



WELCOME

to the **SAME DC POST**

April 22, 2021

Our meeting will begin at 12:00 pm (EDT)



Please mute your audio to start



Unless you are a speaker, please turn off your video



In the Chat:

Please type your Full Name and Email Address for attendance to and to request a PDH (1hr) Certificate for this program

● This program is being recorded



AGENDA

April 22, 2021



Selena Lo
SAME DC Post President

1200 – 1215

Welcome

Moment of Silence

Pledge of Allegiance

Thank you to our Post Sponsors

1215 – 1310

**Program:
Introductions, Panelist Discussion,
& Question and Answer**

1310 – 1330

**Meeting Closeout &
Virtual Networking**



WELCOME

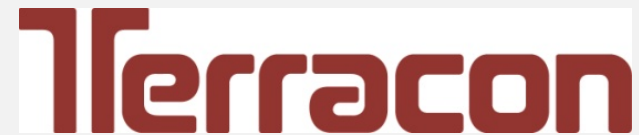
*Please join us for the **Pledge of Allegiance**
led by our DC Post Young Members Director, **Daryl Starks***



“I pledge allegiance to the
Flag of the United States of
America and to the
Republic for which it stands,
one nation, under God,
indivisible, with liberty and
justice for all.”



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STRATEGIES FOR SUCCESS:

Teaming, Joint Ventures and the SBA Mentor-Protégé Program

The program includes a virtual panel presentation discussion on the differences between teaming agreements, joint venture agreements, and the SBA's Mentor-Protégé Program. Participants will learn about the key strategies to form a successful team, understand how to create and enforceable teaming agreement, how to form a JV that is compliant with regulations, and eligibility requirements of the SBA Mentor-Protégé Program.

Learning Objectives:

- ✓ Understand the legal requirements and policies for government contracting teaming agreements, Joint Ventures, and the SBA Mentor-Protégé Program.
- ✓ Understand the best practices for strategically teaming to pursue opportunities in the AEC
- ✓ Identify resources to form partnerships and how to leverage teaming during a pursuit



To receive a 1 Hour PDH certificate, you must be registered to attend the meeting, and type your full name and email address in the Chat of this live virtual platform.



STRATEGIES FOR SUCCESS:

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During the program, please type your questions in the chat and we'll answer as many as we can after the presentation.



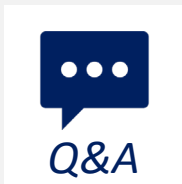
STRATEGIES FOR SUCCESS:

Teaming, Joint Ventures and the SBA Mentor-Protégé Program

What We Will Cover

- > **What is a “Teaming Agreement”?**
- > **Why Team (Or Not)?**
- > **Teaming Process**
- > **Scope and Terms of (Vertical) Teaming Agreement**
- > **Scope and Terms of Joint Venture (Horizontal Team)**
- > **SBA Mentor Protégé Program**
- > **GSA Contractor Team Arrangement**
- > **Q&A**

Please note: This presentation contains general, condensed summaries of actual legal matters, statutes and opinions for information purposes. It is not meant to be and should not be construed as legal advice. Individuals with particular needs on specific issues should retain the services of competent counsel.



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STRATEGIES FOR SUCCESS:

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What Is A Teaming Agreement?

“Teaming Agreement”

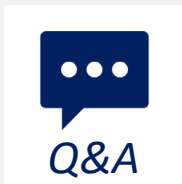
- > No FAR definition.
- > A written document that memorializes team arrangement.

“Contractor Team Arrangement”

- > 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 (*i.e.*, Vertical).
- > Two or more companies form a partnership or joint venture to act as a potential prime contractor (*i.e.*, Horizontal) (FAR Subpart 9.6).

Policy

- > Teaming Agreement is acceptable if identified and company relationships disclosed in offer or, for post-offer arrangements, before the arrangement becomes effective. (FAR 9.603)



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What Is A Teaming Agreement?

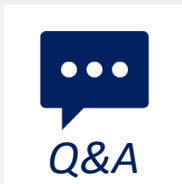
Distinguish: “Subcontract” (FAR 44.101)

- > Any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract.

“Subcontractor”: Any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime contractor or another subcontractor. (FAR 44.101)

Other Type of Teaming Agreement

- > GSA Schedule Contractor Team Arrangement (CTA)



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Why Should I Team (Or Not)?

