

# Rules for Joint Ventures (JV) Where at Least One Firm Is a Small Business

JV rules updated continuously. Information below is current as of 1 January 2012 utilizing Code of Federal Regulations dated 1 December 2011. Rules below apply to formal JVs, and should not be interpreted to apply in the same manner to informal JVs, i.e. traditional teaming partners.

If your firm is	AND the RFP is	AND you want to JV with	Approval Issues
8(a)	8(a) sole source set-aside (any size procurement)	Any SB*	SBA must approve JV agreement prior to award of contract. Firms <i>are</i> considered affiliated†; combined annual receipts/number of employees must meet size standards. <b>13 CFR 124.513 (b)(2)</b>
8(a)	8(a) competitive set-aside ①	Any SB	SBA must approve JV agreement prior to award of contract. Firms <i>are not</i> considered affiliated; each firm individually must be “small” with the size of at least one 8(a) participant to the JV being less than half the size standard. <b>13 CFR 124.513 (b)(1)</b> Macro Contract (Ma)
8(a)	8(a) competitive set-aside ②	Any SB	SBA must approve JV agreement prior to award of contract. Firms <i>are</i> considered affiliated; combined annual receipts/number of employees must meet size standards. <b>13 CFR 124.513 (b)(2)</b> Micro Contract (Mi)
8(a)	8(a) sole source set-aside (any size procurement) ③	The LB who is the SBA Mentor for that 8(a) firm	SBA must approve JV agreement prior to award of contract. Can only be done if LB is in a SBA Mentor-Protégé Agreement with the 8(a) and that agreement has already been approved by the SBA. In this case, the firms <i>are not</i> considered affiliated and the JV is an 8(a). <b>13 CFR 124.513 (b)(3)</b>
8(a)	8(a) competitive set-aside (any size procurement) ③	The LB who is the SBA Mentor for that 8(a) firm	SBA must approve JV agreement prior to award of contract. Can only be done if LB is in a SBA Mentor-Protégé Agreement with the 8(a) and that agreement has already been approved by the SBA. In this case, the firms <i>are not</i> considered affiliated and the JV is an 8(a). <b>13 CFR 124.513 (b)(3)</b>
8(a)	SB set-aside ①	Any SB	SBA may inspect the records at will but does not approve the JV agreement. Firms <i>are not</i> considered affiliated; each firm individually must meet size standards. <b>13 CFR 124.513 (b)(1)</b> Ma
8(a)	SB set-aside ②	Any SB	SBA may inspect the records at will but does not approve the JV agreement. Firms <i>are</i> considered affiliated; combined annual receipts/number of employees must meet size standards. <b>13 CFR 124.513 (b)(2)</b> Mi
8(a)	Full and Open ①	Any SB	SBA may inspect the records at will but does not approve the JV agreement. Firms <i>are not</i> considered affiliated; each firm individually must meet size standards. <b>13 CFR 124.513 (b)(1)</b> Ma
8(a)	Full and Open ②	Any SB	SBA may inspect the records at will but does not approve the JV agreement. Firms <i>are</i> considered affiliated; combined annual receipts/number of employees must meet size standards. <b>13 CFR 124.513 (b)(2)</b> Mi
8(a)	Full and Open (any size procurement) ③	The LB who is the SBA Mentor for that 8(a) firm	SBA may inspect the records at will but does not approve the JV agreement. Can only be done if LB is in an approved SBA Mentor-Protégé Agreement with the 8(a). In this case, the firms <i>are not</i> considered affiliated and the JV is a small business. <b>13 CFR 124.513 (b)(3)</b>
8(a)	Full and Open (any size procurement) ④	Any LB other than the SBA Mentor	SBA may inspect the records at will but does not approve the JV agreement. Firms <i>are</i> considered affiliated; combined annual receipts/number of employees must meet size standards. In this case, the JV would be a LB. <b>13 CFR 124.513 (b)(2)</b>
8(a)	8(a) competitive set-aside ①	Any entity (LB or SB)	Is other than bundled and: at least one 8(a) joint venture participant is less than half the size standard for the corresponding SIC Code assigned to the contract; may JV without regard to affiliation so long as the JV requirement meets the requirements of <b>13 CFR § 124.513(b)(1)</b> Ma
8(a) ANC, Nat Amer, NHO	8(a) competitive set-aside	Parent ANC, Nat Amer, NHOs, respectively	Are never considered affiliated if wholly owned by the tribe because of common ownership or common management. <b>13 CFR § 121.103(b)(2)(i), (ii)</b>
SDVOSB∞ who is also 8(a)	SDVOSB set-aside (any size procurement)	The LB who is the SBA Mentor for that 8(a) firm	This is a unique situation. If an 8(a)/SDVOSB is in an approved SBA Mentor-Protégé Agreement, the two firms can also JV as an SDVOSB. This is the only time an SDVOSB can JV with a LB and <i>not</i> be affiliated. In this case the 8(a) rules regarding affiliation would apply which is what allows the JV to qualify as small.
SDVOSB∞	SDVOSB competitive set-aside ①	Any SB	SBA may inspect the records at will but does not approve the JV agreement. Firms <i>are not</i> considered affiliated; each firm individually must meet size standards. <b>13 CFR 125.15 (b)(1)(i)</b> Ma
SDVOSB∞	SDVOSB competitive set-aside ②	Any SB	SBA may inspect the records at will but does not approve the JV agreement. Firms <i>are</i> considered affiliated; combined annual receipts/number of employees must meet size standards. <b>13 CFR 125.15 (b)(1)(ii)</b> Mi
SDVOSB∞	SDVOSB sole source set-aside (any size procurement)	Any SB	SBA may inspect the records at will but does not approve the JV agreement. Firms <i>are</i> considered affiliated; combined annual receipts/number of employees must meet size standards. <b>13 CFR 125.15 (b)(1)(ii)</b>
SDVOSB∞	SDVOSB sole source set-aside (any size procurement)	LB	Not an option. JV would be LB and could not compete on a SB set aside.
HBZ SB	HBZ set-aside ①	HBZ SB	SBA may inspect the records at will but does not approve the JV agreement. Firms <i>are not</i> considered affiliated; each firm individually must meet size standards. <b>13 CFR 126.616 (b)(1)</b> Ma
HBZ SB	HBZ set-aside ②	HBZ SB	SBA may inspect the records at will but does not approve the JV agreement. Firms <i>are</i> considered affiliated; combined annual receipts/number of employees must meet size standards. <b>13 CFR 126.616 (b)(2)</b> Mi
HBZ SB	HBZ set-aside	Any firm other than a HBZ SB	Not an option. HBZ SB can only JV with another HBZ SB.
SB	SB set-aside ①	Any SB	SBA may inspect the records at will but does not approve the JV agreement. Firms <i>are not</i> considered affiliated; each firm individually must meet size standards. <b>FAR 19.101</b> Ma
SB	SB set-aside ②	Any SB	SBA may inspect the records at will but does not approve the JV agreement. Firms <i>are</i> considered affiliated; combined annual receipts/number of employees must meet size standards. <b>FAR 19.101</b> Mi
SB	SB set-aside (any size)	LB	Not an option. JV would be LB and could not compete on a SB set aside.
SB	SB set-aside (exception applies) ⑤	Any other Small Businesses	Procurement qualifies as bundled. A JV of two or more businesses may submit an offer without regard to the affiliation rules under paragraph 13 CFR 121.103(h) so long as each is small under the size standard corresponding to the NAICS Code assigned to the contract. <b>13 CFR §121.103(h)(3)(A)</b>
SB	SB set-aside ① ⑤	Any Small Business	Is other than bundled. <b>13 CFR §121.103(h)(3)(B)</b> will not be affiliated. Ma

