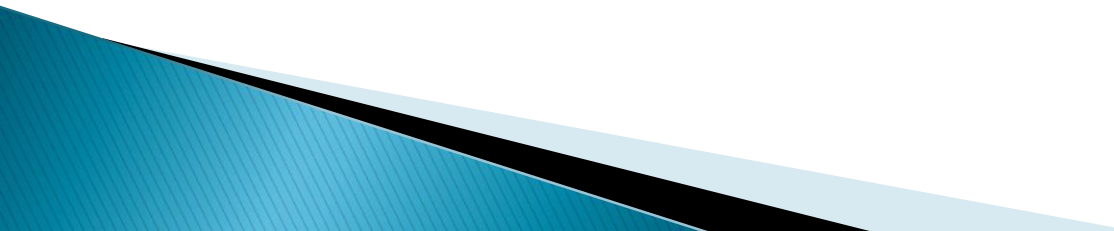
Supplemental Information Required

H. The Joint Venture applicants must submit the following financial information and certifications:

- ▶ Documentation indicating the establishment and administration of a special bank account in the name of the Joint Venture.
 - ▶ Amount and percentage of capital that each venturer is contributing;
 - ▶ Three years of signed company year end financial statements and federal tax returns for each participant; and
 - ▶ Where appropriate, evidence that the Joint Venture has sufficient bonding.
- 

Supplemental Information Required

I. The Joint Venture applicants must submit the following employee information:

- ▶ A list of the employees needed to perform the project (by position, type and number in each category);
 - ▶ The number and skills of employees supplied to the Joint Venture by each venturer; and
 - ▶ A brief description of the hiring and employee management responsibilities of each venturer.
- 


Supplemental Information Required

J. The Joint Venture applicants must submit the following concerning project management and administration:

- ▶ An explanation of how project management will be handled (the managing 8(a) participant must maintain project management control);
- ▶ An explanation of the specific responsibilities of the parties with regard to contract performance, source of labor and negotiation of the 8(a) contract; and
- ▶ A breakdown of work tasks to be performed by each joint venturer.
- ▶ A breakdown of ways the 8(a) partner(s) will meet the performance of work requirements. The work performed by the 8(a) partners must be more than administrative or ministerial functions so that they gain substantive experience.

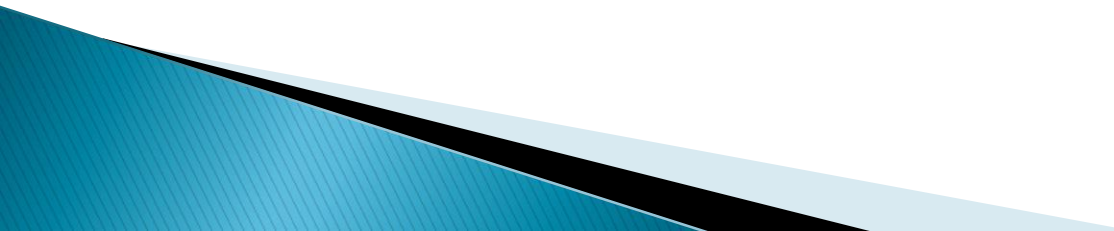
Supplemental Information Required

K. The Joint Venture applicants must also submit:

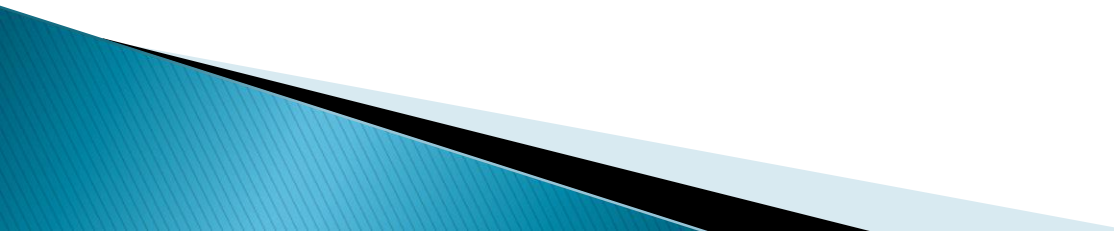
- ▶ A statement certifying that all the required provisions have been incorporated into the JVA, as set forth in 13 CFR 124.513(c);
 - ▶ A statement certifying that the provisions of the JVA are fair and equitable and will substantially benefit the 8(a) participant along with an explanation demonstrating this; and
 - ▶ A statement certifying that the 8(a) participant will bring substantial value to the Joint Venture in terms of resources and expertise other than 8(a) status.
- 

Supplemental Information Required


L. The managing 8(a) participant must submit a letter which includes the following:

- ▶ What the 8(a) participant lacks in capacity and/or capability which makes the Joint Venture necessary for project performance.
 - ▶ What specific benefits the 8(a) firm will receive from participation in the Joint Venture (in addition to contract revenue).
 - ▶ How these benefits will affect the 8(a) firm.
 - ▶ What resources the 8(a) participant will bring to the Joint Venture.
- 

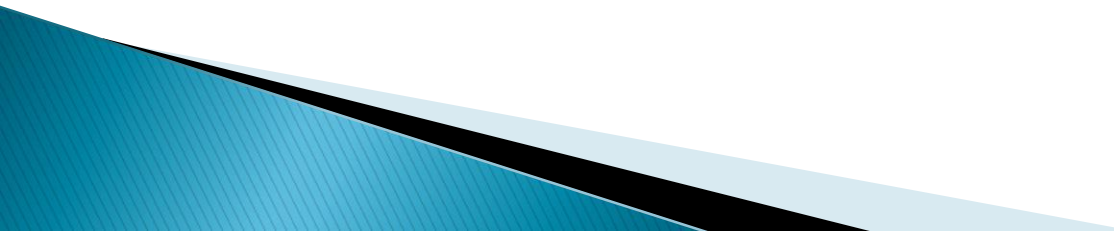
BOS ANALYSIS – SUMMARY REPORT

- ▶ Does JV fit business development needs of 8(a) firm
 - ▶ Purpose of the JV
 - ▶ Specific benefits to be gained by the 8(a) firm
 - ▶ Specific resources 8(a) firm lacks
 - ▶ Ensure JV partner provides missing capacity
 - ▶ Analysis of size of participants and JV
 - ▶ Finances and cash flow
 - ▶ Any affiliations
 - ▶ Percentage of ownership
- 


