
MEETING AGENDA

AGC – Small Business Administration (SBA) Meeting

3:00 PM – 4:00 PM

Welcome Remarks and Introductions

Roger Bartlett
Chair, AGC Small Business Committee

SBA Remarks

John Klein
Associate General Counsel for Procurement Law

Sam Le
Attorney Advisor, Office of General Counsel

AGC Questions for SBA

CORONAVIRUS RELIEF

- On Friday, March 27, 2020, the CARES Act was signed into law, which contains \$376 billion in relief for workers and small businesses. In addition, traditional SBA funding programs, the CARES Act created several new temporary programs.
 - Please speak to the resources are currently available for contractors.
 - What measures do you recommend small businesses take to protect themselves in the event of a future shutdown?
 - Please give an update on the Paycheck Protection Program and any significant changes that are expected.

ALL SMALL MENTOR-PROTÉGÉ PROGRAM

- In early 2020, SBA issued a proposed rule revising the All Small Mentor-Protégé Program (MPP) which marks the most significant revision of the program since its inception in 2016. The proposed rule would have significant implications for the government contracting community. Most notably: Merging the 8(a) MPP into the All Small MPP; Replacing the “three in two” rule; and Allowing prime contractors to rely on self-certification of its subcontractor
 - Is there any update to this or other rulings?

SUBCONTRACTOR COUNTING RULE

- On August 26, AGC of America submitted [comments](#) to the Federal Acquisition Regulation (FAR) Council in response to its [Notice of Proposed Rulemaking](#) for Prime Contractors to receive credit for lower-tier small business subcontracting goals. SBA

finalized a rule allowing direct-federal large business prime contractors to count lower-tier small business subcontractors towards their small business subcontracting goals. Prior to this rule, such prime contractors were only able to count first-tier small business subcontractors towards those goals. Although the rule went “into effect” on January 23, 2019, there is no way for prime contractors to receive credit for small business subcontractors.

- When will the FAR issue a final rule to include this in federal contracts?

EXPANDING DEFINITION OF SMALL BUSINESS

- On December 17, 2018, the Small Business Runway Extension Act (H.R. 6330), which modifies the method for assigning size standards for small businesses, was signed into law. The law modifies SBA reporting requirements to allow businesses to report average earnings over the last five years, rather than three. The SBA has acknowledged that there has been some confusion as to whether the five year look back period is effective immediately.
 - Is there an update on the ability of Small Business to average their revenue over a 3 year or 5 year period and what are the rules surrounding that average?

SMALL BUSINESS PARTICIPATION PLAN

- AGC members have reported instances of being penalized in RFPS for not identify all planned subcontractors by name that will be used to support each small business category. Subcontractor listing during the Proposal Phase effectively eliminates the tremendous post-award small business outreach efforts used by Prime Contractors to identify all types of small businesses and develop new relationships. The practice of listing will ultimately result in a much smaller pool of small businesses that are actually being utilized, which is contrary to the mission of the SBA and Federal Government, nor is it currently included in any provision of the FAR. With large-scale, complex Design-Build projects, the scope of work is conceptual at the Bid-Proposal Phase. It is not until after the Post Award Concept Design Workshop (CDW), and subsequent Design Phase Meetings, that the Government’s input and comments are received and incorporated into the final design. The requirement to provide a Small Business Participation Plan that names small business subcontractors at the time of award for *Design-Bid-Build* projects needs to be revised to a period of 90 days after award. This allows for the subcontract scope to be finalized and negotiated.
 - Are there any updates on the aforementioned since FEDCON of a year ago?
 - What is SBA’s policy on Small Business Participation plans?

HUBZONE PROGRAM CHANGES

- Over the years, federal agencies have struggled to meet their HubZone contracting goals.
 - Are there any regulatory or other updates to the HubZone Program?

- **WOMAN OWNED SMALL BUSINESS PROGRAM CHANGES**
 - SBA recently indicated that WOSB program will be transitioning away from self-certification and require certification of status, following similar socio-economic programs.
 - When will this regulation be enacted?
 - Do you plan to use the same SBA certify portal for certification processing, as you do the MPA?
 - If Women Owned Small Businesses are currently certified, based on their ownership, under other socioeconomic programs such as the 8(a) or VA's CVE process, can those certifications be sufficient to be certified under this new WOSB SBA certification process.

General Questions

- Open questions from the virtual floor
-

SBA Questions for AGC

Adjourn