

# **The SBA Mentor-Protégé and Joint Venture Programs**

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# **Part I: The SBA Mentor-Protégé Program**



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# **Introduction**

## **Two Categories of Mentor-Protégé Programs:**

1. SBA 8(a) Mentor-Protégé Program
2. Non-SBA Mentor-Protégé Program



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# Purpose of Mentor-Protégé Program

- To enhance the capabilities of the protégé;
- Assist the protégé with meeting the goals established in its SBA-approved Business Plan; and
- To improve the protégé's ability to successfully compete for contracts.  
**(13CFR124.520(a))**



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# Who can be a Mentor?

- Any for-profit large or small business that is solidly profitable and has a very strong financial base and infrastructure of operations;
- Successful graduated 8(a) firms;
- Successful 8(a) firms in the Transitional Stage; and
- Successful Non-profit organizations.



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# Requirements to Qualify as a Mentor

- Possess favorable financial health: Must submit for review copies of Federal Tax Returns submitted to the IRS, or audited financial statements for the past three years;
- Possess good character: Does not appear on the Federal list of debarred or suspended contractors; &
- Can impart value to a protégé firm due to lessons learned and practical experience gained on general business operations and government contracting.



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# When can there be more than 1 Protégé?

- Where the Mentor firm can demonstrate that the additional mentor/protégé relationship will not adversely affect the development of either protégé firm (e.g., the second firm may not be a competitor of the first firm).
- If there is already more than one protégé, SBA must know the name of the firm and the NAICS code.
- Under no circumstances will a mentor be permitted to have more than three protégés at one time.



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# The Protégé

**In order to initially qualify as a protégé firm, a Participant must:**

1. Be in the *developmental* stage of 8(a) program participation; **or**
2. Have *never* received an 8(a) contract; **or**
3. Have a size that is less than *half the size* standard corresponding to its primary NAICS code;
4. Be in compliance and good standing in the SBA 8(a) BD Program; **and**
5. Have **more than 6 months** remaining in the 8(a) BD Program, as of date of SBA HQ approval.



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# Can a Protégé have more than 1 Mentor at a time?

Yes, the SBA AA/BD may approve a second mentor for a particular protégé firm when:

1. The second relationship does not pertain to any unrelated, secondary NAICS codes of the 1<sup>st</sup> mentor;
2. The protégé firm is seeking to acquire a specific expertise that the first mentor does not possess; and
3. The second relationship will not compete or otherwise conflict with the business development assistance set forth in the first mentor/protégé relationship.



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# Benefits of a MPA:

1. A mentor and protégé may joint venture as a small business for any government prime contract or subcontract, including procurements with a dollar value less than half the size standard corresponding to the assigned NAICS code and 8(a) sole source contracts, provided the protégé qualifies as small for the procurement.
2. The MPA may enable the 8(a) firm to accelerate its growth and development as a successful business.
3. Mentor may own up to 40% of protégé firm.



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# Mentor-Protégé Agreement

- The mentor and protégé firms must enter into a written agreement (following SBA's template) setting forth an assessment of the protégé's needs and providing a detailed description, mentor's responsibility and timeline for the mentor's provided assistance and training for the protégé;
- The Mentor-Protégé Agreement (MPA) must address how the mentor's assistance/training will help the protégé firm meet the protégé's goals established in its SBA-approved Business Plan;



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# MPA (Continued)

- The Mentor Protégé Agreement must establish a single point of contact in the mentor concern who is responsible for managing and implementing the MPA;
- The MPA must provide that the mentor will render such assistance/training to the protégé firm for at least one year. (Can be renewed with 60-days notice)
- SBA will not approve the MPA if SBA determines that the assistance to be provided is *not sufficient to promote any real developmental gains to the protégé*, or if SBA determines that the agreement is **merely a vehicle to enable the mentor to receive 8(a) contracts.**



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# MPA (Continued)

- The Mentor-Protégé Agreement must provide that either the protégé or the mentor may terminate the agreement with 30 days advance notice to the other party and SBA to terminate the mentor/protégé relationship
- SBA will review the mentor/protégé relationship annually to determine whether to approve its continuation for another year, based on the benefits to the 8(a) protégé firm.
- SBA must approve all changes to a mentor/protégé agreement in advance.



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# MPA (Continued)

- A protégé may not become a mentor and retain its protégé status. The protégé must first terminate its pre-existing Mentor-Protégé Agreement with its mentor before it will be approved by SBA as a Mentor to another 8(a) Participant/protégé.
- When the protégé firm graduates from, or otherwise leaves, the 8(a) BD Program, it will no longer be eligible for any further benefits from its mentor-protégé relationship.



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# Required Documents from the Mentor

- Most current Business Tax Returns: 3 Years
- Most current Financial Statements: 3 Years
- Mentor's Narrative
- Two Letters of Commendation from Fed. Agencies
- DUN & Bradstreet Report
- CCR/Dynamic Small Business Search Profile
- Certification Regarding Non-Debarment, Suspension, & Other Responsibility Matters (annually)



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# Required Documents from the Protégé

- Updated SBA Business Plan
- Most recent approved SBA Annual Review
- Mentor-Protégé Worksheet (SBA Template)
- Updated Central Contractor Registry (CCR)/Dynamic Small Business Search Profile



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# Agencies Offering Non-8(a) Mentor-Protégé Programs:

- Department of Defense (DOD)
- Department of Homeland Security (DHS)
- Department of State (DOS)
- Treasury Department
- U.S. Agency for International Development (USAID)
- Department of Energy (DOE)
- National Aeronautics & Space Admin. (NASA)
- Environmental Protection Agency (EPA)



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# How to Begin the Process?

