



Dynamics of the Tribal SBA 8(a) Program

**CHICKASAW
NATION INDUSTRIES**



A FAMILY OF COMPANIES WHOLLY OWNED BY THE CHICKASAW NATION

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Agenda

- ❑ Regulations that created the program
- ❑ Purpose of the program
- ❑ Advantages of the program (Non-Tribal & Tribal)
- ❑ Understanding the requirements for the Contractor
- ❑ Understanding the challenges from the Client's perspective
- ❑ Size limitations and graduation terms
- ❑ Tribe's unique ability to own multiple 8(a) firms
- ❑ Conclusion
- ❑ Questions

SBA Regulations - 8(a) Program

- ❑ SBA 8(a) Program was created out of the Small Business Act (PL 85-536) section 8 (a).
- ❑ 13 CFR 121 Small Business Size Regulations
- ❑ 13 CFR 124 SBA 8(a) Program - Business Development/Small Disadvantaged Business Status Determinations
 - 124.109 -Tribe's special rules in the 8(a) Program
 - 124.506(b) – threshold waiver

Purpose of the Program

- ❑ The “8(a) program” is designed to help small business who are owned and controlled by socially and economically disadvantaged individuals and economically disadvantaged Indian Tribes and Native Hawaiian Organizations in competing on an equal basis in the mainstream of American economy.
- ❑ The program strives to promote the viability of such concerns in the marketplace by providing such available contract, financial, technical, and management assistance as may be necessary.
- ❑ SBA is authorized to enter into contracts with other federal agencies and then subcontract the work—in whole or in part—to eligible 8(a) participants. After 1998, the SBA may now delegate its authority to the procuring federal agency, allowing such agency to enter into 8(a) contracts directly with the participating 8(a) contractor

Advantages of the 8(a) Program (1 of 3)

- ❑ Non-Tribal Advantages
- ❑ Designed to compete socially and economically disadvantaged business for contract opportunities
 - A Contracting Officer may set a project aside into the SBA 8(a) program for competitive bid that could exceed the threshold for sole-source
 - A Contracting Officer may set a project aside as a SBA 8(a) sole-source project within compliance with 13 CFR 124.506
- ❑ Limit on Sole-Source opportunities
 - 13 CFR 124.506 - \$5,500,000 for contracts assigned manufacturing SIC/NAICS and \$3,500,000 for all other contracts
 - The final contract price may exceed these thresholds only when the estimated award at the time of offer into the 8(a) program was below the threshold and through negotiations the contract award price exceeds the threshold no more than 10%

Advantages of the 8(a) Program (2 of 3)

- ❑ Tribal Advantages
- ❑ No threshold limitation on sole-source; however a requirement that has already been designated as a 8(a) competitive requirements may not be pulled and re-established as a sole source requirements. 13 CFR 124.506.4(b)
- ❑ Multiple business units: 13 CFR 124.109(b) Tribal eligibility.
 - Once a tribe is declared disadvantaged, it need not re-certify
 - A tribally owned concern may own more than one participating entity in the 8(a) program as long as no two entities have the same primary SIC/NAICS code as it's primary business focus. 13 CFR 124.109.C(3)(ii-iii)
 - SBA does not deem an individual involved in the management or daily business operations of a tribally-owned concern to have used his or her individual eligibility as outlined in 124.108(b). 13 CFR 124.109.C(5)

Advantages of the 8(a) Program (3 of 3)

❑ Tribally-owned advantage

- 13 CFR 124.519.A Excludes tribally-owned concerns from the dollar limits on amount of 8(a) contracts a participant may receive
 - 13 CFR 124.519.A(1) A firm having a revenue based primary SIC/ NAICS at the time of program entry, the limit above which it can no longer receive sole-source 8(a) contract is five times the size standard corresponding to that SIC/ NAICS as of the date of SBA acceptance of the requirements for the 8(a) program or \$100,000,000, whichever is less
 - 13 CFR 124.519.A(2) A firm having employee based primary SIC/ NAICS code at time of program entry, the limit above which it can no longer receive sole source 8(a) contracts is \$100,000,000

