

PARTNERSHIP AGREEMENT
Between
The U.S. Small Business Administration
And
Department of Energy

I. PURPOSE

The purpose of this Partnership Agreement (PA) between the U.S. Small Business Administration (SBA) and the Department of Energy (DoE) is to establish basic procedures for expediting the award of requirements pursuant to section 8(a) of the Small Business Act, as amended (15 U.S.C. 637(a)) (the Act), and the SBA's regulations. This PA replaces all terms and conditions of any previously executed Memorandum of Understanding (MOU).

II. OBJECTIVES

- a. To delineate the responsibilities regarding 8(a) contracts among the SBA and DoE;
- b. To establish the procedures for offer and acceptance between the SBA and DoE;
- c. To reduce the interval between the time DoE contracting offices send an offering letter to the SBA and receive an SBA decision on the offering to a maximum of 5 workdays;
- d. To emphasize that the SBA only delegates the authority to sign contracts on their behalf. The SBA remains the prime contractor on all 8(a) contracts;
- e. To eliminate SBA 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, when applicable.

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 Federal Acquisition Regulation (FAR) (48 C.F.R.) and the SBA's 8(a) Business Development Program regulations.

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

This PA applies to all SBA offices and all DoE offices deemed appropriate by the head of the agency (as defined in FAR 2.101, Definitions) for DoE.

IV. RESPONSIBILITIES

a. The SBA:

1. delegates to the head of the agency, or designee, for redelegation to warranted DoE 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 C.F.R. 124.501(a), the SBA delegates only the contract execution function. The 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 DoE's offering letters, issue acceptance or rejection letters, and make eligibility determinations:
 - (a) Sole source procurements. The SBA will issue an acceptance letter or notification of rejection within 5 working days of receipt of an offering letter. Absent a 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 (e.g., determinations of adverse impact, North American Industry Classification System (NAICS) code appropriateness and program eligibility);
 - (b) Competitive acquisitions: The SBA will issue an acceptance letter or notification of rejection within 5 working days of receipt of an offering letter. Absent a notification of rejection within 5 working days of receipt of the offer, acceptance may be assumed on the 6th working day. Following receipt of bids, and within 2 working days after a request from the contracting officer, the SBA shall issue an eligibility determination for the firm with the lowest bid. In the case of a negotiated procurement following receipt of initial offers including price, and within 2 working days after a request from the contracting officer, the SBA shall issue an eligibility determination for all firms in the competitive range, if discussions are to be conducted.

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request from the contracting officer, if no discussions are to be conducted;

(c) Requirements under the simplified acquisition threshold (FAR 2.101). The SBA will review the eligibility of the 8(a) Participant within 2 working days after receipt of a copy of the signed purchase order document. The purchase order document may be delivered by any means acceptable to the SBA district office. The SBA shall provide a copy of any negative eligibility determination to the contracting activity and the 8(a) Participant. Absent receipt of a negative eligibility determination from the SBA within 2 working days, the 8(a) contractor will be authorized to begin performance. No offering or acceptance letter is required for requirements processed under the simplified acquisition procedures threshold;

4. shall provide 8(a) Participants with assistance in contract negotiations when requested by either the 8(a) firm or the DoE contracting officer;
5. shall retain its appeal authority in accordance with FAR 19.810;
6. shall retain the right to perform on-site contract surveillance reviews;
7. shall retain the responsibility for compliance with all applicable provisions of 13 C.F.R. Part 124, including determining eligibility;
8. shall select an appropriate 8(a) Participant when DoE submits an open offering letter for a sole source requirement; and
9. will issue a letter to the DoE Office of Small and Disadvantaged Business Utilization, with a copy to the senior procurement executive (FAR 2.101), on a quarterly basis identifying accepted requirements for which award documents have not been received by the SBA district office.

b. The Federal agency:

1. shall submit to the SBA, not later than March 31, 2002, copies of any procedures developed to comply with this PA that are in addition to guidance provided by the Civilian Agency Acquisition Council (CAAC);

