Subpart 219.8 - CONTRACTING WITH THE SMALL BUSINESS ADMINISTRATION (THE 8(A) PROGRAM)

Parent topic: Part 219 - SMALL BUSINESS PROGRAMS

219.800 General.

(a) By Partnership Agreement (PA) between the Small Business Administration (SBA) and the Department of Defense (DoD), the SBA has delegated to the Under Secretary of Defense (Acquisition and Sustainment) its authority under paragraph 8(a)(1)(A) of the Small Business Act (15 U.S.C. 637(a)) to enter into 8(a) prime contracts, and its authority under 8(a)(1)(B) of the Small Business Act to award the performance of those contracts to eligible 8(a) Program participants. However, the SBA remains the prime contractor on all 8(a) contracts, continues to determine eligibility of concerns for contract award, and retains appeal rights under FAR 19.810. The SBA delegates only the authority to sign contracts on its behalf. Consistent with the provisions of the PA, this authority is hereby redelegated to DoD contracting officers. A copy of the PA, which includes the PA's expiration date, is available at PGI 219.800 .

(b) Contracts awarded under the PA may be awarded directly to the 8(a) participant on either a sole source or competitive basis. An SBA signature on the contract is not required.

(c) Notwithstanding the PA, the contracting officer may elect to award a contract pursuant to the provisions of FAR Subpart 19.8.

219.803 Selecting acquisitions for the 8(a) Program.

When selecting acquisitions for the 8(a) Program, follow the procedures at PGI 219.803 .

219.804 Evaluation, offering, and acceptance.

When processing requirements under the PA, follow the procedures at PGI 219.804 .

219.804-1 Agency evaluation.

(f) The 8(a) firms should be offered the opportunity to give a technical presentation.

219.805 Competitive 8(a).

219.805-1 General.

(b)(2)(A) For acquisitions that exceed the competitive threshold, the SBA also may accept the requirement for a sole source 8(a) award on behalf of a small business concern owned by a Native Hawaiian Organization (Section 8020 of Pub. L. 109-148).

(B) “Native Hawaiian Organization,” as used in this subsection and as defined by 15 U.S.C. 637(a)(15) and 13 CFR 124.3, means any community service organization serving Native Hawaiians in the State of Hawaii—

(1) That is a not-for-profit organization chartered by the State of Hawaii;

(2) That is controlled by Native Hawaiians; and

(3) Whose business activities will principally benefit such Native Hawaiians.

219.805-2 Procedures.

When processing requirements under the PA, follow the procedures at PGI 219.805-2 for requesting eligibility determinations.

219.806 Pricing the 8(a) contract.

For requirements processed under the PA cited in 219.800 —

(1) The contracting officer shall obtain certified cost or pricing data from the 8(a) contractor, if required by FAR subpart 15.4; and

(2) SBA concurrence in the negotiated price is not required. However, except for purchase orders not exceeding the simplified acquisition threshold, the contracting officer shall notify the SBA prior to withdrawing a requirement from the 8(a) Program due to failure to agree on price or other terms and conditions.

219.808 Contract negotiation.

219.808-1 Sole source.

For sole-source requirements processed under the PA, follow the procedures at PGI 219.808-1.

(a) In lieu of the threshold at FAR 19.808-1(a), the SBA may not accept for negotiation a DoD sole-source 8(a) contract exceeding $100 million unless DoD has completed a justification in accordance with FAR 6.303 and 206.303-1(b).

219.811 Preparing the contracts.

When preparing awards under the PA, follow the procedures at PGI 219.811 .

219.811-3 Contract clauses.

(1) Use the clause at 252.219-7009, Section 8(a) Direct Award, instead of the clauses at FAR 52.219-11, Special 8(a) Contract Conditions, FAR 52.219-12, Special 8(a) Subcontract Conditions, and FAR 52.219-17, Section 8(a) Award, in solicitations and contracts processed in accordance with the PA cited in 219.800.

(2) Use the clause at 252.219-7010, Notification of Competition Limited to Eligible 8(a) Participants—Partnership Agreement, in lieu of the clause at FAR 52.219-18, Notification of Competition Limited to Eligible 8(a) Participants, in competitive solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services, when the acquisition is accomplished using the procedures of FAR 19.805 and processed in accordance with the PA cited in 219.800.

(3) Use the clause at 252.219-7011, Notification to Delay Performance, in solicitations and purchase orders issued under the PA cited in 219.800.