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**U. S. DEPARTMENT OF THE INTERIOR
OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT
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Subject: THE U.S. SMALL BUSINESS ADMINISTRATION CERTIFIED 8(a) PROGRAM
CONTRACTING PROCESS

Approval: *[Signature]* Title: Director

1. Purpose. This directive provides guidelines for entering into contracts with the Small Business Administration (SBA) through the Section 8(a) Program of the Small Business Act.

2. Summary. The Section 8(a) Program gives the SBA the authority to enter into all types of contracts with other agencies. Further, the SBA has the authority to let subcontracts to eligible 8(a) firms for performing other agency contracts.

3. Definitions.

a. Approved Firm Under the 8(a) Program. A firm that has: (1) a business plan approved by the SBA; and, (2) received notification and acceptance into the 8(a) Program from the SBA.

b. Business Plan. A comprehensive planning document which clearly describes the business developmental goals of an existing or proposed business. The planning document will identify needed resources, means for obtaining these resources, and use of these resources.

c. Business Utilization and Development Specialists (BUDS). An individual(s) appointed by the agency to serve as an advocate for the 8(a) Program.

d. Eligibility Under the 8(a) Program. The SBA has the responsibility for selecting firms for the 8(a) Program. The SBA sets up criteria for determining 8(a) eligibility. The appropriate SBA District Office or agency designated Business Utilization and Development Specialist (BUDS) is responsible for answering questions about a firm's 8(a) status. Appendix 1 lists agency designated BUDS.

e. Fair and Reasonable Price. A price which is determined by negotiation with the 8(a) contractor. An analysis of the price offered for its fairness and reasonableness to the potential 8(a) contractor and the Government is mandatory.

f. Local Buy Item. A "local buy" or "local purchase" item is a specific requirement identified to meet the specific needs of one user in one location. All offering letters for local buy items should be addressed to the SBA District Office located in the same district as the contracting activity.

g. National Buy Item. A "national buy" item is a specific requirement identified to meet the needs of one or more users in two or more locations where there is a central contracting activity. All offering letters for national buy items should be addressed to:

U. S. Small Business Administration
Minority Small Business and Capital
Ownership Development
1441 L Street, N. W.
Washington, D. C. 20416

h. Offering Letter. A formal letter from a contracting activity which offers a specific requirement to SBA for award under the 8(a) Program (see FAR 19.804 for the requirements of an offering letter).

i. Selecting Acquisitions for the 8(a) Program. A process where the SBA and an agency match the agency's requirements with the capabilities of 8(a) firms. The matching process may occur in one of three ways--

(1) The SBA advises a contracting activity through a search letter of an 8(a) firm's capabilities and asks the agency to identify acquisitions to support the firm's business plan.

(2) The SBA identifies a particular requirement for a particular 8(a) firm(s) and asks the agency contracting activity to offer the acquisition to the 8(a) Program.

(3) An agency may also review other proposed acquisitions for identifying requirements which are available for the 8(a) Program. Where an agency independently, or through the self marketing efforts of an 8(a) firm, identifies a requirement for the 8(a) Program, it may offer the requirement on behalf of an identified 8(a) firm to the SBA. The agency's offer can either be for 8(a) non-competitive, or for 8(a) competitive.

4. Policy/Procedures.

a. Background. Section 8(a) of the Small Business Act (15 USC 636(a)), establishes a program that gives the SBA the authority to enter into all types of contracts, including, but not limited to, contracts for supplies, services, construction, and research and development with other Government departments and agencies, and to subcontract the performance of these contracts to small business concerns owned and controlled by socially and economically disadvantaged individuals, Indian Tribes or Hawaiian Native Organizations.

This process, known as the "8(a) Program," helps disadvantaged firms to become self-sustaining and capable of achieving a competitive position in a normal competitive environment. Although the 8(a) Program is a contracting program, its primary goal is business development. Therefore, it differs in some significant aspects from the normal competitive procurement process.

Public Law 100-656, effective October 1, 1989, requires mandatory competition for requirements offered to the 8(a) Program that are:

- (1) over \$5 million assigned manufacturing Standard Industrial Classification (SIC) codes; and,
- (2) over \$3 million for all other SIC codes.

