



SBA's Regulations: Structuring and Management Considerations for NHOs

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What this Presentation Covers

- » 8(a) and Special Government Contracts Programs for NHOs
- » Key SBA Eligibility Requirements
- » Structuring and Management Considerations Driven by SBA
- » Bids and Proposals, including Use of Sister Company Resources



**PART 1 –8(a) AND SMALL
BUSINESS GOVERNMENT
CONTRACTS PROGRAMS FOR
NHOs**

SBA's 8(a) Business Development Program

- » The 8(a) Program helps small “socially and economically disadvantaged” businesses compete for federal contracts
- » Available to small businesses owned by socially and economically disadvantaged individuals as well as Tribes, ANCs, and NHOs

Benefits of the 8(a) Program

- » Federal acquisition policies encourage federal agencies to award a certain percentage of their contracts to small businesses, including 8(a) firms
- » The overall federal small business goal is 23% of total prime contracting dollars (3% for 8(a))
- » To achieve these goals, agencies can “set-aside” contracts so only “small” firms can compete for them, the same goes for 8(a)
- » Large businesses are also required to attempt to place a certain percentage of their subcontracts with 8(a) and other small business concerns.

Benefits of the 8(a) Program (cont'd)

- » Agencies can also award “Sole Source” contracts to 8(a) concerns subject to certain caps, but there are no express \$\$ caps for Tribes/ANCs /NHOs (DOD only)
- » Regulations permit teaming arrangements and partnerships, but require that the 8(a) derive significant benefits and generally be in control of management and contract performance
- » Mentor-Protégé opportunities are also available (learn the ropes from experienced businesses) but have important limitations and requirements
 - In 2016 SBA expanded the Mentor Protégé program for ALL small businesses

SBA 8(a) Business Development Program Length

- » A business concern may participate in the SBA 8(a) Program for no more than nine (9) years
- » If a participant no longer meets the eligibility criteria for the business development program (such as the size limitation), it may graduate early from the program, even before the end of the nine (9) year term
 - SBA can initiate this, or
 - The concern can do so (a strategic consideration)

SBA's Treatment of NHOs

- » NHOs are eligible to own multiple 8(a) concerns, subject to certain limitations.
- » The primary SBA regulation governing participation by NHOs is 13 CFR 124.110.
- » NHOs participate largely on the same basis as Tribes and ANCs
- » There are a few important areas where the requirements for Tribes, ANCs and NHOs differ

NHO-Owned Advantages

NHOs have some special advantages in the program over individually owned concerns, including:

- » can own more than one subsidiary at a time in the 8(a) program (limitations discussed below)
- » can receive sole source contracts of any value at DOD, but sole source contracts over \$22 million are subject to additional justification and approval requirements under FAR Part 6 and a statutory provision known as “Section 811”
- » can have “common management” of their 8(a) and small business subsidiaries
- » can engage in shared services arrangements – with some important limitations – to support their 8(a) and small business subsidiaries

NHOs Have a Number of Different Requirements from Tribes (and in some cases ANCs)

- » NHOs (and ANCs) may have non-shareholders manage their subsidiaries (Tribes must have tribal members manage their 8(a) companies)
- » NHOs must own their 8(a) companies directly – no holding companies
 - » By virtue of their statutory, ANCAs can have multiple layers of holding companies, whereas Tribes can generally only have a single layer of holding company between the Tribe and the 8(a) companies
- » Again, ANCAs are presumed to be “economically” disadvantaged, whereas NHOs and Tribes must demonstrate they are economically disadvantaged, at least to enter the 8(a) program the first time
- » Each of these topics is discussed in more detail below

Other Contracting Preferences Based on Native Ownership and Control

- » The Buy Indian Act
- » Department of Defense – Indian Incentive Program
- » Native Preference under ISDEAA
- » Large Business Small Business Subcontracting Plan Credit
- » NHO-owned concerns may also participate in the HUBZone program, subject to meeting additional eligibility criteria



PART 2 – KEY 8(a) AND SMALL BUSINESS ELIGIBILITY REQUIREMENTS AND SBA's EVOLVING EXPECTATIONS

Key Eligibility Requirements – Small Business and 8(a)

- » NHO-owned concerns can qualify as “small businesses”
- » They can also qualify for the 8(a) program, which is a subset of SBA’s overall small business contracting program
- » Graduated 8(a) concerns may retain their small business status and continue to be eligible to pursue small business set aside contracts
- » As small businesses, they may also be eligible to form joint ventures with other SBA-preferred entities to pursue 8(a), women-owned, SDVOSBC and HUBZone set-aside contracts
- » The next slides explore basic requirements for “small business” and 8(a) eligibility and special rules for tribally-owned companies

Key Eligibility Issues - Small Business

What is a “Small Business”?