2. 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 offices, 8(a) Participants capable of performing these requirements;
3. shall submit the offering letter for sole source requirements to the SBA's district office responsible for servicing the selected 8(a) Participant, when an 8(a) firm has been identified;
4. shall submit an open offering letter for sole source requirements to the SBA district office that services the geographical area where the DoE contracting activity is located, when DoE has not identified a specific 8(a) Participant for a requirement;
5. shall submit the offering letter for competitive 8(a) procurements to the SBA district office that services the geographical area where the Federal agency's 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 such contracts to be performed overseas, to the SBA Headquarters;
6. shall retain responsibility for compliance with all applicable provisions of the FAR and other applicable acquisition regulations, unless a FAR deviation is obtained;
7. shall provide a copy of any contract, as defined in FAR 2.101, including basic contracts, orders, modifications, and purchase orders, to the SBA servicing district office within 15 calendar days of the date of award. Systemic failure to timely provide the required documents to the SBA may result in suspension or rescission of this PA;
8. 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;
9. shall ensure that all contracts awarded pursuant to this PA contain provisions that:
 - (a) require the SBA's approval of novation agreements submitted by the 8(a) Participant; and

(b) require advance notice to the SBA (as the prime contractor) prior to issuance of a final notice terminating the contract in whole or in part;

10. shall ensure that all North American Industry Classification System codes for all 8(a) Business Development contracts comply with FAR 19.102;
11. shall ensure that all contracts comply with the work performance requirements, in accordance with FAR 19.508(e);
12. shall add language to every contract stating that, even though the SBA may not be identified in section A of the contract, it is still the prime contractor on the contract; and
13. shall ensure that all proposed joint ventures involving 8(a) Participants are approved by SBA before contracts are awarded.

V. CONTRACT EXECUTION

The cognizant DoE 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 the 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. Contract execution shall be on the appropriate form specified in the FAR or the DoE's acquisition regulations. The "Issued by" block shall identify the awarding DoE 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 DoE's contracting activities are responsible for issuing procurement instrument identification numbers; the SBA will not issue subcontract numbers.

VI. TERM

This PA will take effect as soon as both the SBA Administrator and the head of DoE have signed it. It will remain in effect until June 30, 2003.

VII. AMENDMENT

This PA may be amended, in writing, at any time by mutual agreement of the SBA's Associate Administrator for 8(a) Business Development (AA/8(a) BD) and DoE's senior procurement executive.

VIII. TERMINATION

This PA may be terminated by either SBA or DoE upon 30 days advance, written notice to the other party.

IX. PENALTIES

- a. Contracts that have not been offered to and accepted by the SBA into the 8(a) Business Development program cannot be used for DoE's 8(a) negotiated goals.
- b. The SBA reserves the option to suspend or rescind the authority of this PA if DoE fails to submit copies to the SBA of award documents within 15 working days of award.

X. ADMINISTRATION

Department of Energy:

Head of the agency, or delegee.

For the SBA:

Associate Administrator for
8(a) Business Development
409 3rd Street, SW
Washington, DC 20416
(202) 205-7340

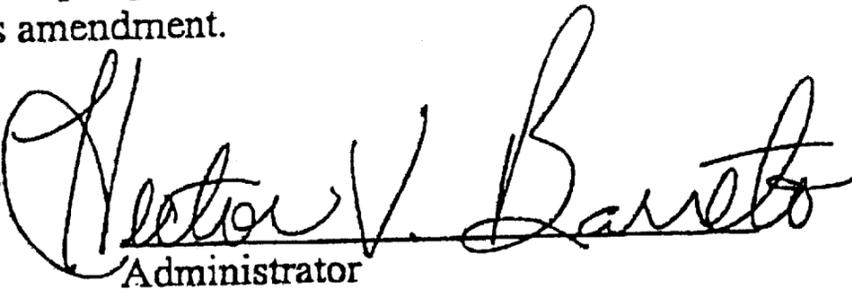
Deputy Associate Administrator for
8(a) Business Development
409 3rd Street, SW
Washington, DC 20416
(202) 205-6471

VIII. ACCEPTANCE

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



Secretary
Department of Energy



Administrator
U.S. Small Business Administration