Depends on Perspective

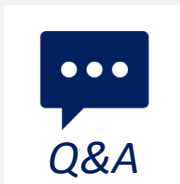
- > Prime / Sub / Big / Small / Experienced / New

PROS

- > Expand Skillset, Technical Capability, Competitiveness, Experience, Past Performance, New Markets
- > Meet Customer Expectations and Expand Ties
- > Share Cost, Share Risk of Loss, Lock in Partner

CONS

- > May Lose Independence and Control, Internal Organic Skill Development, Profits, Internal Information
- > Dependence on Others and Risk of Other's Failure
- > Creation of Competitor



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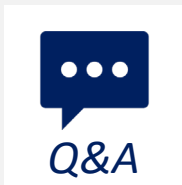
Teaming Process

Teaming Agreement >>> should come at end of process

- > What is business goal for particular situation? >> Do you need or want to team (“Make or Buy?”) >> Market Research >> NDA >> Due Diligence >> Teaming Agreement >> Subcontract / JV for Project

Enforceability Considerations

- > Agreement to Agree vs. Definitive Agreement vs. Partial Enforceability



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Scope And Terms Of (Vertical) Teaming Agreement

No Cookie Cutter Teaming Agreements

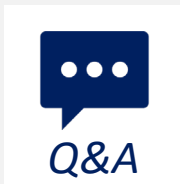
- > Negotiations reflect tension between Primes' and Subs' interests, leverage and goals

Key Terms for Enforceability

- > Preamble; Intent for Binding Agreement; Term (Duration / Termination); Exclusivity; Mandatory Subcontract Language; Subcontract Terms; Subcontractor Workshare (SOW); Subcontractor Pricing; Remedies

Other Terms

- > Non-Solicitation or Competition; OCI; Costs; Disputes; Governing Law; Termination; Limitation of Liability; Communication with Customer; IP, Confidentiality; Compliance / Certifications; Flow Downs; Boilerplate (Notice, Publicity, Severability, Assignment, Survivability, Force Majeure, Waiver, Incorporation, Amendment, Headings and Recitals)



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STRATEGIES FOR SUCCESS:

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Joint Venture Overview – Horizontal Team

What is it?

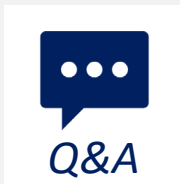
- > A JV is a new entity comprised of multiple entities combining resources to pursue a business objective.

Types

- > Contractual JV (Partnership)
- > LLC
- > Corporation

Effect

- > Members / Shareholders: Share proportionate share of profits and loss.
- > Partnership: Equal share of profits / losses and liable to each other's actions and liabilities



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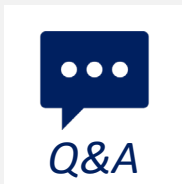
Joint Venture Overview – Horizontal Team

Status

- > Initially, JV has no history of experience or past performance (may sometimes rely on members past performance).

Populated or Unpopulated

- > SBA now bars “populated” JV for small business / mentor protege JVs.



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Key Terms In A JV

- > **Form:** Operating Agreement, Articles and Bylaws or Partnership Agreement
- > **Purpose & Scope**
- > **Ownership / Contributions / Distribution / Voting**
- > **Control / Management**
- > **Succession**
- > **Taxes**
- > **Liabilities / Indemnification**
- > **Transfer / Dissolution / Term and Termination**
- > **Boilerplate Terms**



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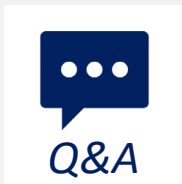


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What is the SBA Mentor-Protégé Program?

- > **Started with the 8(a) Mentor Protégé Program and extended into the All-Small Mentor-Protégé Program before merging into the current Mentor Protégé Program.**
- > **If done properly, two or more small businesses or a large business and a small business can joint venture as a small business or other type of socioeconomic concern and compete for set-aside contracts.**
- > **Can provide an exception to affiliation.**



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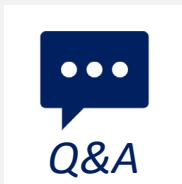
Why Participate in the Mentor-Protégé Program?

