

November 2007

UPCOMING EVENTS

Nov. 3, 2007
**New York City Post
Scholarship Dinner**
New York, N.Y.

Nov. 5-7, 2007
**U.S. Army Corps of
Engineers 11th Annual
Small Business
Conference**
St. Louis, Mo.

Dec. 10-12, 2007
**SAME Design-Build
Workshop for DOD
Projects**
Honolulu, Hawaii

Jan. 4-5, 2008
**SAME Transition
Workshop and Job Fair**
Atlanta, Ga.

Jan. 17-18, 2008
**SAME Transition
Workshop and Job Fair**
San Diego, Calif.

MESSAGE FROM MERCEDES

What is the Small Business Council (SBC) all about? Our SAME SBC includes all SAME Post Small Business Liaison Officers (PSBLOs). These volunteers represent both the private and public sectors. This is an incredible network and I am honored to be a part of it. Our mission is "to promote the role and relevance of small business to national security through outreach, training, opportunity and recognition."



Mercedes O. Enrique
Council Chair

I am very pleased to tell you about SBC accomplishments these past two quarters: two newsletters have been published; we have added a special section to the www.same.org/smallbusiness Web site targeted to SAME PSBLOs and interested small business members; we have added an online sign up to our listserv so our members can receive SBC e-mail communications; our SBC leaders volunteered many hours to work with the Air Force Brooks City-Base on the successful first joint Air Force/SAME Small Business Conference this past August; PSBLOs are now eligible to receive scholarships from the SAME Education and Mentoring Fund to attend the annual Joint Engineer Education and Training Conference & Expo; numerous Small Business Industry Days have been held by our Posts; and SBC leaders have been working with the U.S. Army Corps of Engineers (USACE) Small Business Team and SAME headquarters to bring a top-notch educational program to all attendees at the annual USACE/SAME Small Business Conference being held Nov. 5-7, 2007, in St. Louis, Mo.

Special thanks to our council leadership for your time and contributions. I am looking forward to meeting many new SAME members and future members Nov. 5-7 at the USACE/SAME Small Business Conference, and I personally invite you to get involved with SAME and the Small Business Council!

**11TH ANNUAL USACE
SMALL BUSINESS CONFERENCE**
November 5 – 7, 2007



Renaissance Grand Hotel, St. Louis, Mo.

This conference is a "Must Attend" for every Small Business representative.

**Registration will be available onsite beginning
Monday, Nov. 5, at 8:00 a.m.**

Registration includes access to all training sessions, continental breakfasts, Networking Reception on Monday, Keynote Speaker Luncheon on Tuesday and access to the Networking Hall



BENEFITS OF BEING A SAME SMALL BUSINESS MEMBER

SAME membership may be one of the most important investments a small business will make for its future. SAME is a professional organization where a small business gains insight on industry forecasts, develops relationships with industry leaders, has opportunities to position itself for business growth, and is connected to nationwide networking, training, education and leadership opportunities.

We asked a number of our small business members what they considered the most valuable benefits gained from SAME. The following are 10 common responses.

- networking and relationship building;
- marketing exposure with government & large prime contractors;
- model for leadership skills and leadership opportunities;
- education and training (including continuing education credits);
- advance knowledge of future government opportunities to develop business strategies;
- keeping current on emerging technologies;
- keeping current with installation and DOD forecasts, providing data for the industry to better plan for the future and positioning your company in the direction of military needs;
- teaming opportunities with large business;
- opportunity for small business employees to work with military professionals; and
- college scholarships offered to SAME member dependants.

AIR FORCE SOURCE SELECTION PROCESS

by Mary Urey, Director, Small Business, Brooks City-Base, San Antonio, Texas

Have you ever wondered what an evaluation team does during source selection? This article will give you some insight and help demystify the source selection process for you. The focus is on Air Force, competitive, negotiated acquisitions of more than \$100,000.

Once a requirement is known, the process begins. A team is formed to brainstorm and determine the acquisition strategy. In the old days, the government would do this without input from industry. These days, industry is involved as soon as possible. Market research is conducted through the use of requests for information and industry days. These are not the only methods used, but they are the most common. Pre-solicitation industry days are conducted and the scope of work is discussed. Industry is invited to provide input on the direction the government takes with the acquisition. In essence, we are all one big happy team.

