



U.S. Small Business
Administration

8(a) Joint Venture Agreements

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Agenda

- Definition/Regulations
- Why Joint Venture
- Joint Venture Entities
- Size & Affiliation
- Contents of an 8(a) JVA
- Performance of Work Requirements
- Approvals & Timelines
- Contract Awards
- Past Performance Considerations
- Reporting Requirements



Joint Venture Agreement Definition/Regulations

- A written agreement between an eligible 8(a) Participant & one or more other business concerns to establish a new legal entity solely for the purpose of performing one or more specific 8(a) contracts.
- Contract award is made to JV entity, rather than one or more firms
- Regulations:
 - 13 CFR 121.103(h) – Discusses affiliation based on a JV
 - 13 CFR 124.513 - Covers circumstances a JV can be awarded an 8(a) contract
 - 13 CFR 125.8 – Discusses Small Business JV

Benefits of JVs to the Small Business

- Gain new capacity and expertise
- Combine capabilities and past performance
- Increase bidding power and bonding capacity
- Share risk
- Short time frame

When is a JV Permitted?

- 8(a) Participant lacks of capacity to perform the contract on its own
- JV agreement must be fair and equitable
- Provides substantial benefit to the 8(a) Participant
- 8(a) Participant must bring resources and expertise other than its 8(a) status



Joint Venture Agreements (JVA)

- Must have a System for Award Management (SAM) profile with its own DUNS number
 - **The name of the JV, SAM and Business License must match**
- JV may be formal or informal partnership or separate legal entity
- May not be populated with individuals intended to perform contracts awarded to the joint venture (13 CFR 121.103(h))
- Contract awarded must be awarded to the JV
- Contents of the 8(a) JVA are defined in 13 CFR 124.513(c)

Size of JV Partners

- JV partners in a procurement are always affiliated with respect to that procurement, unless an exception to affiliation applies. 13 CFR 121.103(h)(2).

Exceptions, provided under 13 CFR 121.103(h)(3):

- A JV may be SB if EACH of the JV partners is small under the size standard of the NAICS assigned to the procurement (regardless of the dollar value of procurement); 121.103(h)(3)(i)
- A mentor-protégé relationship exists between the JV members and their JV agreement complies with JV regulations; 121.103(h)(3)(ii)

JV Affiliation

- The same two or more entities may have more than one JV
- Each new JV may be awarded up to three new contracts
- General affiliation may be found at some point when there is longstanding inter-relation or contractual dependence between the same JV partners
- 13 CFR 121.103(h)

Contents of 8(a) JVA

13 CFR 124.513(c)

1. Purpose of JV
2. Designating managing venturer and project manager
3. 8(a) Participant(s) own 51% or more of JV entity
- 4. Receive profits commensurate with the work performed**
5. JV bank account
6. Itemize all major equipment, facilities and other resources to be furnished

Contents of 8(a) JVA (continued)

7. Specify the responsibilities of the parties
8. Complete performance despite withdrawal of any member
9. Accounting and administrative records in office of 8(a) participant
10. Original records retained by 8(a) Participant
11. Quarterly financial statements to SBA within 45 days
12. Project end profit and loss statement to SBA within 90 days of completion

Performance of Work

- 8(a) Participant must perform at least 40% of the work done by the JV

Example:

General construction requirement (15% prime performance)

- JV is the prime
- 51% or more managing venturer must perform 40% of JV work (approximately 6%)

Limitations on subcontracting (FAR 52.219-14)

- Services – 50% of personnel costs
- Supplies – 50% of cost of mfg, excluding materials
- General Construction – 15% of cost of contract with own employees, excluding materials
- Special Trade Construction – 25% of cost of contract with own employees, excluding materials

Approval of JVA

- **SBA must approve a JVA prior to the award of an 8(a) contract**
- It takes approximately 4 weeks to get a JVA approved through the SBA. So the SBA typically starts the JVA approval upon selection into the competitive range.
- **Priority is given to JVAs connected to specific solicitations & those in the competitive range**
- **SBA must approve JV addendums prior to award of any successive 8(a) contract to the JV**

Approval of JVA

- SBA must approve the Mentor Protégé Agreement (MPA) before two firms may submit an offer as a JV on a prime or subcontract in order for the JV to receive the exclusion from affiliation.
- Reference 13 CFR 124.520(d)(i) as well as 13 CFR 125.9(d)(i)
- **ASMPP lead-time has increased to 90 days**

Joint Venture Contract Awards

- 13 CFR 121.103 (h)
- 3 contract awards in 2 years
 - BOA, BPA, BA—Initial Agreement must be approved AND addendum must be approved for each order/call and counts as a separate contract award
- 2 year period starts the **date of the award** of the first contract

Non 8(a) Joint Ventures

- The JVA is not reviewed and approved by the SBA prior to award.
- The small business does not have to prove they lack of capacity to perform the contract on their own.
- The mandatory reports (annual report, quarterly financial statements, and completed contracts) are not sent to a SBA Business Opportunity Specialist, instead they are sent to asmppjvreporting@sba.gov

Additional Assistance from your BOS

- Sample of JVA
- Sample addendum
- Supporting documents checklist



Resources

- SBA's Joint Venture Template
 - <https://www.sba.gov/document/support--joint-venture-agreement-template>
- SBA's Mentor Protégé Joint Venture Guide
 - <https://www.sba.gov/document/support--mentor-protege-program-joint-venture-agreement-guide>
- All Small Mentor Protégé Program
 - <https://www.sba.gov/federal-contracting/contracting-assistance-programs/all-small-mentor-protege-program>

Questions

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