United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

TAKE PRIDE IN AMERICA

JUN 12 2007

Department of the Interior Acquisition Policy Release (DIAPR) 2007 -06

Subject: Acquisition Screening Procedures

Reference: Authorization of Direct Awards to 8(a) Contractors

1. ***Purpose***. This DIAPR update the policy that allows contracting officers to contract directly with Section 8(a) businesses. This policy release also supersedes DIAPR 2005-01 and its amendment 01.

2. ***Effective Date***. Effective upon issuance.

3. ***Expiration Date***. September 30, 2009.

4. ***Background and Explanation.*** On May 6, 1998, the Department and the Small Business Administration (SBA) executed a Memorandum of Understanding (MOU) setting forth the initial terms and conditions for delegation to agency contracting officers the authority to award contracts directly to 8(a) program participants under Section 8(a) of the Small Business Act. Subsequently, DIAPR 1998-5 was issued to authorize use of the new procedures.

Over the years the heads of both agencies executed new MOUs, which came to be called Partnership Agreements (PA), that generally just extended the terms and conditions of the original MOU. The latest version of the PA, attached, replaces the agreement put into effect by DIAPR 2005-01. It carries forth the essential framework and procedures of the previous agreement but does include the following notable changes:

a. Simplified Acquisitions. In the new PA, we are still not required to extend an offer letter to SBA for simplified acquisitions. However, the SBA has added a new requirement to obtain an "eligibility determination" from the SBA prior to issuing a simplified acquisition purchase order to an 8(a) participant.

b. References to 13 CFR. The new PA makes numerous references to SBA regulations (i.e., 13 CFR) in addition to the Federal Acquisition Regulation.

c. Requirement for training. There is a new requirement that "all contracting officers, etc." participate in SBA training. However, the SBA has assured the Department that most of this training will be online (i.e. internet-based) and will not be required of all contracting personnel at once.

5. ***Action Required.*** Immediate distribution of this policy release to all contracting officers. Full compliance with the PA is required in order to take advantage of this authorization.

6. ***Contacts.*** Questions about this policy release may be directed to Delia Emmerich on (202) 208-3348 or Frank Gisondi, OSDBU, on (202) 208-4907.

Debra E. Sonderman

Debra E. Sonderman, Director
Office of Acquisition and Property Management

Attachment

PARTNERSHIP AGREEMENT
Between The U.S. Small Business Administration
And The U.S. Department of the Interior

The purpose of the 8(a) Business Development Program is to promote the development (through various forms of management, technical, financial and procurement assistance) of small business concerns, owned and controlled by socially and economically disadvantaged individuals so that such concerns can compete on an equal basis in the American economy. (I5 U.S.C. § 631(f)(2))

I. PURPOSE

The purpose of this Partnership Agreement (PA) between the U.S. Small Business Administration (SBA) and the U.S. Department of the Interior is to establish basic procedures for expediting the award of contract requirements pursuant to section 8(a) of the Small Business Act, as amended (I5 U.S.C. 637(a)) (the Act), and the SBA's regulations. This PA replaces all terms and conditions of any previously executed Memorandum of Understanding (MOU) or PA with U.S. Department of the Interior or subordinate agencies on the issue of expediting the award of requirements pursuant to section 8(a) of the Small Business Act,

Failure to sign this partnership agreement will require U.S. Department of the Interior to utilize the prescribed processes as stated in the Federal Acquisition Regulation (FAR) Part 19.

II. OBJECTIVES

a. To delineate the responsibilities as they relate to the oversight, monitoring and compliance with procurement laws and regulations governing 8(a) contracts between the SBA and the U.S. Department of the Interior,
b. To establish the procedures for offer and acceptance between the SBA and the U.S Department of the Interior,
c. To reduce the interval between the time U.S. Department of the Interior contracting offices send an offering letter to the SBA and receive an SBA decision on the offering to a maximum of 5 working days;
d. To emphasize that although the SBA delegates the authority to sign contracts on its behalf, it remains the prime contractor on all 8(a) contracts and as such, must receive copies of the contract and any subsequent modifications;
e. To eliminate SBA's review of contracts and purchase orders executed under the authority of this PA, and
f To establish uniform policy and procedures regarding application of purchase orders to the 8(a) contracting process.

III. SCOPE

This PA provides for the award of both contracts and purchase orders under the provisions of section 8(a) of the Small Business Act as implemented by the Federal Acquisition Regulation (FAR) (48 C.F.R.) and the SBA's 8(a) Business Development (BD) program regulations (13)CFR Part 124.

This PA encompasses all competitive and non-competitive acquisitions of requirements offered by the U.S. Department of the Interior contracting offices and accepted by the SBA into the 8(a) BD program.

This PA applies to all SBA offices and all U.S. Department of the Interior contracting offices (as defined in FAR 2.101, Definitions) deemed appropriate by the head of the agency (as defined in FAR 2.101, Definitions) for the U.S. Department of the Interior.