The source selection evaluation team (SSET) puts together the acquisition strategy, which includes everything from a risk assessment to the development of the final request for proposal (RFP). Numerous internal meetings are held. The anticipated scope of work is reviewed and analyzed for all risks to the government. Each risk is evaluated and a mitigation is developed to lower the risk to the government. These risk mitigations are normally managed through RFP discriminators, which are requirements in the RFP that each offeror will have to address. In the end, after all the risk analysis and market research, a final RFP is developed and released.

The most important section of the RFP is Section M. This is where you will find the evaluation criteria the SSET will use to evaluate your proposal. It represents about 95 percent of the entire acquisition strategy. The rules of selection are presented here, telling you what the Air Force says they are going to do. Section L is the information that the offeror must submit to be evaluated against the Section M criteria. These two sections should track closely.

Once the Air Force has released the RFP, the SSET sits and does nothing, waiting on proposals, right? Wrong. The team is still busy at work with training. The electronic evaluation tool is taught to each team member. Tools are put into place to make the evaluation go smoothly. Past performance information is received prior to the proposal's being received, and that team is off and running.

AIR FORCE SOURCE SELECTION PROCESS *(CONTINUED)*

Typically the SSET is comprised of a technical team, contract/price team and past performance team. Each team operates independently, with the SSET chair overseeing all of the teams.

Once proposals are received, the SSET is “locked away” and the fun starts. The members of each team read the respective volume for their team of each proposal. The evaluators are not allowed to consider any information other than what is in the proposal. One exception to this is the past performance team. This team is allowed to contact anyone who might have information regarding the performance of an offeror. Proposals are evaluated against the criteria and requirements of the RFP. Proposals are not evaluated against each other. Checks and balances are in place to ensure that this process is followed.

The SSET is typically looking for the best value to the government. Best value is something we hear all the time. But do we really know what is meant by this term? In practical terms, best value is the government’s ability to award to a higher rated, higher priced offeror as long as the superior technical approach and/or the lower risk and/or the superior past performance of the higher priced offeror outweighs the cost difference.

There are typically four factors to be evaluated. Each factor may or may not have subfactors. The four factors are mission capability, proposal risk, present/past performance and cost/price. The RFP will always tell you the order of importance of each factor and subfactor. Each is evaluated and rated according to the RFP. These ratings are then rolled into a matrix that shows the results of each factor. Offerors are ranked and stacked according to the ratings received.

Mission capability is the evaluation of the offeror’s proposal against the government’s minimum performance or capability requirements. Proposal risk is the assessment of risks and weaknesses associated with the offeror’s proposed approach. Past performance is the assessment of the degree of confidence the Air Force has in an offeror to provide products or services that meet the user’s needs (including cost and schedule) based on demonstrated record of performance. Cost/price is the realistic and reasonableness of the probable cost.

The SSET presents the evaluation results to the source selection authority (SSA). The SSET chair is the person who makes the teams’ recommendations to the SSA. Prior to doing this, the SSET presents the evaluation results to the SSA advisors. These are typically the senior acquisition personnel on the base. This group will digest the evaluation results to ensure that each offeror’s proposal was evaluated against the RFP criteria and to ensure consistency in the evaluation. The evaluations must capture the benefits of strengths and the impacts of weaknesses.

The SSA makes the determination of whether to enter into discussions or not. This person approves the competitive range determination and the release of the evaluation notices, decides when discussions are complete and makes the award decision.

Debriefings are important for both successful and unsuccessful offerors. The information that is shared with you should be used as a learning curve for your next proposal. Always request a debriefing and use it to your advantage for the next go around.

Common mistakes by offerors:

- not thoroughly reading Sections L and M of the RFP;
- not looking for minimum requirements in Mission Capability Factor;
- not looking for what can exceed the minimum requirements;
- not looking for what can provide benefits to the government;
- assuming government already knows their capabilities;
- assuming government will enter into discussions;
- not following page format/limitations in Section L; and
- incomplete proposals.

If you are not an SAME Member, consider the benefits experienced by your peers; make one of the most important investments for your business. Join SAME today at www.same.org/join!

