



# ALERT

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## SBA PROPOSES TO EXPAND THE MENTOR-PROTÉGÉ PROGRAM TO INCLUDE ALL SMALL BUSINESSES, NOT JUST 8(A) SMALL BUSINESSES

By Reginald M. Jones and Nicholas T. Solosky

On February 5, the Small Business Administration (SBA) [issued new proposed rules](#) that could dramatically change the landscape for small businesses as well as for large federal contractors that team with small business concerns.

With narrow, limited exceptions, the SBA regulations currently provide that two businesses that joint venture to perform federal contracts will be considered affiliated. Affiliation can cause a real problem for small businesses. Specifically, affiliation with a large business means the loss of small business size status and no longer being able to pursue small business set-aside contracts or subcontracts under a large business's Small Business Subcontracting Plan.

The most notable exception to affiliation applies to participants in the SBA's 8(a) mentor-protégé program. An 8(a) protégé can joint venture with its SBA-approved large business mentor and still qualify as a small business for any federal government contract or subcontract – without the fear of affiliation. Of course, the 8(a) protégé must qualify as a small business under the particular

NAICS code assigned to the procurement and meet the minimum performance requirements set forth in the SBA regulations (typically the joint venture must perform 15 percent of the work on a construction contract and the protégé must perform 40 percent of that 15 percent). Nonetheless, the 8(a) mentor-protégé program has allowed small businesses to enter joint venture agreements with larger businesses to pursue federal contracts. The advantage is clear. An approved 8(a) mentor-protégé team can tap into the larger business's bonding capacity and include the larger business's experience when submitting proposals for 8(a) and other set-aside contracts.

The SBA's proposed rules would expand this shield from affiliation by adding a new mentor-protégé program that includes all small business concerns, not just 8(a) concerns. That means [all small businesses](#), including participants in the HubZone, Women-Owned Small Business (WOSBs and EDWOSBs) and Service-Disabled Veteran Owned Small Business programs (SDVOSBs), will have the opportunity to become SBA approved mentor-protégé teams with larger businesses.

Further, these new mentor-protégé teams will be able to enter joint venture agreements to chase small business set-aside contracts and to act as small businesses under larger business's Small Business Subcontracting Plans. Before these proposed rules, only 8(a) mentor-protégé participants enjoyed that shield from the rules of affiliation.

The implications for small and large business owners could be huge. We suspect that small businesses, including SDVOSBs, HUBZones and WOSBs, that do not choose to participate in the new program will face stiff competition from, and potentially be at a competitive disadvantage with respect to, the new mentor-protégé joint ventures.

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