IV. RESPONSIBILITIES

A. The SBA

1. delegates to U.S. Department of the Interior, for re-delegation to all warranted U.S. Department of the Interior contracting officers, its authority under section 8(a) of the Act to enter into 8(a) prime contracts, and its authority under section 8(a)(l)(B) of the Small Business Act to arrange for the performance of such procurement contracts by eligible 8(a) program participants. In accordance with 13 C.F.R. l24.501(a), the SBA delegates only the contract execution function. The SBA remains the prime contractor on all 8(a) contracts, and the 8(a) participant remains the SBA's subcontractor;

2. will implement its responsibilities under this PA through uniform procedures for use by all SBA offices;

3. shall review the U.S. Department of the Interior's offering letters, issue acceptance or rejection letters, and make eligibility determinations for award,

   (a) Sole source procurements. The SBA will issue an acceptance letter or notification of rejection within 5 working days of receipt of an offering letter. Absent a notification of rejection within 5 working days of receipt of the offer, acceptance may be assumed on the 6* working day. Acceptance shall include a size verification and determinations with respect to all elements of eligibility (i.e., determinations of adverse impact, North American Industry Classification System (NAICS) code appropriateness and program eligibility);

   (b) Competitive acquisitions. The SBA will issue an acceptance letter or notification of rejection within 5 working days of receipt of an offering letter. Following receipt of offers, and within 2 working days after a request from the contracting officer, the SBA shall issue an eligibility

determination, as prescribed by SBA's regulations at 13 C F.R.§ 124, with respect to the apparent awardee. In the case of a negotiated procurement, following receipt of initial offers including price, and within 2 working days after a request from the contracting officer, the SBA shall issue an eligibility determination for all firms in the competitive range, if discussions are to be conducted

The SBA will issue an eligibility determination for all firms with a realistic chance of award within 2 working days after a request from the contracting officer, if no discussions are to be conducted;

(c) Requirements under the simplified acquisition threshold (FAR 2.101). The SBA will review the program eligibility of the 8(a) participant within 2 working days after receipt of a request for eligibility determination. SBA's review is limited to program eligibility only. No offering or acceptance letter is required for requirements processed under the simplified acquisition procedures threshold. Absent a notification that the selected 8(a) participant is ineligible for the award within 2 working days of receipt of the offer, the 8(a) participant's eligibility to receive the award may be assumed on the 3rd working day.

4. shall review alt proposed Joint Venture agreements involving 8(a) participants for approval before contract award;

5. shall provide 8(a) participants with assistance or direct them to appropriate resources where they can obtain technical assistance, in contract negotiations when requested by either the 8(a) firm or the U. S. Department of the Interior contracting officer;

6. shall retain its appeal authority in accordance with FAR 19.810;

7. shall retain die right to perform on-site contract agency reviews and audits *to* ensure compliance as stated in the SBA's SOP 80 05 3, Chapter 12: 8(a) Agency Review.

8. may identify a requirement for an 8(a) Participant for a possible award. SBA will submit the capability statements provided annually under 13 CFR 124.403 to appropriate procuring activities for the purpose of matching requirements consistent with 8(a) Participants' capability.

9. shall retain the ultimate responsibility for ensuring that 8(a) firms comply with all applicable provisions of 13 C.F.R. Part 124, as it relates to continuing eligibility for 8(a) program participation.

10. shall select an appropriate 8(a) participant when the U. S. Department of the Interior submits an open offering letter for a sole source requirement; and

11. will issue a letter to the U.S. Department of the Interior Office of Small and Disadvantaged Business Utilization, with a copy to the appropriate senior procurement executive (FAR 2.101), identifying accepted requirements for which contract (to include any resultant modifications) award documents have not been received by the SBA district office.

B. U.S. Department of the Interior:

1. shall receive and retain SBA's delegation of contract execution and review functions by reporting all 8(a) contracts, awards, modifications, and options to
SBA until such time as SBA revokes the delegation.

2. shall adhere to all provisions of contractual assistance identified in 13 CFR Parts 124.501 through 124.520; as well as the applicable provisions of FAR Part 19.

3. shall determine which requirements are suitable for offering to the 8(a) program in accordance with FAR Subpart 19.8, and, where appropriate, identify, in conjunction with the appropriate SBA servicing office, 8(a) participants capable of performing these requirements;

4. through the contracting office or other warranted official, shall ensure contract compliance with applicable regulations as cited in FAR 19, 42 and 52 and 13
C.F.R, 124 and for all SBA delegated authority contract awards, modifications, options and purchase orders shall include monitoring and oversight provisions to ensure that all contracts comply with the work performance requirements in accordance with FAR 19.811-3(e) and 13 C.F.R
§ 124.510;

5. shall request an eligibility determination to the SBA's district office responsible for servicing the selected 8(a) participant, when an 8(9) firm has been identified on all simplified acquisitions under $100K prior to issuance of the Purchase Order,

6. shall ensure that all contracting officers, small business specialist, etc. participate in 8(a) business development contract training when conducted by the SBA;

7. shall submit the offering letter for sole source requirements exceeding the simplified acquisition threshold of $100K to the SBA's district office responsible for servicing the selected 8(a) participant, when an 8(a) firm has been identified;