- Per SBA policy, the prospective protégé and mentor must make an appointment to meet together face-to-face with the SBA Business Opportunity Specialist (BOS) that is assigned to service the 8(a) Participant;
- The purpose of the meeting is for the BOS to brief the proposed mentor and protégé on the Mentor-Protégé Regulations, the SBA total review, due-diligence, revisions and approval/decline process; and
- The BOS will also provide the SBA templates and forms for the MPA.



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# How an MPA Ends

- Either party can give 30-day notice to terminate;
- 8(a) protégé firm graduates or is terminated from the SBA 8(a) BD Program—Mentor also no longer eligible for any further 8(a) benefits; and
- If MPA terminated, but “protégé” 8(a) firm is still in 8(a) BD Program, it does not affect contracts **previously awarded** to the JV between mentor & protégé, so long 8(a) firm is in Compliance with 8(a).



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# **Part II: The SBA Joint Ventures Program 13CFR120.513**



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# **When JV Will Be Allowed:**

- Where the 8(a) firm lacks the necessary capacity to perform the contract on its own; and
- The JV Agreement is fair and equitable & will be of substantial benefit to the 8(a) firm.



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# The MPA & JV Relationship

- SBA must first approve the MPA before JV Agreement submittal to SBA.
- No JV Agreement submittal until specific contract solicitation is identified and referenced in JV Agreement.
- JV Agreement may also be used as “8(a) Subcontractor”.
- The 8(a) firm must be in 8(a) Program Compliance to be eligible for either MPA or JV.



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# **The MPA & JV Relationship:**

A “Big Business” & “8(a) Small Business” are now jointly considered “8(a) Small Business” under the SBA 8(a) BD Program, eligible for all 8(a) competitive and sole source contracts.



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# Two JV Approaches:

1. JV arising out of a Mentor-Protégé Relationship; and
2. JV between the 8(a) firm and another small business



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# Size Concerns of 8(a) JV:

## Competitive Offers

- So long as each firm in JV is small under size standard in relation to the NAICS Code assigned to the contract; **and**
- Procurement with Revenue-based Size Standard: Contract > one-half size standard related to the NAICS Code assigned to the contract; **or**
- Procurement with Employee-based Size Std.: The contract > \$10 Million.



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# **Size Concerns of 8(a) JV:**

## **Sole Source & Competitive Offers:**

The combined annual revenues or employees of the JV Partners must meet the size standard for the NAICS Code assigned to the 8(a) contract.

**NOTE: SBA approved Mentor-Protégé are, together, considered “small”.**



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# **There Are Two Structures for 8(a) Joint Venture Agreements: “Populated” & “Unpopulated” Joint Ventures**



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# Populated vs. Unpopulated

## Populated JV:

- It is “populated” with employees on the payroll of the JV who will work the contract.
- The 8(a) firm must own and control at least 51%.
- 8(a) firm must earn 51% of profit even if less work performed.
- 8(a) must perform minimum 40% of work.

## Unpopulated JV:

- It is NOT “populated” with the contract’s employees, who are on the payrolls of the Mentor and Protégé.
- The 8(a) firm owns and controls 51% of the JV.
- Profit shared based on the work performed.
- 8(a) must perform minimum 40% of work.



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# Populated vs. Un-populated

- Populated:

- The 8(a) firm must demonstrate ***it will gain*** from performance of the contract **and**
- ***how*** such performance ***will assist*** its business development
- 8(a) must demonstrate ***control*** over the JV.

- Un-populated:

(or populated only with 1 or more administrative personnel)

- 8(a)'s contract work must be ***more*** than ***administrative or ministerial*** in order to gain substantive experience.
- Mentor: Can own 40% of 8(a) firm.



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# The JV Agreement Document

- If populated: The joint venture must demonstrate that performance of the contract is controlled by the Managing Venturer (i.e., the 8(a) firm).
- If there is a separate legal entity for the JV (i.e., an LLC), the 8(a) firm must own at least 51% of the joint venture entity.



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# JV Agreement (Continued)

## Profits:

- If **Populated Joint Venture**, profits are commensurate with ownership interest in the joint venture;
- If **Unpopulated Joint Venture**, profits are commensurate with the work performed; 8(a) firm must perform at least 40% of work (mentor may perform 60%).



# JV Agreement (Cont'd)

- Contract Execution:
  - 8(a) contract must be under JV Name
  - JV Name must be a Legal Registered DBA in selected state.
- Amendments: Must be approved by SBA **prior** to contract awards.
- SBA may inspect records at any time deemed.



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# JV Agreement: Performance of Work

- Unpopulated JV: The 8(a) partner to the joint venture must perform at least 40% of the work performed by the JV. This work must be more than merely “administrative or ministerial” functions to provide the 8(a) firm substantive work experience.
- Populated JV: The 8(a) firm must demonstrate that it will gain from the performance of the contract and how such performance will assist the 8(a) in its business development progress.



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# 3 Contract Awards Per JV

- A 2<sup>nd</sup> or 3<sup>rd</sup> 8(a) contract may be awarded to the same Joint Venture, setting forth the new performance requirements on that new contracts.
- This will require 2<sup>nd</sup> and 3<sup>rd</sup> Amendment to original JV Agreement and it must be provided to and approved by SBA prior to contract award.



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# How to Get Started on JVs?

- Per SBA policy, the protégé and mentor must make an appointment to meet together face-to-face with the SBA Business Opportunity Specialist (BOS) that is assigned to service the 8(a) Participant;
- The purpose of the meeting is for the BOS to brief the proposed mentor and protégé on the Joint Venture Regulations and the SBA JV review, evaluation revisions and approval/decline process; and
- The BOS will also provide the parties the SBA Checklist and template forms for the JV application.
- Timing: When a Solicitation is identified.



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# Questions?

# Thank You!

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