MENTOR-PROTÉGÉ PROGRAMS

General Overview / Advantages

- ❖ opportunity to establish on-going working relationships with large firms;
- ❖ joint venture and subcontracting opportunities;
- ❖ advantages to mentor firms; and
- ❖ exemptions from affiliation rules.

A Narrow Affiliation Exemption

by Antonio R. Franco, Esq.

Large and small businesses often use mentor-protégé relationships to form close teaming arrangements and joint ventures to pursue contracts that are set aside for small businesses or other set aside programs, like the Small Business Administration's (SBA) 8(a) program. Relying on the exemption from the affiliation rules for participants in federal mentor-protégé programs, many firms believe they will overcome any affiliation challenge when teaming or joint venturing under the auspices of a mentor-protégé relationship. However, the SBA's regulations limit the scope of the exemption, and cases decided in the last year indicate that the exemption should be narrowly construed. Considering the increasing number of participants in different mentor-protégé programs, government contractors should be aware of the limitations of this affiliation exemption.

The SBA recognized an exemption from affiliation for mentor-protégé relationships in 1998 when it amended its size regulations. At the time, small businesses were finding it difficult to bid on large bundled contracts. To increase the potential pool of small businesses available to compete, the SBA relaxed the affiliation rules for certain joint ventures and specifically recognized that it would not find an affiliation between a mentor and protégé because of the assistance rendered to the protégé under a federal mentor-protégé program.

Within a few years of the issuance of the regulation, different federal agencies began establishing mentor-protégé programs. Generally, the programs operate under similar regulations as the SBA's program with agency-specific requirements and benefits. For example, the SBA's Mentor-Protégé Program is open only to certain eligible 8(a) firms and is the only program that allows the mentor and protégé to joint venture on small business or 8(a) contracts.

All the programs, however, are governed by a general affiliation exemption: a protégé will not be considered an affiliate of a mentor "solely" because the protégé receives assistance from the mentor under federal mentor-protégé programs; however, the regulation provides that affiliation may be found "for other reasons."

Although the exemption appears at first blush to be broad, it is limited in scope. Unaware of these limitations, unsuccessful bidders rarely challenge the size of a protégé that teams with its mentor to win a small business or 8(a) contract. However, there are cases which suggest that the SBA is scrutinizing these teaming arrangements. In a case decided last year, the SBA's Office of Hearings and Appeals (OHA) went so far as to find affiliation between a mentor and its protégé, under the SBA's Mentor-Protégé Program, that had an SBA-approved joint venture. The case is instructive because it evidences a much narrower interpretation of the exemption from affiliation between a mentor and protégé.

In *Lance Bailey & Associates Inc.*, OHA found an affiliation between a mentor and its protégé even though the SBA had approved the joint venture agreement to pursue an 8(a) contract. Providing no deference to the SBA's decision to approve the joint venture agreement, OHA found that the exemption to the affiliation rules should not be applied if the SBA's 8(a) joint venture regulations are not being followed. According to OHA, the joint venture agreement should never have been approved because the proposed program manager did not work for the protégé at the time the proposal was submitted. OHA's decision was also grounded on the finding that the protégé did not have any experience in the contract requirements and brought little to the relationship other than its 8(a) status.

MISSION STATEMENT

The Small Business Council's mission is to promote the role and relevance of small business in national security through outreach, training, opportunity and recognition.

MENTOR-PROTÉGÉ PROGRAMS *(CONTINUED)*

The *Lance Bailey* decision is significant because OHA clearly held that the exemption to affiliation must be narrowly construed. For participants in the SBA's Mentor-Protégé Program, the case is even more significant because OHA held that it was wrong for the SBA to approve the joint venture agreement. Thus, even if the SBA has approved a joint venture agreement, a protestor may file a protest to challenge the propriety of the arrangement.

In the near future, mentor-protégé program participants need to consider the scope of the exemption and the implications of the *Lance Bailey* decision. The parties cannot rely on a mentor-protégé relationship when teaming or joint venturing if the protégé does not have experience in the contract requirements. If pursuing a contract under a set aside program with specific joint venture requirements, such as the 8(a) or Service-Disabled Veteran-Owned Small Business Program, the parties need to adhere strictly to the regulations. For joint ventures with 8(a) firms, the SBA's approval of the agreement offers no guarantee that the relationship will not be successfully challenged. Participants in other federal mentor-protégé programs should be particularly concerned about the decision, as the SBA's Mentor-Protégé Program has offered participants the broadest exemption, leaving open the question of the scope of the exemption for other mentor-protégé programs.

