

Business & Enterprise Systems

Integrity - Service - Excellence

To Team or Not to Team?



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What Types of Contractor Teams Does the FAR Recognize?



FAR 9.601 Reads:

“Contractor team arrangement,” as used in this subpart, means an arrangement in which—

- Two or more companies form a partnership or joint venture to act as a potential prime contractor
- A potential prime contractor agrees with one or more other companies to have them act as its subcontractors under a specified Government contract or acquisition program



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Benefits to Small Business



- Maximize complementary skills, resources, and capabilities
- Minimize risks
- Develop a direct relationship with DoD
- Fill gaps in past performance
- Eliminate barriers (for example, supporting requirements that are geographically
- Increase competitiveness and expand opportunities for small business



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Benefits to Small Business



- Consolidate requirements with a single contractor
- Reduce the administrative burden
- Support small business contractor development
- Increase innovation
- Offer the Government the best combination of performance, cost, and delivery for the system or product being acquired



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Types of Teaming



➤ **Exclusive Teaming**

- Prime contractor promises to not solicit other contractors for the same work and the subcontractor promises not to provide bids or proposals for its services to any other prime intending to bid on the same proposal

➤ **Nonexclusive Teaming**

- The nonexclusive party is not exclusive to the other party and may provide a quote or proposal to another prime bidding on the same proposal or ask for pricing from other subs that provide the same services
- Teaming agreements can be a “one-time shot” or on an ongoing basis, such as an ID/IQ contract



What are the Advantages of Small Business Teaming?



- The JV or team is able to compete for larger more technically complex contracts by combining the capabilities and assets of various team members
- Relaxed affiliation rules for SB joint ventures and prime/sub teams on procurements that meet **certain requirements**
- Relaxed performance of work requirements on procurements that meet **certain requirements**



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What is Affiliation?



Normal Rule of Affiliation

13 CFR 121.103(h)(2)

- The members of a joint venture or team are considered to be affiliated for size purposes
- The size of each team member contributes to the total size of the joint venture or team
- The joint venture or team is small only if the combined annual receipts or employees of all the firms in the JV meet the size standard for the procurement



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What are the Relaxed Affiliation Rules?



- Relaxed affiliation means that so long as each JV venturer (in the case of a joint venture) or team member (in the case of a teaming arrangement) *individually* qualifies as a small business, then the JV or teaming arrangement qualifies as small
- Relaxed affiliation rules apply to SB JV's and teams only on procurements that meet **certain requirements**



What are Performance of Work Requirements?



- Included in contract only if contractor must be small to be eligible for award
- FAR clause 52.219-14, “Limitations on Subcontracting”
- In the case of service contracts, the SB prime contractor must perform more than 50% of the amount paid to the contractor under the contract (rather than 50% of the ‘cost of contract performance incurred for personnel’)
- In the case of supply contracts, the SB prime contractor must perform more than 50% of the amount (less the cost of material) paid the small business prime contractor (rather than the ‘cost of manufacturing’)
- “Similarly situated entities” exemption: 50% limitation on subcontracting restriction does not apply if the subcontractor is a small and of the same type as the prime



Past Performance

- Be sure to gather some intelligence and speak with those who have first-hand knowledge of how that past performance was regarded
 - Were the client and/or end user happy with the finished product or services?
 - Is the potential team partner welcome back at that base or end user facility?
 - Are they fair, respectful, and do they pay their bills on time?



Financial Resources

- It is wise to pull Dun & Bradstreet reports and have your internal risk manager provide you with an analysis
- “Look Back” of past history, careful scrutiny can unveil any trends that may be occurring
 - Potential team partner heavily indebted
 - Any payment trends emerging
 - Outstanding liens or pending lawsuits



Strengths and Weaknesses of Both Firm

- Teaming agreements work best in those situations where the prime contractor is weak or lacking in a given area and the potential team partner has strength in that area
- Strength could include potential team partner's technical know-how, unique capabilities, successful past performance at the base, personnel resources, proximity to the project site, a certain piece of equipment



Strengths and Weakness of Both Firms

- Strengths and weaknesses of both firms, and what each firm has to offer to the team, should be looked at closely
 - Strengths - So that there are no large overlaps which may cause a tug-of-war later as to who performs the work both companies are capable of doing
 - Weaknesses - Should be reviewed and mitigated or eliminated if at all possible
 - The primary goal of the teaming agreement should be to ensure there are no weaknesses or holes in the proposal being submitted to the government



Cultural Fits/Core Value

- This area is often overlooked in teaming arrangements which could include:
 - Work to be awarded to local and small businesses
 - Emphasis on maintaining client relationships and partnering with them
 - Focus on providing a safe work environment
 - Degree of risk each partner is willing to take
 - Ethics compliance
 - Litigation history
 - Do/will we and our people get along with them?



Things to Remember When Teaming



- Prescreening
- Trust
- Due diligence on the firm that you are looking to team with
- To quote a phrase often used by the late President Ronald Reagan

“Trust but verify”