Understanding the Requirement for the Contractor

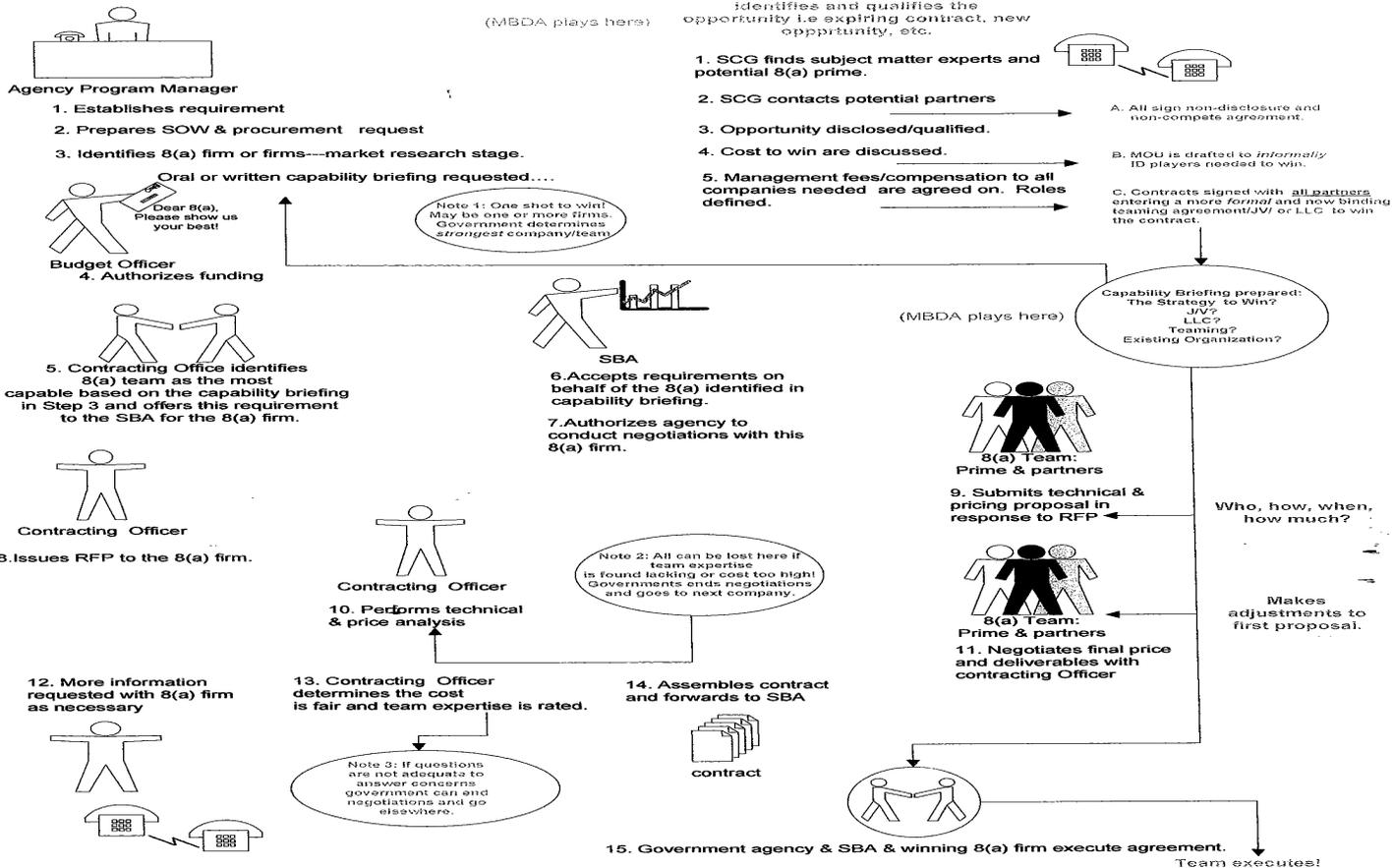
- ❑ Several things “the Contractor” can do to generate 8(a) opportunities
 - Develop an understanding of your customer’s needs and requirements
 - Find the decision makers in your customer’s acquisition chain
 - Introduce your company in a brief yet precise approach
 - Ask your SBA Business Opportunity Specialist (BOS) to send a letter on your behalf to the procuring agency’s Point of Contact requesting 8(a) set-aside
 - Request a capability briefing to show you are the best selection and you understand the requirement – Be prepared to discuss the “how’s and discriminator’s”
 - Submitting your capability on a sources sought and participating in market surveys
- ❑ After Procuring Agency set-aside for 8(a)
 - Review the RFP and prepare your proposal (competitive and non-competitive)
 - Negotiate if sole source 8(a)