The SBA has the authority to approve, on a limited basis, competition for 8(a) contracts estimated below the competitive thresholds in areas where technical competitions are appropriate or when many responsible 8(a) firms exist. The SBA also has the authority to sole source over the threshold if the SBA determines there are not at least two eligible 8(a) firms capable of performing the requirement at a fair price.

b. Policy. It is agency policy to:

- (1) support business ownership by individuals who are both socially and economically disadvantaged;
- (2) support the competitive viability of 8(a) firms by providing available requirements, technical and management assistance as may be available;
- (3) appoint BUDS who will serve as the agency contact person(s) for the 8(a) Program;
- (4) ensure BUDS participation in identifying eligible 8(a) firms; and,
- (5) establish an annual agency goal for 8(a) awards.

c. Responsibilities.

- (1) Director is responsible for:
 - (a) issuing a policy statement that shows the agency's strong support and commitment to the 8(a) Program; and,

(b) ensuring identification and targeting of requirements for businesses in the 8(a) Program, as appropriate;

(c) ensuring BUDS participation in the advance acquisition process, as required;

(d) ensuring program development, implementation, and evaluation of progress, as appropriate;

(e) directing requirements for the 8(a) Program, when appropriate;

(f) establishing agency annual 8(a) Program goals, as required;

(g) directing the monitoring of 8(a) Program accomplishments and the 8(a) Programs, as required;

(h) overseeing the periodic review of the 8(a) Program and making revisions, as required;

(i) briefing the agency Head or designee on 8(a) Program accomplishments, as required; and,

(j) ensuring program accomplishments, as required.

(3) Headquarters Assistant Directors and Assistant Directors, Eastern and Western Support Centers are responsible for:

(a) identifying requirements for the 8(a) Program during the acquisition planning process, as appropriate;

(b) directing requirements to the 8(a) Programs, as appropriate;

(c) establishing and achieving negotiated 8(a) Program goals on a fiscal year basis; and,

(d) monitoring 8(a) Program accomplishments, as required.

(4) Chief, Division of Management Services is responsible for:

(a) appointing an individual to perform compliance inspections, as appropriate;

(b) monitoring compliance with directive and making revisions, as appropriate; and,

(c) briefing the Assistant Director, Budget and Administration, on the quarterly accomplishments in the 8(a) Program.

(5) Chief, Eastern and Western Administrative Services Division are responsible for:

(a) appointing an individual to perform compliance inspections, as appropriate;

(b) monitoring compliance with directive and recommending revisions, as appropriate; and,

(c) recommending a part-time BUDS, as required.

(6) Chief, Branch of Procurement; Chief, Acquisition and General Services; and Chief, Acquisition and Management Services are responsible for:

(a) contracting with the SBA through the 8(a) Program, as required;

(b) ensuring the negotiation process is according to prescribed regulations;

(c) reporting the 8(a) Program accomplishments to the appropriate agency individual; and,

(d) alerting the Agency Head or designee of 8(a) Program irregularities.

d. Procedures.

(1) Source Recommendation Responsibility. 8(a) firms are recommended by the following means:

(a) by the Program Manager, in consultation with the Business Utilization and Development Specialist, during the acquisition planning stage or upon the submittal of the requirement to the contracting activity; and,

(b) by the SBA.

Ratification by the SBA is mandatory of 8(a) firm(s) recommended by the contracting activity.

(2) Non-Competitive Recommendation Guidelines

(a) Identify requirements that are likely candidates for the 8(a) Program early in the acquisition planning process or upon submittal to the contracting activity.

(b) The Program Office prepares a statement of work/specifications and Government cost estimate and submits to the contracting office. Known 8(a) firms capable of performing the work may be recommended. NOTE: Requirements in excess of \$100,000 require approval of the Assistant Secretary, Lands and Minerals Management, prior to issuance of the solicitation.

(c) The Contracting Officer (CO) submits an offering letter to the cognizant SBA office in accordance with FAR 19.804-2.

(d) The CO, upon receipt of the SBA acceptance letter and Secretarial approval, if required, issues the solicitation.

(e) The CO receives and evaluates the proposal and prepares for negotiations. Technical evaluations of the proposal will be accomplished by the Program Office initiating the requirement.

(f) The CO negotiates with the designated firm, assisted by the Program Office, to obtain fair and reasonable prices.

