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## MEETING AGENDA

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### AGC – Small Business Administration (SBA) Meeting

**10:45 AM – 11:45 AM**

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#### Welcome Remarks and Introductions

#### SBA Remarks

#### AGC Questions for SBA

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#### SHUTDOWN

- The recent partial government shutdown was the longest in history. SBA was one of many agencies affected by this.
  - Please speak to the effect the shutdown had on the agency.
  - How does SBA plan to prepare for future federal shutdowns?
  - What resources are there for contractors?
  - What measures do you recommend small businesses take to protect themselves in the event of a future shutdown?

#### ALL SMALL MENTOR-PROTÉGÉ PROGRAM

- In 2016, SBA extended its mentor-protégé program to all small businesses —whether a categorical small business (WOSB, SDVOSB, HUBZone) or plain small business. SBA now operates two mentor-protégé programs: one for small businesses in the 8(a) program and another for all other small businesses. AGC understands that the new all small business mentor-protégé program gives SBA authority to wind down other federal agency-specific mentor-protégé programs, except the Department of Defense.
  - What are the statuses of the other agencies' programs? Does SBA intend to end any other agency's mentor-protégé program? If so, does SBA have a time frame to end the program?
  - What is the overall Status of the program so far given the time it has taken to set-up, establish the application portal for approval, etc.?
    - What is the total number of approved mentor-protégé agreements (MPAs) to date?
    - What is the average length of time for approval?
    - What are common hiccups encountered by applicants during the process?
    - How is the required reporting and review process progressing? What does that process look like for both SBA and contractors?
- Under the Rule of Two, a federal contracting officer must set aside any contract over \$150,000 for small businesses when there is a reasonable expectation that: (1) offers will

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be obtained from at least two responsible small business concerns; and (2) the award will be made at fair market prices (FAR 19.502-2(b)).

- How does the all small mentor-protégé program impact the Rule of Two?

### **SUBCONTRACTOR COUNTING RULE**

- SBA recently 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 until the Federal Acquisition Regulation Council (FAR) issues a final rule to include this in federal contracts.
  - What is the status of this rule becoming finalized to include federal contractors?
  - What is SBA doing to help move the FAR to issue the final rule?
  - What does SBA believe the impact of this new rule will be on small federal contractors?

### **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. SBA recently issued an information notice to all of the agency's Government Contracting and Business Development employees stating: "The change made by the Runway Extension Act is not presently effective and is therefore not applicable to present contracts, offers, or bids until implemented through the standard rulemaking process..."
  - Does SBA anticipate changing its regulations to report average earnings over the last five years, rather than three?
    - If so, what are the necessary steps and anticipated time frames?

### **AGENCY REGULATIONS**

- Under the Trump administration, we have seen both the legislative and executive branch take initiative to introduce new restrictions on agencies' rule making abilities. For example, President Trump issued the "two for one" executive order stating that for every new regulation proposed, two should be rescinded.
  - Are there specific regulations that are currently being, or will likely be, eliminated or reformed?

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## **STANDARD DEFINITIONS OF SMALL BUSINESS & REGULATORY CHANGES**

- **Service-Disabled Veteran-Owned Small Business (SDVOSB) Program Changes**
  - The National Defense Authorization Act (NDAA) of 2017 placed responsibility with SBA to align the ownership and control regulations of both the Department of Veterans Affairs' (VA) SDVOSB program and SBA's own program.
    - Will the SBA SDVOSB program remain "self-certifying"?
    - Will the VA SDVOSB program still require certification through the Center for Verification and Evaluation (CVE)? If so, will the CVE be conducting the certification process?
    - What is being done with the thousands of CVE-verified SDVOSB's whose ownership and control is structured under previous (or current) CVE regulations and that differ from the proposed SBA/VA alignment regulations? Will these firms be "grandfathered" in or are they immediately non-compliant once the rule becomes final?
  - Effective October 1, 2018, SBA is amending the rules of practice of its Office of Hearings and Appeals (OHA) to implement procedures for protests of eligibility for inclusion in the Department of Veterans Affairs (VA) Center for Verification and Evaluation (CVE) database, and procedures for appeals of denials and cancellations of inclusion in the CVE database.
    - SBA will now be charged with enforcing both the SBA/VA SDVOSB programs as well as protests regarding the inclusion and appeals to the CVE database?
    - Will SBA be initiating review of current CVE-certified SDVOSB's for compliance with newly aligned ownership/control regulations?
- **HubZone Program Changes**
  - Over the years, federal agencies have struggled to meet their HubZone contracting goals. Can you briefly highlight some of the significant changes to the program?
  - Do you believe that these changes will help agencies to meet their annual goals?
- **Analytics Strategies Inc. Ruling – see SBA No. VET-268 (Jan. 29, 2018)**
  - In wake of the recent Analytics Strategies, Inc. ruling, do you believe that SBA will propose new rules to further define the impacts of recertifications of small businesses' size and/or status?

**AGC- SBA Meeting**  
**2019 Federal Contractors Conference**  
**Washington, D.C.**  
**June 11, 2019**



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### **General Questions**

- Open questions from the floor

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### **SBA Questions for AGC**

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### **Adjourn**