## Notes

- ① For procurements with employee-based size standard, the procurement exceeds \$10M. For procurements with revenue-based size standard, the procurement exceeds half the size standard corresponding to the NAICS code assigned to the contract. Called a Macro Contract (Ma) for ease of understanding.
- ② For procurements with employee-based size standard, the procurement is less than \$10M. For procurements with revenue-based size standard, the procurement is less than half the size standard corresponding to the NAICS code assigned to the contract. Called a Micro Contract (Mi) for ease of understanding.
- ③ This is allowed under the SBA Mentor-Protégé Program only. JVs are not allowed under any other Agency's Mentor-Protégé programs.
- ∞ A JV with a SDVO or VO SB must be verified in the CVE Database prior to award of a DVA contract. Other Departments are currently self-certifying.

- ④ The only time a firm needs to be concerned with affiliation is when the firm must be a small business in order to get a contract award. In a full and open scenario, it does not matter if the JV is considered affiliated or not because the JV does not have to be a small business to be awarded the contract.

- ⑤ Contract bundling and other than bundling is defined at 13 CFR §125.2(d)(1)(i).

\*\*\* WOSB - 13 CFR § 127.506 – EDWOSB/WOSB firms form a JV in much the same way as an SDVOSB, preserving 51% of the profits for the 8(m), control and ownership, books, etc.

\* “Any Small Business” includes 8(a), Service-Disabled Veteran-Owned Small Business (SDVO SB), Hubzone (HBZ), or Woman-Owned Small Business (WOSB).

† “Affiliation” indicates the SBA has determined JV partners are not functioning independently; employees/revenues are combined to determine size status.



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We gratefully acknowledge the contributions of Mary Urey/HQs AFCEE and Pat McMullen to the initial summary of this chart.

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