Understanding the Challenges from the Client's Perspective

How the Process Works to Capture an Opportunity for Sole Source

Overview of the 8(a) Contracting Method

Source: Department of Commerce/MBDA
03-2006
Kay Bills



Size Determination and Graduation Terms (1 of 4)

❑ Size Determination:

▪ Multiple factors -

- “Small business” size determination of the concern – NAICS code determination whether employee count or revenue based, affiliation rulings of two concerns (i.e. JV’s, common management control, key personnel controlling two or more “small business” concerns). 13 CFR 121.102
- Business concerns owned and controlled by a tribally-owned concern are not found to be affiliated with other concerns owned by the same tribally-owned concern; affiliation will not be found in the common administration of services such as payroll, accounting, etc.. (our shared services model) as long as adequate payment is made for those services as to not create an undue advantage. 13 CFR 121.103

Size Determination and Graduation Terms (2 of 4)

❑ Size Determination:

▪ Mentor-Protégé Affiliation:

- A protégé firm is not an affiliate of its mentor firm solely because the protégé firm receives assistance under Federal Mentor-Protégé Programs; however affiliation can be found between Mentor and Protégé. 13 CFR 121.103.B(6)
- A Mentor and Protégé firm may be affiliated when the Protégé firm acts as a pass through for its large business Mentor to receive “Small Business” identified projects.

Size Determination and Graduation Terms

(3 of 4)

□ Graduation Terms

- 9 year program life broke down into two phases
 - Developmental phase (years 1-4)
 - Transitional Phase (years 5-9)
- Developmental Phase
 - Concern must make substantial and sustained effort to obtain targeted non-8(a) revenue established in the concerns approved business plan. 13 CFR 124.509.A(2)
- Transitional Phase
 - A participant **MUST** achieve certain non-8(a) revenue targets and are expressed as a percentage of the total revenue
 - Starting with year 1 in the transitional phase set at 15%
 - Increasing every year by 10% to year 5 (year 9 in the program) set at 55% non-8(a) total revenue. 13 CFR 124.509.B

Size Determination and Graduation Terms

(4 of 4)

- ❑ Competitive Business Mix – Transitional Phase Only
 - Failure to meet the prescribed “Competitive Business Mix” at the end of the just completed program year will be ineligible for sole source 8(a) contracts in the current program year, unless and until the participant corrects the situation by demonstration to the SBA that it has complied with the “Competitive Business Mix” requirement.

Tribal Ownership of Multiple 8(a)s (1 of 3)

- ❑ Tribal entities are allowed by law to own multiple organizations of which might or might not be certified for SBA 8(a) status and program participation. 13 CFR 124.109(b)

