

PARTNERSHIP AGREEMENT
Between
The U.S. Small Business Administration
And
The U.S. Department of Housing and Urban Development

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. (15 U.S.C. part 631(f)(2))

I. PURPOSE

The purpose of this Partnership Agreement (PA) between the U.S. Small Business Administration (SBA) and the Department of Housing and Urban Development (HUD) is to establish basic procedures for expediting the award of procurement actions pursuant to section 8(a) of the Small Business Act, as amended (15 U.S.C. 637(a)) (the Act), and SBA's regulations. This PA replaces all terms and conditions of any previously executed memorandum of understanding (MOU) or PA with HUD on the issue of expediting the award of requirements pursuant to section 8(a) of the Act.

Failure to sign this partnership agreement will require HUD 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 SBA and HUD;
- b. To establish the procedures for offer and acceptance between SBA and HUD;
- c. To reduce, to a maximum of 5 working days, the interval between the time HUD contracting offices send an offering letter to SBA and receive an SBA decision on the offering;
- d. To emphasize that although SBA delegates only the authority to sign contracts on its behalf, it remains the prime contractor on all 8(a) contracts;
- 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 Act as implemented by the FAR, 48 CFR, and SBA's 8(a) Business Development (BD) program regulations.

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

This PA applies to all SBA offices and all HUD 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 HUD.

IV. RESPONSIBILITIES

A. SBA:

1. Delegates to HUD's Chief Procurement Officer, for re-delegation to all warranted HUD contracting officers, its authority under section 8(a)(1)(A) of the Act to enter into 8(a) prime contracts, and its authority under section 8(a)(1)(B) of the Act to arrange for the performance of such procurement contracts by eligible 8(a) program participants. In accordance with 13 CFR part 124.501(a), SBA delegates only the contract execution function. SBA remains the prime contractor on all 8(a) contracts, and the 8(a) participant remains SBA's subcontractor;
2. Will implement its responsibilities under this PA through uniform procedures for use by all SBA offices;
3. Shall review HUD's offering letters, issue acceptance or rejection letters, and make eligibility determinations;
 - (a) Sole source procurements. SBA will issue an acceptance letter or notification of rejection within 5 working days of receipt of an offering letter. Absent notification of rejection within 5 working days of receipt of the offer, acceptance may be assumed on the 6th 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. SBA will issue an acceptance letter or notification of rejection within 5 working days of receipt of an offering letter. Following receipt of bids, and within 2 working days after a request from the contracting officer, SBA shall issue an eligibility determination as prescribed by SBA's regulations at 13 CFR part 124, with respect to the apparent awardee. In the case of a negotiated procurement, following receipt of initial proposals including price, and within 2 working days after a request from the contracting officer, SBA shall issue an eligibility determination for all firms in the competitive range, if discussions are to be conducted. 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; and
- (c) Requirements under the simplified acquisition threshold (FAR 2.101). 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 all proposed Joint Ventures involving 8(a) participants for approval, before award;
 5. Shall provide 8(a) participants with assistance in contract negotiations when requested by either the 8(a) firm or the HUD contracting officer;
 6. Shall retain its appeal authority in accordance with FAR 19.810;
 7. Shall retain the right to perform on-site contract agency reviews and audits to ensure compliance as stated in SBA's SOP-80-05-03, 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 part 124.403 to appropriate procuring activities for the purpose of matching requirements consistent with 8(a) participant's capability;
 9. Shall retain the ultimate responsibility for ensuring that 8(a) firms comply with all applicable provisions of 13 CFR part 124, as it relates to continuing eligibility for 8(a) program participation;

10. Shall select an appropriate 8(a) participant when HUD submits an open offering letter for a sole source requirement; and
11. Will issue a letter to HUD's Office of Small 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. HUD:

1. Shall receive and retain the SBA's delegation of contract execution and review functions by reporting all 8(a) contracts, awards, modifications, and options to SBA until such times 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 48 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 officer or other warranted official, shall ensure contract compliance with applicable regulations as cited in FAR 19, 42, and 52 and CFR part 124; and 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 CFR part 124.510;
5. Shall request an eligibility determination from the SBA's district office responsible for servicing the selected 8(a) participant, when an 8(a) firm has been identified on all simplified acquisitions under \$100,000, prior to issuance of the purchase order;
6. Shall ensure that all contracting officers, small business specialists, etc., participate in 8(a) business development contract training when conducted by SBA;
7. Shall submit the offering letter for sole source requirements exceeding the simplified acquisition threshold (\$100,000) 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 SBA district office that services the geographical area where HUD contracting activity is located, when HUD has not identified a specific 8(a) participant for requirement.
9. Shall submit the offering letter for competitive 8(a) procurements to the SBA district office that services the geographical area where the HUD contracting activity is located, except that offering letters for construction work will be sent to the SBA district office located in the geographical area where the work will be performed, or, in the case of construction contracts to be performed overseas, to the SBA Headquarters;
10. 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;
11. Shall retain responsibility for compliance with all applicable provisions of the FAR and any HUD regulations, unless a deviation is obtained;
12. Within 15 working days of the date of award, shall provide, to the SBA servicing district office, a signed copy of any contracts, as defined in FAR 2.101, including basic contracts, orders, modifications, and purchase orders executed under this PA;
13. Shall request an eligibility determination prior to final award in all 8(a) competitive acquisitions;
14. 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;
15. Shall ensure that all contracts awarded pursuant to this PA contain provisions that:
 - (a) require SBA's approval of novation agreements submitted by the 8(a) participant; and
 - (b) require advance notice to SBA (as prime contractor) prior to issuance of a final notice terminating the contract in whole or in part;
16. Shall ensure that all NAICS codes for all 8(a) contracts are applied in accordance with FAR 19.102;
17. Shall add language to every contract stating that, even though SBA may not be identified in section A of the contract, it is still the prime contractor on the contract;

18. Shall provide all proposed joint ventures involving 8(a) participants to SBA for approval before contract (s) award; and
19. Cannot use contracts that have not been offered to and accepted by SBA into the 8(a) BD program for HUD's 8(a) negotiated goals.

V. CONTRACT EXECUTION

The cognizant HUD 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 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 HUD regulation. The "Issued by" block shall identify the awarding HUD 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 HUD contracting activities are responsible for issuing procurement instrument identification numbers; 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 SBA Administrator for Strategic Alliances, and the HUD Secretary have 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 Associate Deputy Administrator for Government Contracting and Business Development and the HUD Secretary.

VIII. TERMINATION

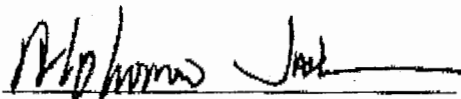
Either SBA or HUD may terminate this PA upon 30-day advance written notice to the other party.

IX. CONDITIONS

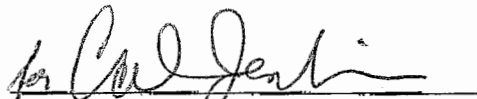
- a. Contracts that have not been offered to and accepted by SBA into the 8(a) BD program cannot be used for HUD's 8(a) negotiated goals.
- b. SBA reserves the option to suspend or rescind the authority of this PA with

XI. ACCEPTANCE

As provided under the authority of the Partnership Agreement, the undersigned parties hereby accept the terms and conditions of this agreement.



Alphonso Jackson
Secretary
U.S. Department of Housing and Urban Development



Anthony Martocchia
Associate Deputy Administrator for
Government Contracting and Business Development
U.S. Small Business Administration



Carol Littell
Acting Associate Administrator
for Strategic Alliances
U.S. Small Business Administration