



FED GOV CON
Webinar
Wednesdays
2020 Series

JSchaus & Associates

Washington DC

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JENNIFER SCHAUS



& ASSOCIATES



About Our Webinars:

- Every Wednesday
- Complimentary
- Recorded
- YouTube & Our Website
- No Questions

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**National Veteran
Small Business
Coalition**

CELEBRATING
10
YEARS

**The National Veteran Small Business
Coalition (NVSBC)**

is the largest non-profit trade association in the country representing veteran and service-disabled veteran-owned small business in the federal marketplace as prime and subcontractors. NVSBC provides networking, match-making, coaching, and training opportunities for members.

Please visit: www.nvsbc.org





About Us:

Professional Services for Federal Contractors

- GSA Sched
- SBA 8(a)
- Proposal Writing
- Pricing
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About Our Speaker:

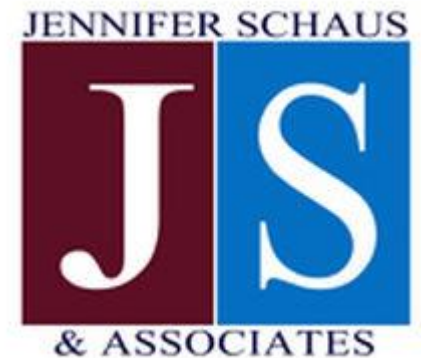
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Comparing and Contrasting Set-Aside Advantages

Wednesday,
October 7, 2020



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Topics to Be Covered:

- Benefits and drawbacks of all set-asides
 - Small Business
 - 8(a)
 - HUBZone
 - Service-Disabled Veteran-Owned Small Business (“SDVOSB”)
 - Veteran-Owned (“VOSB”)
 - Woman-Owned Small Business (“WOSB”) / Economically Disadvantaged Woman-Owned Small Business (“EDWOSB”)

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Small Business Contracting Goals

- Total USG Contracting: 23%
- 8(a): 5%
- WOSB: 5%
- SDVOSB: 3%
- HUBZone: 3%

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“Vanilla” Small Business Benefits

- No rules regarding owners—Jeff Bezos could run a small business if he left Amazon
- You only have to be “small” based upon the NAICS Code assigned to the individual procurements—this determines eligibility for each procurement.
 - Primary code is not relevant!
 - Can be revenue based or employee based
 - Every set-aside program requires the company to be small, so this is the fundamental common element in all set-aside programs.

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“Vanilla” Small Business Benefits

- Has the largest goal out of all programs—7% (effective)
- Never expires so long as you stay small
- You can Joint Venture (“JV”) with other set-asides without blowing the JV’s status (all can do that though)
- Most business flexibility in corporate structure and future planning to “stay small”
- Easiest to exit (selling stock or assets)

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“Vanilla” Small Business Drawbacks

- No special benefits as far as sole source, or other legal preferences
- Least sought after for teaming given the prevalence of other set-asides being used
- Despite having the largest goal percentage, seems like there are fewer contracts
- The 7% small business goal can be met by any of the set-aside types, and doing so gets double credit

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The 8(a) Program Benefits

- Ability to go after both 8(a) and Small Business work
- No-questions-asked sole source if under \$7M for manufacturing or under \$4M for other request for proposal (“RFP”)
 - Indian Tribes, Alaska Native Corporations (“ANC”) and Native Hawaiian Organizations (“NHO”) can get 8(a) sole source awards up to \$100M without a J&A (new rule)
 - But must be eligible on the date of bid AND award for sole source

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The 8(a) Program Benefits

- SBA more likely to get involved in disputes or help with performance issues than any other program
- Not magic bullet

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The 8(a) Program Drawbacks

- Must be certified by SBA
- Only a 9 year program (at best)—early graduation more common due to success
- 51% unconditionally owned & controlled by one or more “socially & economically disadvantaged” persons

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The 8(a) Program Drawbacks

- Restrictions in business structure (direct ownership)
 - Qualifying person must be highest exec. officer & have suitable experience (but professional license not required)
- Difficult to transfer contracts or sell the business
 - Waiver of the Termination for Convenience (“T for C”) clause required

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The HUBZone Program Benefits

- Ability to go after both HUBZone and Small Business work
- Minimal limitations on owners (need to be US Citizens)
- In full and open, HUBZone firms get 10% evaluation preference
- Fewer restrictions on business structure (indirect ownership allowed)

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The HUBZone Program Benefits

- Sole source allowed if not two or more HUBZones available, BUT the Rule of 2 was met at time of solicitation
 - \$4M for services, \$6.5M manufacturing
- Greater business structure flexibility
 - Ownership need not be direct (so can have holding companies)
 - Affiliates may be able to be excluded (or included) depending on the corporate structure and control over affiliated entities

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The HUBZone Program Drawbacks

- Must be certified by SBA
- Complicated compliance requirements:
 - Principal office
 - 35% initial and 20% recertification rule
 - Only 40 hours a month needed
 - Can use HUBZone employee aggregators
 - Affiliate implications (cuts both ways)

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The HUBZone Program Drawbacks

- Restrictions on employees—leads to restrictions on type of work and work location
 - NOTE: If you have secondary businesses you can work around this restriction

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Service-Disabled Veteran-Owned Benefits

- Able to go after SDVOSB and Small Business work, as well as SDVOSB and VOSB work at the Department of Veterans Affairs (“VA”) (if CVE Certified)
- Self certification (except for VA work)
- Sole source allowed if not two or more SDVOSBs available, BUT the Rule of 2 was met at time of solicitation
 - \$4M for services, \$6.5M manufacturing

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Service-Disabled Veteran-Owned Drawbacks

- Ownership restriction
 - SBC that is 51% unconditionally owned & controlled by one or more service-disabled vets (“SDV”) (except spouse or permanent caregiver for severely disabled SDV)
 - SDV must be highest officer & have suitable experience

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Service-Disabled Veteran-Owned Drawbacks

- Ownership restriction
 - Strictest “Control” rules—Negative Control only allowed for:
 - Adding a new equity stakeholder;
 - Dissolution of the company;
 - Sale of the company;
 - The merger of the company; and
 - Company declaring bankruptcy

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Service-Disabled Veteran-Owned Drawbacks

- High fraud visibility
- VOSB is only available for VA work

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Woman-Owned Benefits

- Able to go after WOSB/EDWOSB as well as Small Business work
- Sole source allowed if not two or more WOSBs/EDWOSBs available, BUT the Rule of 2 was met at the of solicitation
 - \$4M for services, \$6.5M manufacturing

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Woman-Owned Drawbacks

- Must be certified by SBA or approved third party
 - Used to allow self-certification, but as of Oct. 15, 2020 you must be certified independently
- Limited NAICS Codes for set-asides (see: <https://www.sba.gov/document/support--qualifying-naics-women-owned-small-business-federal-contracting-program>)

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Woman-Owned Drawbacks

- Ownership restrictions
 - WOSB must be 51% unconditionally owned & controlled by women
 - Economic disadvantage—net worth of \$750K or less; 3 year average AGI \$350K or less; total assets \$6M or less
 - Woman must be highest officer & have suitable experience
- Corporate structure restrictions (direct ownership)
- Least used program in many cases



THANK YOU!
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