



# Partnership Agreements

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Delegation of SBA's Contract  
Execution Authority to other Federal  
Government Agencies



# Overview

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- The Small Business Act (the Act) (15 U.S.C. §§ 636 (j) and 637(a)) authorizes the SBA to establish a business development program, known as the 8(a) Business Development Program. The specific sections of the Act are 7(j) and 8(a), hence the 8(a) Business Development Program (8(a) BD program).
- The 8(a) BD program promotes the development of small business concerns owned and controlled by socially and economically disadvantaged individuals so that such concerns can compete in the mainstream of the American economy.



# Overview

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- SBA is authorized to enter into all types of contracts with other Federal agencies and to contract the performance of these contracts to qualified participants in the 8(a) BD program.
- The Partnership Agreement is the delegation of SBA's contract execution authority by SBA to other federal agencies.



# History

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- Without the Partnership Agreement, all Federal agencies are required to involve SBA from start to finish in the procurement process when small businesses are the provider of goods and services.
- The procuring activity enters into a contract with SBA which in turn contracts out the performance to qualified small businesses, a tripartite agreement.
- This is a time consuming and, at times, a burdensome process for both SBA and the procuring activity.
- Although the tripartite relationship continues to exist, the contract execution authority of the SBA is delegated to an agency through the Partnership Agreement.



# Purpose

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- The purpose of the delegation of authority or Partnership Agreement is to streamline the contract execution process between SBA and the participating Agencies so that the small business community is afforded every opportunity to participate in government contracting.
- The executed Partnership Agreement permits procurement activities to engage in the contract execution process under the authority granted to SBA.
- The delegation of authority and basic procedures for expediting the award of 8(a) contract requirements are addressed in the Partnership Agreement.



# Purpose

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- The SBA and partner agency share the responsibility of maintaining compliance with contracting functions as provided for in the FAR and the agencies regulations.
- Although SBA is not signing the agreement between the eligible firms and procuring activity, it remains a party to the agreement and maintains its responsibilities for ensuring integrity of the 8(a) program.



# Objectives

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- The Partnership Agreement requires that both SBA and the partner agency share the responsibilities of contract execution as they relate to the oversight, monitoring and compliance with procurement laws and regulations governing 8(a) contracts between SBA and the partner Agency.
- The critical objective is to lessen the time and effort it takes for an agency to enter into a contract with small businesses.



# Objectives (cont.)

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- The Partnership Agreement reduces the time between when an agency's contracting office sends an offering letter to SBA and it receives SBA's decision regarding the contract offering to a maximum of five working days;
- SBA delegates the authority to sign contracts on its behalf; however, it remains the prime contractor on all 8(a) contracts and must receive copies of the contract and any subsequent modifications to the contract.





# Objectives (cont.)

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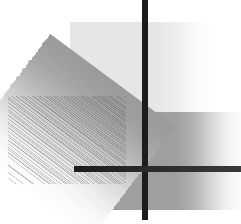
- The Agreement eliminates SBA's need to review all contracts and purchase orders prior to that agencies offer and acceptance to the small business.
- The Agreement also establishes uniform policies and procedures regarding application of purchase orders to the 8(a) contracting process.



# Scope

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- The Partnership Agreement 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 Subpart 19.8 and SBA's 8(a) BD program regulations found at 13 C.F.R. Sect. 124.
- The Partnership Agreement encompasses all competitive and non-competitive acquisitions of a requirement offered by a partner agency's contracting offices and accepted by SBA into the 8(a) BD program.



# Scope (cont.)

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- The delegation of authority to the partner agency permits re-delegation to all warranted contracting officers for that agency to enter into 8(a) prime contracts. (*See The Act, Section 8(a)(1)(A)*); and
- Permits the warranted contracting officers to arrange for the performance of those contracts by eligible 8(a) participants.



# SBA Responsibilities

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- SBA remains the prime contractor on all 8(a) contracts and the 8(a) Participant remains as SBA's subcontractor.
- SBA shall review the Agency offering letters, issue acceptance or rejection letters, and make eligibility determinations for award.
- SBA shall review all proposed joint venture agreements involving 8(a) Participants before contract award.