- » SBA has developed size standards for hundreds of industries as defined by NAICS Codes
 - Services – based on average of gross receipts for three* most recently completed financial years (*changing to five years)
 - Manufacturing – average number of employees of prior 12 months
- » Size is defined by size standards associated with each “NAICS” Code
 - For each specific contract, the RFP will assign a NAICS code – the entity must meet the size standard for that RFP and NAICS code
 - Size is also relevant for 8(a) program eligibility – the question there is: what is the concern’s primary industry?

Measuring Size – A New Twist

- » In late 2018 Congress passed the Small Business Runway Extension Act
- » This one sentence law extends the period of measurement for size from three years to **five** years
- » SBA has stated it will not implement this new law immediately but that it plans to go through a rule-making process (which could take years)
- » Most small businesses seem to like and want the new rule
- » A limited number of companies, which are shrinking back into small business status, see a downside to it

Small Business – Common Misconceptions

The following are WRONG:

- » I don't have to update my size until I get my audited financials. **WRONG** – size is calculated on a three (five?) year trailing average based on the most recently completed financial years. On the first day of the new year, size must be re-calculated based on the prior three years data.
- » I only count revenues in my primary NAICS. **WRONG** – All receipts are counted.
- » I don't have to count subcontracted work. **WRONG** – All prime contractor receipts are counted. **NOTE:** In Joint Ventures, only the proportionate share of JV revenue is counted though.

Affiliation – General Affiliation

- » Under the Small Business Act a small business must be “independently owned and operated” and be small according to SBA’s definitions. 15 U.S.C. 632(a).
- » SBA applies the concept of “affiliation” when two or more entities are subject to common control and aggregates their size for small business eligibility purposes. 13 C.F.R. 121.103.
- » SBA will find common control (and affiliation) where there is common ownership, common management, an extensive contractual relationship, economic dependence, an “identity of interest”, as well as in other circumstances.
- » This results in “General” affiliation and affects the size of the entity generally (as opposed to with regard to a specific contract, see below).
- » NHOs, ANCs and Tribes enjoy exemptions from “affiliation” in certain circumstances (discussed below).

8(a) Eligibility - Subsidiaries Must be Small Businesses

- » Each NHO 8(a) subsidiary must be “small”
 - SBA defines “small” differently for different industries based on the economics of those industries
 - Generally, manufacturing businesses are subject to an employee-based size standard; service contracts, including construction, are subject to total receipts-based size standards
 - For NHO-owned concerns, size is determined “independently without regard to its affiliation with the tribe, any entity of the tribal government, or any other business enterprise owned by the tribe.” (More on this below)

8(a) Eligibility – Social and Economic Disadvantage

- » Tribes, ANCs and NHOs are deemed to be socially disadvantaged and do not need to prove this further (individuals applying to the program do). 13 CFR 124.109(b).
- » ANCs are deemed to be economically disadvantaged. 124.109(a)(2).
- » Tribes must demonstrate economic disadvantage in their first 8(a) application. 124.109(b)(2).
- » NHOs must do the same, but with a twist – so long as the community being served has been shown to be economically disadvantaged, another NHO serving it meets the economic disadvantage test. 124.110(c)
- » NHOs must show their 8(a) subsidiaries will principally benefit those disadvantaged community members.

Eligibility – Potential for Success 124.110(h)

- » Generally the applicant concern (not the parent) must have been in business for two (2) years and have proof of operations (financials, tax returns, contracts, etc.)
- » Possible to obtain a waiver of the two (2) year requirement (see next slide).
- » But remember: entities have one-time 8(a) eligibility – assets of a current or previous 8(a) participant may not be used in most cases

New 8(a) Subsidiaries

- » An NHO concern may demonstrate potential for success by any of the following:
 - It has been in business for at least 2 years;
 - The individual(s) who will manage and control daily business operations has substantial technical and management experience, the applicant has a record of successful performance in its primary industry category, and applicant has adequate capital; or
 - The NHO parent has made a firm written commitment to support the operations of the applicant concern and has the financial ability to do so

Preparing for the 8(a) Program

- » A company has to apply to SBA to be admitted to the 8(a) Program
- » Entity Owned Firms (Tribes, ANCs, NHOs, and CDCs) have their own special applications and processes
- » Effective 11/15/17, all new 8(a) applications must be completed online at certify.sba.gov
 - Review the entity-owned guidelines
 - No paper documents are to be submitted to SBA
 - Use the appropriate checklists as a tool to prepare your company before applying, along with the 8(a) regulations, etc.