(g) Upon completion of successful negotiations, the CO submits the following documentation to the SBA, signed and dated where appropriate:

- 1) Copy of the negotiation memorandum;
- 2) Copy of the cost/price analysis, if required;

3) Copy of the offering letter and acceptance letter from SBA;

4) Copy of the technical evaluation, if applicable;

5) Legal review, if applicable;

6) Six (6) copies of the proposed contract using SF-26 or SF-1442 as the award document. Ensure that the contract contains required 8(a) prime and subcontract clauses in accordance with FAR 19.811-1(c).

7) Six (6) manually signed copies of the Tripartite Agreement, in accordance with FAR 19.811-1(c).

8) Signed copy of SECTION K - REPRESENTATIONS AND CERTIFICATIONS completed by the contractor.

(3) 8(a) Competition. When the expected award price of the contract (including options) exceeds \$5,000,000 for acquisitions assigned manufacturing SIC codes and \$3,000,000 for all other acquisitions, the SBA limited competition guidelines will be applicable to eligible 8(a) firms. Where an acquisition exceeds the competitive threshold, SBA may accept the requirement for a non-competitive 8(a) award if--

(a) there is not a reasonable expectation that at least two eligible and responsible 8(a) firms will submit offers at a fair market price; or

(b) the SBA determines that an 8(a) firm owned and controlled by an economically disadvantaged Indian tribe is eligible, responsible, and needs the acquisition for its business development.

The Program Manager will submit the acquisition to the contracting activity. If the expected award price is below the competitive threshold, the Program Manager may identify a potential 8(a) firm. If the expected award price is over the competitive threshold, the Program Manager may identify at least two eligible 8(a) firms.

5. Reporting Requirements. It is the policy of the Department to require evaluation of SBA 8(a) contractor performance. At the conclusion of the contract and at the time final acceptance of the work or after termination, the Contracting Officer's Technical Representative (COTR) shall provide an evaluation of the SBA 8(a) contractor's performance.

If the COTR concludes that the 8(a) contractor's performance is poor or unsatisfactory, the COTR shall confer and discuss the 8(a) contractor's performance with the designated BUDS located in Eastern and Western Support Centers and Headquarters. The COTR shall notify the 8(a) contractor in writing, with the concurrence of the BUDS, that a report of this unsatisfactory performance is being proposed and the basis for the evaluation. If the 8(a) contractor submits any comments, the COTR shall include them in the EVALUATION REPORT ON 8(a) CONTRACTOR PERFORMANCE, DI-1919. The COTR shall promptly forward copies of the performance report to the Contracting Officer and the BUDS. The Contracting Officer shall file the performance report in the contract file and the BUDS shall promptly forward a copy to the Office of Small and Disadvantaged Business Utilization.

6. Effect on Other Documents. None

7. References.

a. 13 CFR 124, Minority Small Business and Capital Ownership Development

b. Federal Acquisition Regulation, Subpart 19.8, Contracting with the Small Business Administration (the 8(a) Program)

c. Small Business Act (15 U.S.C. 637(a) and 636(j))

d. Department of the Interior Acquisition Regulation, Subpart 1419.8, Contracting with the Small Business

8. Effective Date. Upon Issuance.

9. Contact. Division of Management Services, Branch of Procurement, (202) 343-4685.

10. Keywords. 8(a) Program
8(a) Competition
BUDS

11. List of Appendices

Appendix 1
Appendix 2

Designated BUDS
The 8(a) Competitive Process

BUSINESS UTILIZATION AND DEVELOPMENT SPECIALIST (BUDS)
OFFICE OF SURFACE MINING
APPENDIX 1

<u>NAME</u>	<u>FTS</u>	<u>COMMERCIAL</u>
Marie A. Chavis (P/T) Branch of Procurement Division of Management Services 1951 Constitution Avenue, N.W. Washington, DC 20240	8-343-4685	202-343-4685
Robert Harcarik (P/T) Acquisition and Management Services Administrative Service Center Western Support Center 1020 15th Street, 2nd Floor Denver, CO 80202	8-564-2552	303-844-2552
Mike DeStafano (P/T) Acquisition and General Services Eastern Support Center 10 Parkway Center Pittsburgh, PA 15220	8-726-2839	412-937-2839

THE 8(A) COMPETITIVE PROCESS
APPENDIX 2

