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TITLE: CIB 97-24 - New SBA Procedures for 8(a) Requirements

October 9, 1997

MEMORANDUM FOR ALL CONTRACTING OFFICERS AND NEGOTIATORS

TO: Distribution List FAC
FROM: M/OP, Marcus L. Stevenson, Procurement Executive
SUBJECT: NEW SBA PROCEDURES FOR 8(a) REQUIREMENTS

CONTRACT INFORMATION BULLETIN 97 - 24

Attached are new procedures from the SBA for processing sole source 8(a) requirements and competitive 8(a) requirements. They should be self-explanatory.

Since the procedures do not address overseas procurements, our Small Disadvantaged Business Office (SDB/OD), in conjunction with other overseas procuring activities, has worked out the following applicable language to augment the procedures:

Overseas procuring activities will submit Letters of Offer as follows:

- for competitive requirements and for sole source requirements when an 8(a) participant has not been identified and selected, submit to the SBA Headquarters, Office of the Assistant Administrator for Business Development, Room 8000, 409 3rd Street SW, Washington, DC 20416.

- for sole source requirements when an 8(a) participant has been identified and selected, submit to the SBA District Office having jurisdiction over that 8(a) participant.

Should you have any questions on either the SBA procedures or the procedures for overseas procurements, please contact our SDB/OD.

Attachment 1

SUMMARY OF IMPLEMENTATION GUIDANCE

In order to place more control of the 8(a) program at the local level, several functions are being delegated to the district office. These changes are part of the continuing effort to streamline the Minority Enterprise Development (MED) program and make it more responsive to local market needs. These changes will help provide better service to our customers - 8(a) program participants and procuring agencies, and will also lead to greater programmatic efficiency and effectiveness.

Effective June 1, 1997, the following 8(a) requirement processing functions shall be delegated to district offices:

Competitive requirements, including construction;
Sole source open requirements; and Defense Fuel Supply
Center (DFSC) requirements.

The following paragraphs describe changes in requirement processing.

DECENTRALIZED PROCESSING OF REQUIREMENTS

I. Processing 8(a) competitive requirements:

A. Competitive Requirements Other than Construction

1. Offer: The procuring agency shall forward competitive 8(a) requirements directly to the district office having jurisdiction over the geographical area in which the buying activity is located (hereinafter, the cognizant district office).

All competitive requirements shall be entered, upon receipt, into SACS/MEDCOR by the cognizant district office.

The cognizant district office shall review the statement of work, and verify the appropriateness of the assigned SIC code.

2. Adverse Impact: Upon receipt of a competitive 8(a) offer for a requirement previously performed by a small business concern, the cognizant district office shall conduct an adverse impact determination. Note that such determination shall be made prior to acceptance or rejection of the requirement.

3. Acceptance: If the cognizant district office decides to accept a competitive requirement, within fifteen (15) days of receipt of the requirement, it shall notify the procuring agency by issuance of an acceptance letter. The letter shall document acceptance of the requirement, and authorize the procuring agency to synopsize the requirement in the Commerce Business Daily. If the office decides to turn the requirement back, within ten (10) days of receipt of the requirement, it shall so notify the procuring agency in writing.

4. Advisory Responsibility Determination: If, during a competitive process, a contracting officer questions an 8(a) firm's ability to perform, and determines that a pre-award survey is necessary, the district office where that firm is located (hereinafter, the servicing district office) shall review the survey and may request issuance of an advisory responsibility determination from the Government Contracting (GC) Area Office. If an advisory determination has been requested, the GC recommendation shall be taken into consideration when determining whether the firm is competent and responsible to perform.

5. Determination of Eligibility: Upon completion of its evaluation, the procuring agency shall submit a request for determination of eligibility for the apparent successful offeror directly to the servicing district office. The procuring agency's notification of the successful offeror must include the firm's name and the date of the firm's proposal. If the firm's size is questioned, the servicing district office shall make a determination pursuant to 13 C.F.R. 121.603(b).

Within five (5) business days of notification of the successful offeror, the servicing district office shall confirm eligibility of the offeror to receive the contract award, and will notify the procuring agency in writing. If a firm is found ineligible, the servicing district office shall inform the procuring agency in writing, and request that the agency consider the next lowest offer/bid for contract award.

6. Award: The procuring agency shall, upon receipt of the servicing district office's positive determination of eligibility, forward the contract document directly to the servicing district office for execution.

7. Protests and Appeals: Protests and appeals shall be processed pursuant to 13 C.F.R. 121.1001, 121.1101, and 124.320, and the Federal Acquisition Regulations (FAR).

B. Competitive Construction Requirements

Competitive construction requirements shall be processed as described above, with the following exceptions.

1. Geographical Area of Competition: Upon SBA's acceptance of a competitive construction requirement, the procuring agency shall synopsise the procurement in the Commerce Business Daily. Such synopsis shall include the geographical area of competition as determined by the district director of the cognizant district office (i.e., the district office having jurisdiction over the geographical area in which all or the greatest portion of the construction is to be performed).