BOS ANALYSIS – SUMMARY REPORT

- ▶ Number and skills of employees provided to JV
 - ▶ Type and value of equipment contributed
 - ▶ Number and value of contracts received
 - ▶ Relevant expertise or professional licenses
 - ▶ Compliance with business activity targets
 - ▶ History of JVs
 - ▶ Breakdown of work tasks
 - ▶ Impact of JV on performance of existing contracts in terms of:
 - Cash flow
 - Personnel
 - Equipment
 - Facilities
- 

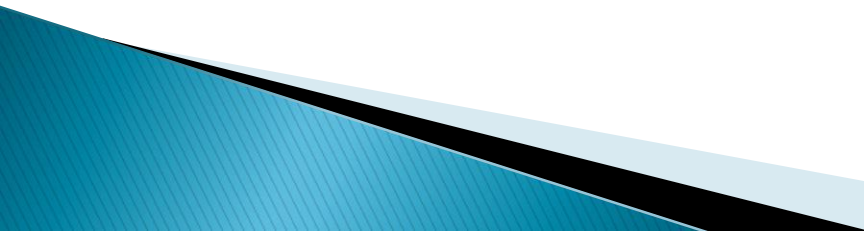
BOS ANALYSIS – SUMMARY REPORT

- ▶ All required provisions are incorporated
 - ▶ All provisions are fair and equitable to the 8(a) firm
 - ▶ Whether JV is for substantial benefit of 8(a) firm
 - ▶ Specific resources 8(a) firm brings to JV
 - ▶ Recommendation
- 

ADDEMDUM TO APPROVED JOINT VENTURE AGREEMENTS

- ▶ **Prior approval required**
 - ▶ **Must include specifics on new contract:**
 - Customer agency
 - Size and dollar value of project
 - Type of contract and applicable NAICS
 - Expected award date
 - Duration of project
 - Copy of statement of work
 - ▶ **Must specify responsibilities of parties:**
 - Contract negotiation
 - Source of Labor
- 

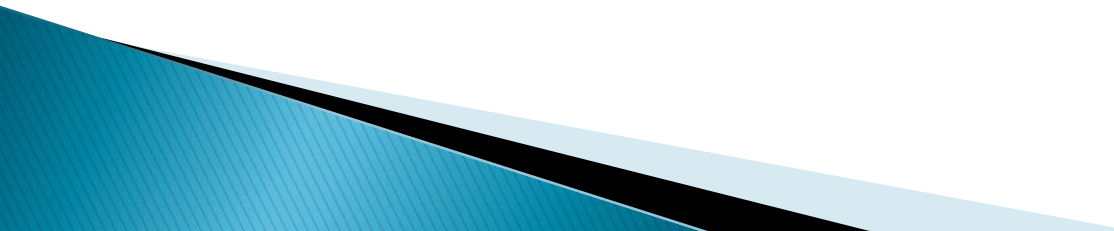
ADDEMDUM TO APPROVED JOINT VENTURE AGREEMENTS

- ▶ **Must include performance requirements:**
 - Breakdown of work tasks to be performed by each JV partner
 - Demonstrate how performance requirements will be met
 - ▶ **Must include breakdown of personnel:**
 - List of employees needed to perform the project
 - Number and skills of employees provided by each JV partner
 - ▶ **Must include equipment and facilities needed:**
 - Breakdown of equipment provided by each JV partner
- 

REPORTING REQUIREMENTS

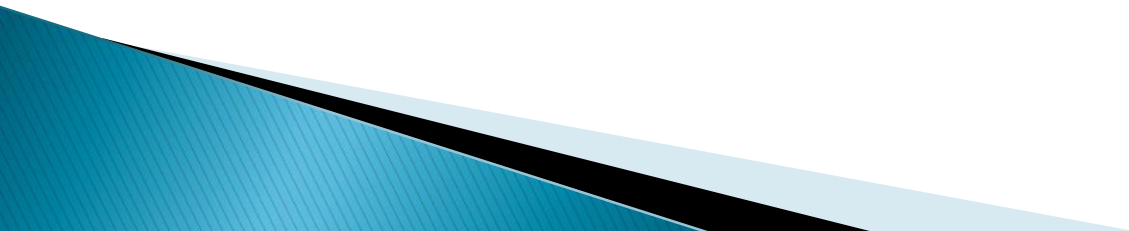
- ▶ Performance of work reports for JV contracts:
 - 8(a) firm must describe how it is meeting/has met the performance of work requirements
 - As part of annual review, 8(a) firm must explain how the performance of work requirements are being met
 - At contract completion, 8(a) firm must submit report explaining how performance of work requirements were met
 - Required for each contract awarded to a JV
 -

REPORTING REQUIREMENTS

- ▶ Financial Statements and Tax Returns
 - Each JV partner must include in its receipts its proportionate share of JV receipts
 - Each JV partner must include in its total number of employees, its proportionate share of JV employees
- 

QUESTIONS

?



THANK YOU!

Abraham Xiong
404-955-8080

info@govcontractors.org