SBA 8(a) Business Development Program Length

- » Tribes/ANCs/NHOs may own multiple 8(a)s so long as each is a separate entity, each is small, and each has a primary different industry classification as the others owned by the Tribe/ANC/NHO
- » Industry classification of the entity based on NAICS Code may change during life of the entity's participation in the program
- » Maintaining separate status of each entity is crucial, but collaboration is allowed in many respects and necessary to some degree

NHO Eligibility - Ownership

- » The NHO must own a majority of the applicant entity:
 - *a NHO must unconditionally own at least 51 percent and its ownership must be direct (i.e. no holding companies).*
- » SBA limits NHOs to one 8(a) in a given NAICS code:
 - *An NHO may not own 51% or more of another firm which, either at the time of application or within the previous two years, has been operating in the 8(a) program under the same primary NAICS code as the applicant.*

(More on this below)

NHO Eligibility - Management

» For NHO-owned concerns

- Must demonstrate that the NHO controls its board of directors, management members, managers or managing partners.
- However, the NHO need not possess the technical expertise necessary to run the 8(a), and
- Individuals responsible for day-to-day management of the NHO-owned firm need not establish social or economic disadvantage (i.e. they need not be Native Hawaiian)

NHO and Tribal Eligibility – Limitation on Outside Management Activity

- » (ii) Members of the management team, business committee members, officers, and directors are precluded from engaging in any outside employment or other business interests which conflict with the management of the concern or prevent the concern from achieving the objectives set forth in its business development plan. This is not intended to preclude participation in tribal or other activities which do not interfere with such individual's responsibilities in the operation of the applicant concern.
- » **No such explicit requirement for NHOs, BUT, beware of Affiliation!!!**

NHO Eligibility – Benefits 124.110(c)(2)

- » NHOs, through their bylaws, must address the benefit Native Hawaiians they serve will receive from the NHO
- » SBA requires the NHO to have a “detailed plan” that shows how revenue earned by the NHO will benefit those Native Hawaiians
- » SBA requires these benefits to be reported through the 8(a) annual updates filed by the NHO’s 8(a) company(ies.)

Limitations on Day-to-Day Managers of Entity-Owned Concerns

- » As discussed above, SBA has identified limitations on day-to-day managers of Tribal and ANC-owned concerns
 - SBA has stated that for 8(a) eligibility purposes, an individual may not be responsible for day-to-day management of more than two concerns in the 8(a) program.
 - Language supporting this limitation already appears in the Small Business Act but did not appear in the SBA regulations; SBA has now added this provision to the regulations governing ANCs and Tribes (but not Section 124.110 governing NHOs).

Control & Management – Key Takeaways

- » NHOs are not required to utilize Native Hawaiians for management positions, as noted above
- » SBA looks beyond corporate formalities to determine whether the designated individual actually manages the daily operations of the 8(a)
- » SBA may limit the number of entities an individual can manage
- » Again, beware of affiliation issues created by outside activities of managers
- » Benefits reporting gives SBA a window into the NHO itself (a bit different from Tribes and ANCs)

Multiple Subsidiaries – Key Takeaways

- » NHOs may have more than one subsidiary (directly-owned)
- » Each 8(a) participant must have a unique service line and primary NAICS code
- » Program intent is for 8(a) participants to diversify with different lines of business, not to perpetuate contracts through different entities
- » Once an 8(a) participant graduates, there is a 2-year waiting period before another 8(a) applicant may use same primary NAICS code

Eligibility Requirements – Recap of Key Points

- » The NHO's subsidiaries (not the NHO itself) are eligible to be admitted to the 8(a) program.
- » Subsidiaries are NOT “NHOs” (or “ANCs” or “Tribes”); they are state (or tribal) law entities (typically LLCs or Corporations).
- » A subsidiary must be “small” under its primary industry (as defined by the NAICS system) to qualify for the 8(a) program.



