PARTNERSHIP AGREEMENT
Between
The U.S. Small Business Administration
and
The U.S. Department of Transportation

Sections 7(j) and 8(a) of the Small Business Act (the Act) (15 U.S.C. §§ 636 (j) and 637(a)) authorize the U. S. Small Business Administration (SBA) to establish a business development program, which is known as the 8(a) Business Development Program or 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. 15 U.S.C. § 631(f)(2). Small business development is accomplished by providing various forms of management, technical, financial and procurement assistance. Additionally, pursuant to Section 8(a) of the Act, 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. 15 U.S.C. § 637(a).

I. PURPOSE

The purpose of this Partnership Agreement (PA) between SBA and the U.S. Department of Transportation is to delegate SBA's contract execution functions to the U.S. Department of Transportation per the requirements of 13 C.F.R. § 124.501. This PA sets forth the delegation of authority and establishes the basic procedures for expediting the award of 8(a) contract requirements. This PA replaces all terms and conditions of any previously executed Memorandum of Understanding (MOU) or PA with the U.S. Department of Transportation or subordinate agencies on the issue of expediting the award of requirements pursuant to Section 8(a) of the Act.

Failure to sign this PA will require the U.S. Department of Transportation to utilize the prescribed processes to contract with the SBA as stated in the Federal Acquisition Regulation (FAR) Subpart 19.8.

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 the U.S. Department of Transportation;
B. To establish the procedures for offer and acceptance between SBA and the U.S. Department of Transportation;

C. To reduce the time between when the U.S. Department of Transportation's contracting office sends an offering letter to SBA and it receives SBA's decision regarding the contract offering to a maximum of five (5) working days;
D. To emphasize that although 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 policies 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 Subpart 19.8 and SBA's 8(a) BD program regulations found at 13 C.F.R. §124.

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

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

IV. RESPONSIBILITIES

A. SBA

1. delegates to the U.S. Department of Transportation for re-delegation to all warranted U.S. Department of Transportation 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) Participants. In accordance with 13 C.F.R. §124.501(a), SBA delegates its 8(a) contract execution function. 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 Transportation's offering letters, issue acceptance or rejection letters, and make eligibility determinations for award;

(a) Sole source procurements.

i. SBA will issue either an acceptance letter or rejection letter within five (5) working days of receipt of an offering letter.
ii. Absent a notification of rejection within five (5) working days of receipt of the offer, acceptance may be assumed on the sixth (6th) working day.
iii. Acceptance shall include a size verification and determination 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.

i. SBA will issue an acceptance letter or rejection letter within five (5) working days of receipt of an offering letter.
ii. Absent a notification of rejection within five (5) working days of receipt of the offer, acceptance may be assumed on the sixth (6th) working day.
iii. Within two (2) 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, as prescribed by SBA's regulations at 13 C.F.R. § 124.507.
iv. In the case of a negotiated procurement, following receipt of initial offers including price, and within two (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.
v. SBA will issue an eligibility determination for all firms with a realistic chance of award within two (2) working days after a request from the contracting officer, if no discussions are to be conducted.

(c) Simplified acquisition threshold.

i. SBA will review the program eligibility of the 8(a) Participant within two (2) working days after a request from the contracting officer. SBA's review is limited to program eligibility only.
ii. No offering or acceptance letter is required for requirements processed under the simplified acquisition procedures threshold.
iii. Absent a notification that the selected 8(a) Participant is ineligible for the award within two (2) working days of receipt of the offer, the 8(a) Participant's eligibility to receive the award may be assumed on the third (3rd) working day.

4. shall review and approve all proposed joint venture agreements involving 8(a) Participants before contract award;

5. 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 U.S. Department of Transportation 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 the SBA's Standard Operating Procedure (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 capability statements to the appropriate procuring activities for the purpose of matching requirements consistent with the 8(a) Participants' capability;

9. shall retain the responsibility for ensuring that 8(a) Participants comply with all applicable provisions relating to continuing eligibility for 8(a) BD program participation per 13 C.F.R. § 124.211.

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

11. will issue a letter to the U.S. Department of Transportation's Office of Small and Disadvantaged Business Utilization, with a copy to the appropriate senior procurement executive (FAR Part 2, Subpart 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>The U.S. Department of Transportation</u>:

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

2. shall 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;

3. shall 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, identify in conjunction with the appropriate SBA servicing office, 8(a) Participants capable of performing these requirements;

4. shall inform contracting officers and other warranted officials who are awarding 8(a) contracts of their responsibilities concerning this agreement;

5. through the contracting officer or other warranted official, shall monitor and ensure 8(a) contract compliance requirements with applicable regulations as cited in FAR Parts 19, 42 and 52 and 13 C.F.R. Part 124;

6. shall include monitoring and oversight provisions for all SBA delegated authority contract awards, modifications, options and purchase orders 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;

7. 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;

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

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

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

11. shall submit the offering letter for competitive 8(a) requirement to the SBA district office that services the geographical area where the U.S. Department of Transportation'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;

12. 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;

13. 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;

14. 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;

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

16. 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;

17. shall provide a signed copy of the purchase order to the SBA servicing office within 15 days of the award;

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

19. 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;

20. 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 the prime contractor) prior to issuance of a final notice terminating the contract in whole or in part;

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

22. 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;

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

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

V. CONTRACT EXECUTION

The U.S. Department of Transportation 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, as defined in 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 the U.S. Department of Transportation regulation. The "Issued by" block shall identify the awarding the U.S. Department of Transportation office. The SBA district office for the 8(a) 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 Transportation's 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 SBA and the U.S. Department of Transportation 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 parties.

VIII. TERMINATION

Either SBA or the U.S. Department of Transportation may terminate this PA upon 30 calendar days 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 the U.S. Department of Transportation's 8(a) negotiated goals.

B. SBA reserves the option to suspend or rescind the authority of this PA with the U.S. Department of Transportation for failure to submit copies to SBA of award and modification documents within 15 working days of award, failure to adequately monitor 8(a) contract compliance requirements, or if the U.S. Department of Transportation otherwise fails to follow the terms of this PA.

X. ADMINISTRATION

For The U.S. Department of Transportation:

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For SBA:

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XI. ACCEPTANCE

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

David Litman
Senior Procurement Executive
The U.S. Department of Transportation

FEB 22 2007
Date

Anthony Martoccia
Associate Deputy Administrator for
Government Contracting and
Business Development

DEC 08 2006
Date

Carol Littell
Acting Associate Administrator for
Strategic Alliances

Carol Littell 2/28/07
Date