8. shall submit an open offering letter for sole source requirements to the SB A district office that services the geographical area where the U. S Department of the Interior contracting activity is located, when the U.S. Department of the Interior has not identified a specific 8(a) participant for a requirement;

9. shall submit the offering letter for competitive 8(a) procurements to the SB A district office that services the geographical area where the U.S. Department of the Interior's contracting activity is located, except that offering letters for construction work will be sent to the SB A district office located in the geographical area where the work wilt be performed, or, in the case of construction contracts to be performed overseas, to the SBA Headquarters;

10. shall submit a request for eligibility determination to die SBA office servicing the apparent awardee. In the case of a negotiated procurement, following receipt of initial offers including price, the contracting officer may request an eligibility determination for all firms in the competitive range, if discussions are to be conducted. The eligibility determination requests shall be sent to the SBA offices servicing those firms in the competitive range.

11. shall submit competitive 8(a) requirements and sole source requirements for which no specific Participant had been nominated to the SBA district office servicing the geographical area in which the procuring activity is located.

12. shall submit competitive and open construction requirements to the SBA district office serving the geographical area in which the work is to be performed or in the case of overseas contracts to the Office of 8(a) Business Development located at SBA Headquarters.

13. shall retain responsibility for compliance with all applicable provisions of the FAR and any U.S. Department of the Interior regulations, unless a deviation is obtained;

14. shall provide a copy of any contract, as defined in FAR 2.101, including basic contracts, orders, modifications, and purchase orders, executed under this PA to the SBA servicing district office within IS working days of the date of award.

1 S. shall provide a signed copy of the Purchase Order to the SBA servicing office within IS days of the award;

16. shall request an eligibility determination prior to final award in all 8(a) competitive acquisitions;

17. shall retain the option to use tripartite procedures to award 8(a) contracts and purchase orders to 8(a) participants as specified in FAR Part 19;

18. shall ensure that all contracts awarded pursuant to this PA contain provisions that:

    (a) require the SBA's approval of novation agreements submitted by the 8(a) participant; and

    (b) require advance notice to the SBA (as the prime contractor) prior to issuance of a final notice terminating the contract in whole or in part;

19. shall ensure that all NAICS codes for all 8(a) contracts are applied in accordance with FAR 19.102;

20. shall add language to every contract stating that, even though the SBA may not be identified in section A of the contract, it is still the prime contractor on the contract;

21. shall provide all proposed joint ventures involving 8(a) participants to SBA for approval before contract(s) award; and

22. cannot use contracts that have not been offered to and accepted by the SBA into the 8(a) BD program for the U.S. Department of the Interior's 8(a) negotiated goals.

V. CONTRACT EXECUTION

The cognizant U.S. Department of the Interior contracting officer may make direct award of a contract to the 8(a) participant, but only after the requirement has been offered to and accepted by the SBA Acquisitions that employ the simplified acquisition procedures authorized by FAR Part 13, limited to the simplified acquisition threshold (FAR 2.101), require no offer or acceptance letter, however, a program eligibility determination of the selected 8(a) participant from SBA is required. Contract execution shall be on the appropriate form specified in the FAR or U.S. Department of the Interior regulation. The "Issued by" block shall identify the awarding U.S. Department of the Interior office. The cognizant SBA district office for the 8(a) program participant shall be identified in the award document. The 8(a) participant's name and address shall be listed as the contractor. The U.S. Department of the Interior's contracting activities are responsible for issuing procurement instrument identification numbers; the SBA will not issue subcontract numbers.

VI. TERM

This PA will take effect as soon as the SBA Associate Deputy Administrator for Government Contracting and Business Development, the Acting Associate Administrator, Office of Strategic Alliances and the U.S. Department of the Interior Assistant Secretary, Policy, Management and Budget has signed it. It will remain in effect until September 30,2009.

VII. AMENDMENT

This PA may be amended, in writing, at any time by mutual agreement of the SBA's Associate Deputy Administrator for Government Contracting and Business Development and U.S. Department of the Interior's Assistant Secretary for Policy, Management and Budget.

VIII. TERMINATION

Either SBA or the US, Department of the Interior may terminate this PA upon 30 days advance written notice to the other party.

IX. CONDITIONS

a. Contracts that have not been offered to and accepted by the SBA into the 8(a) BD program cannot be used for the U.S. Department of the Interior's 8(a) negotiated goals.

b. The SBA reserves the option to suspend or rescind the authority of this PA with U.S. Department of the Interior for failure to submit copies to the SBA of award documents within 15 working days of award or otherwise finis to follow the terms of this PA.

X. ADMINISTRATION

For the U.S. Department of the Interior:

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For the SBA;

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X. ADMINISTRATION

Authorized by and on behalf of their respective agencies, the undersigned parties hereby accept the terms and conditions of this agreement.

R. Thomas Weimer
Assistant Secretary
Policy, Management and Budget
The U.S. Department of the Interior

__ /S/ _____ 4/5/2007
Date

Anthony Martoccia
Associate Deputy Administrator for
Government Contracting and
Business Development

__ /S/ _____ 12/8/2006
Date

Carol Littell
Acting Associate Administrator for
Strategic Alliances

__ /S/ _____ 4/11/2007
Date