Part 3: Structuring and Management Considerations in light of the SBA Requirements

AFFILIATION – what is it and when are NHOs exempt?

Subsidiaries Must be Small Businesses

- » Size is important at various times, including in determining 8(a) program admission and eligibility, and with respect to any set aside contracts (small, 8(a), etc.)
- » As a general rule, a business must include the size of its “affiliates” in determining its own size
- » Affiliation can be
 - “general” – meaning two entities are subject to common control all the time, or
 - “contract specific” – meaning two entities are affiliated based on their relationship on a specific contract or proposal

General Affiliation

- » Concerns and entities are affiliates of each other when one controls or has the power to control the other, or a third party controls or has the power to control both. It does not matter whether control is exercised, so long as power to control exists.
- » SBA considers factors such as ownership, management, previous relationships or ties to other concerns, and contractual relationships in determining whether affiliation exists
- » Control may be affirmative or negative (i.e., through veto rights or quorum requirements)
- » SBA can also consider the totality of the circumstances, not just one single factor, in determining whether affiliation exists

Contract “Specific” Affiliation

- » As set out above, common control will cause SBA to find entities to be general “affiliates” of one another.
- » Affiliation can also arise in a contract-specific way if the small business or 8(a) is too reliant on its non-small partner.
- » Specifically, SBA will also find affiliation where the small business is “unusually reliant” on its putative subcontractor or where the partner will perform the “primary and vital” portions of the work. 13 C.F.R. 121.103(h)(4).
 - This is known as the “Ostensible Subcontractor Rule.”
 - Parties that fall within this rule are deemed to be joint venture partners.
 - More on the ostensible subcontractor rule below.
- » By regulation, “joint ventures” are deemed to be affiliated. (13 C.F.R. 121.103(h))

Affiliation Exemptions Applicable to NHOs

- » NHOs (and Tribes and ANCs) have two different exceptions or exemptions from the general affiliation rules: one that applies for purposes of the 8(a) program, and a more limited exception that applies for the “small business” set-aside program
 - In both cases, these exceptions only apply to the NHO and other entities owned by the particular NHO
 - They do not create any exception for affiliation with third parties – including individuals involved with NHO or subsidiary management

NHO Exemption from Affiliation in the 8(a) Program

- » Subsidiaries of NHOs are exempt from general affiliation as between their parent and other entities owned and controlled by the NHO parent. 13 CFR 124.110(b).
- » This includes sister companies.
- » This exemption is fairly absolute for purposes of 8(a) program and 8(a) set-aside contract eligibility (but there are other eligibility requirements that serve to limit the interconnectedness of tribal subsidiaries.)
- » NOTE: NHOs and their subsidiaries do not have any particular exemption from affiliation based on relationships with third parties.
 - In addition, managers of tribal subsidiaries can cause affiliation issues based on their other business interests!

Tribal Exemption from Affiliation for “Small Business Set-Asides”

- » There is a narrower exemption from general affiliation when the subsidiary is pursuing and performing non-8(a) set-aside procurements (i.e., small business set-asides).
- » For small business set-asides, the affiliation exemption only allows for:
 - common ownership,
 - common management, and
 - common administrative services, provided “adequate payment” is received for those services.
- » The SBA regulations note that affiliation between subsidiaries can be found for “other reasons” in the context of small business status.
- » But common management and ownership provide a great deal of latitude.

SBA Case Law Interpreting the Affiliation Exemption for Small Business Set-Asides

- » There have been several SBA Office of Hearings and Appeals (OHA) cases interpreting and applying the Tribal Affiliation exemptions (which mirror those for NHOs).
- » OHA has generally interpreted the “management” exemption quite broadly.

Common Management Exemption

- » “In alleging that Appellant has relied upon its parent company's employees and experience to obtain this contract, the Area Office has essentially alleged that Appellant should be considered affiliated with its parent due to common ownership/management. Thus, this arrangement does not appear to be a violation of the applicable affiliation regulations due to the broad ANC exemptions outlined above.”
 - *Size Appeal of Alutiiq International Solutions, LLC*, SBA No. SIZ-5098 (2009).

