



GENERAL MEMBERSHIP MEETING

Crystal Gateway Marriott

December 6, 2005

3:30 pm

Slide Presentations

Current Size Standard Issues

–By Gary Jackson, Small Business

Administration..... 3

Teaming Agreements and Joint Ventures

–By Pam Mazza.....11

Current Size Standards Issues
SEBAC General Membership Meeting
December 6, 2005

U.S. Small Business Administration



Your Small Business Resource

Office of Size Standards

Current Size Standards Issues

Recent Actions

Inflation Adjustment
Gulf Coast Initiatives
Security Guards

Pending Issues

Recertification of Small Business Status
Size Standards Restructuring



Recent Size Standards Actions

Inflation Adjustment – December 6, 2005

8.7 Percent Increase Since 2002

| | | | |
|------------------|----------------|----|----------------|
| A&E Services | \$4.0 million | to | \$4.5 million |
| Consulting | \$6.0 million | to | \$6.5 million |
| Waste Collection | \$10.5 million | to | \$11.5 million |
| Specialty Trades | \$12.0 million | to | \$13.0 million |
| IT Services | \$21.0 million | to | \$23.0 million |
| Construction | \$28.5 million | to | \$31.0 million |

Recent Size Standards Actions

Gulf Coast Initiatives – November 14, 2005
Surety Bond Guarantee Size Standard
GO Pilot Loan Program

Security Guard Services Proposal – November
10, 2005

Pending Size Standards Issues

Recertification of Small Business Status --

April 25, 2003

Proposed Annual Recertification on Multiple
Schedule and Multiple Award Contracts

Final Rule Pending



Pending Size Standards Issues

Size Standards Restructuring

March 2004 Proposal Withdrawn

Advance Notice of Proposed Rulemaking—
December 3, 2004

11 Public Hearings in June 2005

Pending Size Standards Issues

6,000 Public Comments

300 Witnesses

Assessing Comments & Developing Positions

Future Proposals

Size Standards Issues

Encourage Review and Comment on
Specific Proposals

<http://www.sba.gov/size>

“What’s New” Topic

Questions?



Partners in Transformation

December 5-7, 2005



**US Army Corps
of Engineers®**



2005 USACE Small Business Conference
Crystal Gateway Marriott Hotel
Arlington, VA

Teaming Agreements and Joint Ventures

Pamela J. Mazza, Esq.
Piliero, Mazza & Pargament, PLLC

December 7, 2005

888 17th Street, N.W., Suite 1100
Washington, D.C. 20006
202-857-1000
pmp@pmplawfirm.com
www.pmplawfirm.com

Trends

- Contract Bundling
- GSA/FSS Schedule Contracts
- Outsourcing
- Large/small SB set-asides
- More teaming/joint venturing
- HUBZone Awards
- New SDVSB set-aside
- Evaluation credits for teaming with SB/SDBs
- Past Performance

Types of Teaming Arrangements

- Traditional teaming agreements resulting in prime/sub relationship
- Joint Ventures