**To review this and similar articles, please visit the Piliero Mazza Web site
at www.pilieromazza.com/index.php?option=com_articles**

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HAPPENINGS

SAME San Antonio Post– AFCEE–Brooks City-Base 2007 Small Business Conference

The San Antonio Post of SAME, the Air Force Center for Engineering and the Environment (AFCEE) and Brooks City-Base joined together to host the first annual SAME-AFCEE-Brooks City-Base Small Business Conference Aug. 14-15, 2007, at the Marriott Northwest in San Antonio, Texas. This two-day event provided small businesses the opportunity to dialogue and network with executives from various local government organizations and key business leaders from several large private sector firms. More than 200 people attended this year's event, which demonstrated the importance and significance of small businesses in the federal government contracting environment. This event was a success, due in part to the SAME Post Small Business Committee and the generous co-sponsors of Carter & Burgess, CH2M HILL, Earth Tech, EQM, MWH, Shaw, Tetra Tech and Toltest.

Speakers

The conference contained three tracks that included business forecasts from major San Antonio-area government agencies, training sessions for small businesses, and one-on-one sessions with major Government agencies and prime contractors.

Col. Richard Bartholomew USA (Ret), SAME San Antonio Post President, opened the first day of the conference and welcomed attendees to the San Antonio area. Paul Parker, Director, AFCEE, was the conference keynote speaker. Parker shared his insight into the importance of small business partnerships and AFCEE's role in utilizing small businesses. The morning business forecast speakers included representatives from the AFCEE and Brooks Small Business Office, as well as representatives from the Air Force Institute for Occupational Health, Air Force School of Aerospace Medicine, Air Force Research Library, Air Force Outreach Program Office, Brooks Development Authority and Air Force Civil Engineer Support Agency. Attendees were offered a wealth of information regarding future business opportunities for small businesses and how to obtain small business contracts with these organizations.

HAPPENINGS *(CONTINUED)*

Additionally, during the conference's first day, there was a training opportunity that included a track for project management taught by Project Management Institute (PMI) certified instructor Michael Airaudi of Project Mentors. The training provided attendees with four hours of professional development credits that can be applied to the PMI certification.

Day Two continued to offer tremendous insight and encouragement for small businesses, whether new to the contracting world or a well-established company. Briefings and training included the source selection process, the fundamentals of bonding, the Mentor-Protégé program, AFCEE Laboratory Certification requirements and discussion of Military Construction.

Business forecasts during the second day afternoon included U. S. Army Corps of Engineers Ft. Worth and Tulsa Districts, Headquarters Air Education and Training Command, Defense Commissary Agency and the City of San Antonio.

Exhibits

The tabletop displays at this year's conference spotlighted the products and services of 36 participating companies. By exhibiting at the conference, attendees were able to stop by the representative booths and make contacts for future business. A networking social held Tuesday evening in the exhibit space allowed attendees to become further acquainted with each other and exchange business cards in a casual environment.

One-On-Ones

Attendees were given the opportunity to schedule time with various participating government agency representatives and prime contractors to establish contacts to facilitate future business partnerships. This setup offered participants an agency representative's full attention to learn best practices for doing business with their organization. More than 170 one-on-one meetings were scheduled during this session. Conference feedback highlighted these one-on-one sessions to discuss potential business opportunities as one of the most important aspects of the conference.

Take-away message

Small businesses and small business partnerships continue to be a vital part of the multi-billion-dollar federal government contracting environment. The SAME–AFCEE–Brooks City-Base Small Business Conference is a testament to how organizations are working together to promote the importance of small businesses within the San Antonio area, as well as the entire nation. SAME, AFCEE, and Brooks City-Base partnered together for this successful event to promote small business and increase awareness of future contracting opportunities. Plans are already underway for next year's conference to further this objective and continue to shed light on the importance of small business partnerships.

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www.same.org | www.ccr.gov | www.sba.gov

