

Direct 8 (A) Contracting Model Coverage

SMALL BUSINESS PROGRAMS (FAR PART 19)

SUBPART 19.800 GENERAL

Add subparagraph (d) :

(d) Utilizing Partnership Agreement (PAs), the SBA has delegated its authority to contract directly with program participants under Section 8 (a) of the Small Business Act to the Senior Procurement Executives of various Federal procuring activities. If an agency is covered by an PA, a contract may be awarded directly to an 8 (a) firm on either a sole source or competitive basis. The SBA reserves the right to withdraw any delegation issued as a result of an PA; however, any such withdrawal shall have no effect on contracts currently awarded under the PA.

19.803 SELECTING ACQUISITION FOR THE 8 (A) PROGRAM.

Add 19.803-70 to read:

19.803-70 SIMPLIFIED PROCEDURES FOR 8 (A) ACQUISITION UNDER PAS.

Procuring activities may use the simplified acquisition procedures of Part 13 to issue purchase orders or contracts, not exceeding \$100,000, to 8 (a) Participants. The following applies to such acquisitions:

- (a) Neither offering letters to, nor acceptance letters from the SBA are required.
- (b) The procuring activity will use the SBA's PRO-Net database on the Internet (<http://www.sba.gov>) to establish that the selected 8 (a) firm is a current program participant.
- (c) The contracting officer will issue the purchase order directly to the 8 (a) firm.
- (d) Once an 8 (a) contractor has been identified, the agency contracting officer will establish the price with the selected 8 (a) contractor and prepare and issue a purchase order or contract in accordance with the provisions of Part 13. The applicable clauses prescribed in 19.811-3 shall be included in the award document.
- (e) The Contracting Officer will forward to the SBA District Office serving 8 (a) firm a copy of the purchase order or contract within five days after the order is issued.

19.804-2 AGENCY OFFERING.

(a) When applicable, this notification must identify that the offering is in accordance with the PA identified in 19.800.

19.804-3 SBA ACCEPTANCE.

Add new 19.804-70 which will read:

19. 804-70 SBA ACCEPTANCE UNDER PAS FOR ACQUISITION EXCEEDING \$100,000 .

(a) Acceptance of requirements covered by PA's on acquisitions that exceed \$100,000.

(1) The SBA's decision whether to accept the requirement will be transmitted to the contracting agency in writing within 5 working days of receipt of the offer.

(2) The SBA may request, and the contracting agency may grant, an extension beyond the five-day limit.

(3) SBA's acceptance letters should be faxed or e-mailed to the offering contracting agency.

(4) If the procuring activity has not received an acceptance or rejection of the offering from SBA within 5 days of SBA's receipt of the offering, the procuring activity may assume that the requirement has been accepted and proceed with the acquisition.

(b) The contents of the acceptance letter shall be limited to the eligibility of the recommended 8 (a) contractor.

19. 805 COMPETITIVE 8 (A) .

19. 805-2 PROCEDURES .

Add to 19. 805 -2 new paragraphs (a) and (c) (3) to read as follows:

(a) 8 (a) acquisitions may also be conducted using simplified acquisition procedures (see Part 13). The award process is significantly streamlined where an PA is in place.

(c) (3) For requirements exceeding \$100,000 processed under the PA cited in 19. 800, the contracting officer shall submit the name, address, and telephone number of the low offeror (in sealed bid requirements) or the apparent successful offeror (in negotiated acquisitions) to the SBA Business Opportunity Specialist at the field office servicing the identified 8 (a) firm. The SBA will determine the eligibility of the firm (s) and advise the contracting officer within 2 working days of the receipt of the request. If the firm is determined to be ineligible, the contracting officer will submit information on the next low offeror or the next apparent successful offeror (as applicable) to the cognizant SBA field office.

19. 806 PRICING THE 8 (A) CONTRACT .

Add paragraph (a) to read:

(a) When required by Subpart 15.4, the contracting officer shall obtain certified cost or pricing data directly from the 8 (a) contractor if they are awarding the contract under the PA cited in 19. 800.

19. 808-1 SOLE SOURCE.

Add new paragraphs 19. 808-1 (a) (b) to read:

(a) If the acquisition is conducted under an PA cited in 19. 800, the 8 (a) contractor is responsible for negotiating with the agency within the time established by the agency. If the 8 (a) contractor does not negotiate within the established time and the agency cannot allow additional time, the agency may, after notification and approval by the SBA, proceed with the acquisition from other sources.

(b) If the acquisition is conducted under an PA cited in 19. 800, the agency is delegated the authority to negotiate directly with the 8 (a) participant; however, if requested by the 8 (a) participant, the SBA may participate in negotiations.

19. 811-1 SOLE SOURCE.

19. 811-1. Add new paragraph (d) to read as follows:

(d) If the award is to be made under an PA cited in 19. 800, the contract to be awarded by the procuring activity to the 8 (a) firm shall be prepared in accordance with the procuring activity's normal procedures, given contract type and dollar amount, that the procuring activity would use for a similar, non - 8 (a) acquisition, except for the following:

(1) The award form shall cite 41 U.S.C. 253 (c) (5) or 10 U.S.C. 2304 (c) (5) (as appropriate) and 15 U.S.C. 637 (a) as the authority for use of other than full open competition.

(2) Appropriate contract clauses shall be included, as necessary, to reflect that the acquisition is an 8(a) contract made under the authority of an PA cited in 19. 800.

(3) The procuring activity shall include SBA's requirement number on the contract unless the acquisition does not exceed \$100,000.

(4) A single award document shall be used between the agency and the 8 (a) contractor. As such, a single signature by the agency's contracting officer who is identified as having concurrent authority under an PA cited in 19. 800 to enter into 8 (a) contracts will suffice (i.e., an SBA signature will not be required). The 8 (a) contractor's signature shall be placed on the award document as the prime contractor. The 8 (a) contractor's name and address shall be placed in the "**award to**" or "**contractor name**" block on the appropriate forms.

19. 811-2 COMPETITIVE.

Add paragraphs (a) and (b) to read as follows:

(a) If the award is to be made under delegation of 8 (a) contracting authority, competitive contracts for 8 (a) firms will be prepared in accordance with the same standards as 8 (a) sole source contracts. See 19. 811-1.

(b) If the acquisition is conducted under an PA cited in 19. 800, the process for obtaining signature shall be as specified in 19. 811-1 (d).

19. 811-3 CONTRACT CLAUSES .

Add paragraphs 19. 811-3 (d) (3) and (f) to read:

(d) (3) The clause at 52. 219-18 will be used with the Alternate (Deviation) at 52. 219-18, when the acquisition is processed under the PA cited in 19. 800.

(f) The contracting officer shall insert the clause at 52. 219-70XX, Section 8 (a) Direct Award, in direct award contracts and purchase orders processed under the PA cited at 19. 800; the clauses at 52. 219-11, Special 8 (a) Contract Conditions, 52. 219-12, Special 8 (a) Subcontract conditions, and 52. 219-17, Section 8 (a) award, shall not be used.

19. 812 CONTRACT ADMINISTRATION .

Add 19. 812 (d) to read:

(d) Awards under the PA cited in 19. 800 are subject to 15 U.S.C. 637 (a) (21). These contracts contain the clause entitled, Section 8 (a) Direct Award, that requires the 8 (a) contractor to notify the SBA and the contracting officer when ownership of the firm is being transferred.