

Compliance and Regulatory Requirements Under Federal Set-Aside Programs

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Overview of the Landscape

- **Budget**
- **Fraud, Waste and Abuse**
- **Compliance, Oversight and Investigations**

Budget

- **Less Money Equals**
 - **More Competition?**
 - **Potential Contract Terminations?**
 - **Options Not Exercised?**
 - **Unpaid Requests for Equitable Adjustments?**

Fraud, Waste and Abuse

- SBA has removed
 - 4,000 Firms from HUBZone Program
 - 1,000 Firms from 8(a) program
 - 50 Firms from SDVOSB Program
- FY 2011, more than 30 firms and individuals have been suspended, proposed for debarment or debarred due to procurement misconduct.

Compliance, Oversight and Investigations

- **Increased Scrutiny**

- **More Policing by Competitors and Employees**

- **More Compliance Requirements**

- **More Reporting Requirements**

- **More Public Data Bases**

- **More OVERHEAD Costs**

For All Small Business Set-Asides

- **The Importance of Flow Down Clauses**
 - **Compliance with Labor Laws**
 - **Compliance with Ethics Rules**

Performance of Work Requirements

- **Direct Labor/Employee**
- **Independent Contractor/1099**
(usually not direct labor)
- **Know How Size is Determined and When**

Ongoing 8(a) Program Eligibility Requirements

- **Business Mix**
- **Primary NAICs Code**
- **Personal Economic Disadvantage Factors**
 - **Personal Income**
 - **Personal Net Worth**
 - **Total Assets**
- **Excessive Withdrawals**
- **Business Ratios**

Protecting Your SDVOSB Status

- **Highest Paid Employee**
- **Management: Fulltime/Significant Time**
 - SBA Regulations
 - VA Regulations
- **Equity Investment by Third Parties**
- **Corporate Governance Documents Must Establish Control by the Veteran**