New Considerations In Small Business Contracting

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Experience
Jerry Miles is a government contracts attorney and business consultant with experience working in-house for KBR, a large government contractor, and a large, regional law firm. In addition to being the owner of a law firm, Mr. Miles regularly advises clients on teaming agreements, joint ventures, subcontracting, government contract disputes and bid protests.

Education
William & Mary Law
University of Virginia
Overview

- SBA Mentor-Protégé Program Expansion
- Subcontracting Changes and New Limitations
- WOSB Sole Source and Limitless Set-Asides
- SBA SDVOSB Verification Authority
SBA Mentor-Protégé

- **M-P Extension (NDAA 2013)**
  - **Agency M-P Program Issues**
    - Unifies Standards for Eligibility
    - Cumbersome & Varied Application Processes
    - Agency Programs End 1 Year After SBA M-P Regulation (Except DOD)
  - Similar To 8(a) M-P Program (HUBZone, WOSB sand SDVOSBs)
    - Financial, Management & Technical Assistance
    - Eligibility and Reporting Requirements
    - Mentor’s Incentives for Participating
  - Exemptions from Affiliation
Small Business Subcontracting

• **Prime Contractor Accountability**
  
  – **Small Business Subcontracting Plan**
    • Prime Must Notify CO if Proposed Subcontractor Isn’t Used
    
    • Subcontractor Can Notify CO if Proposed Subcontractor Isn’t Used (?)
  
  – **Reduced Payments**
    • Prime Must Notify CO When Reduces SB Subcontractor’s Payments
    
    • Prime Must Notify CO When SB Payments Are Past Due
Small Business Subcontracting

• **Limitations on Subcontracting (NDAA 2013; 52-219-14)**
  – Service Contracts: 50% of Contract Cost → 50% of Contract Value (Amount)

  – Supply Contracts:
    • NDAA: 50% of Contract Amount (Excluding Materials)
    • SBA: 50% of Contract Cost for Supplies (Excluding Materials)

  – SBC Prime’s 50% Performance Req’t Met Via Subcontracting to Other SBCs
    • Other SBC Must Be Similarly Situated: Same Size Standard OR;
    • Other SBC Must Be Similarly Situated: Same SBC Program
WOSB Program Shifts

• **WOSB Set-Asides**
  - Before: $6.5M for Manufacturing Contracts; $4.5M Other Contracts
  - Now (Post-NDAA 2013): No Caps on Set-Asides If Rule of Two Applies

• **Sole Source: NDAA 2015 (House) Allows WOSB Sole Source Ks**
SBA VetBiz Verification

• **NDAA 2015 (House, May 2014)**
  
  – **SBA-VA MOU:** SBA takes over VA verification program within 180 days

  – **SBA Rules:**
    • Verification: SBA issues verification program rules w/in 270 days of MOU
    • SBA Operate: VA CVE Veterans Information Pages (VIP) database

  – **SBA OHA (Previously VA, CVE):**
    • Denied verification
    • SDVOSB status protest appeals
    • SDVOSB status protest (excepted)
Questions?

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