# SBA-Responsibilities

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## **Sole Source Procurements:**

- Within five working days of receipt of an offering letter, SBA will issue either an acceptance letter or rejection letter.
- If SBA does not respond within those five working days, the Agency may assume the offer has been accepted on the sixth working day.

### Example

Your agency sends an offering letter on May 7, 2007 (a Monday) to SBA via facsimile. If SBA does not respond then acceptance of the offer may be assumed on May 14, 2007, the sixth working day after the offering letter was provided and received by SBA.



# SBA-Responsibilities (cont.)

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## **Sole Source Procurements (Cont.):**

- 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).



# SBA-Responsibilities (cont.)

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## **Competitive Acquisitions:**

- SBA will issue an acceptance letter or rejection letter within five working days of receipt of an offering letter.
- Absent a notification of rejection within five working days of receipt of the offer, acceptance may be assumed on the sixth working day. (See previous example)



# SBA-Responsibilities (cont.)

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## **Competitive Acquisitions (cont.)**

- Within two working days after a request from the contracting officer, SBA shall issue an eligibility determination for the apparent awardee or, in the case of a negotiated procurement, all firms in the competitive range.





# SBA-Responsibilities (cont.)

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## **Competitive Acquisitions (cont.)**

- In the case of a negotiated procurement, following receipt of initial offers including price, and within two 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-Responsibilities (cont.)

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## **Competitive Acquisitions (cont.)**

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

# SBA-Responsibilities (contd.)

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## **Simplified Acquisitions:**

- SBA will review the program eligibility of the 8(a) Participant within two working days after a request from the contracting officer. 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.



# SBA-Responsibilities (cont.)

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## **Simplified Acquisitions: (cont.)**

- If SBA does not notify the agency that the selected 8(a) firm is ineligible for the award within two working days of receipt of the offer, the 8(a) firm's eligibility to receive the award may be assumed on the third working day.



# SBA-Responsibilities (cont.)

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- All proposed joint venture agreements involving 8(a) firms shall be reviewed and approved by SBA before contract award.
- SBA may provide 8(a) Participants with contract negotiation assistance or direct them to appropriate resources where they can obtain technical assistance in contract negotiations when requested by either the 8(a) Participant or the contracting officer.



# SBA-Responsibilities (cont.)

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- SBA has the right to perform on-site contract agency reviews and audits to ensure compliance with the contract requirements. SBA procedures for conducting the agency reviews are published in SBA's Standard Operating Procedure 80 05 3.
- An Agency Review is an opportunity for SBA and the partner agency to review compliance with the contract execution requirements as required by law.



# SBA-Responsibilities (cont.)

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- SBA also works with the procuring activities by identifying a requirement for an 8(a) Participant for a possible award.
- SBA will submit capability statements to the appropriate procuring activities for the purpose of matching requirements consistent with the 8(a) Participants' capability.
- SBA holds the responsibility for ensuring that 8(a) Participants comply with all applicable provisions relating to continuing eligibility for 8(a) BD program participation.



# SBA-Responsibilities (cont.)

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- If an agency submits an open offering letter for a sole source requirement, SBA selects an appropriate 8(a) Participant.
- SBA also maintains oversight as to requirements that have been accepted and will follow up with the agency's Office of Small and Disadvantaged Business Utilization, or equivalent (with a copy to the appropriate senior procurement executive) if contract award documents (and or modifications) have not been received by the SBA district office.



# Procuring Agency's Responsibilities

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- The Partnership Agreement requires that partner agency inform all its contracting officers and other warranted officials who award 8(a) contracts of the responsibilities concerning the agreement.
- The partner agency is responsible for reporting all 8(a) contract awards, modifications, and options to SBA until such time as the agreement expires or is terminated.
- The partner agency is required to adhere to all provisions of contractual assistance identified in 13 C.F.R. §§ 124.501 through 124.520; as well as the applicable provisions of the FAR Subpart 19.8.