Benefits to Protégé

- > Guidance on systems, accounting, marketing, strategic planning, and the procurement process.
- > Financial assistance in the form of equity (up to 40%) and debt investment.
- > Leverage the Mentor's past performance, experience, and reputation.

Benefits to Mentor

- > New pool of contract opportunities (e.g., if other than small) and large workshare allocation (up to 60%).
- > Improved skill sets (e.g., internal employee teaching or enterprise level) and new customer relationships.
- > Potential investment or acquisition target or long-term relationship.
- > Resource for innovation.



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How to Participate?

Qualifications

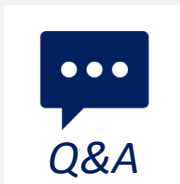
- > Protégé size and socioeconomic eligibility
- > Mentor character and skill qualifications

Formation and Approval

- > SBA Approval of the Mentor-Protégé Agreement (Mandatory terms)
- > Joint Venture as an unpopulated separate legal entity (e.g., separate EIN, SAM, DUNS, CAGE)
- > Compliant Joint Venture Operating Agreement (No SBA Approval)

Performance

- > Limitations on subcontracting (JV can subcontract no more than 50% unless sub is similarly situated)
- > Internal workshare split if there is a large business or a specific socioeconomic category (e.g., 60-40%)



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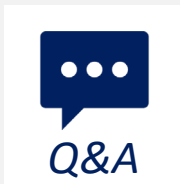


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GSA Contractor Teaming Arrangement

- > **See GSA.GOV website**
- > **Two or more GSA Schedule Holders**
- > **Two primes / One takes administrative lead**
- > **Expands offerings**
- > **Each entity invoices at its rates / prices**
- > **Not a FAR Subpart 9.6 Contractor Teaming Arrangement**



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**Thank You For Spending Part Of Your Day
With Us!**



Questions?



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PROGRAM WRAP-UP



To request a PDH for today's live program, please type your Full Name and email address in the chat window.



A link to the slides and recording will be emailed to everyone who registered.

Slides and the recording will be posted on the SAME DC website:

www.same.org/DCPost



UPCOMING EVENTS

A large orange banner for the 2021 Virtual Joint Engineer Training Conference & Expo. On the left is the JETC logo, a circular emblem with "Joint Engineer Training" at the top, "JETC" in the center, and "Conference & Expo" at the bottom. To the right of the logo, the text reads "2021 Virtual JOINT ENGINEER TRAINING CONFERENCE & EXPO" in a mix of bold and regular fonts. In the top right corner of the banner, the dates "MAY 17-21" are displayed in a large, bold font. In the bottom right corner, there is a graphic of colorful geometric shapes and the SAME logo with the text "Society of American Military Engineers".

Registration is now Open!

www.samejetc.org



UPCOMING EVENTS

JOINT CONFERENCE

SAME DC POST in association with ACEC MW and CMAA NCC

TOPICS AND SPEAKERS

★ THE UNITED STATES COAST GUARD PROGRAM

Current USCG program focus, initiatives, challenges in program delivery and role of the AEC Industry in supporting the USCG's missions.

Speakers: **Rear Admiral Carola List**
Chief Engineer, USCG
Captain Patrick J. Dugan, P.E., PMP
Chief, Office of Civil Engineering

★ INFRASTRUCTURE FUNDING UPDATE

The Biden Administration and Congress are preparing to propose a massive infrastructure funding bill to support transportation and water infrastructure construction programs nationwide. An update on current AEC Industry actions in support of this bill will be provided.

Speaker: **Mr. Steve Hall**
Senior Vice President for Advocacy
The American Council of Engineering Companies

★ SAME/ACEC/CMAA REGIONAL & NATIONAL UPDATES

JUNE 23, 2021

1:30 PM - 3:30 PM EDT

ONLINE WEBINAR

\$15 - Government Civilians /
Active-Duty Military

\$25 - SAME DC Post / ACEC
MW/CMAA NCC
Members

\$50 - Non-Members

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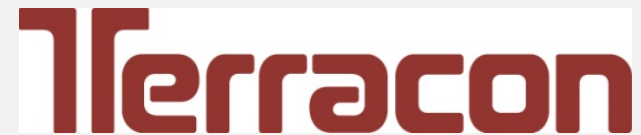
Registration opens in May

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