Common Management vs. “Identity of Interest”

- » “Here, the Area Office found that Appellant and CMS have the same location, the same key employees, bid on medical services contracts, and operate under identical NAICS codes, and nearly all of Appellant's revenue comes from CMS subcontracts. The Area Office thus found Appellant and CMS affiliated under the identity of interest rule. However, the first four factors here do not lead to a finding of identity of interest based upon economic dependence. The two concerns do have common management and common ownership, both of which grounds for affiliation cannot be considered here. Concerns owned by the same Indian tribe will always share economic interests based on their common management and ownership.”
Size Appeal of: Cherokee Nation Healthcare Servs., Inc., SBA No. SIZ-5343 (2012).

Common Management – Transfer of Employees

- » “Although the practice of reassigning employees from one Tapa subsidiary to another is perhaps somewhat unconventional, it is nevertheless directly attributable to the common management of the firms by Tapa. Appellant, though, is exempt from any finding of affiliation due to common management with other tribal concerns. 13 C.F.R. § 121.103(b)(2). Thus, the reassignment of personnel from Tapa EC to Appellant does not create affiliation between the firms, under the newly organized concern rule or otherwise.” *Size Appeal of: Roundhouse Pbn, LLC*, SBA No. SIZ-5383 (2012)

Common Administrative Services

- » Common Ownership and Common Management are fairly clearly defined, but what about “administrative services?”
- » SBA has grappled with the question of what are eligible “administrative services”?
- » SBA provided a definition of this term, along with a new term, “contract administration” services, in a relatively recent re-write of its regulations.

Common Administrative Services (cont'd)

- » SBA has now defined “common administrative services” for purposes of affiliation outside the 8(a) program -
 - Common administrative services which are subject to the exception from affiliation include bookkeeping, payroll, recruiting, other human resource support, cleaning services, and other duties which are otherwise unrelated to contract performance or management and can be reasonably pooled or otherwise performed by a holding company or parent entity without interfering with the control of the subject firm

Contract Administration Services

- » The revised regulations also define “contract administration services” (i.e., services related to a particular contract) and then distinguish such services that would be considered “common administrative services” under the exception to affiliation and those that would not.

Contract Administration Services (cont'd)

- » Contract administration services that encompass actual and direct day-to-day oversight and control of the performance of a contract/project are not common administrative services
- » For example, negotiating directly with the government agency regarding proposal terms, contract terms, scope and modifications, project scheduling, hiring and firing employees, and overall responsibility for the day-to-day and overall project and contract completion are contract administration services that would not qualify as “Common Administrative Services”
- » Contract administration services which do NOT qualify as common administrative services generally must be performed by the subsidiary’s employees/management.

Contract Administration Services (cont'd)

- » Contract-related services that might constitute “administrative services” covered by the affiliation exception
 - Contract administration services that are administrative in nature would fall within the exception to affiliation. For example:
 - Record retention not related to a specific contract (e.g., employee time and attendance records)
 - Maintenance of databases for awarded contracts
 - Monitoring of regulatory compliance, template development, and assisting accounting with invoice preparation as needed
 - Administration of an ethics and compliance program and mandatory disclosure reporting

Clarification re: Business Development Support

- » SBA amended regulations address shared business development services by entity-owned concerns and the extent to which such services fall under the “administrative services” exception to affiliation
- » SBA has stated that business development services provided to an entity-owned concern by a parent or holding company may fall within the definition of common administrative services

Clarification re: Business Development Support (cont'd)

- » SBA notes in the revised rules that the nature and timing of the services must be considered in order to determine whether they may properly be considered within the administrative services exception to affiliation
- » The entity identified as the offeror must be “involved” in the preparation of the proposal especially those tasks or items that are specific to the contract being sought (vs. general background information)
- » Even with the rule changes, this area is still very gray

Common Administrative Services

RECAP:

- » Business concerns owned and controlled by ... NHOs... are not considered to be affiliated with other concerns owned by these entities because of their *common ownership or common management*. In addition, affiliation will not be found based upon the performance of *common administrative services* so long as adequate payment is provided for those services. Affiliation may be found for other reasons.
- » Administrative services vs. “contract administrative services”
 - “Actual and direct day-to-day oversight and control of the performance of a contract/project”
- » BD
 - “Efforts at the holding company or parent level to identify possible procurement opportunities for specific subsidiary companies may properly be considered ‘common administrative services’” ...
 - *But* subsidiary and a representative of the subsidiary must be involved in preparing an appropriate offer