# Procuring Agency's Responsibilities (cont.)

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- To determine which requirements are suitable for offering to the 8(a) BD program in accordance with FAR Part 19, Subpart 19.8, and, where appropriate, and working with the appropriate SBA servicing office, identify the 8(a) Participants capable of performing these requirements.

# Procuring Agency's Responsibilities (cont.)

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- The contracting officer or other warranted official, shall monitor and ensure 8(a) contract compliance requirements in accordance with FAR Subparts 19, 42 and 52 and 13 C.F.R. Part 124.
- All delegated authority contract awards, modifications, options and purchase orders will include monitoring and oversight provisions to ensure that all contracts comply with the work performance requirements in accordance with FAR Subpart 19.811-3(e) and 13 C.F.R. Section 124.510.

# Procuring Agency's Responsibilities (cont.)

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- The contracting officer or other warranted official shall request an eligibility determination from SBA's district office responsible for servicing the selected 8(a) Participant, when an 8(a) Participant has been identified on all simplified acquisitions under \$100K prior to issuance of the purchase order.

# Procuring Agency's Responsibilities (cont.)

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- For sole source requirements exceeding the simplified acquisition threshold of \$100K, the contracting officer or other warranted official shall submit the offering letter to SBA's district office responsible for servicing the selected 8(a) Participant, when an 8(a) Participant has been identified.
- For sole source requirements when the partner agency has not identified a specific 8(a) Participant for a requirement, the contracting officer or other warranted official shall submit an open offering letter to the SBA district office that services the geographical area where the partner agency's contracting activity is located.

# Procuring Agency's Responsibilities (cont.)

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- For competitive 8(a) requirements the contracting officer or other warranted official shall submit the offering letter to the SBA district office that services the geographical area where the partner agency's contracting activity is located. Exceptions: the 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, offering letter shall be submitted to SBA's Headquarters;

# Procuring Agency's Responsibilities (contd.)

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- The agency shall submit a request for eligibility determination to the SBA district 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;

# Procuring Agency's Responsibilities (cont.)

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



# Procuring Agency's Responsibilities (cont.)

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- Each agency shall retain the responsibility for compliance with all applicable provisions of the FAR and any its own regulations, unless a deviation is obtained.
- Each agency 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 15 working days of the date of award.

# Procuring Other Agency's Responsibilities (cont.)

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- Each agency shall request an eligibility determination prior to final award in all 8(a) competitive acquisitions.
- Each agency shall retain the option to use tripartite procedures to award 8(a) contracts and purchase orders to 8(a) Participants as specified in FAR Subpart 19.8.

# Procuring Agency's Responsibilities (cont.)

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- Each agency shall ensure that all contracts awarded pursuant to the Partnership Agreement contain provisions that:
  1. require SBA's approval of novation agreements submitted by the 8(a) Participant; and
  2. require advance notice to SBA (as the prime contractor) prior to issuance of a final notice terminating the contract in whole or in part.

# Procuring Agency's Responsibilities (cont.)

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- Each agency shall ensure that all NAICS codes for all 8(a) contracts are applied in accordance with FAR § 19.102.
- Each agency shall add language to every contract stating that SBA is the prime contractor on the contract.

# Procuring Agency's Responsibilities (contd.)

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- Each agency shall provide all proposed joint ventures involving 8(a) Participants to SBA for approval before contract(s) award.
- An agency cannot use contracts that have not been offered to and accepted by SBA into the 8(a) BD program for its 8(a) negotiated goals.



# Contract Execution

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The agency's 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. Contract execution shall be on the appropriate form specified in the FAR or the agency's regulations.

# Conditions of the Partnership Agreement

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- Contracts that have not been offered to and accepted by SBA into the 8(a) BD program cannot be used for an agency's 8(a) negotiated goals.
- SBA reserves the option to suspend or rescind the authority of the Partnership Agreement with an agency for failure to submit copies of award and modification documents within 15 working days of award to SBA.



# SBA Point of Contact

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