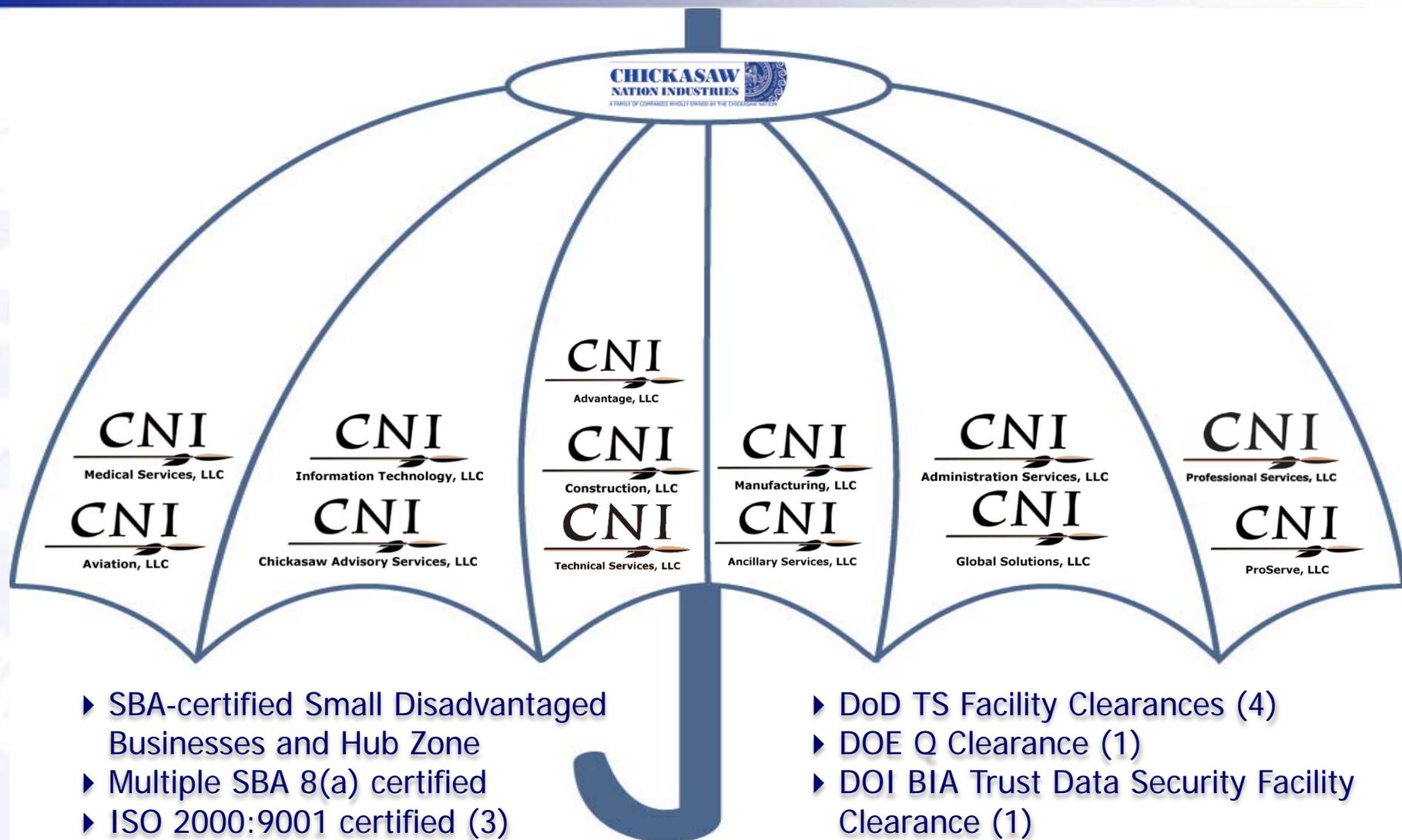
- ❑ CNI uses what we call an Incubator Model:
 - Startup Phase– inception to approximate 24 months; requires heavy oversight from CNI Corporate leadership and corporate shared services to ensure organizationally, structurally, financially, and legally the new LLC is on the right path; LLC management is hired and put into place, budgets are set and pipelines are generated with strong Corporate oversight
 - Growth Phase– 2 years of service through 4years of service; LLC management team is established and functioning, accounting practices are set, budgets are controlled by the LLC management team, and LLC management team is included in LLC pipeline “Go/ No-Go” decisions. LLC management is held accountable for profitability and growth; very little CNI Corporate oversight of day to day operations

Tribal Ownership of Multiple 8(a)s (2 of 3)

- ❑ CNI uses what we call an Incubator Model (con't):
 - Mature Phase– 4 years of service plus; LLC management is responsible for all day to day operations; still utilizes CNI Corporate shared services; responsible for budgeting, pipeline forecasting, and proposal development

- ❑ CNI follows this model of business/ LLC development and has shown to be very successful as we have currently 13 LLCs at every level of our incubator model, and the service provided to the Client is transparent from Startup Phase thru Mature Phase. In fact, unless we told you where a LLC currently resides within our model you may not be able to differentiate between a Startup Phase LLC and a Mature Phase LLC.

Tribal Ownership of Multiple 8(a)s (3 of 3)



Conclusion

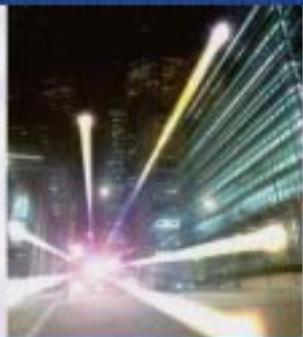
- ❑ The goal was to show you a very general summary of the advantages that Tribally-Owned firms have in the SBA 8(a)/ BD Program
- ❑ Give an overview of the steps involved in identifying an opportunity and attempting to have that opportunity set aside into the 8(a) program
- ❑ Overview of what your Customer/ Client/ Agency goes through to set aside an opportunity for you
- ❑ Size determination and graduation terms
- ❑ Tribal Ownership of Multiple 8(a)'s

Questions/ Comments/ Discussions

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Questions/ Comments/
Discussion

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