Only offers from firms located within the geographical area of competition shall be evaluated. For purposes of determining eligibility for award of construction requirements, the term "firms located within the geographical of competition" shall mean: (1) firms having principal places of business within the

geographical area of competition; and (2) firms having offices with at least one full time employee located within the geographical area of competition.

The district director of the cognizant district office may, at his/her discretion expand the geographical area of competition beyond the area over which district office has jurisdiction. (See the immediately following paragraph.) The decision may be neither appealed nor protested to MED Headquarters. Any unresolved discrepancies between the district director and the procuring activity regarding the geographical area will be adjudicated by the Associate Administrator for Minority Enterprise Development.

2.Coordination: The district director of the cognizant district office shall be responsible for coordinating competitive construction requirements. In establishing a geographical area of competition beyond the jurisdiction of cognizant district office, the district director of that office shall coordinate, consult, and collaborate with director(s) of affected district offices.

If a competitive construction requirement cannot be competed within the portfolio of the cognizant district office, the geographical area of competition may be expanded to include the following jurisdictions in descending order of precedence:

- a. District(s) adjacent to the cognizant district office located in the same state
- b. District(s) adjacent to the cognizant district office located in the region;
- c. The remainder of the region in which the cognizant district office is located; then
- d. District(s) adjacent to the cognizant district office, regardless of regional location.

For example, a competitive requirement for construction of a facility in Connecticut must be reserved for competition among 8(a) firms in the Hartford District Office portfolio. If no firms in the Hartford District Office portfolio can perform the work, the requirement may be reserved for competition among firms in the portfolios of the adjacent Districts of Providence and Boston. If no capable firms can be identified in these districts, the work may be reserved for competition among firms located anywhere in Region I. If no capable firms can be identified in Region I, the work may be reserved for competition among firms located in the adjacent New York District, located in Region II.

II. Processing Sole Source Open Requirements

A. Other than Construction

Non-construction contract opportunities below competitive thresholds that are offered to the 8(a) program, without nomination of a specific firm by the procuring agency, shall be forwarded for processing to the district office having jurisdiction over the geographical area in which the buying activity is located. Upon district office request, DBD shall:

1. Provide a listing of firms having the appropriate Standard Industrial Classification Code in their business plans; and
2. Assist the district office in disseminating information regarding the requirement among district offices servicing the firms identified in 11.A.I.1, above.

B. Construction

Construction contract opportunities below competitive thresholds that are offered to the 8(a) program, without nomination of a specific firm by the procuring agency, shall be forwarded for processing to the district office having jurisdiction over the geographical area in which all or the greatest portion of the construction is to be performed.

Upon district office request, DBD shall:

1. Provide a listing of firms having the appropriate Standard Industrial Classification Code in their business plans; and
2. Assist the district office in disseminating information regarding the requirement among district offices servicing the firms identified in H. B.1 above.

III. Processing Defense Fuel Supply Center Requirements

A. DFSC's Fuel Energy programs shall no longer be coordinated at SBA Headquarters. These programs include Direct Delivery (ground fuels, intoplane and bunkers), Domestic Bulk (East/Gulf Coast and Inland West Coast) and Alternative Fuels (Natural Gas and Coal). With the exception of DFSC's coal program, these requirements, which are open, shall be synopsisized in the Commerce Business Daily as sources-sought requirements.

B. When an 8(a) firm has responded to the sources-sought synopsis, DFSC shall provide the firm with a qualification package that includes criteria necessary for qualification evaluation. This package may include, but is not limited to, the information listed in the Defense Logistic Agency and the SBA Memorandum of Agreement. Based on the information provided to DFSC by the 8(a) firm, DFSC shall determine specific items that are suitable for 8(a) reservation. The firm shall be required to provide a copy of its 8(a) certification letter as part of the qualification package.

C. Upon receipt of notification, DFSC shall issue the solicitation directly to the interested 8(a) firm. To be considered for an 8(a) reservation, the interested 8(a) firm must respond to the solicitation. DFSC shall evaluate proposals and determine the acceptability of the qualification package. Evaluation factors may include supply commitments, transportation commitments, and the firm's capability to perform. Should the firm be determined acceptable, DFSC shall issue an offering letter on behalf of the 8(a) firm to the servicing district office.

D. Most coal requirements are not open buys. However, for those exceptions in which a requirement is open, the offering shall be forwarded to the district office having jurisdiction over the location where the work shall be performed.

IMPLEMENTATION

All requirements in Headquarters DBD on June 1, 1997, will be completed by DBD. All requirements received in Headquarters DBD after June 1, 1997, will be forwarded to the appropriate district office by fax or overnight mail for processing. These changes are being communicated to the acquisition community by the following activities:

- Letters to Offices of Small and Disadvantaged Business Utilization (SADBU's);

- Letters to contracting officials on requirements processed by Headquarters DBD;

- Letters to contracting officials who forward requirements to Headquarters DBD for processing, that are received in DBD on or after June 1, 1997; and

- Proposed change to Federal Acquisition Regulations (FAR) Paragraphs 19.804-2(b)(2) and 19.804-2(c), per FAR Case 95-028.

On re-negotiation of the Memorandum of Understanding between SBA and the National Security Agency for processing of 8(a) requirements, processing of such requirements will be delegated to district offices, and specific guidance provided.