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## MEETING AGENDA

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

**3:00 PM – 4:00 PM**

#### **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?

#### **ALL SMALL MENTOR-PROTÉGÉ PROGRAM**

- Earlier this year 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.
  - What is the status of the proposed rule?
  - 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 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**

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- 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 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.
  - Please provide an update on the status of the SBA reporting requirements and new rule.
  - 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?

#### **SMALL BUSINESS SUBCONTRACTING PLAN**

- On *Design-Build* projects the earliest and most effective period to submit the Small Business Subcontracting Plan is at 95% design development. At 95% design development, enough level of design is completed that allows for detailed and specific bid packages to be provided. Typically, small business subcontractors are more comfortable with signing a letter of commitment and the subsequent subcontract when there is a more definitized scope and level of design.
- The requirement to provide a Small Business Subcontracting 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.

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- What are the guidelines regarding Small Business Participation Plan?
  - What are the guidelines regarding Small Business Subcontracting Plan?
  - How are these communicated to other agencies?

### **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?
- **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?

### **General Questions**

- Open questions from the floor
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### **SBA Questions for AGC**

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### **Adjourn**