SBA's Evolving Expectations and Their Impact on Management

- » Sole Source Awards and Follow On Contracts
- » Primary NAICS Code Issues
- » Clarification on Management
- » Excessive Withdrawals
- » Administrative Services

SBA Efforts to Address “Follow-On” Contracts

- » Primary SBA Concern: Perceived practice of passing down a particular government requirement (contract) from one 8(a) to another
- » Resulted in changes to the 8(a) regulations several years ago
- » A sister 8(a) company may participate in a secondary NAICS code that is the primary code of a sister company, but the rules were revised to preclude an 8(a) company from “receiving” a sole source contract that is a follow-on to an 8(a) contract held by a sister 8(a) company

Primary NAICS Restrictions

- » An NHO may **NOT** own 51% or more of another firm which at the time of application or within the previous 2 years has been operating in the 8(a) program under the same primary NAICS code as the applicant
- » NHO may own a participant or other applicant that conducts secondary business in the 8(a) program under the NAICS code which is the primary NAICS code of the applicant entity
- » Who gets to decide if there's a change?
- » What happens if the restriction is breached?



PART 4: Bids and Proposals and the Use of Sister Company past performance

Bids, Proposals and Protests

- » An offeror, as an entity, must have sufficient experience, resources and past performance to meet the requirements of the RFP
- » For set-aside procurements, the entity must meet those specific requirements (8(a), SB-SA) without being unduly reliant on its partners and be able to perform the primary and vital contract requirements
- » This must be evidenced in the proposal
- » Be careful about using “Team X” approach

Bids, Proposals and Protests (cont'd)

- » The legal entity that is the offeror must be clearly identified in the proposal
- » Ambiguity as to the offeror entity can lead to the proposal being rejected
- » In addition, substituting one entity for another, in the proposal or post-award, can also cause the proposal to be rejected or the contract to be voided

Bids, Proposals and Protests (cont'd)

- » Uncertainty as to the identity of the bidder is a circumstance that renders a bid nonresponsive, since ambiguity as to the offeror's identity could result in there being no party that is bound to perform the obligations of the contract
- » Again, be careful of using "Team X" throughout as this may obscure which party is being proposed
- » This can create other problems as well...

Bids, Proposals and Protests (cont'd)

- » An RFP may allow an offeror to rely on affiliates, subsidiaries, key personnel, etc., to meet the RFP requirements (FAR 15.305), but
 - Be mindful of the ostensible subcontractor rule, and
 - Know that GAO has repeatedly ruled that those affiliate resources must actually be made available for contract performance in the proposal!!!

Bids, Proposals and Protests (cont'd)

- » “The relevant consideration is whether the resources of the parent or affiliated company--its workforce, management, facilities or other resources--will be provided or relied upon for contract performance such that the parent or affiliate will have meaningful involvement in contract performance.” Ecompex, Inc., B-292865.4 et al., June 18, 2004, 2004 CPD ¶ 149 at 5 (emphasis added).

Bids, Proposals and Protests (cont'd)

- » “While it is appropriate to consider an affiliate’s performance record where the affiliate will be involved in the contract effort, it is inappropriate to consider an affiliate’s record where that record does not bear on the likelihood of successful performance by the offeror of the project at issue.” National City Bank of Indiana, B-287608.3, Aug. 7, 2002, 2002 CPD ¶ 190 at 10 (emphasis added).

Bids, Proposals and Protests (cont'd)

- » “In addition, an agency properly may attribute the past performance of an affiliated company to an offeror where the record shows that the resources of the affiliate--for example, using the affiliate’s employees as key personnel--will be provided for performance of the solicited requirement.” Protest of GeoNorth, B-411473, Aug. 6, 2015 (emphasis added).

Key Takeaways

- » Read the RFP!
- » Be prepared to challenge restrictive RFP provisions
- » The Proposal must demonstrate that the resources cited will be used in the performance of the contract
- » Generic statements like “full corporate reach back” are not sufficient and not effective to meet this requirement
- » This issue is not specific to ANCs/Tribes
- » Keep tabs on your publicly available information (sam.gov; fpds.gov; and social media) to make sure it aligns with your proposal (i.e., your personnel work for who you say they work for)