**TEAMING RELATIONSHIPS -
LEGAL?**

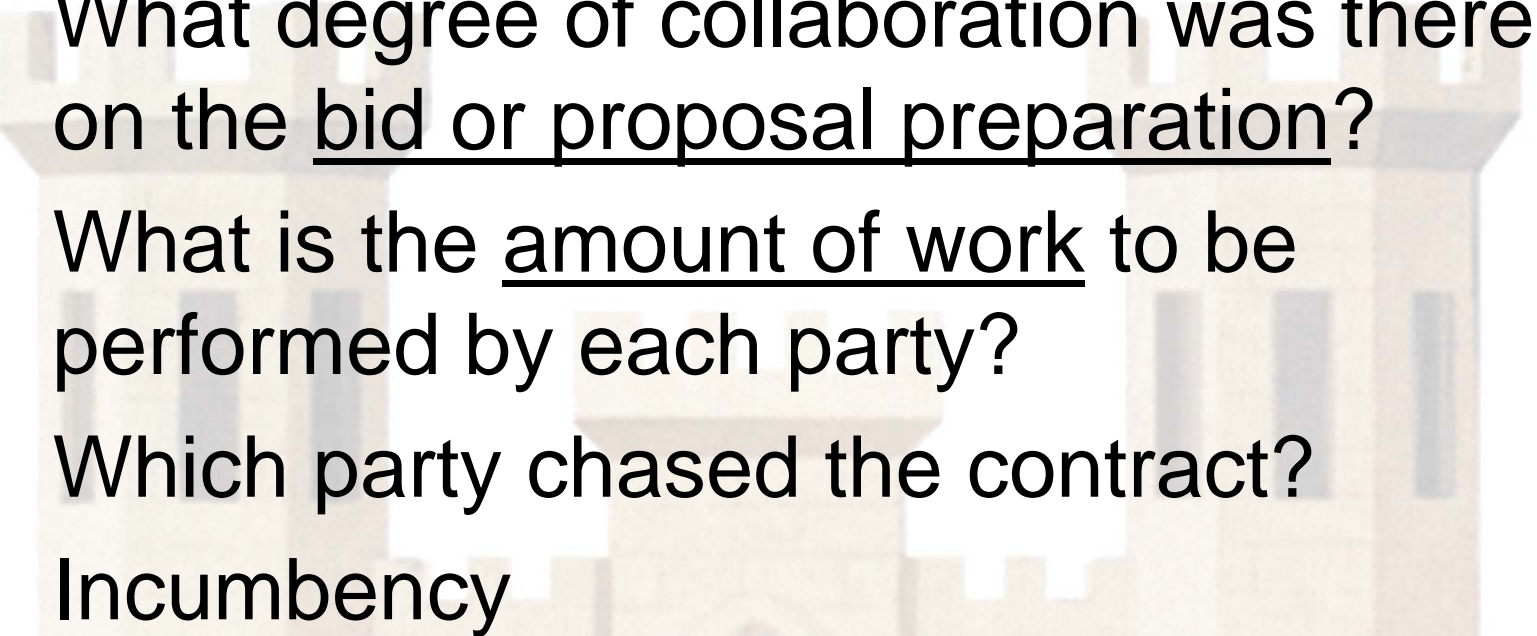
Traditional Teaming:

Drafting and Other Issues

- No affiliation or ambiguity
- Mutuality
- Proprietary information
- Hiring of Employees
- Division of work – areas and percentages – Exhibit A
- Assignment
- Exclusivity
- Indemnification
- Disputes
- Governing law

Affiliation – Ostensible Subcontract Rule:

- Unusual reliance on subcontractor
- “Seven Factors Test” – Still Applicable?
 1. Which party will manage the contract?
 2. Are there discrete tasks to be performed by each party or is there commingling of personnel?
 3. What party performs the more complex and costly contract functions?
 4. Which party possesses the requisite background and experience to carry out contract?

- 
5. What degree of collaboration was there on the bid or proposal preparation?
 6. What is the amount of work to be performed by each party?
 7. Which party chased the contract?
 8. Incumbency

Subcontract Agreements

- Drafting subcontracts—include:
 - Same provisions from teaming agreement
 - Additional performance details
- Scope of work
- Flow down provisions
- Indemnification
- Hiring of Employees
- Term of the Subcontract Price
- Deliverables and Timeframe
- Billing Procedures and Payment Clauses

Joint Ventures

A. Main Characteristics:

1. Co-management
2. Sharing profits and losses
3. Limited duration

B. Competing as a joint venture:

1. Joint ventures should be formed before submitting offer
2. Agreement should provide for contract performance

C. Form of joint venture

1. Partnership
2. Limited Liability Company





Enforcement

Cost of Litigation

- Expense
- Time
- Negative Energy

Avoid Through:

- Due Diligence
- Chemistry with the Organization
- Clear Written Understanding