Primary NAICS Changes and Other Management Considerations in the 8(a) Program

Structuring and Management of multiple subsidiaries

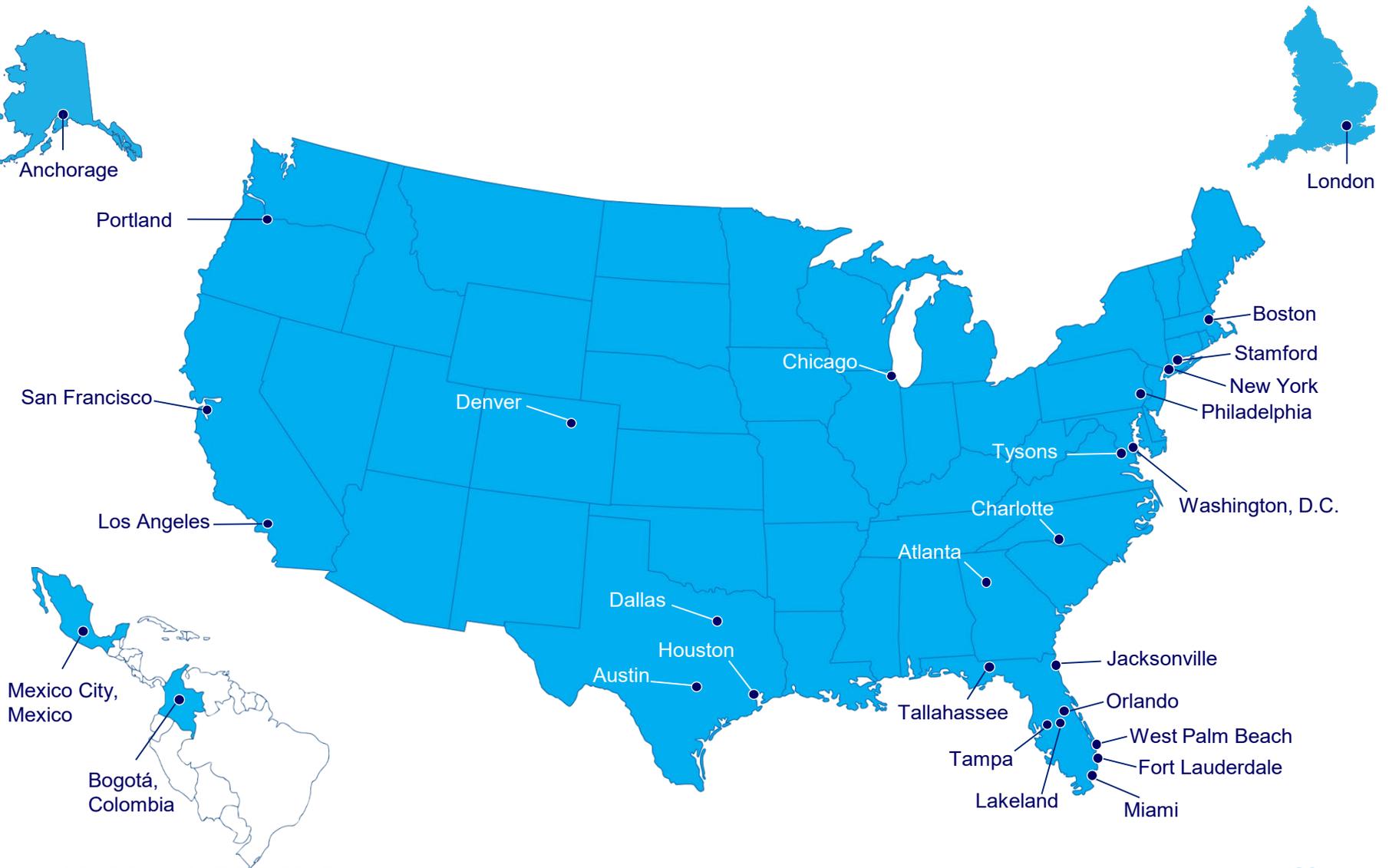
- Primary NAICS considerations
- Business Activity Targets
- Limitation on Subcontract and “Similarly Situated Entities”
- Anticipating 8(a) and Small Business graduation
- Compliance Programs Generally, including SBA and FAR compliance

Questions?



Thank You!

Holland & Knight Offices



Change in Primary NAICS – by the 8(a)

- » (1) A Participant may request that the primary industry classification contained in its business plan be changed by filing such a request with its servicing SBA district office. SBA will grant such a request where the Participant can demonstrate that the majority of its total revenues during a three-year period have evolved from one NAICS code to another.